

**WORTHINGTON CITY COUNCIL**  
**SPECIAL MEETING**

**4:00 P.M. - Wednesday, April 23, 2025**  
**City Hall Council Chambers**

**A. CALL TO ORDER**

**B. CITY COUNCIL BUSINESS - ADMINISTRATION**

1. Ice Arena Operations and Associated Estimate of Total Project Cost

**C. CITY COUNCIL BUSINESS - ENGINEERING**

1. License Agreement with Minnesota Energy Resources Corporation (MERC) for East Okabena Trail

**D. ADJOURNMENT**

## **ADMINISTRATION MEMO**

**DATE: APRIL 16, 2025**

**TO: HONORABLE MAYOR AND CITY COUNCIL**

**SUBJECT: ITEMS REQUIRING CITY COUNCIL ACTION OR REVIEW**

### **CASE ITEMS**

1. **ICE ARENA OPTIONS AND ASSOCIATED ESTIMATE OF TOTAL PROJECT COST**

Staff has been working with consultants HTG Architecture and Greystone Construction in the preparation of schematic plans and estimates of total project costs for various options for consideration by City Council. These options include building a new ice arena, minimal renovations to the existing facility and renovations and an addition to the existing facility. Staff would like City Council to discuss these options and determine a level of funding. The final option is for the City to not participate in any ice arena upgrades.

The options are as follows:

- New one-sheet facility, total project cost of \$20,875,000.00. The new facility, to be constructed on City-owned property, is approximately 48,000 Square feet with a single NHL sized rink. Amenities include four visitor locker rooms, two varsity locker rooms, offices, vending, restrooms, refrigeration plant, Zamboni room, and seating capacity of approximately 750.
- Renovation and addition to the existing facility, total project cost of \$10,700,000.00. This option includes an addition on the south side of the existing building that will include a new entry, lobby space, viewing area, offices, vending, and restrooms. The existing lobby, business and locker area will be renovated to accommodate four visitor locker rooms and two varsity locker rooms. Installation of a perimeter frost footing and new exterior wall panels. Removal and replacement of the existing rink slab and refrigeration system.
- Renovation of the existing facility with no addition, total project cost of \$6,700,000.00. This option includes installation of a perimeter frost footing and new exterior wall panels. Removal and replacement of the existing rink slab and refrigeration system.

## ENGINEERING MEMO

**DATE:** APRIL 15, 2025  
**TO:** MAYOR AND CITY COUNCIL  
**SUBJECT:** ITEMS REQUIRING COUNCIL ACTION OR REVIEW

**1. LICENSE AGREEMENT WITH MINNESOTA ENERGY RESOURCES CORPORATION (MERC) FOR EAST OKABENA TRAIL**

Staff has negotiated a License Agreement with Minnesota Energy Resources Corporation (MERC) for the development and use of East Okabena Trail on a portion of MERC's property.

**Key Terms of the Agreement:**

- **Use:** Licensee (City of Worthington) is granted a temporary, non-exclusive license to construct, maintain, and use the property as a public recreational trail for non-motorized activities such as hiking, biking, and cross-country skiing.
- **Term:** The agreement is for an initial term of 25 years, continuing year-to-year thereafter, with either party having the right to terminate with 90 days' notice.
- **Rent:** No base rent is required during the term.
- **Construction:** Construction must commence within one year of the effective date and be completed within one year of commencement.
- **Maintenance:** The City is responsible for all maintenance, signage, erosion control, and safety measures.

Staff recommends that Council approve the License Agreement with Minnesota Energy Resources Corporation for the East Okabena Trail.

## LICENSE AGREEMENT

**THIS LICENSE AGREEMENT** (this "Agreement") is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2025, (the "Effective Date"), by and between Minnesota Energy Resources Corporation, hereinafter referred to as "Licensor", and City of Worthington, a municipal corporation, hereinafter referred to as "Licensee". Licensor and Licensee are individually sometimes referred to as a "Party", and collectively as the "Parties".

### WITNESSETH:

Licensor, for and in consideration of the covenants, conditions, and agreements hereinafter contained, hereby grants to Licensee a temporary, non-exclusive license and permission to develop, at Licensee's sole cost and expense, and use that portion of Licensor's real property that is described on Exhibit A attached hereto and made a part hereof (the "Premises") as a recreation trail, and to place thereon a trail for hiking, biking, and cross-country skiing and other similar non-motorized recreational uses (the "Trail") for use by the general public and for no other purpose or purposes whatsoever (except those purposes as may be determined by Licensor for its own use).

The License and permission herein granted is subject to the following conditions:

1. **Term:** The term of this Agreement (the "Term") shall commence on the Effective Date and shall continue for an initial a period of twenty-five (25) years (the "Initial Term"), and thereafter shall continue on a year-to-year basis, subject to termination as hereinafter provided.
2. **Termination:** Upon the expiration of the Initial Term, this Agreement may be terminated at any time by either Party hereto by providing at least ninety (90) days prior written notice to the other Party of such termination. Notwithstanding any of the terms and conditions contained herein, (a) should Licensor require exclusive use of any part of property, including the Premises, for its purposes, or (b) should Licensee be in default under any of the covenants, terms or conditions of this Agreement, then Licensor may, upon written notice to Licensee, terminate the Agreement, in whole or in part on such part or parts of the Premises it requires, and Licensee shall, not later than ninety (90) days after receiving notice of such termination, at its sole cost and expense, remove the Trail from the Premises.
3. **Commencement of Construction:** Licensee shall have one (1) full year, beginning at the Effective Date of this Agreement, to begin construction of the Trail and one (1) full year after the start of construction to complete construction of the Trail, as permitted herein. If Licensee fails to begin construction of the Trail within one (1) year after the Effective Date, or to complete construction of the Trail within one (1) year after commencement of such construction, this Agreement shall terminate immediately without notice from Licensor and Licensee shall, not later than ninety (90) days after such termination, at its sole cost and expense, remove the Trail from the Premises.
4. **Base Rent:** During the Initial Term and extensions thereto, no Base Rent shall be due.
5. **Assignment:** Licensee shall not assign this Agreement nor permit any transfer by operation of law or otherwise of the interest in the herein-described Premises acquired through this Agreement unless otherwise approved by Licensor in writing.
6. **Acceptance of Premises:** Licensee acknowledges and agrees that the Premises are being made available pursuant to the license set forth herein in "as is" condition, and Licensor makes no warranty or representation of any kind as to the condition, quality or suitability of the soil, subsoil or surfacing of the Premises, any other property of Licensor or anything thereon or therein. Licensee has examined the Premises described hereinabove and acknowledges the condition thereof and that no representations or warranties as to the condition or repair thereof and no agreements to make any alterations, repairs or improvements in or about the Premises have been made by Licensor. Licensee's

taking possession of the Premises shall be conclusive evidence as against Licensee that the Premises were in good order and satisfactory condition for use as a Trail and other permitted ancillary uses. Licensor shall not be liable for any damages arising from acts or neglect of Licensee or any of its invitees or users of the Premises, whether authorized to use the Premises or not.

7. **Permitted and Prohibited Uses:** The Premises shall be used for the purpose of constructing, installing, operating, maintaining, using, repairing, and removing the Trail, for hiking, biking, cross-country skiing and other similar non-motorized recreational uses and for no other purpose whatsoever. No vehicles, trucks, cars or equipment are to be parked or materials stored on the Premises at any time without the specific written approval of Licensor. Furthermore, Licensee agrees that no motorized vehicles, including but not limited to cars, trucks, snowmobiles, motor bikes, mini-bikes, motorcycles, mopeds, go-carts and all-terrain vehicles will be used, operated or permitted on the Premises. However, Licensee shall be permitted to use motorized vehicles for the patrol and/or maintenance of the Trail and the Premises, and electric bicycles shall be permitted on the Trail subject to any speed limits that are established by Licensor from time to time. Licensee also agrees that no horses will be used or permitted on the Premises. Licensee agrees that no kites, model airplanes or similar or dissimilar objects that may come in contact with or in close proximity to the facilities of Licensor and its successors and assigns, will be used, operated or permitted on or about the Premises.
8. **Signage:** Licensee shall not place or maintain or allow to be placed or maintained by any person or persons, any signs or advertising billboards upon the Premises at any time, except as required or permitted by this Section. Licensee shall install and maintain signs that are necessary to identify Licensee's Trail and occupancy of the Premises at every road crossing and at least every 2,600 feet along the Trail or more frequently if requested by Licensor. Licensee further agrees to post, maintain at all times, and if necessary, replace signs that expressly state the uses that are permitted and prohibited under Section 7 hereof. In addition, Licensee hereby agrees to post safety and traffic signs along the Trail and at road crossings, railroad crossings, driveways, farm crossings and any other vehicular crossings along the Trail. All signs must be approved by Licensor prior to erection or installation on the Premises.
9. **Zoning and Permits:** Licensee hereby agrees that Licensor has made no representations that the Premises are properly zoned for the proposed use by Licensee, and it is expressly understood that Licensee hereby assumes any and all obligations and responsibilities with respect to compliance with all applicable zoning laws and ordinances of any regulatory bodies which may have jurisdiction. Any change in zoning must be approved by Licensor. This Agreement is conditioned on Licensee's obtaining all necessary permits and authority for the proposed use. All permits required hereunder shall be acquired by Licensee at its sole cost and expense. If permits are required, copies of the final permits must be provided to Licensor prior to the commencement of any work on the Premises by Licensee, and allowing reasonable time for Licensor to review the permits.

Without limiting the generality of the foregoing, Licensee agrees that no temporary or permanent construction may occur in any wetlands. If any work is proposed within wetlands, Licensee must obtain the appropriate permits from the Minnesota Department of Natural Resources ("MNDNR") and the Army Corps of Engineers ("ACOE"). Licensee must provide a copy of the application and final permits to Licensor prior to working within the wetland and provided Licensor has reasonable time to review said permits.

10. **Governmental Jurisdiction:** Licensee shall, in the use and occupancy of the Premises, comply with all laws, ordinances, rules and regulations of the City of Worthington, Nobles County, State of Minnesota and all other governmental bodies having jurisdiction over the operation of Licensee or Licensor's business or occupation of the Premises.

11. **Construction and Other Liens:** Licensee shall have no authority, express or implied, to create or place any lien or encumbrance of any kind or nature whatsoever upon, or in any manner to bind, the interest of Licensor in the Premises, for any claim in favor of any person dealing with Licensee, including those who may furnish materials or perform labor for any construction or repairs. Licensee covenants and agrees that it will pay or cause to be paid all sums legally due and payable by it on account of any labor performed, materials, services or supplies furnished in connection with any work performed on the Premises by or at Licensee's direction on which any lien is or can be validly and legally asserted against its interest in the Premises or the improvements thereon and that it will save and hold Licensor harmless from any and all loss, liability, cost or expense, including costs of suit and reasonable attorney's fees, based on or arising out of asserted claims or liens against the license interest granted hereunder or against the right, title and interest of Licensor in the Premises or any other property of Licensor, or under the terms of this Agreement. Licensee will not permit any construction lien or any other liens which may be imposed by law affecting Licensor's or its mortgagee's interest in the Premises to be placed upon the Premises or any other property of Licensor arising out of any action or claimed action by Licensee, and in case of the filing of any such lien Licensee will promptly pay the same. Licensee shall promptly provide Licensor with lien waivers from all contractors and subcontractors for all work performed and material and services supplied by or on its behalf at the Premises. If any such lien shall remain in force and effect for ten (10) days after written notice thereof from Licensor to Licensee and Licensee has not posted with Licensor a bond, reasonably satisfactory to Licensor, in the amount of at least 125% thereof, Licensor shall have the right and privilege of paying and discharging the same or any portion thereof without inquiry as to the validity thereof, and any amounts so paid, including expenses and interest, shall be reimbursed by Licensee to Licensor immediately on presentation of a bill therefor.
12. **Diggers Hotline:** Licensee shall contact Diggers Hotline at (800) 242-8511 to locate any underground facilities at least five (5) days prior to any work, excavation or construction on the Premises, in order to determine the location of electric, telephone, water, communication, natural gas and other facilities within the Premises and surrounding lands in the vicinity of the contemplated work and the applicable clearance requirements for work performed in the proximity of such facilities.
13. **Plan Review and Approval:** Licensee shall submit to Licensor for its review and written approval, detailed site plans and construction drawings (hereinafter "Plans") showing the proposed location of the Trail with respect to the Premises and any utility facilities that might be affected by the Trail, which Plans shall also include proposed grade changes, Trail cross sections, signs and other improvements to the Premises which Licensee desires to construct or install. If Licensee intends to use any fill on the Premises, Licensee shall include the type and source of any fill material on the Plans and any fill material used shall be subject to inspection and analysis by Licensor for the presence of Hazardous Material as defined in Section 23 below. Licensee will not install or construct or permit to be installed or constructed, any improvements upon, or make any alterations or substantive changes to the approved plans for, the Premises without first submitting plans and specifications to Licensor and receiving Licensor's approval thereof.
14. **Height Restrictions:** Licensee hereby agrees that no vehicles or equipment will be used, stored operated or permitted on the Premises or Licensor's adjacent land having a height in excess of 12 feet above original ground grade level, unless otherwise approved in writing by Licensor as their respective interests lie.
15. **Runoff Control:** Licensee and its contractors shall follow best management practices to prevent or control site runoff and erosion. Following the completion of Licensee's work, all adjoining areas shall be restored.
16. **Drainage and Grade Changes:** Licensee shall be permitted, at its sole cost and expense, to grade, level, and apply crushed stone and/or asphalt paving and plant grass on the Trail and Premises as may be permitted by Licensor, except that the Licensee shall not in any manner alter or change the original ground grade level of the Premises, or alter in any manner the drainage on the Premises without obtaining written

permission from Licensor. Licensor, at its sole discretion, may require Licensee to install such drainage facilities as Licensor may deem necessary to adequately drain the Premises or Licensor's adjacent lands, which facilities are made necessary due to or arising out of any filling, grading, leveling, paving or use by the Licensee hereunder. All such drainage facilities (including culverts, storm sewers, ditches, etc.) shall be installed by and at the expense of Licensee and to the complete satisfaction of Licensor. Any existing culverts that run beneath Licensor's lands must be maintained or enhanced; they cannot be removed, filled or otherwise blocked.

17. **Maintenance and Landscaping:** Licensee shall, at its sole cost and expense, keep the Premises routinely mowed and free of weeds, and shall trim and/or cut down any trees and shrubs to the satisfaction of the local Weed Commissioner and Licensor. Licensor reserves the right to trim and/or cut down any trees and shrubs on the Premises. Licensee further agrees that it shall maintain the entire Premises as a Trail as described hereinabove, and perform such other landscaping maintenance necessary to maintain an appearance suitable to such use as a Trail for biking, hiking and cross-country skiing and other similar non-motorized recreational uses. Licensee shall not plant any trees or shrubs on the Premises without the express written permission of Licensor. Licensee agrees to keep the Premises clean and free from all debris, rubbish, litter and trash. Licensee shall be permitted to, or upon request of Licensor shall, place trash containers at convenient locations on the Premises. Such containers shall be emptied on a regular basis by Licensee, prior to overflowing or creating a nuisance.
18. **Work Standards:** During construction, use of and repairs or maintenance to the Premises pursuant to this Agreement, while in proximity to electrical conductors or gas facilities presently existing or to be installed at some future date, Licensee hereby agrees to conform to all laws, rules, ordinances, acts and regulations such as O.S.H.A. Any work done by Licensee on the Premises shall be performed in such a manner as not to interfere with the use of Licensor's lands for electric lines, gas lines, communication lines and related or unrelated facilities, both overhead and underground, which presently exist or might be installed at a later date.
19. **Damage to Facilities:** Licensee hereby agrees to effectively prevent damage to electrical facilities, communication facilities or related facilities due to or arising out of the construction, installation, operation, maintenance, repairs, removals and use of the Premises by Licensee, or its employees, agents, contractors, customers or invitees. In the event the Premises or adjoining lands or existing electrical and communication facilities or related or unrelated facilities thereon are damaged as a result of activities conducted on or in any way connected with Licensee's construction, installation, operation, maintenance, repairs or removal activity on the Premises, or the use of the Premises by Licensee or any of its employees, agents, contractors, customers or invitees, the repair of such damage shall be completed by or at the direction of Licensor and Licensee shall reimburse Licensor for the cost thereof upon presentation of a bill therefor.
20. **Movement of Licensor Facilities:** In the event it is necessary for Licensor, or existing tenants, permittees or licensees to reconstruct, protect, modify, adjust, replace or relocate its facilities due to the aforementioned use of the Premises and/or the construction, operation, maintenance or existence of Licensee's facilities, Licensee agrees to promptly reimburse Licensor, and/or such affected tenants, permittees or licensees upon presentation of a bill for the costs and expenses incurred by Licensor as a result thereof; provided, however, that Licensee shall be given the option of moving or relocating its material and equipment to reduce or eliminate costs associated herewith.
21. **Proximity to Gas Lines/Facilities:** During construction, installation, operation, maintenance, repairs, removals and use of the Premises pursuant to this License, while in proximity to gas lines and gas facilities presently existing or to be installed at some future date, Licensee hereby agrees to exercise due caution, comply with all applicable safety laws and regulations and take or suffer no action which results in the gas lines or gas facilities being placed in violation of any applicable law or regulation. In the event the Premises, adjoining lands or gas facilities or related facilities thereon are damaged as a result of activities conducted on or in any way connected with Licensee's construction, installation,

operation, maintenance, repairs or removal activity on the Premises, or the use of the Premises by Licensee or any of its employees, agents, contractors, customers or invitees, repairs shall be completed by or at the direction of Licensor and paid for by Licensee upon presentation of a bill therefor.

22. **Solid Waste**: Licensee shall not cause or permit any solid wastes to accumulate or be stored in or about the Premises. All solid wastes shall be properly stored, handled and routinely disposed of off the Premises in a manner that complies with applicable federal, state and local laws, codes and/or regulations. Licensee shall not store, handle or dispose of solid wastes in a manner that will pollute or contaminate the atmosphere, ground or water or which may adversely affect the health, welfare or safety of persons whether located on the Premises or elsewhere.

23. **Environmental**: As used in this Agreement:

"Discharge" means the releasing, spilling, leaking, leaching, disposing, pumping, pouring, emitting, emptying, treating, or dumping of Hazardous Materials at, into, onto, or under or migrating from, under, or onto the Premises or Licensor's adjacent lands or any part thereof (including, without limitation, the soil, subsurface water, or groundwater) or the threat thereof, regardless of whether the result of an intentional or unintentional action or omission.

"Environmental Law" means any federal, state or local law, whether common law, statute, ordinance, rule, regulation, judicial or administrative decision, policy or guideline, pertaining to Hazardous Materials, industrial hygiene, environmental conditions, or the regulation or protection of human health or the environment, and all amendments thereto as of this date and to be added in the future, and any successor statute, ordinance, rule, regulation, or judicial or administrative decision of policy or guideline promulgated thereto.

"Hazardous Materials" means any regulated substance, toxic substance, hazardous substance, hazardous waste, pollution, pollutant, or contaminant, as defined or referred to in any applicable Law, including, without limitation, the Resource Conservation and Recovery Act, as amended, 42 U.S.C. §6901 et seq., the Comprehensive Environmental Response, Compensation and Liability Act, as amended, 42 U.S.C. §9601 et seq. ("CERCLA"); the Water Pollution and Control Act, 33 U.S.C. §1251 et seq., and any and all analogous state laws, together with any and all amendments thereto, regulations promulgated thereunder, and all substitutions thereof, as well as words of similar purport or meaning referred to in any other applicable law, including, without limitation, radon, asbestos, polychlorinated biphenyls, urea formaldehyde products, petroleum products, and petroleum based derivatives. Where a law defines any of these terms more broadly than another, the broader definition shall apply.

Licensee shall not use in any way, or permit or suffer the use of, the Premises or any part thereof (i) in violation of any Environmental Law or (ii) to directly or indirectly prepare, produce, generate, manufacture, refine, treat, transport, store, maintain, handle, dispose of, transfer, process, exacerbate, relocate, or Discharge any Hazardous Material without the prior written consent of Licensor, which consent may be withheld in Licensor's sole discretion.

Licensee shall give Licensor immediate verbal and follow-up written notice of any of the following with respect to the Premises or Licensor's lands, whether actual or threatened, of which Licensee has or obtains actual knowledge: (i) a violation of any Environmental Law; (ii) a Discharge; (iii) an environmental condition requiring responsive or remedial action; or (iv) an emergency environmental condition (each event or circumstance described in the preceding clauses (i) through (iv), an "Environmental Occurrence"). Licensee shall not, without the prior written consent of Licensor, which consent may be withheld in Licensor's sole discretion, communicate with any governmental authorities or other third parties in connection with any Environmental Occurrence, Hazardous Material, or other environmental condition related to the Premises or Licensor's adjacent lands, except to the extent expressly required by Environmental Laws. Licensee shall notify Licensor of any such communication with governmental



authorities or other third parties required by Environmental Laws and shall provide Licensor a reasonable opportunity to coordinate with Licensee regarding such communications.

Licensee shall be solely responsible for and shall indemnify Licensor and all of its agents, contractors, employees, officers, directors, affiliates and parent (collectively, the "Indemnified Parties") for all costs and expenses of any environmental assessment, investigation, sampling, containment, removal, remediation, and/or disposal as Licensor deems appropriate in connection with any Environmental Occurrence on or about the Premises arising out of any act or omission of Licensee or any of Licensee's contractors, subcontractors, agents, employees, and/or guests. Notwithstanding the foregoing, Licensee shall take no such actions in connection with such Environmental Occurrence except pursuant to and in strict accordance with Licensor's written instructions. Licensor reserves the right to conduct, at Licensee's sole cost and expense, any assessment, investigation, sampling, containment, removal, remediation, and/or disposal as may be required in connection with any such Environmental Occurrence.

Notwithstanding anything the contrary set forth herein, LICENSEE SHALL NOT CONDUCT ANY INVASIVE ENVIRONMENTAL OR OTHER STUDIES WITH RESPECT TO CONDITIONS AT THE PREMISES OR LICENSOR'S ADJACENT LANDS WITHOUT LICENSOR'S PRIOR WRITTEN CONSENT (INCLUDING, WITHOUT LIMITATION, AS TO THE PURPOSE, SCOPE, AND TIMING OF SAME), SUCH CONSENT TO BE WITHHELD IN LICENSOR'S SOLE DISCRETION, AND, IN THE EVENT OF LICENSOR'S APPROVAL, WITH THE USE OF LICENSOR'S CONSULTANTS AT LICENSEE'S SOLE COST AND EXPENSE. FURTHERMORE, LICENSEE SHALL, SOLELY IF EXPRESSLY REQUESTED BY LICENSOR, PROVIDE TO LICENSOR (AT LICENSEE'S SOLE COST AND EXPENSE) ALL SAMPLING RESULTS, DATA, REPORTS, AND OTHER INFORMATION RESULTING FROM ANY SUCH STUDIES.

Without limiting the foregoing, if Licensee encounters contamination at, on, or under the Premises or Licensor's adjacent lands, Licensee shall call Marita Stollenwerk at (414) 221-4172 with Stephanie Berti as a backup at (414) 221-4045 before taking any action with respect to same. In the event of a discharge of hazardous materials caused by the Licensee or contractors employed on behalf of the Licensee, please contact Erin Ganzenmuller immediately at (414)221-4045.

Licensee and Developer shall not permit any liens to attach to the Premises or Licensor's adjacent lands by reason of the exercise by Licensee of its rights hereunder.

24. **Notification:** Licensee agree to contact Josh Lowe (507) 848-1050 or such other person or phone number as Licensor may from time to time designate, within the specified time limits to inform him about the following occurrences:

a) At least seven (7) days prior to the commencement of the project herein permitted.

a) Within seven (7) calendar days after the termination of the License herein permitted with a plan for restoration.

b) Within seven (7) calendar days after the restoration has been completed.

c) Within seven (7) calendar days after a lapse of six (6) months since Licensee accepted this License if the project herein permitted has not been undertaken by such date; within seven (7) calendar days after each six (6) month interval thereafter until the project herein permitted is undertaken, not to exceed two (2) full years from the date hereof.

25. **Insurance:** Licensee shall carry one million dollars (\$1,000,000) per occurrence (or such higher limit as Licensor may request from time to time) General Liability Insurance coverage with Licensor being named as additional insured, as evidenced by certificates to be furnished to Licensor annually during the Term of this License. **A current certificate of such insurance must be furnished at the time this Agreement**

**is executed by Licensor.** A certificate of insurance must be furnished before this License will be renewed. Prior to construction of any alterations or improvements on the Premises, Licensee's, contractors and subcontractors shall also provide to Licensor proof of insurance.

26. **Waiver of Liability:** Anything in this Agreement to the contrary notwithstanding, Licensor shall not be liable to Licensee or anyone claiming under Licensee for any loss or damage to property or injury to or death of persons occurring on the Premises or Licensor's adjacent lands or in any manner growing out of or in connection with Licensee's use and occupancy of the Premises or the condition thereof. Licensee hereby waives all right of recovery against Licensor, its agents, employees, assignees and invitees for any such loss, damage, injury or death.
27. **Indemnification of Licensor:** To the extent not prohibited by law, Licensee agrees to indemnify, defend and hold harmless Licensor and the Indemnified Parties from and against all claims, demands, suits, causes of action, losses, costs (including reasonable attorneys' fees and expenses) and damages (collectively "Licensor's Losses") incurred by Licensor arising from any breach, violation or default by Licensee under this Agreement or any negligence or willful misconduct of Licensee or any of Licensee's employees, representatives, agents, guests, invitees or contractors. This indemnity and hold harmless provision shall include indemnity from and against any and all liability, fines, demands, costs and expenses of any kind or nature (including, without limitation, attorneys' fees and disbursements) incurred in or in connection with any such Licensor's Losses or proceeding brought thereon, and the defense thereof. Notwithstanding the foregoing, Licensee shall not be required to indemnify Licensor to the extent the indemnified claim or Licensor's Losses are a result of (i) the negligence or willful misconduct of Licensor; or (ii) Licensor's failure to comply with this Agreement or any applicable laws or regulations of any government body that concern this Agreement or Premises. Without limiting the generalities of the foregoing, Licensor shall not be liable for any damages to any property or business operation, or injuries to any person or persons on or about said Premises due to any cause whatsoever.
28. **Safety and Protection:** Licensee hereby agrees, at its sole cost and expense, to erect and maintain any barricades, guard rails, fencing, and/or safety devices for protection as they relate to the protection of the Licensor's City, gas facilities and related construction and operational procedures. Licensee agrees to maintain the same in good condition, repair and appearance at all times. Licensee will submit to Licensor any and all plans and specifications for the installation of barricades, guard rails, fencing and/or safety devices or protection which may be installed on the Premises and such installations shall not be made without the consent and prior written approval of Licensor. No fencing, barricades or other improvements shall be installed or erected for any purpose which will obstruct, interfere with or impede the free access of Licensor to the Premises or Licensor's adjacent land or facilities.
29. **Galvanic/Stray Current/Grounding:** Licensee agrees to release Licensor from any responsibility for damage or personal injury resulting from electromagnetic fields electrolysis due to local galvanic or stray current conditions on or along the Premises. Further, Licensee agrees to assume all costs for electrolysis protection. All improvements, including bridges, shall be grounded unless otherwise approved in writing by Licensor.
30. **Removal of Improvements:** Licensee hereby agrees, upon the expiration or early termination of this Agreement by forfeiture, lapse of time or otherwise, if so requested in writing by Licensor, to remove promptly, at its sole cost and expense, all or part of its improvements including Trail surfaces and drainage structures from the Premises. In the event Licensee cannot or is unable or unwilling to remove said improvements and related facilities as directed by Licensor, Licensee hereby authorizes Licensor to do so, and Licensee hereby agrees to reimburse Licensor for any and all expenses incurred in connection therewith, including restoration as hereinafter required, upon presentation of a bill therefor, and Licensee hereby agrees to indemnify and save harmless Licensor from all liability of any kind whatsoever that Licensor may have incurred by such removal.

31. **Restoration**: Licensee agrees to restore or cause to restore the Premises and Licensors adjacent lands to the condition existing prior to any disturbance to such lands and Premises. Licensee further agrees that upon the earlier termination or expiration of this Agreement by either Party, the Premises (and, if applicable, Licensors adjacent lands) shall be restored to the condition existing prior to any disturbance or improvement from the aforementioned use of the Premises. Included, but not limited to, in such restoration, after construction and subsequent to termination of this License, shall be the spreading of topsoil and sowing perennial type grass seed on any disturbed areas, replacement of crushed stone and/or paved surfacing, replanting of shrubs and other ground cover and repair of fences and gates or other damages incurred due to or arising out of the permission herein given.
32. **Snow Plowing**: Licensee shall be permitted to plow, but not pile, the snow on the Premises in the event it desires to do so.
33. **Taxes**: During the Term, Licensee shall be responsible for all taxes on the Premises, such taxes being defined as any and all federal, state and local governmental, quasi-governmental or public authority taxes, assessments and charges of any kind or nature, whether general, special, ordinary or extraordinary (but not including income or franchise taxes or any other taxes imposed upon or measured by Licensors income or profits, except as provided below), or payments to governmental authorities in lieu thereof, whether or not in contemplation of the parties to this License, which Licensors shall pay or become obligated to pay because of or in connection with the ownership, renting, or operation of the Premises (including but not limited to charges for the installation, maintenance, repair and replacement of sewer/water, curb, gutter and roadway) and of the personal property, fixtures, machinery, equipment, systems and apparatus located thereon or used in connection therewith. Taxes shall include, without limitation, all real and personal property taxes (attributable to the year in which paid), sales taxes, assessments (special or otherwise), fire inspections, transit taxes and ad valorem taxes but shall not include penalties or late fees thereon unless the penalty and/or late fees are directly attributable to Licensee. Taxes shall also include all fees, costs and expenses (including, legal fees and court costs) paid by Licensors in connection with protesting or contesting or seeking a refund or reduction of and/or negotiating with public authorities with respect to any of the aforesaid taxes, regardless of whether Licensors is ultimately successful. If at any time during the term hereof, a tax or excise on rents or other tax however described, other than an income tax, is levied or assessed by the United States or the State of Minnesota, or any political subdivision thereof, on account of the rents hereunder or the interest of Licensors under this License, such tax shall constitute and be included in taxes. Any taxes paid by Licensors hereunder shall be reimbursable to Licensors by Licensee as additional rent.
34. **Breach of License**: In the event Licensee shall breach or violate any of the terms, conditions or provisions of this Agreement, or if any governmental agency having jurisdiction shall serve any demand, order or notice, including violations relating to zoning or municipal ordinances, upon Licensors or Licensee, Licensee shall, at its sole cost and expense, correct said breach or violation and comply with said demand, order or notice within 30 days of its receipt of such written notice or as stated within said demand, order or notice. In the further event that Licensee does not correct said breach or violation or comply with said demand, order or notice within the required time period, it shall be lawful for Licensors, without liability to Licensee and without notice or demand, and in addition to all other rights and remedies available at law or in equity, to declare this Agreement terminated and to re-enter the Premises either with or without process of law and to expel, remove and put out Licensee or any person or persons occupying the Premises, using such force as may be necessary so to do and to repossess and enjoy the Premises again as before the grant of license under this Agreement without prejudice to any remedies which might otherwise be used for the preceding breach of covenants; Licensee hereby expressly waiving all right to any notice or demand under any statute relating to forcible entry and detainer. The decision of Licensors shall be final and binding upon Licensee concerning any breach or default in the covenants and agreements contained in this License. Licensee shall be liable to Licensors for any and all costs incurred, including reasonable attorneys' fees owing to or arising out of any action taken pursuant to this provision in which Licensors prevails.

35. **Licensor Right to Enter:** Licensor reserves unto itself and for their employees, agents and contractors the right, at any time, to enter upon the Premises by any means necessary i) for performing studies, gathering of air, water, soil and other material samples, ii) for inspection of the Premises in order verify Licensee's compliance with the Lease terms, iii) for access to Licensor's lands including the Premises, iv) to inspect, patrol, construct, install, operate, maintain, replace and repair electric lines, gas lines, communication equipment and related and unrelated facilities and equipment, both overhead and underground, upon, over, across, in and beneath the Premises without liability to Licensee, the same as though this Agreement had not been entered into. Licensor through Licensor may, without liability to Licensee, require Licensee to immediately vacate all or part of the Premises upon notice to do so in the event Licensor deems it necessary to make emergency repairs to its facilities. In the event it becomes necessary for Licensor to install or erect additional electric lines, natural gas lines, communication lines and/or related facilities at some future date, Licensee hereby agrees to vacate as much of the Premises as Licensor deems necessary and for such periods of times as may be necessary to install, modify, reconstruct or erect such facilities upon receipt of notice from Licensor to do so. Licensor shall perform and complete all work under this Section as quickly as is reasonable possible to minimize the inconvenience to Licensee.

Licensee further agrees that it shall immediately vacate the Premises and close down the Trail upon notification by Licensor that weather conditions exist or may develop which could cause dangerous conditions such as icing on trees and wires.

36. **Paramount Rights:** The rights of Licensor to utilize the Premises and Licensor's adjacent lands in their utility business will at all times be and remain paramount to the rights herein granted to Licensee and nothing stated herein is to be construed as restricting Licensor from granting rights to other parties or persons in, upon or under the Premises and/or Licensor's adjacent lands, for but not limited to driveways, streets, sidewalks, sewers, water pipes and mains, drainage tiles and pipes, gas mains and pipelines, communication circuits and other allied uses. It is understood and agreed that this Agreement is subject to all existing easements, grants and licenses.
37. **Fees and Charges:** As a condition of this Agreement, Licensee shall not charge at any time fee for the use of the Trail except that Licensee may be permitted to charge a fee for group activities or special events upon written consent of Licensor, which consent shall not be unreasonably withheld.
38. **Alcoholic Beverages Prohibited:** Licensee covenants and agrees that alcoholic liquors or beverages are not permitted on the Premises or Licensor's adjacent lands.
39. **Police Protection:** Licensee shall be permitted to provide or arrange for the provision of all law enforcement and shall be permitted to reasonably require such law enforcement personnel to patrol the Premises as it deems reasonable under this License.
40. **Notices:** All notices and other communications provided for in this Option shall be in writing and sent by e-mail (with a copy by regular mail), sent by reputable overnight courier for next day delivery, or sent by certified mail, or delivered by hand, to each party at the following addresses:

If to Licensee:  
Address:  
City, State Zip  
Attn:  
Phone:  
Email:

If to Licensor:      **Minnesota Energy Resources Corporation**  
2830 S. Ashland Avenue

Green Bay, WI 54304  
Attn: Dawn Van oudenhoven/Real Estate  
(920) 433-5767  
dawn.vanoudenhoven@wecenergygroup.com

41. **Waiver of Terms and Conditions:** Failure of Licensor or Licensee to enforce or insist upon compliance with any of the terms or conditions of this Agreement shall not constitute a general waiver or relinquishment of any such terms or conditions, but the same shall be and remain at all times in full force and effect.
42. **Costs and Attorney Fees:** Licensee shall pay and discharge all reasonable costs, expenses and attorney fees that may be incurred or paid by Licensor in enforcing the covenants and agreements of this Agreement where litigation is not commenced. In the event litigation is commenced by Licensor or Licensee to enforce any provision of this License, the prevailing Party (as determined by a judgment in favor of one Party or the other) shall be entitled to recover from the other, as additional costs, its reasonable attorney fees and costs incurred in connection with such action.
43. **No Joint Venture:** The agreements contained herein are not intended, nor shall the same be deemed or construed, to create a partnership between Licensor and Licensee, to make them joint ventures, nor to make Licensor in any way responsible for the debts or losses of Licensee.
44. **Obligations Survive:** All obligations of Licensee hereunder not fully performed as of the expiration or earlier termination of the Term of this Agreement shall survive the expiration or earlier termination of the Term hereof, including without limitation, all payment obligations with respect to taxes and all obligations concerning the condition of the Premises and Licensor's adjacent lands.
45. **Binding Effect:** The covenants and agreements herein contained shall inure to the benefit of and be binding upon the Parties hereto and their respective successors and assigns, except as otherwise provided in Section 5 hereof.
46. **Captions:** The captions in this Agreement are inserted only as a matter of convenience and for reference and in no way define, limit, construe or describe the scope or intent of such sections or paragraphs of this Agreement nor in any way affect this Agreement.
47. **Severability of Provisions:** If any term, covenant or condition of the Agreement or the application thereof to any person or Party or circumstance shall, to any extent, be invalid or unenforceable at any time, the remainder of the Agreement, or the application of such term, covenant or condition to persons, Parties, or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term, covenant or condition of this Agreement shall be valid and be enforced to the fullest extent permitted by law.
48. **Interpretation:** The laws of the State of Minnesota shall govern the validity, performance and enforcement of this Agreement. Whenever the singular number is used, the same shall include the plural, and the masculine gender shall include the feminine and neuter genders.
49. **Acceptance:** Licensee hereby accepts this Agreement upon the terms, conditions, restrictions hereinbefore set forth, and do covenant to keep and perform each and every one of said terms conditions and restrictions.

[SIGNATURE PAGE FOLLOWS]



This Agreement may be executed in multiple counterparts, each of which shall be deemed an original agreement and both of which shall constitute one and the same agreement. The counterparts of this Agreement may be executed and delivered by electronic signature (including portable document format) by either of the parties and the receiving party may rely on the receipt of such document so executed and delivered electronically or by facsimile as if the original had been received. [Signature information below]

This License Agreement is hereby granted under the terms and conditions set forth hereinabove.

**Licensee:**

By: \_\_\_\_\_ Dated: \_\_\_\_\_  
(Authorized Signature)  
\_\_\_\_\_  
(Print Name)  
\_\_\_\_\_  
(Title)

By: \_\_\_\_\_ Dated: \_\_\_\_\_  
(Authorized Signature)  
\_\_\_\_\_  
(Print Name)  
\_\_\_\_\_  
(Title)

**Licensor:**

Minnesota Energy Resources Corporation

By: WEC Business Services LLC, Its Affiliate and Agent

Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
Kory J. Rentmeester, Manager  
Property Management

**EXHIBIT A**

**Description of the Premises**