



**AGENDA**  
**CLEARWATER CITY COUNCIL MEETING**  
**MONDAY, JANUARY 27, 2020**

- 1. Call to Order and Pledge of Allegiance: 7:00 p.m.**
- 2. Approval of Agenda**
- 3. Public Comment Period**
- 4. Consent Agenda**
  - a. Claims/Accounts Payable**
  - b. Approval of 01-13-20 Regular City Council Meeting Minutes**
- 5. Wright County Sheriff Deputy Report**
- 6. Old Business**
  - a. Ord 2020-01 – Amending Chapter 117 of City Code**
  - b. Res 2020-03 – Approving Findings of Fact for Rezoning**
  - c. Res 2020-02 – Approving Purchase of Fire Engine**
  - d. Discussion of Food Shelf Contract**
- 7. New Business**
- 8. Committee Reports**
  - a. Mayor and Council**
  - b. Boards**
  - c. Staff**
- 9. Other Business**
- 10. Adjournment**



**To: Honorable Mayor Lawrence and Members of the Clearwater City Council**

**From: Annita Smythe, City Administrator**

**Date: January 27, 2020**

**Re: City Council Meeting January 27, 2020**

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- 1. Call to Order and Pledge of Allegiance: 7:00 p.m.**
- 2. Approval of Agenda**
- 3. Public Comment Period**
- 4. Consent Agenda** *(please see attached consent agenda)*
  - a. Claims/Accounts Payable**
  - b. Approval of 01-13-20 Regular City Council Meeting Minutes**
- 5. Wright County Sheriff Deputy Report**
- 6. Old Business**
  - a. Ord 2020-01 – Amending Chapter 117 of City Code**

*This ordinance is the one that was missing from the January 13 agenda materials for the Apartments project. This ordinance requires approval prior to the following resolution.*
  - b. Res 2020-03 – Approving Findings of Fact for Rezoning**

*This is the resolution from the January 13 meeting for the Apartments project that could not be approved due to the missing ordinance above.*
  - c. Res 2020-02 – Approving Purchase of Fire Engine**

*This is to revisit the decision to purchase a fire truck, which was tabled at the January 13, pending (hopefully) resolution of the Fire Contracts at the Workshop on January 27.*
  - d. Discussion of Food Shelf Contract**

*Mayor Lawrence requested that a discussion of the food shelf's contract be added to the agenda. I have attached the agreement, but will have to find the addendums, as I don't have them.*
- 7. New Business**
- 8. Committee Reports**
  - a. Mayor and Council**
  - b. Boards**
  - c. Staff**
- 9. Other Business**
- 10. Adjournment**

CITY OF CLEARWATER

01/23/20 8:57 AM

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\*Check Summary Register©

January 2020

Name	Check Date	Check Amt	
<b>10100 LAKE CENTRAL BANK</b>			
Paid Chk# 022268	ALLSTATE PARTS OF SAUK RAPI	1/27/2020	\$1,087.29 PINS/TANK/CONNECTOR/TUBE/UBOLT
Paid Chk# 022269	ARNOLDS OF ST CLOUD	1/27/2020	\$157.70 FILTER CAB
Paid Chk# 022270	BEUNING, LLC	1/27/2020	\$2,202.84 DEC OFFICE CAM TAXES
Paid Chk# 022271	BOLTON & MENK, INC.	1/27/2020	\$9,339.50 I94 WATERMIAN CROSSING
Paid Chk# 022272	CENTRAL MCGOWAN I INC.	1/27/2020	\$9.30 CYLINDER RENTAL DEC
Paid Chk# 022273	CITY OF ROCKVILLE	1/27/2020	\$50.00 OSHA SAFETY TRAINING SUPLIES
Paid Chk# 022274	CLEAR LAKE/CLWTER SEWER A	1/27/2020	\$27,149.80 SEWER FLOW - DECEMBER 2019
Paid Chk# 022275	CLEARWATER PARTS CITY AUT	1/27/2020	\$317.26 SAE 5W-20 OIL
Paid Chk# 022276	CLEARWATER TRAVEL PLAZA	1/27/2020	\$405.70 FUEL PW DECEMBER
Paid Chk# 022277	CORE & MAIN LP	1/27/2020	\$143.08 METER CONNECTIONS
Paid Chk# 022278	JOE CAOQUETTE	1/27/2020	\$100.00 PARK RENTAL DEPOSIT REFUND
Paid Chk# 022279	LANDFORM PROFESSIONAL SV	1/27/2020	\$668.25 PROF SVCS CLEARWATER APART
Paid Chk# 022280	LEAGUE OF MINNESOTA CITIES	1/27/2020	\$300.00 REGIONAL SAFETY GROUPS TRAININ
Paid Chk# 022281	MENARDS - ST.CLOUD	1/27/2020	\$136.61 BULB BALLAST/SOCKET ADAPTER
Paid Chk# 022282	MN PUBLIC FACILITIES AUTHORI	1/27/2020	\$31,190.86 GO BONDS
Paid Chk# 022283	MN NCPERS LIFE INSURANCE	1/27/2020	\$32.00 GROUP LIFE INS PREM
Paid Chk# 022284	NORTHERN TOOL & EQUIPMENT	1/27/2020	\$169.99 HEATER WELL HOUSE #3
Paid Chk# 022285	NORTHLAND TRUST SERVICES	1/27/2020	\$435.00 ANNUAL DISCLOSURE REPORT
Paid Chk# 022286	PREMIUM WATERS, INC.	1/27/2020	\$39.70 BOTTLED WATER
Paid Chk# 022287	QUILL CORPORATION	1/27/2020	\$390.01 PAPER TOWELS/TOILET PAPER
Paid Chk# 022288	SELECT ELECTRIC, INC.	1/27/2020	\$332.74 REPAIR TRIPPING CIRCUIT BRKR F
Paid Chk# 022289	SURPLUS SERVICES	1/27/2020	\$20.00 VARIOUS TOOLS
Paid Chk# 022290	TRAUT WELLS, INC	1/27/2020	\$50.00 BURGER KING SAMPLE #200055
Paid Chk# 022291	TRI-COUNTY LUMBER, INC.	1/27/2020	\$70.40 PREMIUM/LAG SCREWS
Paid Chk# 022292	VERIZON WIRELESS	1/27/2020	\$79.58 PW PHONE DECEMBER
Paid Chk# 022293	ZIEGLER, INC	1/27/2020	\$688.31 CUTTING EDGE/BOLTS/NUTS
	<b>Total Checks</b>		<b>\$75,565.92</b>

CITY OF CLEARWATER

01/23/20 10:05 AM

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\*Check Summary Register©

January 2020

Name	Check Date	Check Amt	
<b>10100 LAKE CENTRAL BANK</b>			
Paid Chk# 011346E AEM FINANCIAL SOLUTIONS LLC	1/15/2020	\$3,333.00	JAN 2020 PROF FINANCIAL SVCS
Paid Chk# 011347E WRIGHT HENNEPIN COOP ELEC	1/15/2020	\$901.83	STREET LIGHTS NOV/DEC
Paid Chk# 011348E XCEL ENERGY	1/15/2020	\$3,663.51	UTILITIES DEC
Paid Chk# 011349E XCEL ENERGY	1/29/2020	\$1,430.52	STREET LIGHTS
Paid Chk# 011350E DEPT. OF LABOR & INDUSTRY	1/15/2020	\$479.06	QUARTERLY BLDG PERMIT
Paid Chk# 011351E FRONTIER COMMUNICATIONS	1/15/2020	\$589.32	TELEPHONE DEC
Paid Chk# 011352E UNITED STATES TREASURY	1/21/2020	\$3,625.58	941 PP02.2020
Paid Chk# 011353E MINNESOTA REVENUE	1/21/2020	\$635.78	STATE WITHHOLDING PP02.2020
Paid Chk# 011354E PUBLIC EMPLOYEES RETIREME	1/21/2020	\$1,999.45	PERA PP02.2020
Paid Chk# 011355E UNITED STATES TREASURY	1/22/2020	\$252.48	941 PARK BOARD
Paid Chk# 011356E MINNESOTA UI FUND	1/23/2020	\$204.02	QTR 4 2019 UI
Paid Chk# 011357E US BANK CORP PAYMENT SYST	1/23/2020	\$5,238.18	OFFICE FURNITURE/NETWORK SOLUT
	<b>Total Checks</b>	<b>\$22,352.73</b>	

**CLEARWATER CITY COUNCIL MEETING MINUTES  
REGULAR CITY COUNCIL MEETING  
JANUARY 13, 2020**

**1. Call to Order and Pledge of Allegiance: 7:00 p.m. Council Chambers**

- Mayor Lawrence called the Clearwater City Council to order Monday, January 13<sup>th</sup>, 2020 at 7:00 p.m. in the council chambers. Members present were Mayor Lawrence, Council Members Petty, Scott, Kruchten, and Crandall. Also present were members of the Public, Staff and Press.

**2. Approval of Agenda**

- Consent Agenda was corrected to show the meeting minutes dates for December as 2019 instead of 2020.
- Item 4(c) was pulled from the agenda.
- **MOTION** by Scott to approve the agenda with the two changes, seconded by Kruchten, all voted aye. **MOTION CARRIED.**

**3. Public Comment**

- None.

**4. Consent Agenda**

- a. **Claims/Accounts Payable**
- b. **Approval of 12-09-19 City Council Workshop Minutes**
- c. **Approval of 12-09-19 City Council Meeting Minutes**
- d. **Approval of 12-16-19 Special City Council Workshop Minutes**
- e. **Approval of 12-16-19 Special City Council Meeting Minutes**
- f. **Res 2020-01 – Accepting Donation to the Clearwater Fire Department for Extrication Tools**
- **MOTION** by Crandall to approve the Consent Agenda as presented, seconded by Kruchten, all voted aye. **MOTION CARRIED.**

**5. Wright County Sheriff Deputy Report**

- Deputy Sheriff Kroll provided a brief update to the City Council. The bulk of the city's calls over the last month were responding to alarms. Members had some questions about a recent snowmobile theft, but Deputy Kroll was not familiar with the details.

**6. Old Business**

- a. **AEM Contract Cancellation**
  - **MOTION** by Lawrence to terminate contract with AEM effective February 29, 2020 or after 60 days, whichever is acceptable to company, seconded by Crandall, all voted aye. **MOTION CARRIED.**
- b. **Discussion on policy pertaining to replacement of trees and shrubs in right-of-way**
  - The Council discussed an issue on Porter Circle related to some shrubs that were removed during a city street project last summer. The resident has requested that the city replace the shrubs that were removed. Resident claims that they were told that they would be replaced. City Engineer Justin Kannas stated that if the shrubs were supposed to be replaced, the cost would have been included in the project plans. He states the resident was told that they would see if replacement was feasible, but made no promises. Member Scott questioned how we would know if they were in the right-of-way or on private property. Kannas stated that they used Wright County's GIS to determine the right-of-way for this project. No survey was completed. Historically, the city has not replaced shrubs that were in the right-of-way.

- **MOTION** by Crandall to deny the request for replacement if the bushes were in the right-of-way, seconded by Petty. Voting aye – Crandall, Petty, Lawrence, Kruchten. Voting nay – Scott. **MOTION CARRIED.**

**c. CR 75 Trunk Storm Sewer Project**

- Pulled from agenda; no action taken.

**d. Res 2020-02 – Approving Purchase of Fire Truck**

- Mayor Lawrence stated she had received an email from Clearwater Township stating they were not in favor of the Fire Truck purchase.
- Member Kruchten noted that the specifications for the vehicle are 62 pages long. He asked if there is anything comparable available in a used vehicle. Chief Pridgeon responded that there is not much out there that is comparable. He stated that we obtained the specifications from Golden Valley, and that this vehicle has a good track record.
- Member Scott asked about the call volume for 2019. Pridgeon stated it was 326, higher than the previous year's total.
- Mayor Lawrence expressed that it would be helpful to have a fire protection agreement in place with the townships before making a decision on this item.
- **MOTION** by Lawrence to table until the January 27, 2020 meeting, seconded by Scott, all voted aye. **MOTION CARRIED.**

**e. Update on Water and Sewer Rates**

- Finance Director Lindrud informed the council that the full rate study was not yet completed, as additional information was needed. However, based on the preliminary review, she would recommend an increase to water and sewer rates of at least 5%. In addition, even with an increase, and including the addition of the I-94 Water Main Loop, the Water Fund is projected to go negative in 2025.
- Council consensus was to table action until the study is more complete.

**7. New Business**

**a. Planning and Zoning Application for 52-unit Apartment Building (PID #104-019-000010 and PID #104-020-000020)**

- Member Petty recused himself and exited Council Chambers during discussion of this project and accompanying approvals.
- Overview of the project provided by City Planning Consultant Kevin Shay. Some discussion items included the Planner's and Engineer's recommendations, which are to be included in a Development Agreement. In addition, there was discussion of the water lines whose connection points will be relocated, the sewer connection that will follow the water lines from Main Street, a private well to be capped, and the city access off Main Street where the city would like to pave in an access road.
- There was additional discussion about the order of the approvals under consideration. Items were renumbered to reflect the order considered.

**i. Approving Resolution 2020-03 – Findings of Fact for Rezoning PID #104-019-000010 and PID #104-020-000020**

- This resolution required an accompanying ordinance that was not ready for Council consideration.
- **MOTION** by Lawrence to table, seconded by Crandall, all voted aye. **MOTION CARRIED.**

**ii. Approving Resolution 2020-04 Preliminary Plat to Create One New Lot from Two Existing Lots (PID #104-019-000-010 and PID #104-020-000020)**

- **MOTION** to approve by Crandall, seconded by Scott, all voted aye. **MOTION CARRIED.**

**iii. Approving Resolution 2020-05 Final Plat for One New Lot (PID #104-019-000010 and PID #104-020-000020)**

- **MOTION** to approve by Crandall, seconded by Scott, all voted aye. **MOTION CARRIED.**

**iv. Approving Resolution 2020-06 Planned Unit Development Amendment and Site Plan for a 52-Unit Apartment Building**

- **MOTION** to approve by Scott, seconded by Kruchten, all voted aye. **MOTION CARRIED.**

– Member Petty returned to the meeting.

**b. Approving Resolution 2020-07 Setting the 2020 Appointments**

– Council discussed proposed resolution and made the following changes:

- Inserted Member Crandall as Acting Mayor
- Replace Deb Petty with Administrator Smythe on Fire Relief Board of Trustees
- Added Finance Director Lindrud as a Signature Card/Check Signer
- Assigned Member Crandall and Member Scott to an EDA (to be established)
- Added Member Kruchten to Planning Commission
- Added Member Petty to Sewer Authority

– **MOTION** by Scott to approve resolution with changes noted above, seconded by Crandall, all voted aye. **MOTION CARRIED.**

**c. Approve Resolution 2020-08 Budgeted 3% COLA Increase**

– **MOTION** by Crandall to approve, seconded by Petty, all voted aye. **MOTION CARRIED.**

**d. Approve Resolution 2020-09 Pre-Authorization of Claims Payments**

– **MOTION** by Petty to approve, seconded by Kruchten, all voted aye. **MOTION CARRIED.**

**8. Reports**

**a. Mayor and Council**

– Council shared comments from residents, thanking Public Works crew for great job with snow plowing during last big snow event.

**b. Boards**

– Sewer Authority has a meeting on Thursday, January 16, 2020 at 5:30 p.m. at Clearwater City Hall.

**c. Staff**

– None.

**9. Other**

**a. Regular City Council Meeting Monday, January 27, 2020 at 7:00 p.m.**

– Meeting date and time confirmed for next meeting.

**b. Scheduling with Townships for Fire Contract Meeting**

– Will schedule a special workshop with townships for January 27, 2020 at 6:00 p.m.

**c. Discussion on Council Attending New/Experienced Official Training and 2020 Legislative Conference**

– Dates of upcoming training and other conferences discussed. Mayor Lawrence plans to attend the LMC Legislative Conference. Members will let staff know if they plan to attend others/require registration.

**10. Adjournment**

– **MOTION** to adjourn by Crandall, seconded by Kruchten, all voted aye.

– Meeting adjourned at 8:13 pm

ATTEST

APPROVED

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Annita M. Smythe, City Administrator

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Andrea Lawrence, Mayor

CITY COUNCIL  
CITY OF CLEARWATER

ORDINANCE NO. 2020-01

ORDINANCE AMENDING CHAPTER 117 (ZONING) OF THE CITY CODE TO CLASSIFY  
CERTAIN LAND IDENTIFIED AS PID#104019000010 AND PID#104020000020

THE CITY OF CLEARWATER ORDAINS:

**Section 1.** Amendment of the City Code. Chapter 117 of the City Code of the City of Clearwater, Minnesota, is hereby amended by changing the classification on the City of Clearwater Zoning Map from Residential Single Family (R-1) to Planned Unit Development (PUD), on property legally described as follows:

*Outlot A, Clearwater Estates and Outlot B, Clearwater Estates Plat Two according to the recorded plat thereof, Wright County, Minnesota*

**Section 2.** Effective Date. This ordinance shall be in full force and effect upon its passage.

DATED THIS 27<sup>th</sup> DAY OF JANUARY 2020

ATTEST:

\_\_\_\_\_  
Andrea Lawrence-Wheeler, Mayor

\_\_\_\_\_  
Annita M. Smythe, City Administrator

**CITY OF CLEARWATER  
WRIGHT AND STEARNS COUNTIES, MINNESOTA**

A regular meeting of the City Council of the City of Clearwater, Minnesota, was called to order by Mayor Lawrence at 7:00 p.m. in the Council Chambers at City Hall on Monday, January 27, 2020.

The following Council Members were present:

The following Council Members were absent:

A motion to adopt the following resolution was made by \_\_\_\_\_ and seconded by \_\_\_\_\_.

.....

**RESOLUTION 2020-03  
APPROVING FINDINGS OF FACT FOR REZONING  
PID# 104-019-000010 AND #104-020-000020**

WHEREAS, Gohman Construction (“the applicant”) has requested approval of a rezoning on property legally described as follows:

*Outlot A, Clearwater Estates and Outlot B, Clearwater Estates Plat Two according to the recorded plat thereof, Wright County, Minnesota*

**WHEREAS**, notice of a public hearing to accept input on the rezoning request was published in the official newspaper on November 8, 2019 and also sent to property owners within 350 feet of the property; and

**WHEREAS**, the Planning Commission conducted a public hearing on the rezoning request on November 26, 2019 and accepted input on the rezoning request; and

**WHEREAS**, the City Council has reviewed the rezoning request and has made the following findings:

1. The proposed action has been considered in relation to the specific policies and provisions of and has been found to be consistent with the official City Comprehensive Plan.  
  
*The proposed action has been considered in relation to the specific policies and provisions of and has been found to be consistent with the City’s Comprehensive Plan. The Comprehensive Plan identifies the need for diverse housing choices with a variety of price ranges. The proposed project will provide a housing type that is underrepresented in Clearwater’s existing housing stock.*
  
2. The proposed use is or will be compatible with present and future land uses of the area.  
  
*The proposed use will be compatible with the future land use of the area. The land use map is currently guiding the land for park and open space. This was consistent with the golf club house that is currently occupying the property. The land was anticipated for further development with the initial PUD and the land use should be changed to reflect that.*
  
3. The proposed use conforms to all performance standards contained in the City Zoning Ordinance.

*The proposed use conforms to all performance standards contained within the code aside from the requested flexibility as part of the PUD.*

4. The proposed use can be accommodated with existing public services and will not overburden the City's service capacity.

*The proposed use can be accommodated with existing public services and will not overburden the City's service capacity. The City Engineer has reviewed the plans and has found that the existing public services will be sufficient for the development.*

5. Traffic generated by the proposed use is within capabilities of streets serving the property.

*Traffic generation by the proposed use is within capabilities of streets serving the property.*

**WHEREAS**, The City Council has extensively reviewed the applicable code, considered the findings as well as the comments, and input of the Applicants, the Property Owner, the neighboring residents and the general public.

**NOW, THEREFORE, BE IT RESOLVED BY THE CLEARWATER CITY COUNCIL THAT**; the City Council does hereby recommend the issuance of a rezoning for (PID# 104019000010 and 104020000020).

Council members voting in favor:

Opposed or Abstained:

Adopted by the City Council this 27<sup>th</sup> day of January, 2020.

ATTEST:

APPROVED BY:

\_\_\_\_\_  
Annita M. Smythe, City Administrator

\_\_\_\_\_  
Andrea Lawrence, Mayor

**CITY OF CLEARWATER  
WRIGHT AND STEARNS COUNTIES, MINNESOTA**

A regular meeting of the City Council of the City of Clearwater, Minnesota, was called to order by Mayor Lawrence at 7:00 p.m. in the Council Chambers at City Hall on Monday, January 27, 2020.

The following Council Members were present:

The following Council Members were absent:

A motion to adopt the following resolution was made by \_\_\_\_\_ and seconded by \_\_\_\_\_.

.....

**RESOLUTION 2020-02  
APPROVING THE PURCHASE OF A FIRE ENGINE**

**WHEREAS**, the Fire Department requests permission to replace the current Fire Engine 12 with a new Fire Engine; and

**WHEREAS**, the Fire Department spent two years researching the replacement Fire Engine; and

**WHEREAS**, a quote was obtained from Pierce for \$771,714 for a 2019 Pierce Velocity TME pumper; and

**WHEREAS**, the purchase will be funded by an Equipment Certificate; and

**WHEREAS**, the amount of the Equipment Certificate exceeds the .25 percent of the estimated market value of the taxable property in the city; and

**WHEREAS**, the City shall not issue the Equipment Certificate for at least ten days (December 31st, after publication in the official newspaper of Resolution 2019-55; and

**WHEREAS**, the Fire Department shall not order the Fire Engine until at least ten days (December 31st, 2019) after the publication in the official newspaper of Resolution 2019-55.

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council of the City of Clearwater hereby approves the purchase of the \$771,714.00 2019 Peirce Velocity TME pumper to be ordered after December 31st, 2019.

**BE IT FURTHER RESOLVED** that the City Council hereby authorizes the Mayor and City Administrator to take such actions as are necessary to execute a contract to purchase the Fire Engine on behalf of the city.

Council members voting in favor:

Opposed or Abstained:

Adopted by the City Council this 27<sup>th</sup> day of January, 2020.

ATTEST:

APPROVED BY:

\_\_\_\_\_  
Annita M. Smythe, City Administrator

\_\_\_\_\_  
Andrea Lawrence, Mayor

## PURCHASE AGREEMENT – SINGLE UNIT HGAC

This Purchase Agreement (together with all attachments referenced herein, the “Agreement”), made and entered into by and between MacQueen Equipment, LLC., as Delaware corporation DBA MacQueen Emergency (“MacQueen”), and the City of Clearwater (“Customer”), a Minnesota municipality, is effective as of the date specified in Section 3 hereof.

### 1. Definitions

- a. **“Product”** means the fire apparatus and any associated equipment furnished for the Customer by MacQueen, pursuant to the specifications.
- b. **“Specifications”** means the general specifications, technical specifications, orientation, and testing requirements for the Product contained in the MacQueen Proposal for the Product prepared in response to the Customer’s request for proposal.
- c. **“MacQueen Proposal”** means the proposal provided by MacQueen attached as Exhibit C prepared in response to the Customer’s request for proposal.
- d. **“Delivery”** means the date MacQueen is prepared to make physical possession of the Product available to the Customer.

### 2. Purpose

This Agreement sets forth the terms and conditions of MacQueen’s sale of the Product to the Customer.

### 3. Term of Agreement

This Agreement will become effective on the date it is signed and approved by MacQueen’s authorized representative pursuant to Section 20 hereof (“Effective Date”) and, unless earlier terminated pursuant to the terms of this Agreement, it will terminate upon the Customer’s Acceptance and payment in full of the Purchase Price.

### 4. Purchase and Payment

The Customer agrees to purchase the Product specified on Exhibit A for the total purchase price of \$771,714 (“Purchase Price”). Prices are in US Funds.

### 5. Agreement Changes

The Customer may request that MacQueen incorporate a change to the Products or the Specifications for the Products by delivering a change order to MacQueen; provided, however, that any such change order must be in writing and include a description of the proposed change sufficient to permit MacQueen to evaluate the feasibility of such change (“Change Order”). Within seven (7) business days of receipt of a Change Order, MacQueen will inform the Customer in writing of the feasibility of the Change Order, the earliest possible implementation date for the Change Order, of any increase or decrease in the Purchase Price resulting from such Change Order, and of any effect on production scheduling or Delivery resulting from such Change Order.

MacQueen shall not be liable to the Customer for any delay in performance or Delivery arising from any such Change Order. A Change Order is only effective when counter-signed by MacQueen's authorized representative.

**6. Cancellation/Termination**

In the event this Agreement is cancelled or terminated by a party before completion, MacQueen may charge a cancellation fee. The following charge schedule based on costs incurred may be applied: (a) 10% of the Purchase Price after order is accepted and entered by MacQueen; (b) 20% of the Purchase Price after completion of approval drawings, and; (c) 30% of the Purchase Price upon any material requisition. The cancellation fee will increase accordingly as costs are incurred as the order progresses through engineering and into manufacturing. MacQueen endeavors to mitigate any such costs through the sale of such Product to another purchaser; however, Customer shall remain liable for the difference between the Purchase Price and, if applicable, the sale price obtained by MacQueen upon sale of the Product to another purchaser, plus any costs incurred by MacQueen to conduct any such sale.

**7. Delivery, Inspection, and Acceptance**

**Delivery**

Delivery of the Product is scheduled to be within eleven and one half (11.5) **months** of the Effective Date of this Agreement. Risk of loss shall pass to Customer upon Delivery. Delivery shall be made and title shall pass upon Customer's complete fulfillment of its obligations arising under Section 4 hereof.

**Inspection and Acceptance**

Upon Delivery, Customer shall have fifteen (15) days within which to inspect the Product for substantial conformance to the material Specifications, and in the event of substantial non-conformance to the material Specifications to furnish MacQueen with written notice sufficient to permit MacQueen to evaluate such non-conformance ("Notice of Defect"). Any Product not in substantial conformance to material Specifications shall be remedied by MacQueen within thirty (30) days from the Notice of Defect. In the event MacQueen does not receive a Notice of Defect within fifteen (15) days of Delivery, Product will be deemed to be in conformance with Specifications and Accepted by Customer.

**8. Notice**

Any required or permitted notices hereunder must be given in writing at the address of each party set forth below, or to such other address as either party may substitute by written notice to the other in the manner contemplated herein, by one of the following methods: hand delivery; registered, express, or certified mail, return receipt requested, postage prepaid; or nationally recognized private express courier:

**MacQueen Equipment, LLC**  
1125 7th Street East  
St. Paul, MN 55106

**Customer**  
City of Clearwater  
605 County Road 75  
Clearwater, MN 55320

**9. Standard Warranty**

The equipment sold herein will be manufactured by Pierce Manufacturing, Inc. and any warranties are attached hereto as Exhibit B and made a part hereof. Any additional warranties must be expressly approved in writing by Pierce's authorized representative and MacQueen.

**Disclaimer**

Other than as expressly set forth in this agreement, neither Pierce, its Parent Company, Affiliates, Subsidiaries, Licensors, suppliers, distributors, dealers, including without limitation, MacQueen Equipment, LLC, or other respective officers, directors, employees, shareholders, agents or representatives, make any express or implied warranties with respect to the products provided hereunder or otherwise regarding this agreement, whether oral or written, express, implied or statutory. Without limiting the foregoing, any implied warranty against infringement, and the implied warranty of condition of fitness for a particular purpose are expressly excluded and disclaimed. Statements made by sales representatives or in promotional materials do not constitute warranties.

**Exclusions of Incidental and Consequential Damages**

In no event shall MacQueen be liable for consequential, incidental or punitive damages incurred by Customer or any third party in connection with any matter arising out of or relating to this Agreement, or the breach thereof, regardless of whether such damages arise out of breach of warranty, tort, contract, strict liability, statutory liability, indemnity, whether resulting from non-delivery or from MacQueen’s own negligence, or otherwise.

**10. Insurance**

MacQueen maintains the following limits of insurance with a carrier(s) rated A- or better by A.M. Best:

Commercial General Liability Insurance:

Products/Completed Operations Aggregate: \$ 2,000,000  
Each Occurrence: \$ 2,000,000

Umbrella/Excess Liability Insurance:

Aggregate: \$ 5,000,000  
Each Occurrence: \$ 5,000,000

*The Customer may request MacQueen to provide the Customer with a copy of a current Certificate of Insurance with the coverages listed above.*

**11. Indemnity**

The Customer shall indemnify, defend and hold harmless MacQueen, its officers, employees, dealers, agents or subcontractors, from any and all claims, costs, judgments, liability, loss, damage, attorneys’ fees or expenses of any kind or nature whatsoever (including, but without limitation, personal injury and death) to all property and persons caused by, resulting from, arising out of or occurring in connection with the Customer's purchase, installation or use of goods sold or supplied by MacQueen which are not caused by the sole negligence of MacQueen or Pierce.

**12. Force Majeure**

MacQueen shall not be responsible nor deemed to be in default on account of delays in performance due to causes which are beyond MacQueen’s control which make MacQueen’s performance impracticable, including but not limited to civil wars, insurrections, strikes, riots, fires, storms, floods, other acts of nature, explosions, earthquakes, accidents, any act of government, acts of God or the public enemy or terrorism.

**13. Default**

The occurrence of one or more of the following shall constitute a default under this Agreement:

(a) the Customer fails to pay when due any amounts under this Agreement or to perform any of its obligations under this Agreement; (b) MacQueen fails to perform any of its obligations under this Agreement; (c) either party becomes insolvent or become subject to a bankruptcy or insolvency proceedings; (d) any representation made by either party to induce the other to enter into this Agreement is false in any material respect; (e) the Customer dissolves, merges, consolidates or transfers a substantial portion of its property to another entity; or (f) the Customer is in default or has breached any other contract or agreement with MacQueen.

**14. Relationship of Parties**

Neither party is a partner, employee, agent, or joint venture of or with the other.

**15. Assignment**

Neither party may assign its rights and obligations under this Agreement unless it has obtained the prior written approval of the other party.

**16. Governing Law; Jurisdiction**

Without regard to any conflict of law's provisions, this Agreement is to be governed by and under the laws of the state of Minnesota.

**17. Facsimile Signatures**

The delivery of signatures to this Agreement by facsimile transmission shall be binding as original signatures.

**18. Entire Agreement**

This Agreement shall be the exclusive agreement between the parties for the Product. Additional or different terms proposed by the Customer shall not be applicable, unless accepted in writing by MacQueen's authorized representative. No change in, modification of, or revision of this Agreement shall be valid unless in writing and signed by MacQueen's authorized representative.

**19. Conflict**

In the event of a conflict between the Customer Specifications and the MacQueen Proposal, the MacQueen Proposal shall control. In the event there is a conflict between the MacQueen Proposal and this Agreement, the MacQueen Proposal shall control.

**20. Signatures**

This Agreement is not effective unless and until it is approved, signed and dated by MacQueen's authorized representative.

Accepted and Agreed to:

**MACQUEEN EQUIPMENT, LLC**

Signature: \_\_\_\_\_

Name: Daniel Corcoran

Title: District Sales Representative

Date: January 13, 2020

**CUSTOMER: City of Clearwater**

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT A – PURCHASE DETAIL FORM**

MacQueen Equipment, LLC  
 1125 7th Street East  
 St. Paul, MN 55106

**Customer Name** City of Clearwater

**Date** January 13, 2020

Quantity	Chassis Type	Body Type	Price per Unit
1	Pierce Velocity TME	Top mount enclosed pumper, long, 2 <sup>nd</sup> gen	\$ 771,714
			\$
			\$
			\$
			\$

**Warranty Period:** One year bumper to bumper, all other warranties per proposal package  
**Orientation Requirements:** A MacQueen Emergency representative will provide Chassis, pump and body orientation for one day as determined by Fire Chief  
**Other matters:** Bid includes \$3,500 for loose equipment purchase and mounting to be completed by MacQueen Emergency

This contract is available for municipal corporations and others to utilize with the option of adding or deleting any available options, including chassis models. Any addition or deletion may affect the unit price.

**Payment Terms:** Please reference **Exhibit C** and initial next to the payment option(s) chosen

[NOTE: If deferred payment arrangements are required, the Customer must make such financial arrangements through a financial institution acceptable to MacQueen.] All taxes, excises and levies that MacQueen may be required to pay or collect by reason of any present or future law or by any governmental authority based upon the sale, purchase, delivery, storage, processing, use, consumption, or transportation of the Product sold by MacQueen to the Customer shall be for the account of the Customer and shall be added to the Purchase Price. All delivery prices or prices with freight allowance are based upon prevailing freight rates and, in the event of any increase or decrease in such rates, the prices on all unshipped Product will be increased or decreased accordingly. Delinquent payments shall be subject to a carrying charge of 1.5 percent (1.5%) per month or such lesser amount permitted by law. MacQueen will not be required to accept payment other than as set forth in this Agreement. However, to avoid a late charge assessment in the event of a dispute caused by a substantial nonconformance with material Specifications (other than freight), the Customer may withhold up to five percent (5%) of the Purchase Price until such time that MacQueen substantially remedies the nonconformance with material Specifications, but no longer than sixty (60) days after Delivery. If the disputed amount is the freight charge, the Customer may withhold only the amount of the freight charge until the dispute is settled, but no longer than sixty (60) days after Delivery. MacQueen shall have and retain a purchase money security interest in all goods and products now or hereafter sold to the Customer by MacQueen or any of its affiliated companies to secure payment of the Purchase Price for all such goods and products. In the event of nonpayment by the Customer of any debt, obligation or liability now or hereafter incurred or owing by the Customer to MacQueen, MacQueen shall have and may exercise all rights and remedies of a secured party under Article 9 of the Uniform Commercial Code (UCC) as adopted by the state of Minnesota.

THIS PURCHASE DETAIL FORM IS EXPRESSLY SUBJECT TO THE PURCHASE AGREEMENT TERMS AND CONDITIONS DATED AS OF January 13<sup>th</sup>, 2020 BETWEEN MACQUEEN AND City of Clearwater WHICH TEMRS AND CONDITIONS ARE HEREBY INCORPORATED IN, AND MADE PART OF, THIS PURCHASE DETAIL FORM AS THOUGH ECAH PROVISION

WERE SEPARTELY SET FORTH HEREIN, EXCEPT TO THE EXTENT OTHERWISE STATED OR SUPPLEMENTED BY MACQUEEN HEREIN.

## **EXHIBIT B – WARRANTY**

### **LIMITED WARRANTY**

#### **Limited Warranty Terms and Disclaimer**

Pierce warrants that all new and unused goods furnished by Pierce are free from defect in workmanship and material as of the time and place of delivery by Pierce in accordance with its Standard Limited Warranty in effect at the date of contract formation and stated below. Pierce's obligation under this Limited Warranty is subject to the following qualifications: a) Pierce or its authorized Dealer shall have been notified of such claimed defect within thirty (30) days of its discovery or such later date as is specified in the Standard Limited Warranty; b) the vehicle shall have been subject only to proper use normal for similar vehicles; and c) it shall have been regularly maintained and serviced in accordance with the Manufacturer's Service Manual. No defective part may be returned to the factory without Pierce's prior written consent, or that of our authorized representative. Any return must be with transportation prepaid, which may be refunded at the discretion of Pierce. The Standard Limited Warranty for the goods is incorporated herein by reference. It is the exclusive warranty given by Pierce. PIERCE HEREBY DISCLAIMS AND EXCLUDES ALL OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY, ANY WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, AND ANY IMPLIED WARRANTIES ARISING FROM COURSE OF DEALING OR USAGE OF TRADE, notwithstanding any knowledge

of Pierce regarding the use or uses intended to be made of goods, proposed changes or additions to goods, or any assistance or suggestions that may have been made by Pierce personnel.

### **STANDARD LIMITED WARRANTY**

#### **Base Warranties**

- One (1) year basic limited warranty – all
- One (1) year standard Pierce Fire and Rescue Service Center limited warranty – chassis, cab, apparatus body
- One (1) year standard Pierce Fire and Rescue Service Center limited warranty – paint
- Ninety (90) day standard Pierce Fire and Rescue Service Center limited warranty – parts serviced or repaired
- Six (6) month basic parts limited warranty

#### **Chassis and Cab Warranties**

- Three (3) year chassis limited warranty – Velocity and Impel
- Ten (10) year standard cab structural integrity limited warranty – all
- Ten (10) year standard structural integrity limited warranty – Encore rescue vehicle frame modification commercial chassis (FLR & IHC)
- Fifty (50) year chassis frame rail & Crossmember lifetime structural integrity limited warranty - Velocity and Impel chassis

#### **Body Structural Integrity Warranties**

- Ten (10) year standard body structural integrity limited warranty - all aerial, pumpers, tankers, elliptical, dryside

**Paint and Graphics Warranties**

- One (1) year graphics fading and deterioration (vinyl, painted, reflective, gold)
- Three (3) year standard Goldstar/Gold Leaf lamination limited warranty
- Ten (10) year standard prorated paint/corrosion warranty - trucks shipped after Jan 1, 2004

**Component Warranties**

- Three (3) year tak4 front suspension limited warranty
- Fifty-four (54) month material and workmanship camera system
- Five (5) year material and workmanship Command Zone electronics
- Five (5) year material and workmanship foam system control head
- Ten (10) year standard stainless-steel plumbing - piping and weldments
- Ten (10) year material and workmanship pierce 12V led strip light

## EXHIBIT C - PROPOSAL

January 13th, 2020

RE: Proposal for City of Clearwater MacQueen Emergency, ("MacQueen"), the licensed and authorized dealer for Pierce Manufacturing Inc. ("Pierce") in the States of Minnesota, North Dakota, South Dakota, Nebraska and Missouri, is pleased to provide the following proposal for one Pierce Velocity Top Mount Enclosed Pumper. This proposal is based on the accompanying proposal specifications, which are tailored to meet your needs. The proposal pricing is based on current HGAC (Houston Galveston Area Council) FS12-19 contract pricing and includes the fees associated with an HGAC purchase.

### Description

Details		Details	Initials Indicating Acceptance
HGAC Sales Price - 2019 Pierce Velocity TME pumper	\$ 771,714	Prior to any discounts, includes \$2,000 HGAC fee. Due upon apparatus delivery if no pre-payment selected	
Chassis pre-payment discount for pumper	\$ (10,857)	\$361,904 due 90 days prior to completion, with remaining balance due upon delivery and acceptance	
Total with Chassis prepayment	\$ 760,857		
Full Pre-payment Interest Discount	\$ (10,108)	\$750,249 due 20 days after contract execution	
Total	\$ 750,749	Due N20 from contract signing	
Performance Bond (optional)	\$2,088	Would be added to final price if full prepayment selected	

To take advantage of all prepayment discounts, the total of \$750,749 must be paid within twenty (20) days of purchase order or contract signing issued to MacQueen.

The proposal pricing includes the delivery cost from Appleton, WI.

Included in this price are travel expenses for three (3) of your personnel to travel to our factory for pre-construction, mid-construction inspection and final acceptance visits.

Delivery time for the proposed unit will be within Eleven and one half (11.5) months from the date of order which will be the date a Purchase Agreement is executed between Buyer and MacQueen in substantially the form attached hereto as Exhibit 1.

This proposal is valid until January 31, 2020.

Tax is excluded from this proposal. In the event the purchasing organization is not exempt from Sales Taxes or any other applicable taxes and/or the proposed apparatus does not qualify for exempt status, it is the duty of the purchasing organization to pay any and all taxes due.

Balance of sales price is due upon delivery. Payment must be remitted to MacQueen.

Any changes to the original specification will be invoiced or credited as a separate transaction from the original proposal.

**A late fee of .033% of the sale price will be charged per day for overdue payments beginning ten (10) days after the payment is due for the first thirty (30) days. The late fee then increases to .044% per day until the payment is received. In the event of a Prepayment received after the due date above, the discount will be reduced by same percentages above increasing the cost of the apparatus.**

In the event this proposal is accepted and a purchase order is issued then cancelled or terminated by the City of Clearwater before completion, MacQueen may charge a cancellation fee. The following charge schedule based on costs incurred may be applied:

- a. 10% of the Purchase Price after order is accepted and entered by Pierce;
- b. 20% of the Purchase Price after completion of the approval drawings;
- c. 30% of the Purchase Price upon any material requisition.

The cancellation fee may increase accordingly as costs are incurred as the order progresses through engineering and into manufacturing. MacQueen endeavors to mitigate any such costs through the sale of such product to another purchaser; however, the customer shall remain liable for the difference between the purchase price and, if applicable, the sale price obtained by MacQueen upon sale of the product to another purchaser, plus any costs incurred by MacQueen to conduct such sale.

In an effort to ensure the above stated terms and conditions are understood and adhered to, MacQueen requires an authorized individual from the purchasing organization to sign and date this proposal and include it with any purchase order.

Upon signing of this proposal, the terms and conditions stated herein will be considered binding and accepted by the City of Clearwater. The terms and acceptance of this proposal will be governed by the laws of the state of Minnesota. Venue of any claim regarding this proposal will lie in the county Customer is located.

No additional terms or conditions will be binding upon MacQueen unless agreed to in writing and signed by a duly authorized officer of MacQueen.

Sincerely,  
MACQUEEN EMERGENCY

**By** Daniel Corcoran

I, \_\_\_\_\_, the authorized representative of City of Clearwater, agree to purchase one (1) Pierce Velocity Top Mount Enclosed Pumper and agree to the terms of this proposal.

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Date**

AGREEMENT BETWEEN  
THE CITY OF CLEARWATER  
AND  
CLEARWATER FOOD SHELF

THIS AGREEMENT, dated this 17<sup>th</sup> day of October, 2016, by and between the City of Clearwater, Minnesota, a municipal corporation organized and existing under the laws of the State of Minnesota, hereinafter referred to as "CITY", and Clearwater Food Shelf, hereinafter referred to as "LESSEE".

**WHEREAS**, the CITY is the owner of certain real property known as Lions Park, located at, 1100 County Road 75., Clearwater, MN 55320,; and

**WHEREAS**, LESSEE is requesting to occupy and use for public park purposes, the public park property and buildings thereon, and;

**WHEREAS**, both parties wish to enter into an agreement for the management of the Food Shelf at Lions Park in the Lions Building which will provide benefits to the community.

**NOW, THEREFORE**, in consideration of the mutual covenants and promises hereinafter set forth, parties agree as follows:

1. TERM

A. The term of this Agreement shall be for a period of three (3) years, coinciding with the fiscal year of the CITY, except that the first term shall commence upon the date of execution of this Agreement and conclude at the end of Fiscal Year 2016. Thereafter, the parties may renew this Agreement annually until terminated upon written notice by either the CITY or LESSEE. The termination request shall be submitted by September 1<sup>st</sup> prior to the initiation of the term.

2. USE OF SITE.

- A. LESSEE shall staff and manage the Food Shelf space during the term of this Agreement, and shall manage the staff and events in this space. Public use of the facility in the form of access to buildings, equipment, restrooms and grounds will be maintained at a level to be agreed upon by the CITY and LESSEE. Additional space and storage outside of the Food Shelf designated space shall require approval by the City Administrator. LESSEE shall be responsible for all staffing, compensation, hiring, termination, and supervision of Food Shelf.
- B. MECHANICAL AND PERSONAL PROPERTY. The mechanical and personal property of the City set forth on the schedule attached to this Agreement, as Exhibit A, shall be deemed to be part of the facility managed by LESSEE, shall

- E. LESSEE must receive CITY approval prior to repairing, replacing, renovating or retrofitting any of the structural parts of the leased premises including: footings, and foundations, beams, joists, columns, load-bearing walls, exterior walls and façade, stairs, floors, decks, ramps, ceilings, roofs and roofing. LESSEE shall not be responsible for repair or replacement of main utility lines, or water mains. CITY approval may include approval by the City Administrator, subject to administrative spending authority limitations.
- F. LESSEE understands that the CITY is not obligated to replace items included in **Exhibit A** should they fail to be in operating condition, and will only do so at its own discretion.

5. ALTERATIONS.

LESSEE will not make any alterations to the premises without the written consent of the CITY. If LESSEE desires to make any such alterations, an accurate description of the project shall first be submitted to the CITY in writing and such alterations shall be done at the expense of LESSEE. All such work shall be done under the CITY'S supervision and any improvements shall become the property of the CITY at the end of the Agreement term. LESSEE agrees that any alterations shall be done in a workmanlike manner and in conformance with all applicable laws, regulations and building codes; that the structural integrity of any and all building systems will not be impaired and that no liens will be attached to the premises by reason thereof.

6. REPRESENTATIVES.

The City's representative for this Agreement will be the City Administrator. The LESSEE representative for the purposes of this Agreement will be \_\_\_\_\_. Any notices or correspondence on this Agreement shall be sent to:

CITY:  
 City of Clearwater  
 PO Box 9  
 Clearwater, MN 55320  
 ATTN: City Administrator

LESSEE :  
 Clearwater Food Shelf  
 P.O. Box  
 Clearwater, MN 55320  
 ATTN:

All notices shall deemed to have been given upon deposit in a United States mail box, postage pre-paid, as provided above.

7. INDEMNIFICATION.

LESSEE agrees to indemnify, defend, save and hold harmless, the CITY and all its agents, officers and employees thereof from all claims, demands, actions, judgments, suits or causes of action of any nature or character, arising out of LESSEE use of the premises except to the extent that such claims arise out of the CITY'S failure to maintain the premises in accordance with this Agreement. LESSEE shall provide the CITY with notice of any injuries, claims, or suits submitted to them, within thirty (30) days of receipt of such notice, claim, or suit.

and will take affirmative steps to ensure that participants are treated without the same during their participation in programs or use of the facility.

10. RIGHT OF ENTRY.

At all times during the term of this Agreement, the CITY retains ownership of the premises and shall have the right, by itself, its agents and employees, to enter into and upon the Premises during reasonable business hours or, in the event of an emergency, at any time for any legitimate purpose.

11. TERMINATION.

- A. Either party may terminate this Agreement by giving written notice to the other party ninety (90) days prior to cancellation or termination.
- B. At the termination of this Agreement the premises shall be surrendered peacefully and returned to the CITY in the same condition as received, reasonable wear and tear notwithstanding.

12. AMENDMENTS.

No amendments to this Agreement shall be effective without being reduced to writing and executed by both parties.

13. ASSIGNMENT.

The CITY and LESSEE each binds itself and its successors, legal representatives, and assigns of such other party, with respect to all covenants of this Agreement; and neither the CITY nor LESSEE will assign or transfer their interest in this Agreement without the written consent of the other, with the understanding that LESSEE may rent portions of the Site to other parties, with approval of the CITY, upon terms agreeable to LESSEE and may retain the rental proceeds. The CITY shall not withhold consent for reasonable requests. Nothing in this Agreement shall preclude LESSEE from seeking additional funding through grant proposals submitted to foundations and other potential sources of funds, including the CITY.

14. WAIVER.

Any fault of a party to assert any right under this Agreement shall not constitute a waiver or a termination of that right, this Agreement, or any of this Agreement's provisions.

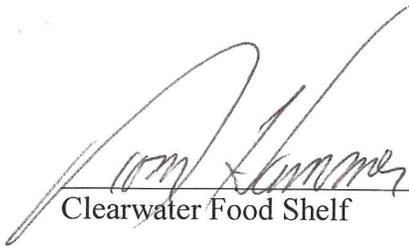
16. ENTIRE AGREEMENT.

It is understood and agreed that this entire Agreement supersedes all oral agreements and negotiations between the parties relating to the subject matters herein.

IN WITNESS WHEREOF, the parties have set their hands the date first written above.

LESSEE:

CITY OF CLEARWATER

  
Clearwater Food Shelf

\_\_\_\_\_  
Clearwater Food Shelf

  
Mayor

  
City Administrator