

WORTHINGTON CITY COUNCIL

ADDENDUM

**7:00 P.M., Tuesday, December 27, 2022
City Hall Council Chambers**

CASE ITEM

E. CITY COUNCIL BUSINESS - ADMINISTRATION (WHITE)

- 5.** Legal Services to Prepare an Updated Significant Industrial User Agreement between the City of Worhtington and JBS

ADMINISTRATION MEMO

DATE: DECEMBER 27, 2022

TO: HONORABLE MAYOR AND CITY COUNCIL

SUBJECT: ITEMS REQUIRING CITY COUNCIL ACTION OR REVIEW

CASE ITEMS

E.5. LEGAL SERVICES TO PREPARE AN UPDATED SIGNICANT INDUSTRIAL USER AGREEMENT BETWEEN THE CITY OF WORTHINGTON AND JBS

The Minnesota Pollution Control Agency (MPCA) is finalizing issuance of the NPDES permit for the City's Industrial Waste Water Treatment Facility that treats discharges from the JBS facility. The permit will include a 15-year chloride compliance schedule in which JBS will take steps to reduce chloride discharges in the waste stream. In conjunction with the permit, they have requested an updated industrial user agreement between the City and JBS that includes milestones and monitoring steps for the above chloride reduction compliance schedule that must be adhered to by JBS.

Staff requested a proposal from Daniel Marx of Flaherty-Hood to assist the City and our consulting engineer in preparing the agreement. Attached as Exhibit 1 is the engagement letter from Flaherty-Hood. Their work will be performed on an hourly basis. Funding for their work will come from the Industrial Waste Water Facility Fund and will not impact the general fund budget.

Council action is requested.

December 22, 2022

VIA EMAIL

Steve Robinson, P.E.
City Administrator
City of Worthington
303 Ninth Street, Worthington, Minnesota 56187
ser@ci.worthington.mn.us

Re: Engagement Letter – NPDES Permitting and Significant Industrial User Agreement

Dear Mr. Robinson:

Thank you for considering this firm to provide environmental legal and regulatory services on behalf of the City of Worthington (“City”) related to its National Pollutant Discharge Elimination System/ State Disposal System Permit (“permit”) and the drafting and negotiation of a new industrial user agreement.

If retained, our understanding is that Flaherty & Hood will represent the City, in collaboration with Bolton & Menk, to draft and negotiate a new wastewater industrial user agreement and provide additional regulatory and legal services related to the City’s wastewater permit.

This letter sets forth our expectations regarding billing and the scope of our engagement and services you expect us to perform, in the event we are retained. Unless we agree otherwise, our statements will be rendered to the City monthly, consistent with the following hourly rates:

Shareholder/Senior Attorney <i>Robert Scott</i> <i>Daniel M. Marx</i>	\$215.00 / hour
Associate Attorney(s)	\$175 / hour

All rates are subject to periodic adjustment by the firm, which may occur at any time during the course of our representation, and generally on January 1 of each calendar year. We may utilize other professional staff at lower hourly rates as appropriate. Statements will include itemized charges for expenses and services such as filing fees, duplicating, messenger and delivery services, overnight mail, toll telephone, travel, staff overtime and computerized legal research.

If the above description of the scope of our representation and the basis for our charges meets with your approval, please have an authorized City official sign a copy of this letter and return it to us for our records.

City of Worthington
December 22, 2022
Page 2 of 3

We look forward to the prospect of providing the professional services described above to the City and offer our commitment to deliver effective, efficient service.

Thank you.

Very truly yours,

FLAHERTY & HOOD, P.A.

Daniel Marx

Daniel M. Marx, Senior Attorney

CITY OF WORTHINGTON

Steve Robinson, City Administrator

Date

APPROVAL OF ENGAGEMENT

I have read the foregoing and agree to its terms this ____ day of _____, 2022.

[_____], on behalf of the City of Willmar.