

TO: Mayor Althoff and City Council

FROM: Jeffrey L. McCormick, Chief of Police

SUBJECT: Surplus Property Agreement

DATE: 4/29/2022

BACKGROUND

I was approached by the Wanamingo Sportsmen's Club regarding the ammunition that gets turned into the police department by persons. The Wanamingo Sportsmen's Club were wondering what we do with it and if they could use it to reduce the ammunition cost of the trainings that they provide to youth. They advised that they would sort the ammunition and return any that was not a type they would use or was useable. I advised that I would have to research the ability to so and that an agreement would likely need to be entered into.

The Cannon Falls Police Department accepts ammunition turned in by people that no longer need it, or find it when cleaning out a relative's property. We had disposed of the ammunition about every 12 months by transferring it to the Bloomington Bomb Squad dispose of, but COVID delayed that process. We currently have eight five-gallon pails of ammunition and have not dispose of it yet because we had received this inquiry.

I spoke with the City Administrator regarding the request and he agreed that this seemed like a good way to reduce the amount we need to transfer for disposal while allowing a non-profit that provides youth education programs to reduce their cost. I consulted the City Attorney to determine if this was possible and what type of agreement was needed to do this as well is transfer any and all liability to the Wanamingo Sportsmen's Club for any ammunition that they received and used.

The City Attorney researched the matter and prepared a Surplus Property Agreement that addresses the value and consideration of the transferred property. The agreement also addresses the transfer of liability, indemnification and requirement for the Wanamingo Sportsmen's Club to maintain insurance coverage.

The agreement has been reviewed by the Wanamingo Sportsmen's Club and accepted.

REQUESTED COUNCIL ACTION

Request a motion and approval to enter into a Surplus Property Agreement with the Wanamingo Sportsmen's Club and authorized the City Administrator and Mayor to sign the agreement.

SURPLUS PROPERTY AGREEMENT

This Surplus Property Agreement ("Agreement") is made and entered into this ____ day of _____, 2022 by and between the Wanamingo Sportsmen's Club Inc., a Minnesota nonprofit corporation ("Club"), and the City of Cannon Falls, a Minnesota municipal corporation ("City").

WHEREAS, at times individual who come into possession of ammunition they no longer want surrender the ammunition to the City's Police Department.

WHEREAS, the ammunition is of no value to the City and is only stored, unsorted, by the City until it can be transferred to a bomb disposal unit for destruction.

WHEREAS, the Club has requested that the City transfer the surplus ammunition to the Club to be used in youth gun safety training.

WHEREAS, transfer of the ammunition to the Club would benefit the City by allowing the ammunition to be used for the public benefit of youth gun safety training and would reduce the City's costs of storing and disposing of the ammunition.

WHEREAS, the City is willing to transfer the ammunition to the Club pursuant to the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, receipt and sufficiency of which is hereby acknowledged, the Club and City agree as follows:

1. **TRANSFER**. The City will transfer surplus ammunition to the Club at times and dates determined by the City. The Club will sort the ammunition, remove ammunition that can be used by the Club in youth gun safety training and return the remaining ammunition to the City. All transfers of ammunition shall occur under the supervision of the City's Chief of Police or his/her designee
2. **CONSIDERATION**. The City will transfer the ammunition to the Club in consideration for the Club providing youth gun safety training, a public benefit, and the resulting reduction in the City's costs of storing and disposing of the ammunition. In addition, the Club will provide the service or sorting the surplus ammunition.
3. **TERM AND TERMINATION**. This Agreement shall run through December 31, 2022. The Agreement shall automatically renew each year unless terminated by the City or the Club. The City or the Club may terminate this Agreement at any time for any reason with written notice to the other party. If the Agreement is terminated by either party the Club shall immediately return to the City any ammunition that is unusable for youth gun safety training and any unsorted ammunition.
4. **LIABILITY**. As soon as surplus ammunition is transferred to the Club, all responsibility and liability for that ammunition shall transfer to the Club. The Club

shall be responsible for that ammunition, including but not limited to its control, use, storage, maintenance, and disposal, until the ammunition is used or is returned to and accepted by the City.

5. NO CITY LIABILITY. The City, including its agents, officers, and employees, shall have no responsibility, obligation, or liability whatsoever related to the surplus ammunition after it has been transferred to the Club (until and unless it has been transferred back to the City as set forth above) or related to any actions or inactions of the Club, its agents, officers, employees or members, including, without limitation, any loss, injury, or damage, all of such obligations or liabilities being hereby waived and released to the extent permitted by law.
6. NO CITY WARRANTY. The City makes no representation or warranty whatsoever, express or implied, with respect to the surplus ammunition, including but not limited to type, quality, condition, quantity or use for the intended purpose.
7. INDEMNIFICATION. The Club shall defend, indemnify, and hold City and its agents, officers and employees, harmless against any damages, liability, claims and court costs, including attorney's fees, resulting from or arising out of or related to this Agreement and/or the surplus ammunition, including reasonable attorneys' fees and costs.
8. INSURANCE. The Club shall maintain commercial general liability insurance coverage. Such coverage shall include, but not be limited to, bodily injury, property damage – third party, and personal injury. The policy shall have coverage limits of at least \$2,000,000 for any one occurrence.
9. SURVIVAL. Upon termination of this Agreement pursuant to City's or Club's right to terminate this Agreement, the parties' obligations under this Agreement shall cease, except Communications Company's obligations with respect to Sections 3, 4 and 7.
10. NO PARTNERSHIP. Nothing in this Agreement shall be deemed in any way to create between the parties any relationship of partnership, joint venture or association, and the parties disclaim the existence thereof.
11. ASSIGNMENT OR SUBCONTRACT. The Club shall not subcontract or assign any part of this Agreement.
12. DATA PRACTICES. This Agreement is subject to the Minnesota Government Data Practice Act, Minnesota Statutes Chapter 13 ("Data Practices Act").

13. GOVERNING LAW. This Agreement shall be controlled by the laws of the State of Minnesota. Venue and jurisdiction for any action, suit or proceeding arising out of this Agreement shall be only in the courts of Goodhue County, Minnesota or the federal courts for the United States for the District of Minnesota.
14. ENTIRE AGREEMENT. The entire agreement of the parties is contained herein. This agreement supersedes all oral agreements and negotiations between the parties relating to the subject matter hereof as well as any previous agreements presently in effect between the parties relating to the subject matter hereof. Any alterations, amendments, deletions, or waivers of the provisions of this agreement shall be valid only when expressed in writing and duly signed by the parties, unless otherwise provided herein.

Wanamingo Sportsmen's Club Inc.

Glen Steberg, President

City of Cannon Falls

Neil Jensen, City Administrator

John Althoff, Mayor