

**Council Executive
Session**

City Hall Council Chambers
June 26, 2023

AGENDA



[The City Council may elect to meeting in closed Executive Session under the attorney-client privilege to discuss pending litigation - Minn. Stat. Section 13D.05, subd. 3(b)]

- 1. Call to Order - 5:00 p.m.**
- 2. Roll Call**
- 3. Closed Session Council - Attorney discussion**
 - Closed session—pursuant to Minn. Stat. § 13D.05, subd. 3(b) to discuss the pending litigation, MDHR Ref. # 70468, with attorney representing the City of Brooklyn Center.
- 4. Reconvene Executive Session Meeting**
 - This is followed by an open session with consideration of settlement with the Minnesota Department of Human Rights, Ref. # 70468.
- 5. Adjourn**

Council Executive Session

DATE: 6/26/2023

TO: City Council

FROM: Dr. Reggie Edwards, City Manager

THROUGH: N/A

BY: Dr. Reggie Edwards, City Manager

SUBJECT: Closed Session Council - Attorney discussion

Background:

Council Executive Session

DATE: 6/26/2023

TO: City Council

FROM: Dr. Reggie Edwards, City Manager

THROUGH: N/A

BY:

SUBJECT: Reconvene Executive Session Meeting

Background:

Council Study Session
City Hall Council Chambers
June 26, 2023

AGENDA



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1. **City Council Discussion of Agenda Items and Questions - 6 p.m.**
 2. **Miscellaneous**
 3. **Discussion of Work Session Agenda Item as Time Permits**
 4. **Adjourn**

**CITY COUNCIL
MEETING**

City Hall Council Chambers
June 26, 2023

AGENDA



1. Informal Open Forum with City Council - 6:45 p.m.

This is an opportunity for the public to address the City Council on items that are not on the agenda. It is limited to 15 minutes. It may not be used to make personal attacks, air personality grievances, make political endorsements, or for political campaign purposes. Council Members will not enter into a dialogue with the presenter. Questions from the Council will be for clarification purposes only. It will not be used as a time for problem-solving or reacting to the comments made but for hearing the presenter for informational purposes only.

The first call will be for those that have notified the Clerk that they would like to speak during the open forum and then ask if anyone connected to this meeting would like to speak. When called upon, please indicate your name and then proceed. Please be sure to state your name before speaking.

2. Invocation - Graves - 7 p.m.

3. Call to Order Regular Business Meeting

Attendees please turn off cell phones and pages during the meeting. A copy of the full meeting packet is available in the binder at the entrance to the Council Chambers.

4. Roll Call

5. Pledge of Allegiance

6. Approval of Agenda and Consent Agenda

These items are considered to be routine by the City Council and will be enacted by one motion. There isn't a separate discussion for these items unless a Councilmember so requests, then it is moved to the end of the Council Consideration Items.

a. Approval of Minutes

- motion to approve the following meetings:

- *June 12 Study Session*
- *June 12 Regular Session*

b. Approval of Licenses

- motion to approve the licenses as presented.

c. Resolution Approving Settlement Agreement for Brooklyn Boulevard Corridor Project Phase 2 Improvements, Project No. 2021-05

- Motion to approve a resolution approving a settlement agreement for Brooklyn Boulevard Corridor Project Phase 2 Improvements, Project No. 2021-05.

7. Presentations/Proclamations/Recognitions/Donations

8. Public Hearings

- a. An Ordinance Amending Chapters 1, and 4 of the City Code of Ordinance Regarding Animal Waste, and Storage of Deicing Materials
 - *Motion to approve the Second Reading of an Ordinance Amending Chapter 1, and 4 of the City Code of Ordinances Regarding Animal Waste, and Storage of Deicing Materials.*

9. Planning Commission Items

10. Council Consideration Items

11. Council Report

12. Adjournment

Council Regular Meeting

DATE: 6/26/2023

TO: City Council

FROM: Dr. Reggie Edwards, City Manager

THROUGH: N/A

BY: Barb Suciu, Assistant City Manager/City Clerk

SUBJECT: Approval of Minutes

Requested Council Action:

- motion to approve the following meetings:

- *June 12 Study Session*
- *June 12 Regular Session*

Background:

In accordance with Minnesota State Statute 15.17, the official records of all meetings must be documented and approved by the governing body.

Budget Issues:

Inclusive Community Engagement:

Antiracist/Equity Policy Effect:

ATTACHMENTS:

Description	Upload Date	Type
6.12 Study Session Meeting Minutes	6/20/2023	Backup Material
6.12 Regular Sessiio Meeting Minutes	6/23/2023	Backup Material

MINUTES OF THE PROCEEDINGS OF THE CITY COUNCIL
OF THE CITY OF BROOKLYN CENTER IN THE COUNTY
OF HENNEPIN AND THE STATE OF MINNESOTA

STUDY SESSION
JUNE 12, 2023
CITY HALL – COUNCIL CHAMBERS

CALL TO ORDER

The Brooklyn Center City Council met in Study Session called to order by Mayor April Graves at 6:07 p.m.

ROLL CALL

Mayor April Graves and Councilmembers Kris Lawrence-Anderson, Marquita Butler (arrived at 6:12 p.m.), and Dan Jerzak. Councilmember Teneshia Kragness was absent. Also present were City Manager Reggie Edwards, City Clerk Barb Suciu, and City Attorney Jason Hill.

CITY COUNCIL DISCUSSION OF AGENDA ITEMS AND QUESTIONS

Councilmember Jerzak requested that Regular Session Consent Agenda Items 6c. Resolution Approving the Labor Agreement for the Law Enforcement Labor Services, Inc. (LELS NUMBER 512) and the City of Brooklyn Center for the Period Beginning May 22, 2022, 2023, and 2024 and 6d. Resolution Approving the Labor Agreement for Law Enforcement Labor Services, Inc. (LELS NUMBER 520) and the City of Brooklyn Center for the Period Beginning May 22, 2022, years 2023, and 2024 be removed from the Consent Agenda due to a conflict of interest.

City Manager Reggie Edwards stated the items could be moved to Regular Session to Council Consideration Items 10b. Resolution Approving the Labor Agreement for the Law Enforcement Labor Services, Inc. (LELS NUMBER 512) and the City of Brooklyn Center for the Period Beginning May 22, 2022, 2023, and 2024 and 10c. Resolution Approving the Labor Agreement for Law Enforcement Labor Services, Inc. (LELS NUMBER 520) and the City of Brooklyn Center for the Period Beginning May 22, 2022, years 2023, and 2024 due to a conflict of interest.

MISCELLANEOUS

Councilmember Jerzak stated there was an email sent to the Council and City Clerk Barb Suciu. He read the email in full regarding consistent loud music at Northport Park. The writer felt that the music is intimidating and inappropriate. The writer requested the letter be read aloud at a Council meeting. The parks are meant for all community members to feel welcome. The writer was Patty Koenig. She also cited a code that is in violation due to the loud music.

Councilmember Butler arrived at 6:12 p.m.

Mayor Graves noted she remembers a similar complaint in the park from a previous summer. She stated she doesn't have an issue with music being played in public spaces, but it shouldn't be forced upon residents. Dr. Edwards stated staff is working on hiring a new person that would be responsible to ensure parks and events are completed in an orderly manner among other things.

Councilmember Butler confirmed the park does get rather loud on the weekends. She pointed out there have been issues in neighboring cities with large groups of youth gathering in parks.

Councilmember Jerzak asked for a Staff member to reach out directly to Patty Koenig in the interim so she feels heard.

Dr. Edwards stated Regular Session Consent Agenda Item 6h. An Ordinance Amending Chapter 35 of the City Code of Ordinance Regarding Application Requirements for Land Disturbance Permits (1st reading) needs to be removed as the Planning Commission did not reach a quorum to review the matter.

Mayor Graves stated she would like an update on the absences of each member of the Planning Commission. Councilmember Jerzak requested the weekly emails to detail any issues with the Commissions meeting quorum.

Councilmember Jerzak stated David Abrahamson sent correspondence to the Mayor requesting that North Memorial Ambulance Service at 4501 68th Avenue North move their location to an area with fewer residences nearby as it would create a better living environment for all residents. The writer stated he hears sirens daily and it disturbs his attempts to enjoy the nearby nature.

Mayor Graves stated she sympathizes with the writer as the sirens can be frustrating to hear. However, the Council doesn't have any power in that situation. Also, it can be beneficial for such services to be close to residential areas.

Councilmember Butler suggested sharing the concerns with North Memorial Ambulance Service. They could potentially wait to turn on their sirens until on a main road rather than using sirens in the neighborhood.

Councilmember Jerzak asked if the Council could receive information about the dog park and why it was pushed back. If there is a labor issue, the Council should be aware of it.

Councilmember Jerzak also requested an update from staff regarding questions the Council had about group homes, a progress report on crime upticks in the City, and information about if community intervenors have been deployed. He stated he would like an update regarding grants and the recent opioid presentation and when the employee survey would be completed. Also, the Council needs an update on the process for the potential sales tax so they can prepare for it to be on the ballot if need be and financial reports related to the American Rescue Plan Act.

Dr. Edwards stated the community intervenors have been deployed, but he would get more updates on that topic along with the others listed by Councilmember Jerzak.

Councilmember Jerzak pointed out that the Council had previously considered revisiting the Daunte Wright and Kobe Dimock-Heisler Community Safety and Violence Prevention Act which would be important to do prior to budget discussions.

Mayor Graves stated she would like to hold off on that conversation until the staff presents their recommendations. Mayor Graves asked if there were any legal requirements with timing. City Attorney Jason Hill stated there are no legal requirements related to timing and the Daunte Wright and Kobe Dimock-Heisler Community Safety and Violence Prevention Act.

Councilmember Jerzak asked if the Council was still waiting for the Implementation Committee's presentation. If so, he asked when that would be held. Mayor Graves stated the presentation was supposed to be on May 8, 2023. However, it was postponed. There is a desire for LaToya Turk and the Police Chief to do a joint presentation on the topic. However, they have not had an opportunity to meet and prepare for a presentation.

Dr. Edwards stated a date would likely be set for the traffic stop presentation by the next Council meeting. As for the alternative response recommendations, staff has been in communication with Hennepin County regarding their embedded response program.

Councilmember Jerzak noted he asked about the Daunte Wright and Kobe Dimock-Heisler Community Safety and Violence Prevention Act because of grant funding the City has received for pilot programs and the potential need for budget discussions regarding funding for programming.

Dr. Edwards explained the budget will include programs that are financially prudent. Staff has kept the grant funders up-to-date on the process, and there is no deadline to use the funds.

Mayor Graves agreed she would like an update on the community intervenors and when they are working in the community.

Mayor Graves stated she had a proclamation to add to the Regular Session Agenda recognizing a Park Center graduate for being a safety in the NFL and providing youth football programming within the Brooklyn Center community.

Councilmember Lawrence-Anderson asked what the status of the labor study is. Dr. Edwards stated the organization asked for an extension that was granted through the end of June.

Mayor Graves asked if the Finance Commission and the new Councilmembers were provided with the sales tax discussion from May. If not, it would be beneficial for them to review it. Dr. Edwards confirmed staff can recirculate the presentation. He noted that staff would provide another sales tax presentation when presented to Council.

ADJOURN STUDY SESSION TO INFORMAL OPEN FORUM WITH CITY COUNCIL

Mayor Graves closed the Study Session at 6:35 p.m.

MINUTES OF THE PROCEEDINGS OF THE CITY COUNCIL
OF THE CITY OF BROOKLYN CENTER IN THE COUNTY
OF HENNEPIN AND THE STATE OF MINNESOTA

REGULAR SESSION
JUNE 12, 2023
CITY HALL – COUNCIL CHAMBERS

1. INFORMAL OPEN FORUM WITH CITY COUNCIL

CALL TO ORDER INFORMAL OPEN FORUM

The Brooklyn Center City Council met in Informal Open Forum called to order by Mayor April Graves at 6:47 p.m.

ROLL CALL

Mayor April Graves and Councilmembers Marquita Butler, Kris Lawrence-Anderson, and Dan Jerzak. Councilmember Teneshia Kragness was absent. Also present were City Manager Reggie Edwards, Assistant City Engineer James Soltis, City Clerk Barb Suci, and City Attorney Jason Hill.

Mayor April Graves opened the meeting for the purpose of an Informal Open Forum.

Julie B. noted she also wrote a letter to Council that she hoped would be discussed by the Council. She asked for a response to the letter she wrote. She asked how it is determined which letters are read to the public or not. Julie B. stated she received one response, but it seemed to miss some of the points of her letter. She stated there needs to be a policy of expectations and equity about what information is shared, not to mention regarding Committees and Commissions.

Mayor Graves stated Julie B.'s question was regarding the lack of quorum when grant information was presented to the Council. She read the email from Julie B. The email stated Julie B. was shocked after listening to the presentation on grant oversight. The Finance Commission somehow created a policy without meeting the quorum for quite some time. Also, there should be input from community members included in the process. The restrictions are stringent and are a roadblock to progress. Julie B. mentioned it was troubling to hear that the policy was copied from Bloomington as it is twice the size of Brooklyn Center and is mostly white. Their budget is much greater and has several different revenue streams. Julie B. asked why there weren't town hall meetings regarding the proposed policy. The process seems rushed and procedures are being circumvented for the Finance Commission. Brooklyn Center has the opportunity to do better than they have in the past. Equitable practices need to be established and followed. There are also no minutes for the Finance Commission available.

Mayor Graves stated the Council had a robust discussion about grant management and sought to find a compromise between being aware of the happenings without micro-managing. It can be

valuable to look to the policies of multiple cities. Council has been having the conversation for a while, but there has only been one initial presentation to the Council on the topic.

Councilmember Lawrence-Anderson noted she had responded to the email from Julie B. She stated policies are Council decisions. A financial policy isn't relevant for community feedback beyond the input from community members on the Finance Commission. As for the reference to Bloomington, if a City that large is able to have a grant policy be successful, it is very likely a smaller city could also be successful. Again, it was a first reading and still needs staff recommendations.

Councilmember Jerzak agreed Council had a robust discussion about grant management and came to a solid compromise. The Council just wants to be aware of the money going in and coming out of the City. The Finance Director went through the League of Minnesota Cities to do her due diligence in looking for comparable policies. Councilmember Jerzak clarified that Committee and Commissions can still meet without a quorum, but they cannot vote without a quorum.

Councilmember Jerzak pointed out community input can be provided in a number of ways such as through informal public forums, attendance at public meetings, participation in Committees and Commissions, and more. Many cities have policies regarding community input, but Brooklyn Center does not restrict community input in such a way. As for the mention of bias against certain Departments, that is not the case in the slightest.

Mayor Graves suggested there could be a public comment period added after the next presentation of the grant management policy.

Councilmember Butler asked for staff to provide more information on how the policy was put together as Julie B. expressed concerns about transparency.

Matt O. asked Mayor Graves if she would like an alternate to attend the Wednesday meeting as she is unavailable. Mayor Graves stated Cordell Wiseman would attend the Northwest Tourism Board meeting. Councilmember Lawrence-Anderson stated she would also attend the meeting.

Matt O. stated an employee of his saw a sign about work being done on the Daunte Wright Memorial. He asked if there is an opportunity for community input. Dr. Edwards stated there will be an unveiling later on in the summer. There will be more communications with the community about the Memorial project. Any communication is done in collaboration with the Wright family, and they have a meeting scheduled for the following day regarding the Memorial.

Councilmember Jerzak moved and Councilmember Butler seconded to close the Informal Open Forum at 7:05 p.m.

Motion passed unanimously.

2. INVOCATION

Councilmember Butler pointed out the Juneteenth holiday will be recognized on Monday, June 19, 2023. In 1863 during the Civil War, Abraham Lincoln issued the Emancipation Proclamation. However, it would be more than two years until the news reached the African Americans in Texas. The first official Juneteenth celebration was held the year after.

Councilmember Butler shared a quote by Desmond Tutu, “My humanity is bound up in yours, for we can only be human together.”

Mayor Graves stated there will be a number of events in Brooklyn Center to celebrate Juneteenth. Thursday, June 15, 2023, will be a dinner and panel discussion at the Brooklyn Center Community Center. There is a golf tournament at Centerbrook Golf Course on June 16, 2023. Then there will be a full-day Juneteenth Celebration on Saturday, June 17, 2023, at Centennial Park to include entertainment, food, vendors, activities, face painting, balloon art, and more.

Councilmember Jerzak asked if there will be a Council booth. Mayor Graves stated she just walked around the event in previous years. She asked if there could be a booth. Dr. Edwards stated he would have to check.

3. CALL TO ORDER REGULAR BUSINESS MEETING

The Brooklyn Center City Council met in Regular Session called to order by Mayor April Graves at 7:09 p.m.

4. ROLL CALL

Mayor April Graves and Councilmembers Marquita Butler, Kris Lawrence-Anderson, and Dan Jerzak. Councilmember Teneshia Kragness was absent. Also present were City Manager Reggie Edwards, Assistant City Engineer James Soltis, City Clerk Barb Suci, and City Attorney Jason Hill.

5. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

6. APPROVAL OF AGENDA AND CONSENT AGENDA

Mayor Graves explained there was a discussion of the Consent Agenda at the Study Session. Councilmember Jerzak requested that Regular Session Consent Agenda Items 6c. Resolution Approving the Labor Agreement for the Law Enforcement Labor Services, Inc. (LELS NUMBER 512) and the City of Brooklyn Center for the Period Beginning May 22, 2022, 2023, and 2024 and 6d. Resolution Approving the Labor Agreement for Law Enforcement Labor Services, Inc. (LELS NUMBER 520) and the City of Brooklyn Center for the Period Beginning May 22, 2022, years 2023, and 2024 be removed from the Consent Agenda due to a conflict of interest. It was agreed

that this item would be moved to Regular Session to Council Consideration Items 10b. Resolution Approving the Labor Agreement for the Law Enforcement Labor Services, Inc. (LELS NUMBER 512) and the City of Brooklyn Center for the Period Beginning May 22, 2022, 2023, and 2024 and 10c. Resolution Approving the Labor Agreement for Law Enforcement Labor Services, Inc. (LELS NUMBER 520) and the City of Brooklyn Center for the Period Beginning May 22, 2022, years 2023, and 2024 due to a conflict of interest.

Mayor Graves noted Dr. Edwards had indicated that Regular Session Consent Agenda Item 6h. An Ordinance Amending Chapter 35 of the City Code of Ordinance Regarding Application Requirements for Land Disturbance Permits (1st reading) needs to be removed as the Planning Commission did not reach a quorum to review the matter. Lastly, there will be an additional proclamation on the agenda.

Councilmember Jerzak moved and Councilmember Butler seconded to approve the Agenda and Consent Agenda, as amended, and the following consent items were approved:

6a. APPROVAL OF MINUTES

1. April 24, 2023 – Work Session
2. May 8, 2023 – Regular Session
3. May 22, 2023 – Study Session
4. May 22, 2023 – Regular Session
5. May 22, 2023 – Work Session

6b. LICENSES

GARBAGE HAULERS

Allied Waste Services of North America, LLC,	8661 Rendova Street NE, Circle Pines, MN 55014 BL23-0342
Midwest Grease	220 Ponderosa Road, Redwood Falls, MN 56283 BL23-0307
Waste Management – Blaine	10050 Naples Street NE, Blaine, MN 55446 BL23-0352

MECHANICAL

Anderson's Residential Heating & A/C	1628 County Road 10, #34, Spring Lake Park, 55432
Forward Air, Inc. FFM LLC	9220 Wright Bros Court SW, Cedar Rapids 52404

Friendly Home Services Inc.	11792 272nd Avenue NW, Zimmerman 55398
Homeworks Services LLC	915 Blue Gentian Road, Suite 100, Eagan 55121
Kirts Mechanical LLC	2803 Roth Place, White Bear Lake 55110
Liberty Comfort Systems	627 East River Road, Anoka 55303
Midwest Electric and Generator	10215 Twin Lakes Road NW, Elk River 55330
Ray Welter Htg Co.	4637 Chicago Avenue S, Minneapolis 55407
Schwantes Heating and Air Conditioning, Inc.	6080 Oren Avenue S, Stillwater 55082
Southside Heating & Air Conditioning Inc.	10808 Normandale Boulevard, Bloomington 55437
St. Paul Plumbing & Heating Co.	640 Grand Avenue, St. Paul 55105
Tim's Quality Plbg.	225 County Road 81, Osseo 55369
WJW Company	10068 Flanders Court, Blaine 55449

RENTAL

INITIAL (TYPE II – two-year license)

2801 67th Lane N

P J Carey & M J Carey

3715 58th Avenue N

Saldi Home Improvement Llc

RENEWAL (TYPE IV – six-month license)

1600 71st Avenue N

Fyr Sfr Borrower Llc

1900 Brookview Drive

Ih3 Property Minnesota Lp

2607 65th Avenue N	Oluwaferanmi Amusan
3141 49th Avenue N	Ccf3 Llc
3906 Janet Lane	Lateef Olayiwola Adeleke
5024 71st Avenue N	Fyr Sfr Borrower Llc
5344 Twin Lake Boulevard E	Takasi Sibuya
6325 Kyle Avenue N	Cuong Pham
7225 Major Avenue N	Iasis Iii Llc
<i>RENEWAL (TYPE III – one-year license)</i> 700 66th Avenue N	Georgetown-bc Company Llp
1217 54th Avenue N	Jackson Hurst & Cierra Hurst
7206-12 West River Road	Jason L Ingbreton
7013 Knox Avenue N LLC	HPA II BORROWER 2021-1
<i>RENEWAL (TYPE II – two-year license)</i> 407 70th Avenue N	Gary F Brummer
4809 Twin Lake Avenue N	Twin Lake Apartments, LLC
4811 Lakeview Avenue N	Eileen Booker
6125 Lilac Drive N	Lanel Crossings Ltd Ptnrshp
4207 Lakeside Avenue N, #236	Judith C Spanberger
5542 Irving Avenue N	Ri Five Llces
6219 Chowen Avenue N	Butterfly Bound Care
<i>RENEWAL (TYPE I – three-year license)</i> 5550 Girard Avenue N	Restart Inc
5636 Fremont Avenue N	Alice I Mansaray

5712 Northport Drive

R & C Scherbing Fam Rv Lv
Tr

6600 Dupont Avenue N

Thomas Le & Mai Le

7024 Newton Avenue N

T Pfingsten & M W Omelia

7137 Grimes Avenue N

Shawn Banks & Djuana J
Banks

SIGNHANGER

Signcrafters Outdoor

14050 Lincoln St. NE,
Ham Lake 55304

- 6e. ORDINANCE NO. 2023-02 AMENDING CHAPTERS 1, AND 4 OF THE CITY CODE OF ORDINANCE REGARDING ANIMAL WASTE, AND STORAGE OF DEICING MATERIALS (1ST READING)**
- 6f. RESOLUTION NO. 2023-67 ACCEPTING BID AND AWARDING A CONTRACT, IMPROVEMENT PROJECT NOS. 2023-01, 02, AND 03, 2023 STREET AND UTILITY IMPROVEMENTS**
- 6g. RESOLUTION NO. 2023-68 ACCEPTING BID AND AWARDING A CONTRACT, IMPROVEMENT PROJECT NOS. 2023-04 AND 05, 2023 TRAIL AND PARKING LOT IMPROVEMENTS**

Motion passed unanimously.

7. PRESENTATIONS/PROCLAMATIONS/RECOGNITIONS/DONATIONS

- 7a. PROCLAMATION RECOGNIZING THE 2023 GRADUATING CLASS BROOKLYN CENTER HIGH SCHOOL, THE EARLY COLLEGE ACADEMY, AND INSIGHT SCHOOL OF MINNESOTA**

Mayor Graves read in full a Proclamation Recognizing the 2023 Graduating Class of Brooklyn Center High School, the Early College Academy, and Insight School of Minnesota.

Councilmember Butler moved and Councilmember Jerzak seconded to accept the Proclamation Recognizing the 2023 Graduating Class Brooklyn Center High School, the Early College Academy, and Insight School of Minnesota.

Motion passed unanimously.

- 7b. PROCLAMATION DECLARING JUNE 14, 2023, "FRIEDA FARLEY DAY" AS SHE CELEBRATES HER 103 BIRTHDAY**

Mayor Graves read in full a Proclamation Declaring June 14, 2023, "Frieda Farley Day" as she Celebrates her 103 Birthday.

Councilmember Butler moved and Councilmember Jerzak seconded to accept the Proclamation Declaring June 14, 2023, "Frieda Farley Day" as she Celebrates her 103 Birthday.

Motion passed unanimously.

7c. PROCLAMATION DECLARING THE MONTH OF JUNE AS PRIDE MONTH

Mayor Graves read in full a Proclamation Declaring the Month of June as Pride Month.

Councilmember Jerzak moved and Councilmember Butler seconded to accept the Proclamation Declaring the Month of June as Pride Month.

Motion passed unanimously.

Mayor Graves noted she recently co-facilitated a training with OutFront. It was a great conversation.

7d. PROCLAMATION RECOGNIZING

Mayor Graves read in full a Proclamation Declaring the Month of June as Pride Month.

Councilmember Butler moved and Councilmember Jerzak seconded to accept the Proclamation Declaring the Month of June as Pride Month.

Motion passed unanimously.

8. PUBLIC HEARINGS

8a. ORDINANCE NO. 2023-03 VACATING CERTAIN EASEMENTS WITHIN LOTS 1, 2, AND 3, BLOCK 6, WANGSTAD'S BROOKLYN TERRACE, HENNEPIN COUNTY, MINNESOTA IN THE CITY OF BROOKLYN CENTER, MINNESOTA

City Manager Reggie Edwards introduced the item and invited Assistant City Engineer James Soltis to continue the presentation.

Assistant City Engineer James Soltis stated the Wangstad Commons development was previously approved by Council on May 8, 2023. Mr. Soltis showed an overview of the site. The public hearing is to consider vacating certain easements as referenced above that are associated with the Wangstad Commons site redevelopment. The Planning Commission has reviewed the final plat for Wangstad's Brooklyn Terrace Second. In connection with the final plat and easement dedication proceedings, the developer is requesting the release and termination of easements that are either no longer needed or are being replaced by new easements.

Mr. Soltis explained it is the staff's opinion that the easement proposed to be vacated is no longer needed and should not negatively affect rights to public easements. All relevant entities have been notified. Staff is unaware of any entity objecting to the proposed vacation.

Councilmember Butler moved and Councilmember Lawrence-Anderson seconded to open the Public Hearing.

Motion passed unanimously.

No one appeared to address this item.

Councilmember Jerzak moved and Councilmember Lawrence-Anderson seconded to close the Public Hearing.

Motion passed unanimously.

Councilmember Butler moved and Councilmember Jerzak seconded to adopt ORDINANCE NO. 2023-03, An Ordinance Vacating Certain Easements as referenced above that are associated with the Wangstad Commons Site Redevelopment in Connection with the Proposed Final Plat of Wangstad's Brooklyn Terrace Second.

Motion passed unanimously.

9. PLANNING COMMISSION ITEMS

10. COUNCIL CONSIDERATION ITEMS

10a. INTERIM ORDINANCE NO. 2023-04 AUTHORIZING A STUDY AND IMPOSING A MORATORIUM ON THE OPERATION OF A CANNABIS BUSINESS WITHIN THE CITY OF BROOKLYN CENTER

Dr. Edwards introduced the item and invited City Attorney Jason Hill to make the Staff presentation.

Mr. Hill explained he would cover the creation of the Office of Cannabis Management, licensing, regulation, and registration of retailers, the status of products legalized in 2022, and the next steps. The presentation will not cover the impact on law enforcement and criminal statutes, human resources concerns, and grant opportunities.

Mr. Hill stated the Office of Cannabis Management (OCM) will be established on July 1, 2023. It will take about one year for the Office to be fully functional. The Office needs to hire a Director and employees. OCM will be issuing the licenses rather than individual cities. There will be 16 categories of licenses to include options such as cannabis microbusiness, mezzobusiness, cultivator, manufacturer, retailer, wholesaler, transporter, testing facility, and event organizer. Another consideration will be lower-potency hemp edible manufacturers, and retailers.

Mr. Hill stated the City will have a limited role in licensing. Within 30 days of receiving a copy of an application for a cannabis business license, the City must certify whether a proposed cannabis business complies with local zoning ordinances, state fire code, and building code. The City can provide the OCM with any additional information it believes is relevant to the OCM's decision on whether to issue a license. The bill does not prohibit cities from enforcing other local Ordinances.

Mr. Hill pointed out that the City cannot prohibit the establishment or operation of a cannabis business licensed under the bill. The City also cannot prohibit the possession, transportation, or use of cannabis flowers, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products. However, if conducting a study of time, place, and manner restrictions for cannabis businesses, the City can adopt an interim ordinance and moratorium applicable to cannabis businesses that would be effective through January 1, 2025.

Mr. Hill noted the bill also allows regulation on distances from certain types of buildings/uses, likely through zoning regulations. Specifically, prohibiting the operation of a cannabis business within 1,000 feet of a school or 500 feet of a daycare, residential treatment facility, or an attraction within a public park that is regularly used by minors, including a playground or athletic field.

Councilmember Butler noted the City has a limit on the number of licenses for tobacco establishments allowed. Mr. Hill stated he would provide more details on that, but there is language in the bill that allows a City to limit the licenses to no more than one cannabis establishment per 12,500 residents. There is also a County-wide density limit. If Hennepin County has one active registration for every 12,500 residents, the City is not obligated to register a retail business.

Councilmember Jerzak asked if there are any provisions that wouldn't allow liquor stores to also sell cannabis. Mr. Hill confirmed there aren't restrictions related to that. There is a provision that allows municipalities to operate their own cannabis store. Councilmember Jerzak asked if Brooklyn Center is authorized for three licenses. Mr. Hill stated it is unclear and it will need to be worked out by OCM rulemaking.

Mr. Hill stated the bill allows cities to adopt "reasonable restrictions on the time, place, and manner of the operation of a cannabis business provided that such restrictions do not prohibit the establishment or operation of cannabis businesses." The OCM is tasked with working with local governments to develop model ordinances that include these provisions, standardized forms, and model policies and procedures for compliance checks.

Mr. Hill explained upon licensing, certain cannabis and hemp retailers must register with the City, and subject to limited exceptions, the City must register the retailer and must renew the registration. Registration does include lower-potency hemp edible retailers. The registration does not apply to other types of cannabis businesses or licenses. Limited registration fees are available. Before issuing a retail registration, the City may conduct a "preliminary compliance check" to ensure that the cannabis business is in compliance with the applicable operation requirements and the limits on the types of products that may be sold.

Mr. Hill added there is limited authority for cities to suspend a registration for up to 30 days. The

OCM will review the suspension and may order reinstatement, additional suspension, revocation, or other licensed-based penalties or enforcement action. The City may reinstate the registration if it determines that the violation has been cured. The City can impose civil penalties of up to \$2,000 for registration violations.

Mr. Hill pointed out that at least once per calendar year, the City is required to conduct compliance checks of every cannabis business and hemp business with a retail registration. The checks must assess compliance with age verification requirements, the applicable operation requirements, and the applicable limits on the types of products being sold. Checks may be performed by a law enforcement officer or another City employee. The City is also required to “conduct unannounced age verification compliance checks at least once each calendar year,” similar to tobacco compliance checks. Mr. Hill added a county can issue a registration when the city or township has provided consent for the county to issue the registrations for that city or township.

Mr. Hill explained the State imposes a 10 percent tax upon sales, which is divided as follows: 80 percent to the State’s general fund and 20 percent to the local cannabis aid account, which is subsequently divided among cities based on total cannabis businesses in the City.

Mr. Hill stated there were a few significant changes to Minnesota Statutes, section 151.72, which legalized low-potency, hemp THC edibles. However, changes were effective on May 31st, the day after the Governor signed the bill. The changes allow THC edibles to be sold at exclusive liquor stores the day after the bill is signed into law. The bill clarifies THC products can be sold for on-site consumption at locations with an on-sale liquor license under Minnesota Statutes, Chapter 340A. There are additional regulations with regard to display, labeling, and testing. All individuals selling THC edibles must register with the Minnesota Department of Health on or before October 1, 2023. Selling without registration after that date is prohibited. Note that this is NOT the same registration process created for cannabis business and lower-potency hemp edible licenses. Minnesota Statutes, section 151.72 is repealed effective March 1, 2025.

Mr. Hill noted THC edible, referring to edible cannabinoid products, sales may continue if the seller registers with the state by October 1, 2023. The process will require a license to sell once State begins issuing licenses. Statute is repealed effective March 1, 2025, or effectively repealed when the state starts issuing licenses. As for lower-potency hemp edibles, THC edibles become low-potency hemp edibles upon state licensure. The apparent intent is to manage retail sales under the new registration and licensing program established under the new law.

Mr. Hill stated as part of the local control, a local government conducting or authorizing a study may adopt an interim ordinance to “regulate, restrict, or prohibit the operation of a cannabis business within the jurisdiction or a portion thereof until January 1, 2025. It that cities will need time to study the issues associated with this new registration and licensing arrangement and to develop land use regulations associated with this new use. A draft interim ordinance is included with Council’s materials.

Mr. Hill stated the City must provide at least 10 days’ published notice of a public hearing on the proposed interim ordinance. The notice may start in June, but staff recommended the Council

does not hold the hearing or adopt the interim ordinance until at least July 1, 2023, because the bill is not effective until that date.

Mr. Hill added the uncertainties associated with the existing regulatory “situation” were not clarified in the bill and instead were allowed to continue as the state transitions to the new licensing scheme in late 2024 to early 2025. The law treats hemp products and cannabis products separately. THC edibles remain subject to previous law and, therefore, continue to be subject to local regulation. Lower-potency hemp edibles require registration and a license from the State to sell, but are not within the definition of a “cannabis business”. The previous moratorium will need to be addressed sooner than later.

Mr. Hill stated because lower-potency hemp edibles are not a “cannabis business” they are not subject to the language indicating a city “may not prohibit the establishment or operation of a cannabis business”, the new moratorium on cannabis businesses, cap on the number of cannabis businesses, city limitation on hours, not under the expressly allowed time, place, and manner regulations, not within the language saying the OCM must deny a license if the cannabis business does not meet local zoning and land use laws.

Mr. Hill explained the City remains under the moratorium adopted on August 22, 2022. The moratorium cannot be extended. The City has three options, first is to do nothing. THC edible retailers who register with the state by October 1, 2023, will continue to sell under existing statutes until issued a lower-potency hemp edible license. Second, the Council could adopt an ordinance regulating THC edibles to become effective on or before the moratorium expires. Last, the Council could adopt a licensing ordinance with the understanding that it will only be in effect for around 18 months.

Mr. Hill stated the City needs to decide if it will opt out of requiring local registration. The City can opt-out by giving consent to County to issue registrations. In that scenario, there would be no fees, no requirement to conduct compliance checks, and the City cannot impose a limit on the number of retailers. If the City requires local registration, the City may collect registration fees, must conduct a compliance check, and may impose a limit on the number of retailers. Registration only applies to certain retail establishments. The City may suspend a registration for up to 30 days if it determines the business is not operating in accordance with the law. Then the City must immediately give notice to OCM. OCM can override the suspension and order reinstatement or revoke the license.

Mr. Hill noted the City may, by ordinance, further restrict the hours of operation for the sale of cannabis and hemp products. From a Statutory standpoint, sales are prohibited between 2:00 a.m. and 8:00 a.m. Monday through Saturday and between 2:00 a.m. and 10:00 a.m. on Sunday. The City restriction can prohibit sales for any period between 9:00 p.m. and 2:00 a.m. or between 8:00 a.m. and 10:00 a.m. Monday through Saturday.

Mr. Hill added the City will need to decide if it will sell THC edibles and the lower-potency hemp edibles at the City’s liquor stores. Cities need to register with the state by October 1, 2023, and will need to apply for and obtain a lower-potency hemp edibles license when they are available.

Brooklyn Center will also have to decide if the City will open its own municipal cannabis store. There is no express authority for an exclusive municipal cannabis business. Staff has been working with the League of Minnesota Cities on whether there is insurance coverage for selling these products at a liquor store or as part of a municipal cannabis business.

Mr. Hill explained the City needs to be prepared to intake applications from OCM and determine if the proposed business complies with local zoning, state fire code, and building code and respond to OCM within 30 days. The City must also determine a process for suspending retail registrations, notifying OCM, and reinstating the registration. Brooklyn Center should also consider a process for submitting complaints to OCM, which is supposed to provide an expedited review process of City complaints.

Councilmember Jerzak asked if there are any existing THC licenses in the City. If so, they must determine how staff educate them on the new bill. He asked if the Council will decide if the Liquor Stores can offer cannabis products or if it will be done administratively. Dr. Edwards stated that staff will bring the question about offering cannabis products back to the Council with a presentation.

Mr. Hill stated no one in Brooklyn Center should be selling THC due to the moratorium passed by Council last year.

Councilmember Jerzak asked if there will be a presentation to the Council regarding cannabis use by City employees. Mr. Hill confirmed staff would review some human resources options to present to Council.

Mayor Graves asked if the moratorium would impact the allowed use and transportation of cannabis. Mr. Hill confirmed the moratorium only applies to sales. Mayor Graves asked if the moratorium would hamper local businesses or entrepreneurship. Mr. Hill stated most cities are implementing a moratorium which can be repealed at any time. The bill offers some options for grants and educational opportunities for potential retailers either way.

Mayor Graves stated it is her opinion that they don't need to do anything with the previous moratorium as it has not presented any issues.

Councilmember Jerzak stated he wants entrepreneurial opportunities to go to Brooklyn Center and not be grabbed by other cities. Mr. Hill stated there is no limit on the number of licenses in Brooklyn Center based on the number of licenses in the County.

Mayor Graves stated she isn't opposed to selling edibles in the City's municipal stores. She asked what the staff's recommendation is. Dr. Edwards stated staff is interested in the possibility and will provide a presentation to Council in the future.

Councilmember Lawrence-Anderson asked if the minimum purchasing age is 21 years old for cannabis. Mr. Hill confirmed that this is correct. Councilmember Lawrence-Anderson explained she is inclined to support the moratorium as there are many details that need to be worked out. She

also doesn't see an issue with selling THC products in municipal stores. However, she would like to see public input gathered on the topic. There should also be community education about the options.

Councilmember Jerzak stated he has several questions on the topic before stating if he supports THC sales in municipal stores. He explained he wants feedback from staff and law enforcement. He noted he would support the effort if it can be done safely and support the City financially.

Councilmember Butler noted her support of the moratorium.

Councilmember Lawrence-Anderson moved and Councilmember Butler seconded to approve the First Reading of an Interim Ordinance Authorizing a Study and Imposing a Moratorium on the Operation of a Cannabis Business within the City of Brooklyn Center.

Motion passed unanimously.

10b. RESOLUTION NO. 2023-69 APPROVING THE LABOR AGREEMENT FOR THE LAW ENFORCEMENT LABOR SERVICES, INC. (LELS NUMBER 512) AND THE CITY OF BROOKLYN CENTER FOR THE PERIOD BEGINNING MAY 22, 2022, 2023, AND 2024

Councilmember Lawrence-Anderson moved and Councilmember Butler seconded to adopt RESOLUTION NO. 2023-69, A Resolution Approving the Labor Agreement for the Law Enforcement Labor Services, Inc. (LELS NUMBER 512) and the City of Brooklyn Center for the period May 22, 2022, years 2023 and 2024.

Councilmember Jerzak abstained from the same. Motion passed.

10c. RESOLUTION NO 2023-70 APPROVING THE LABOR AGREEMENT FOR LAW ENFORCEMENT LABOR SERVICES, INC. (LELS NUMBER 520) AND THE CITY OF BROOKLYN CENTER FOR THE PERIOD BEGINNING MAY 22, 2022, YEARS 2023, AND 2024

Councilmember Lawrence-Anderson moved and Councilmember Butler seconded to adopt RESOLUTION NO. 2023-70, A Resolution for the Labor Agreement for Law Enforcement Labor Agreement, Inc. (LELS NUMBER 520) and the City of Brooklyn Center for the period beginning May 22, 2022, years 2023, and 2024.

Councilmember Jerzak abstained from the same. Motion passed.

11. COUNCIL REPORT

Mayor Graves reported on her attendance at the following and provided information on the following upcoming events:

- Attended the strategic planning session. She encouraged folks to participate in the strategic planning survey, especially those who are Spanish-speaking and Hmong.
- Attended the Twin Lake neighborhood meeting.
- Toured Jammin Wings event space.
- Attended Twin Cities Leadership Breakfast.
- Noted there is a new diverse grocery store on Humboldt.
- Attended Regional Council of Mayors meeting.
- Attended Women Winning Luncheon.
- Noted she would be out of town for a number of days, and Councilmember Lawrence-Anderson would serve as Mayor Pro Tem if need be.

Councilmember Jerzak reported on his attendance at the following and provided information on the following upcoming events:

- Attended grand opening of Value Foods.
- Attended the strategic planning session.
- Attended the Twin Lake neighborhood meeting.
- Met with several constituents and business owners.
- Attended neighborhood breakfast.
- Attended Improving Youth Justice: A Community Conversation in Brooklyn Park. There were important topics discussed that could be used in Brooklyn Center.

12. ADJOURNMENT

Councilmember Jerzak moved and Councilmember Butler seconded the adjournment of the City Council meeting at 8:20 p.m.

Motion passed unanimously.

Council Regular Meeting

DATE: 6/26/2023

TO: City Council

FROM: Dr. Reggie Edwards, City Manager

THROUGH: N/A

BY: Shannon Pettit, Deputy City Clerk

SUBJECT: Approval of Licenses

Requested Council Action:

- motion to approve the licenses as presented.

Background:

The following businesses/persons have applied for City licenses as noted. Each business/person has fulfilled the requirements of the City Ordinance governing respective licenses, submitted appropriate applications, and paid proper fees. Applicants for rental dwelling licenses are in compliance with Chapter 12 of the City Code of Ordinances, unless comments are noted below the property address on the attached rental report.

Mechanical

Admiral Radon Mechanical Services LLC
13816 Utah Ave, Savage 55378

Elk River Heating & Air Conditioning Inc.
11110 Industrial Cir NW, Elk River 55330

Flare Heating and Air Cond
9303 Plymouth Ave N, 55427

Lake Country Plumbing, Heating & Air
603 17th Ave N, South St. Paul 55075

Royalton Heating & A/C
4120 85th Ave N, Brooklyn Park 55443

Shac, LLC
1240 Trapp Rd, Suite A, Eagan 55121

The Crew Facility Maintenance, Inc.
12901 16th Ave N, Suite 103, Plymouth 55441

Budget Issues:

- None

Inclusive Community Engagement:

- None

Antiracist/Equity Policy Effect:

- None

Strategic Priorities and Values:

Safe, Secure, Stable Community, Operational Excellence

ATTACHMENTS:

Description	Upload Date	Type
Rental Criteria	6/20/2023	Backup Material
Rental Licenses 06/26/23	6/22/2023	Backup Material

Property Code and Nuisance Violations Criteria		
License Category (Based on Property Code Only)	Number of Units	Property Code Violations per Inspected Unit
Type I – 3 Year	1-2 units	0-2
	3+ units	0-0.75
Type II – 2 Year	1-2 units	Greater than 2 but not more than 5
	3+ units	Greater than 0.75 but not more than 1.5
Type III – 1 Year	1-2 units	Greater than 5 but not more than 9
	3+ units	Greater than 1.5 but not more than 3
Type IV – 6 Months	1-2 units	Greater than 9
	3+ units	Greater than 3

b. Police Service Calls.

Police call rates will be based on the average number of valid police calls per unit per year. Police incidences for purposes of determining licensing categories shall include disorderly activities and nuisances as defined in Section 12-911, and events categorized as Part I crimes in the Uniform Crime Reporting System including homicide, rape, robbery, aggravated assault, burglary, theft, auto theft and arson.

Calls will not be counted for purposes of determining licensing categories where the victim and suspect are “Family or household members” as defined in the Domestic Abuse Act, Minnesota Statutes, Section 518B.01, Subd. 2 (b) and where there is a report of “Domestic Abuse” as defined in the Domestic Abuse Act, Minnesota Statutes, Section 518B.01, Subd. 2 (a).

License Category	Number of Units	Validated Calls for Disorderly Conduct Service & Part I Crimes (Calls Per Unit/Year)
No Category Impact	1-2	0-1
	3-4 units	0-0.25
	5 or more units	0-0.35
Decrease 1 Category	1-2	Greater than 1 but not more than 3
	3-4 units	Greater than 0.25 but not more than 1
	5 or more units	Greater than 0.35 but not more than 0.50
Decrease 2 Categories	1-2	Greater than 3
	3-4 units	Greater than 1
	5 or more units	Greater than 0.50

Rental Licenses for Council Approval 6.26.23

Location Address	License Subtype	Renewal/Initial	Owner	Property Code Violations	License Type	Police CFS*	Final License Type**	Previous License Type***	Consecutive Type IV's
4207 Lakeside Ave N, #124	Condo	Initial	DON STENBERG	1	Type I	N/A	Type II	N/A	N/A
6830 Perry Ave N	Single	Initial	AA HOMES LLC	10	Type IV	N/A	Type IV	N/A	0
7025 Quail Ave N	Single	Initial	Edward Laudat	16	Type IV	N/A	Type IV	N/A	0
1300 67th Ave N	Multiple Family 5 Bldgs 90 Units	Renewal	Roger And Elizabeth	229 = 2.54 per unit	Type III	0	Type III	Type II	N/A
4408 69th Ave N	Multiple Family 1 Bldg 10 Units	Renewal	Dmow Llc Met Requirements	15 = 1.5 per unit	Type II	0	Type II	Type III	N/A
4201 Lakeside Ave N, #316	Condo	Renewal	Maria Moldenhauer	2	Type I	0	Type I	Type I	N/A
2701 Ohenry	Single	Renewal	Sherman Yih Feng Kho	8	Type III	0	Type III	Type III	N/A
3813 Janet La	Single	Renewal	Abdirahman M Dhunkal	7	Type III	0	Type III	Type I	N/A
5700 Camden Ave N	Single	Renewal	Danmark Properties Llc Met Requirements	20	Type IV	0	Type IV	Type IV	6
6119 Beard Ave N	Single	Renewal	Wagner Property Rentals Llc	1	Type I	0	Type I	Type II	N/A
6424 June Ave N	Single	Renewal	Faisale Boukari	5	Type II	0	Type II	Type I	N/A
6536 Chowen Ave N	Single	Renewal	BRIDGE SFR IV BORROWER I LLC Did not meet requirements	4	Type II	0	Type IV	Type IV	3
6712 Beard Ave N	Single	Renewal	Mlmjr Properties & Invst Llc	17	Type IV	0	Type IV	Type I	0
6900 Newton Ave N	Single	Renewal	Fyr Sfr Borrower Llc	15	Type IV	0	Type IV	Type I	0
7001 Fremont Ave N	Single	Renewal	Hpa Borrower 2018-1 ML Llc Did not meet requirements	9	Type III	0	Type IV	Type IV	2
7101 Girard Ave N	Single	Renewal	7101 GIRARD AVE N LLC	4	Type II	0	Type II	Type II	N/A
7119 Halifax Ave N	Single	Renewal	Llc Met Requirements	0	Type I	0	Type I	Type IV	N/A

7200 Lee Ave N	Single	Renewal	LSF9 MASTER PARTICIPATION TR Did not meet requirements	6	Type III	0	Type IV	Type IV	3
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*CFS = Calls for service for renewal licenses only (Initial licenses are not applicable to calls for service, and will be listed as N/A

**License Type being issued

***Initial licenses will not show a Type I = 3 Year, Type II = 2 Year, Type III = 1 Year, Type IV = 6 months

All properties are current on City utilities and property taxes

Council Regular Meeting

DATE: 6/26/2023

TO: City Council

FROM: Dr. Reggie Edwards, City Manager

THROUGH: Elizabeth Heyman, Director of Public Works

BY: Ahmed Omar, P.E., City Engineer

SUBJECT: Resolution Approving Settlement Agreement for Brooklyn Boulevard Corridor Project Phase 2 Improvements, Project No. 2021-05

Requested Council Action:

- Motion to approve a resolution approving a settlement agreement for Brooklyn Boulevard Corridor Project Phase 2 Improvements, Project No. 2021-05.

Background:

On March 25, 2019, the City Council directed staff to proceed with the preliminary design, environmental documentation, easement acquisition and final design work for the Brooklyn Boulevard Corridor Project Phase 2 Improvements (Bass Lake Road to Interstate 94), Project No. 2021-05. In order to construct the improvements, permanent drainage, utility, sidewalk and trail easements and/or temporary construction easements were required from 47 separate parcels adjacent to the corridor. Parcel numbers are identified on the right-of-way plan prepared for the project. Agreement for acquisition of easements was reached voluntarily with 33 affected property owners. In order to meet the anticipated development schedule condemnation was perused on 14 parcels where no agreement could be met. The following parcels under condemnation have reached a settlement agreement.

Parcel No. 6; 6013 Brooklyn Boulevard: This parcel required both permanent easements and temporary construction easements with total compensation agreed upon in the amount of \$35,000.00.

Budget Issues:

The Brooklyn Boulevard Corridor Project Phase 2 Improvement (Bass Lake Road to Interstate 94) has a project cost estimated to be \$18,095,000. The total appraised value for all easements on the project are estimated to be approximately \$824,676. The total value of the permanent easements and temporary construction easements for Parcels 6 is \$35,000 which is being funded out of the Capital Projects Fund.

To date, including the above parcels, agreements have been met with 37 out of 47 parcel owners with the total value of the permanent easements and temporary construction easements for the project being \$633,220.32.

Inclusive Community Engagement:

Antiracist/Equity Policy Effect:

Strategic Priorities and Values:

Key Transportation Investments

ATTACHMENTS:

Description	Upload Date	Type
Resolution	6/15/2023	Resolution Letter
Settlement Agreement	6/15/2023	Backup Material

Member
moved its adoption:

introduced the following resolution and

RESOLUTION NO. _____

RESOLUTION APPROVING A SETTLEMENT AGREEMENT FOR
BROOKLYN BOULEVARD CORRIDOR PROJECT PHASE 2
IMPROVEMENTS, PROJECT NO. 2021-05

WHEREAS, the City of Brooklyn Center and Hennepin County have planned the improvement of Brooklyn Boulevard between Bass Lake Road (County Road 10) and Interstate 94 within the City of Brooklyn Center, Minnesota in 2021; and

WHEREAS, the City, in order to acquire title and meet its anticipated development schedule, commenced a condemnation action in Hennepin County District Court, Court File No. 27-CV-20-15230 pursuant to a Petition filed November 19, 2020, as amended on January 12, 2021 (the "Action"); and

WHEREAS, to facilitate the Project, the Action included acquiring certain real property interests 6013 Brooklyn Blvd and as defined as Parcel 6 within the Action (the "Property"); and

WHEREAS, subject to approval by the City Council, representatives of the parties have negotiated a Settlement Agreement, a copy of which is attached hereto as Exhibit A, which resolves all outstanding claims and issues between the parties related to the Property; and

WHEREAS, the City Council has fully considered the terms of the Settlement Agreement and has determined that it is in the best interests of the community to approve it as presented.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Center, Minnesota, that

1. The Mayor and City Manager of the City are hereby authorized and directed to execute all appropriate documents and take all necessary actions to facilitate the settlement contemplated herein, with all such actions to be in accordance with the terms and conditions set forth in this Resolution and the incorporated Settlement Agreement.
2. The Mayor and City Manager of the City, staff and consultants are hereby authorized and directed to take any and all additional steps and actions necessary or convenient in order to accomplish the intent of this Resolution.

March 26, 2023

Date

Mayor

RESOLUTION NO. _____

ATTEST: _____
City Clerk

The motion for the adoption of the foregoing resolution was duly seconded by member

and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against the same:

whereupon said resolution was declared duly passed and adopted.

STATE OF MINNESOTA

IN DISTRICT COURT

COUNTY OF HENNEPIN

FOURTH JUDICIAL DISTRICT

Case Type: Condemnation

The City of Brooklyn Center, a municipal corporation
under Minnesota law,

Court File No. 27-CV-20-15230

Judge: Susan N. Burke

Petitioner,

vs.

**STIPULATION OF SETTLEMENT
AGREEMENT FOR PARCEL 6**

WSK Professional Bldg., L.L.C. et al.,

Respondents.

This stipulation of settlement (the “**Agreement**”) is entered into by and between Petitioner City of Brooklyn Center (“**City**” or “**Petitioner**”), and Respondents Rosa Chiqui-Lema and Mario German Chiqui (“**Owner**”) (collectively, the “**Parties**”) on this 12th day of June, 2023.

RECITALS

1. The City commenced a condemnation action in Hennepin County District Court, Court File No. 27-CV-20-15230 pursuant to a Petition filed November 19, 2020, as amended on January 12, 2021 (“**Condemnation Action**”).

2. On February 23, 2021, the District Court filed the Order Approving Petition and Transfer of Title and Possession (“**Order**”) that, among other things, transferred certain property interests on Parcel 6 for the City’s Brooklyn Boulevard Corridor Project Phase 2 Improvements (“**Project**”), including without limitation a permanent easement for drainage, utility, sidewalk, and trail purposes and a temporary construction easement as described in **Exhibit A** to the Order (“**Property Interests**”).

3. Rosa F. Chiqui-Lema and Mario German Chiqui, married to each other, are the fee owners of record of Parcel 6.

4. The following parties are identified in the Petition as having or potentially having an interest in Parcel 6 but are not parties to this stipulation (the “**Third Party Respondents**”):

- a. Mortgage Electronic Registration Systems, Inc., a Delaware corporation, as nominee for Cambria Financial Group, LLC, a mortgagee on Parcel 6;
- b. All other parties unknown, together with unknown heirs or devisees and spouses, if any.

5. On or about February 25, 2021, in accordance with the terms of the Order, the City deposited with the Court the approved appraised value of the Property Interests of \$29,000.00 for Parcel 6 (the “**Quick-Take Payment**”), and title and possession to the Property Interests transferred to the City.

6. The Parties wish to both conclude matters relating to just compensation damages due and owing to all parties interested in Parcel 6 because of the Condemnation Action. To this end, the Parties enter into this Stipulation.

TERMS OF THE AGREEMENT

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. **RECITALS.** The recitals set forth above are true and accurate and are each incorporated and are material terms of this Agreement.

2. **SETTLEMENT AMOUNT.** The Parties stipulate and agree to a full settlement and award of damages for and related to the taking of the Property Interests described as Parcel 6 and shown in **Exhibit A** to the Order in the amount of amount of \$35,000.00 (“**Settlement Amount**”), payable to the Owner as set forth in Paragraph 5 below.

3. **STIPULATION TO AWARD.** The Parties agree to the issuance by the court-appointed commissioners of a report of commissioners for the Property Interests equal to the Settlement Amount, payable entirely to the Owner, with zero dollars payable to all other respondents, in substantially the form attached as **Exhibit B (“Report of Commissioners”)**. Once the Commissioners have signed the Report of Commissioners, the City shall file it with the District Court. Subject to the contingency in Paragraph 4 of this Agreement, the Parties agree not to appeal this Agreement, the Settlement Amount, or the award made in the Report of Commissioners.

4. **CONTINGENCY.** This Agreement is contingent on the filing of the Report of Commissioners awarding the Settlement Amount as specified in Paragraph 2 above, and on the expiration of the statutory appeal period without an appeal. All known respondents who may claim an interest in the taking of the Property Interests will be given notice of the Commissioners’ Hearing and of the filing of the Report of Commissioners. If any Third-Party Respondent objects to the entry of the Report of Commissioners, then this Stipulation shall terminate and Petitioner and Respondents each reserve their right to proceed with a contested Commissioners’ Hearing on damages and to pursue appeals from the final award of Commissioners; PROVIDED that Owner may (at their option) (a) negotiate a resolution to any claim by a Third-Party Respondent (“**Third-Party Claim**”) and secure a waiver or release reasonably satisfactory to the City of any Third-Party Claim (“**Third-Party Release**”) or (b) bring any and all necessary motions to the Court seeking to secure an order from the Court disposing of or liquidating the claims of any other Third-Party Respondent (“**Third-Party Motion**”). The City agrees not to object to the Third-Party Motion. If Owner is successful in obtaining a Third-Party Release or in disposing of Third-Party Claims, then the City and Owner agree to be bound by this Agreement. If an appeal of the commissioners’ award is filed within the statutory appeal period, this Agreement shall be null and

void and both Parties agree to proceed to conduct a de novo jury trial before the Minnesota District Court.

5. **PAYMENT OF SETTLEMENT AMOUNT.** Within 15 business days after expiration of the 40-day appeal period following the filing of the Report of Commissioners without Third-Party Claims, or upon entry of a final judgment as provided in Paragraph 4 above (after the Owner obtains either a Third-Party Release or disposes of Third-Party Claims) the City shall pay the Settlement Amount by issuing a check payable to “Rosa F Quij” and delivering it to the Owner at the following address: 9332 Vincent. Av. N.

6. **QUICK TAKE DEPOSIT.** The Owner hereby assigns to the City all of its right, title and interest in the Quick-Take Deposit. The City may apply to the Court at any time after the delivery of the Settlement Check, and resolution of any Third-Party Claims, for disbursement to the City of the Quick-Take Deposit, together with any interest that has accrued thereon, without further notice to the Respondents. The City and the Respondents hereby agree to the entry of a Court order directing disbursement to the City alone of the Quick-Take Deposit, together with any interest that has accrued thereon.

7. **WAIVER OF HEARING RIGHTS.** In consideration of this Agreement and settlement, the Parties agree to waive any rights they may have to a hearing before the Commissioners to determine just compensation and waive any rights to appeal an award of just compensation damages awarded consistent with a Commissioner’s Report awarding the Settlement Amount, except as otherwise provided in Paragraph 4 of this Agreement.

8. **ENTIRE AGREEMENT & WAIVER.** Owner agrees that this Agreement, upon completion of conditions and satisfaction of contingencies, if any, fully and finally settles all claims that were made or could have been made in the Condemnation Action, including attorney’s

fees, interest, litigation expenses, appraisal fees, and other expert fees and related costs. Owner agrees that payment and acceptance of the Settlement Amount constitutes full accord and satisfaction for all claims for damages, past, present, and future, of any kind or nature, occasioned by the taking, that were made or could have been made in the Condemnation Action, including without limitation for construction interference damages, and all damages, if any, to the remaining lands owned by Owner, and are hereby intending to forever settle all claims that were made or could have been made in the Condemnation Action.

9. ADDITIONAL CITY OBLIGATIONS. After issuance of the Report of Commissioners and expiration of the statutory appeal period, the City will file a Final Certificate in this action and record a discharge of notice of *Lis Pendens* with respect to the Property Interests in the Office of the Hennepin County Recorder or Registrar of Titles.

10. BINDING EFFECT AND CAPACITY TO SIGN. The persons signing this Agreement in their representative capacities represent and warrant by signing this Agreement that it is their intent to bind their respective principals to the terms and conditions set forth herein, that the persons signing in their representative capacity have been authorized to bind their respective principals to such terms, and that it is the respective principals' intent to be so bound.

11. CITY COUNCIL APPROVAL. This Agreement is contingent upon approval of the City Council of the City of Brooklyn Center.

12. VOLUNTARY EXECUTION. Owner has either consulted or had the opportunity to consult with an attorney prior to executing this Agreement. The undersigned state and represent that they have fully read this Agreement, and that each know and understand the consequences and legal effect thereof. This Agreement contains the entire agreement of the Parties with regard to the matters set forth herein.

13. ATTORNEY FEES. The parties shall be responsible for their own attorneys' fees associated with this matter.

14. MODIFICATIONS. This Agreement may only be amended in writing and signed by each party.

15. COUNTERPARTS. This Agreement may be executed in counterparts which, taken together, shall constitute one agreement.

IN WITNESS WHEREOF, the parties, intending to be legally bound, execute this Stipulation as of the corresponding date written below.

{Remainder of Page Intentionally Left Blank; Signature Pages to Follow}

{Petitioner's Signature Page to Stipulation of Settlement Agreement for Parcel 6}

Dated: _____, 2023

CITY OF BROOKLYN CENTER

By: _____
Mike Elliot, Mayor

ATTEST: _____
City Clerk

Dated: June 12, 2023.

KENNEDY & GRAVEN, CHARTERED

By: 
Joshua P. Weir (#0402328)
150 South Fifth Street, Suite 700
Minneapolis, MN 55402
(612) 337-9219
jweir@kennedy-graven.com

ATTORNEYS FOR PETITIONER

{Owner's Signature Page to Stipulation of Settlement Agreement for Parcel 6}

ROSA F. CHIQUI-LEMA

Dated: 6/12, 2022.

Rosa F Chiqui

MARIO GERMAN CHIQUI

Dated: 6/12, 2022.

Mario Chiqui.

EXHIBIT A

Form of Report of Commissioners

[Attached]

STATE OF MINNESOTA

IN DISTRICT COURT

COUNTY OF HENNEPIN

FOURTH JUDICIAL DISTRICT

Case Type: Condemnation

The City of Brooklyn Center, a municipal corporation
under Minnesota law,

Court File No. 27-CV-20-15230

Judge: Susan N. Burke

Petitioner,

vs.

WSK Professional Bldg., L.L.C. et al.,

REPORT OF COMMISSIONERS

PARCEL 6

Respondents.

We, the undersigned Commissioners, appointed in this matter by Order of this
Court, do hereby report as follows:

I.

We met as directed by this Court and each took the oath prescribed by law.

II.

After notice, we viewed the property identified as Parcel 6 described on Exhibit A of the
Order Approving Petition and Transfer of Title and Possession (“Order”) as to Parcel 6, filed on
February 23, 2021.

III.

After notice of meeting and an opportunity for possible claimants to be heard, we make the
below award for damages as to Parcel 6 arising from the Order. The award is based on the
commissioners viewing of said real estate and the Stipulation of Settlement for Parcel 6, attached
hereto as Exhibit A, which we received and accepted.

We heard no testimony relative to this taking nor reviewed any appraisal or other

evidence of fair market value or damages related to the taking, other than the Stipulation,

Exhibit A:

TO: Rosa F. Chiqui-Lema and Mario German Chiqui, married to each other	\$35,000.00
TO: Mortgage Electronic Registration Systems, Inc.	0
TO: All other parties unknown, together with unknown successors, assigns, heirs, devisees and spouses, if any	0

TOTAL DAMAGES TO ALL PARTIES: \$35,000.00

The foregoing award assumes that the above-referenced property is free of all pollutants, contaminants and hazardous wastes. We have not assessed any damages for the presence of pollutants, contaminants, and hazardous wastes on the subject property. This award is made with the express understanding that the Petitioner, the City of Brooklyn Center, has reserved all rights to recover damages, testing costs and cleanup-costs attributable to the existence of pollutants, contaminants or other hazardous wastes on the property from the Respondents in a separate legal action.

Dated: _____, 2023

Joel Seltz
Commissioner

Dated: _____, 2023

Richard Black
Commissioner

Dated: _____, 2023

Craig Harrington
Commissioner

Council Regular Meeting

DATE: 6/26/2023

TO: City Council

FROM: Dr. Reggie Edwards, City Manager

THROUGH: Elizabeth Heyman, Director of Public Works

BY: James Soltis, P.E., Assistant City Engineer

SUBJECT: An Ordinance Amending Chapters 1, and 4 of the City Code of Ordinance Regarding Animal Waste, and Storage of Deicing Materials

Requested Council Action:

- Motion to approve the Second Reading of an Ordinance Amending Chapter 1, and 4 of the City Code of Ordinances Regarding Animal Waste, and Storage of Deicing Materials.

Background:

As part of the cities required National Pollutant Discharge Elimination System (NPDES) permit regulated by the United States Environmental Protection Agency and the Minnesota Pollution Control Agency (MPCA), the City of Brooklyn Center is obligated to develop and implement policies and ordinances to minimize the discharge of pollutants through its municipal separate storm sewer system (MS4).

Due to changes in the state regulations as part of the MPCA General Permit (MNR040000) the city is required produce regulations and enforcement mechanisms with regard to the disposal of animal waste, and regulations regarding the storage of deicing materials at commercial, institutional and non-NPDES permitted industrial facilities. The City is already carrying out these practices, however they need to be codified in ordinances to be in compliance with our NPDES permit. To meet these requirements amendments to Chapters 1, and 4 of the City Code of Ordinances must occur.

Compliance with the NPDES permit program is crucial for protecting and improving the quality of our nation's waters, and failure to comply with the permit requirements could result in penalties and enforcement actions. Hence, it is imperative that the city revises our ordinances promptly to meet regulatory requirements and maintain environmental protection.

Consistent with the City Charter, the first reading of the ordinance occurring on June 12, 2023, with a second reading and public hearing to consider the proposed ordinance to occur on June 26, 2023. The amended ordinance would become effective June 26, 2023 if approved.

Budget Issues:

There are no budget issues to consider with this action.

Inclusive Community Engagement:

Antiracist/Equity Policy Effect:

Strategic Priorities and Values:

Safe, Secure, Stable Community

ATTACHMENTS:

Description	Upload Date	Type
Ordinance	6/15/2023	Ordinance

CITY OF BROOKLYN CENTER

Notice is hereby given that a public hearing will be held on the ____ day of _____, 2023, at 7:00 p.m. or as soon thereafter as the matter may be heard during the regular City Council meeting at City Hall, 6301 Shingle Creek Parkway to consider an ordinance amending Chapters 1 and 4 of the City Code related to the disposal of animal waste and the storage of deicing materials at certain commercial, institutional and industrial facilities.

Auxiliary aids for handicapped persons are available upon request at least 96 hours in advance. Please notify the City Clerk at 763-569-3306 to make arrangements.

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTERS 1 AND 4 OF THE CITY CODE OF
ORDINANCES REGARDING ANIMAL WASTE AND STORAGE OF DEICING
MATERIALS

THE CITY COUNCIL OF THE CITY OF BROOKLYN CENTER DOES ORDAIN AS
FOLLOWS:

Article I. Brooklyn Center City Code, Chapter 1, Section 1-101 is amended by adding the following double-underlined language and deleting the ~~stricken~~ language:

Section 1-101. DEFINITIONS. The following terms, when used in this ~~ordinance~~Section, have the meanings ascribed to them:

1. Accredited Minnesota Institution. Accredited Minnesota institution means an educational institution holding accredited status which has been licensed or registered by the Minnesota Office of Higher Education at the time a registrant obtained their certification.
2. Animal. Animal means dogs, cats, and chickens.
3. Animal Control Officer. Animal Control Officer means that person or agency designated by the City Manager to control the keeping of animals within Brooklyn Center.
4. Apiary. Apiary means the assembly of one or more colonies of bees on a property.
5. Apiary Site. Apiary site means the particular portions of a property upon which one or more hives are located.
6. At Large. At large means an animal that is off the property of its owner and not under restraint.
7. Beekeeper. Beekeeper means a person who owns or has charge of one or more colonies of honeybees or a person who owns or controls a property on which a

colony is located whether or not the person is intentionally keeping honeybees.

8. Beekeeping Equipment. Beekeeping equipment means anything used in the operation of an apiary, such as hive bodies, supers, frames, top and bottom boards, and extractors.
9. Chicken. Chicken means a domesticated bird (*Gallus gallus domesticus*), typically used as a source of meat or eggs. For the purposes of Section 1-130, all references to chickens are to hens.
10. Chicken Coop. Chicken coop means a structure for the keeping or housing of chickens permitted by this Chapter.
11. Chicken Run. Chicken run means a fully-enclosed and covered area attached to a coop where the chickens can roam unsupervised.
12. Code Enforcement Officer. Code Enforcement Officer means those employees, if designated by the City Manager, under the direct supervision of the police department, who are authorized to issue citations for violations of this Chapter.
123. Colony. Colony means an aggregate of honey bees consisting principally of workers, but having, when perfect, one queen and at times drones, brood, combs, and honey.
134. Commercial Kennel. Commercial Kennel means any place limited to C2, I-1, and I-2 zoning districts where the business of keeping, raising, selling, boarding, breeding, showing, treating, or grooming of dogs and other animals is conducted, including pet shops, animal hospitals, and other similar establishments.
15. Compliance Official. Compliance Official means the City Manager and the City Manager's designated agents authorized to administer and enforce this Chapter.
146. Family. Any of the following definitions shall apply:
 - a. A person or persons related by blood, marriage, or adoption, together with any domestic servants or gratuitous guests, maintaining a common household in a dwelling unit;
 - b. Group or foster care of not more than six (6) wards or clients by an authorized person or persons, related by blood, marriage, or adoption, together with any domestic servants or gratuitous guests, all maintaining a common household in a dwelling unit approved and certified by the appropriate public agency;
 - c. A group of not more than five (5) persons not related by blood, marriage, or adoption maintaining a common household in a dwelling unit.

157. Flyway Barrier. Flyway barrier means a barrier that raises the flight path of bees as they come and go from a hive.
168. Hen. Hen means a female chicken.
179. Hive. Hive means the receptacle inhabited by a colony.
1820. Honey Bee or Bee. Honey bee or bee means all life stages of the common domestic honey bee, *apis mellifera*. This term does not include wasps, hornets, African subspecies, or Africanized hybrids.
21. Immediately. Immediately means at once, without delay.
1922. Nucleus Colony. Nucleus colony means a small quantity of honey bees with a queen housed in a smaller than usual hive box designed for a particular purpose, and containing no supers.
2023. Owner. Owner means any person or the parent or guardian of a person under 18 years of age who owns, keeps, or has custody of an animal in the City of Brooklyn Center.
2124. Person. Person means any person, firm, corporation, partnership, joint venture or association.
2225. Registrant. Registrant is any registered beekeeper and any person who has applied for approval of a beekeeping registration.
2326. Rooftop. Rooftop means, for the purpose of regulating beekeeping, the uppermost section of a primary or accessory structure of at least one full story and at least twelve feet in height. Areas including, but not limited to, decks, patios and balconies shall not be considered a rooftop.
2427. Rooster. Rooster means a male chicken.
28. Soil or defile. Soil or defile means to make unclean from excrement.
2529. Super. Super means a box that holds the frames where bees will store the honey.
2630. Swarming. Swarming means the process where a queen bee leaves a colony with a large group of worker bees in order to form a new honey bee colony.
2731. Under Restraint means an animal that is controlled by a leash or at heel besides a competent person having custody of it and obedient to that person's commands, or within a vehicle being driven or parked on a public street, or if it is within the property limits of its owner's premises.

2832. Unusual Aggressive Behavior. Unusually aggressive behavior means, for the purpose of regulating beekeeping, any instance in which unusual aggressive characteristics such as stinging or attacking without provocation occurs. For the purposes of this definition, “provocation” means an act that an adult could reasonably expect may cause a bee to sting or attack.

33. Waste. Waste means solid matter expelled from the bowels of the pet, or excrement.

2934. Wild Animal. Wild animal means any animal that is not normally domesticated in the state including, but not limited to, raccoons, turkeys, coyotes, foxes, deer, feral cats, skunks, and waterfowl.

Article II. Brooklyn Center City Code, Chapter 1 is amended by adding the following double-underlined language as Section 1-120:

Section 1-120. ANIMAL WASTE.

1. No owner or custodian of any animal shall cause or allow such animal to soil, defile or defecate on any public property or upon any street, sidewalk, public way, play area or common grounds owned jointly by the members of a homeowners’ or condominium association, or upon private property other than that of the owner, unless such owner immediately removes and disposes of all feces deposited by such animal in a sanitary manner.

2. It is unlawful for any person owning, keeping or harboring an animal to cause or permit said animal to be on any public property, without having in their immediate possession, a device for the removal of feces and depository for the transmission of excrement to a proper receptacle located on the property owned or possessed by such person.

3. It is unlawful for any person in control of, causing or permitting any animal to be on any public property, to fail to remove feces left by such animal and dispose of it properly.

4. Proper disposal of animal waste shall be limited to burial where lawfully permitted, flushing in the toilet, bagging for disposal in the owner or keeper’s waste receptacle, and bagging for disposal in a waste receptacle in a public park or park area.

5. Disposal of animal waste in storm drains is prohibited.

6. Disposal of animal waste in public compost is prohibited.

7. The provisions of this Section shall not apply to the ownership or use of any properly identified service animals, animals when used for police activities, or tracking animals when used by or with the permission of the appropriate authorities.

8. Any Compliance Official, Code Enforcement Officer, Animal Control Officer or an agent designated by the City Manager should be responsible for issuing the citations.

Article III. Brooklyn Center City Code, Chapter 4, Section 4-404, Subdivision 6 is amended by adding the following double-underlined language:

Storage of Deicing Materials at Commercial, Institutional, and Non-NPDES Permitted Industrial Facilities.

Proper salt storage practices are required at commercial, institutional, and industrial facilities in accordance with the Minnesota Pollution Control Agency's General Permit to Discharge Stormwater Associated with Small Municipal Separate Storm Sewer Systems No. MNR040000. The following requirements apply to all designated salt storage areas at commercial, institutional, and industrial facilities:

- a. Salt storage areas must be fully covered or indoors.
- b. Salt storage area must be located on an impervious surface.
- c. Practices such as sweeping, diversions, and/or containment must be implemented to reduce exposure when transferring material in designated salt storage areas.

Article IV. Severability. Should any section or part of this ordinance be declared by a court of competent jurisdiction to be invalid, such decision will not affect the validity of the ordinance as a whole or any part other than the part declared invalid.

Article V. Effective Date. This ordinance shall become effective after adoption and upon thirty days following its legal publication.

Adopted this ____ day of _____, 2023.

April Graves, Mayor

ATTEST: _____
Barb Suciu, City Clerk

Date of Publication _____

Effective Date _____

(~~Strikeout~~ indicates matter to be deleted, double-underline indicates new matter.)

AGENDA



1. Call to Order

The City Council requests that attendees turn off cell phones and pagers during the meeting. A copy of the full City Council packet, including EDA (Economic Development Authority), is available to the public. The packet ring binder is located at the entrance of the council chambers.

2. Roll Call

3. Approval of Consent Agenda

The following items are considered to be routine by the Economic Development Authority (EDA) and will be acted by one motion. There will be no separate discussion of these items unless a Commissioner so requests, in which event the item will be removed from the consent agenda and considered at the end of Commission Consideration Items.

- a. Approval of Minutes
 - *Approve the meeting minutes from:*

- *May 8*

4. Commission Consideration Items

- a. Resolution Approving Certain Option Agreements with Project for Pride in Living, LLC and Resolution Supporting the Use of Tax Increment Financing for a Rental Housing Development Project
 - Motion to approve a resolution approving certain Option Agreements with Project for Pride in Living, LLC.
 - Motion to approve a resolution supporting the use of tax increment financing for a rental housing development project.

5. Adjournment

Economic Development Authority

DATE: 6/26/2023

TO: City Council

FROM: Dr. Reggie Edwards, City Manager

THROUGH: N/A

BY: Barb Suciu, Assistant City Manager/City Clerk

SUBJECT: Approval of Minutes

Requested Council Action:

- *Approve the meeting minutes from:*

- *May 8*

Background:

In accordance with Minnesota State Statute 15.17, the official records of all meetings must be documented and approved by the governing body.

Budget Issues:

- None

Inclusive Community Engagement:

N/A

Antiracist/Equity Policy Effect:

N/A

Strategic Priorities and Values:

Operational Excellence

ATTACHMENTS:

Description	Upload Date	Type
5.8 EDA Minutes	6/20/2023	Backup Material

MINUTES OF THE PROCEEDINGS OF THE
ECONOMIC DEVELOPMENT AUTHORITY
OF THE CITY OF BROOKLYN CENTER
IN THE COUNTY OF HENNEPIN AND THE
STATE OF MINNESOTA

REGULAR SESSION
MAY 8, 2023
CITY HALL – COUNCIL CHAMBERS

1. CALL TO ORDER

The Brooklyn Center Economic Development Authority (EDA) met in Regular Session called to order by President April Graves at 8:36 p.m.

2. ROLL CALL

President April Graves and Commissioners Marquita Butler, Kris Lawrence-Anderson, Dan Jerzak, and Teneshia Kragness. Also present were City Manager Reggie Edwards, Assistant City Manager/City Clerk Barb Suci, and City Attorney Jason Hill.

3. APPROVAL OF AGENDA AND CONSENT AGENDA

Commissioner Jerzak stated he didn't see any minutes to approve. President Graves stated the minutes are at the back of the packet. Commissioner Jerzak apologized for missing the minutes.

Commissioner Lawrence-Anderson moved and Commissioner Kragness seconded to approve the Agenda and Consent Agenda, and the following item was approved:

3a. APPROVAL OF MINUTES

1. February 27, 2023 – Regular Session

Motion passed unanimously.

4. COMMISSION CONSIDERATION ITEMS

4a. APPROVAL OF TIF DISTRICT #10 (WANGSTAD COMMONS) AND TIF AGREEMENT

Executive Director Reggie Edwards introduced the item and Jason Aarsvold, EDA Project Management with Ehlers, continued the presentation.

Jason Aarsvold, EDA Project Management with Ehlers, explained there are specific actions the EDA would need to take to allow the project to continue moving forward. The same information

was presented during the regular meeting. The action before the EDA would approve the tax increment financing (TIF) district and requires a public hearing for sale of EDA-owned land. The EDA will need to approve a TIF assistance agreement to formally direct assistance to the developer. This action is planned for a future EDA meeting in a couple of months.

Commissioner Jerzak moved and Commissioner Lawrence-Anderson seconded to open the public hearing.

The motion passed unanimously.

No one wished to address the Council.

Commissioner Kragness moved and Commissioner Jerzak seconded to open the public hearing.

The motion passed unanimously.

Commissioner Butler moved and Commissioner Jerzak seconded to adopt EDA RESOLUTION 2023-04; Removing certain parcels from Tax Increment Financing District No. 6, approving a modification to the Redevelopment Plan for Housing Development and Redevelopment Project No. 1, establishing Tax Increment Financing District No. 10: Wangstad Commons (a housing district) therein, approving a tax increment financing plan therefor and authorizing the sale of certain real property.

Motion passed unanimously.

5. ADJOURNMENT

Commissioner Lawrence-Anderson moved and Commissioner Jerzak seconded the adjournment of the Economic Development Authority meeting at 8:42 p.m.

Motion passed unanimously.

Economic Development Authority

DATE: 6/26/2023

TO: City Council

FROM: Dr. Reggie Edwards, City Manager

THROUGH: Jesse Anderson, Interim Community Development Director

BY: Jason Aarsvold, EDA Project Management - Ehlers

SUBJECT: Resolution Approving Certain Option Agreements with Project for Pride in Living, LLC and Resolution Supporting the Use of Tax Increment Financing for a Rental Housing Development Project

Requested Council Action:

- Motion to approve a resolution approving certain Option Agreements with Project for Pride in Living, LLC.
- Motion to approve a resolution supporting the use of tax increment financing for a rental housing development project.

Background:

As part of the first phase of the Opportunity Site, Project for Pride in Living (PPL) is responsible for delivering the affordable housing components of the development. These buildings will be primarily financed with Low Income Housing Tax Credits (LIHTC), which are competitively awarded through the Minnesota Housing Finance Agency (MN Housing) annually.

On July 11, 2022, the EDA approved an option agreement with Project for Pride in Living (PPL) and a resolution supporting the use of TIF for the first 60-unit apartment project within the Opportunity Site on EDA-owned land. This site is platted as Lot 1, Block 4, Opportunity Site Addition. Demonstrating site control and City financial support were necessary for PPL to claim points in its application to MN Housing for LIHTC.

PPL was not selected for funding in last year's round but intends to apply again for tax credits this year. The request to MN housing will again be for the first 60 unit building within the Opportunity Site. PPL will also begin requesting other grant funding for a second 70-unit building within the Opportunity Site.

To submit a competitive application, PPL will again need to show that they have site control and financial support from the City. This will require a revised option agreement extending the deadline for acquisition of Lot 1. In addition, PPL is requesting an option agreement for its second building on lot 2, Block 4, Opportunity Site Addition. Including the Lot 2 option agreement will be helpful in securing other grant funding as well as for a future LHITC application. PPL is also requesting an updated resolution of support for the use of tax increment financing (TIF) for the first 60-unit building, subject to certain conditions, and assuming PPL can obtain tax credits.

Approval of the Option Agreements does not constitute approval of the projects. The developer would still be required to submit a full and complete land use application for formal review and approval by the City prior to being able to exercise the Option Agreement.

An option agreement and resolution of TIF support are necessary as part of the developer's application to MN Housing for tax credits for the project. Demonstrating site control and financial support allow PPL to claim points in the application process that make their project more competitive for funding.

Support of TIF Request

The developer has made a request to the EDA to provide TIF for its first 60-unit building on Lot 1, which would fill a financial gap in the project. Ehlers, the City's public financing consultant, has reviewed the request and prepared a resolution based on their initial assessment of the projects need. The resolution (attached), would provide for a letter of support for the project, indicating the City's willingness to provide tax increment financing should the project be awarded with tax credits from MN Housing, and provided the project satisfies all conditions required by state law as it pertains to the use of public subsidy. The letter of support is required as part of the developer's application to MN Housing for LIHTC.

Ehlers has performed a financial analysis of the project and identified an amount of tax increment financing, combined with a land write-down to \$1, that would be needed to make the project financially feasible. Based on Ehlers' analysis of the project, project need, and available increment, they have indicated that the project would support tax increment financing in an amount not to exceed \$340,000, payable over 19 years.

Option Agreement

The Option Agreements provide the developer with exclusive rights and an option to purchase the properties during the option period. The option period would go into effect at the signing of the agreements and remain in place until 60 days following the developer receiving MN Housing financing or January 1, 2026, whichever occurs first.

The option agreements also provide the developer with right of entry to the property and time to complete their due diligence, including obtaining land use approvals and rezoning of the property, as well as obtain financing and TIF.

The developer is requesting a land write down on the purchase price to \$1, which will provide them additional points on their LIHTC application and make the project more competitive. This contribution to the project by the EDA will award additional points to the project on its MN Housing tax credit application. This project is unique from past affordable developments the City has supported in that the developer is seeking to construct larger 3 and 4 bedroom units and to set aside a larger percentage of units at a much more deeply affordable rate at 30% and 50% AMI. This creates a larger gap in the project and requires additional public subsidy.

Budget Issues:

This item will have no immediate effect on the budget.

Inclusive Community Engagement:

Antiracist/Equity Policy Effect:

Strategic Priorities and Values:

Resident Economic Stability, Targeted Redevelopment

ATTACHMENTS:

Description	Upload Date	Type
Option Agreement Lot 1	6/21/2023	Exhibit
Option Agreement Lot 2	6/21/2023	Exhibit
Resolution Supporting TIF for Lot 1	6/21/2023	Resolution Letter
Resolution supporting option agreements	6/21/2023	Resolution Letter
Opt site phase 1 map	6/21/2023	Backup Material

OPTION AGREEMENT

THIS OPTION AGREEMENT (this “**Agreement**”) is made and entered into as of this ____ day of _____, 2023 (the “**Effective Date**”), by and between the Economic Development Authority of Brooklyn Center, Minnesota, a public body corporate and politic under the laws of Minnesota (the “**Seller**”), and Project for Pride in Living, Inc., a Minnesota nonprofit corporation (the “**Buyer**”) (together with the Seller and the Buyer referred to herein as the “**Parties**” or individually as a “**Party**”).

RECITALS

A. The Buyer intends to purchase the parcel legally described on Exhibit A attached hereto and hereby made a part hereof (the “**Option Property**”) from the Seller and to develop the Option Property into a multi-story, approximately 60-unit apartment building with at least 40% of the units occupied or held for occupancy by persons and families whose incomes do not exceed 60% of the area median income, and underground and surface parking stalls (the “**Development**”); and

B. The Seller wishes to grant the Buyer an option to acquire the Option Property, under the terms and conditions hereunder; and

C. The Seller believes that the development of the Option Property is vital and is in the best interests of the Seller and City of Brooklyn Center, Minnesota (the “**City**”), will result in preservation and enhancement of their tax base, provide additional affordable housing options in the City, and is in accordance with the public purpose and provisions of the applicable state and local laws and requirements under which the Development will be undertaken.

NOW, THEREFORE, in consideration of mutual covenants set forth in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Seller and the Buyer agree as follows:

Terms of the Agreement

1. Recitals. The recitals as set forth above are hereby incorporated into this Agreement.

2. The Option. The Seller hereby grants to the Buyer the exclusive right and option to purchase the Option Property, during the Option Period defined below, subject to the conditions set forth below (the “**Option**”).

3. Option Payment. Within five business days after the date hereof, the Buyer shall pay and deliver to Commercial Partners Title, located at 200 S. Sixth Street, Suite 1300, Minneapolis, MN 55402 (the “**Title Company**”), the sum of Two Thousand Five Hundred and No/100 dollars (\$2,500), which shall constitute the option payment (the “**Option Payment**”) hereunder. The Option Payment shall be refundable if, at the end of the Option Period (as defined below), the contingencies set forth in either Section 13(c)(ii) or 13(c)(iii) are not satisfied. In the event that the Buyer purchases the Option Property pursuant to this Agreement, the Option Payment shall be credited against the Purchase Price payable for the Option Property as set forth in Section 6 herein. In the event the Buyer does not exercise the Option or Closing (as defined below) does not occur for any reason whatsoever other than the Seller’s default hereunder or failure of the contingencies set forth in Sections 13(c)(ii) or 13(c)(iii) to be satisfied, the Option Payment shall be retained by the Seller as consideration for granting the Option.

4. Option Period.

- a. The period during which the Option may be exercised by the Buyer (the “**Option Period**”) shall commence upon the Effective Date of this Agreement and shall expire on the earlier of 60 days after the Buyer receives an allocation of tax credits for the Development the Minnesota Housing Finance Agency from (“MHFA”) or January 1, 2026 (the “**Expiration Date**”). During the Option Period, the Seller agrees it will not advertise, list, negotiate for the sale of or sell the Option Property to a third party.
- b. If the Buyer does not timely exercise the Option, the Option shall lapse, and the Option Payment shall be applied as provided in Section 3 herein and the Buyer shall have no further rights with respect to the Option Property.

5. Exercise of Option. This Option shall be deemed exercised if, within the Option Period, the Buyer gives written notice to the Seller of the Buyer’s intent to exercise the Option and the Buyer will deposit with the Title Company for the benefit of the Seller the sum of Ten Thousand and No/100 dollars (\$10,000.00), as earnest money (“**Earnest Money**”). The Earnest Money shall become nonrefundable at the end of the Due Diligence Period (defined below). In the event that Seller breaches the terms of this Agreement, the Seller shall refund the Earnest Money to the Buyer. Nothing in this Agreement shall entitle the Buyer to make any claim against the Seller or the City for any damages whatsoever and the Buyer’s remedies are strictly limited to the foregoing. Nothing in this Agreement shall be construed as a limitation of or waiver by the Seller of any immunities, defenses, or other limitations on liability to which the Seller is entitled by law.

6. Purchase Price. The total purchase price for the Option Property shall be

\$1,050,000, less a land write-down in the amount of up to \$1,050,000 as set forth in the Buyer's HTC-1 Workbook submitted to MHFA (the "**Purchase Price**"). The Purchase Price less the Earnest Money and the Option Payment shall be paid to the Seller from the Buyer on the Closing Date.

7. Closing. Subject to the terms of this Agreement, the closing of the purchase and sale of the Option Property contemplated by this Agreement (the "**Closing**") shall occur at the office of the Title Company, or at another location mutually agreed upon by the Parties, on the date 30 days after the expiration of the Due Diligence Period or such other date as agreed to by the Parties in writing (the "**Closing Date**").

8. Due Diligence Investigation. Commencing on the date that the Buyer exercises this Option, the Buyer, at its sole cost and expense, shall have a due diligence period of 180 days ("**Due Diligence Period**") to make all such investigations as the Buyer, in its sole and absolute discretion, deems reasonable and necessary in determining the suitability of the Option Property for the Buyer's needs including:

- a. To examine and inspect the Option Property, to review the Due Diligence Documents, to conduct feasibility studies with regard to the ownership and operation of the Option Property, including, but not limited to, environmental reviews, soil condition testing, surveying, engineering studies, appraisals and any other physical inspections of the Option Property as determined by the Buyer, and to investigate all physical aspects of the Option Property, and to review all other due diligence matters related to the Option Property. The Buyer may enter upon the Option Property to inspect the same, and may conduct tests and examinations with regard thereto, provided that the Buyer's activities do not unreasonably interfere with the ongoing operation of the Option Property. The Buyer shall promptly restore the Option Property to substantially the same condition in which it existed immediately prior to any physical tests conducted by or on behalf of the Buyer.
- b. To investigate all zoning, code and governmental regulations or requirements in place at the Option Property, and to obtain all land use and rezoning approvals and permits determined necessary by the Buyer for the Buyer's intended development and use of the Option Property, including but not limited to all Development Approvals defined herein.
- c. To secure funding for the purchase and development of the Option Property on terms acceptable to the Buyer, in the Buyer's sole discretion. The Parties contemplate that such funding may include, without limitation, one or more of the following:
 - i. MHFA Affordable Housing Tax Credits;
 - ii. Tax Increment Financing assistance from the Seller;
 - iii. Commercial loans for the purchase and/or development of the Option Property.

- d. To obtain, at the Buyer's sole cost, an appraisal of the Option Property that is satisfactory to the Buyer and all of the Buyer's funding sources.
- e. The Buyer shall have until the last day of the Due Diligence Period to provide written notice to the Seller of the Buyer's intention to terminate this Agreement for any reason. If the Buyer terminates this Agreement within the Due Diligence Period, the transactions contemplated herein shall be considered terminated and the Earnest Money will be returned immediately to the Buyer.

9. Right of Entry. During the Due Diligence Period, the Buyer shall have the right to enter upon the Option Property for the purpose of taking soil tests and borings, making surveys and maps, and performing investigative work, including environmental testing and assessment, as the Buyer may deem necessary; provided, however, the Buyer shall indemnify, defend, and hold the Seller harmless from any mechanics' liens or claims arising out of such investigative work by the Buyer. The Buyer may assign this right to its agents, employees, or contractors at its sole discretion. Nothing in this Agreement shall be deemed a waiver of defenses or limitations available to the Seller under Minnesota Statutes Chapter 466.

- a. In consideration for such right of entry, the Buyer agrees to:
 - i. Notify the Seller at least 48 hours in advance of the date and time that the Buyer, its agents, employees, or contractors, will enter the Option Property for the purpose for the entry, in order to permit the Seller to be present during the time any work is being done by the Buyer, its agents, employees, or contractors;
 - ii. Provide to the Seller a copy of all test results and reports prepared by the Buyer or its consultants evaluating the conditions present on the Option Property, as soon as reasonably possible following final completion thereof;
 - iii. Dispose of all solid waste generated during the course of the Buyer's sampling activities and other work on the Option Property in accordance with applicable federal, state and local laws, rules and regulations;
 - iv. Coordinate activities with the Seller so as to avoid unnecessary disruption to or interference with the Seller's use of the Option Property;
 - v. Do no unnecessary damage to the Option Property and restore the Option Property to substantially the same condition as the condition in which it was found by the Buyer at the time of entry by the Buyer, its agents, employees, or contractors; and
 - vi. Hold the Seller harmless from and indemnify and defend the Seller from any and all claims, damages, judgments or obligations, including the cost of defense of suit, arising out of damage to the Option Property or arising out of injury to anyone incurred or alleged to have been incurred in connection with or as a result of any work done pursuant to this right

of entry, or as a result of the intentional torts or negligence of the Buyer, its agents, employees, or contractors.

10. Title Review and Objections. Within 15 days after exercising the Option, the Seller shall obtain and provide a copy to the Buyer a commitment for an ALTA owner's title insurance policy which shall be periodically updated in accordance with the Development Documents as subsequently defined herein. Within 30 days after receipt of the title commitment, the Buyer shall notify the Seller in writing of any objections to title, or the objections shall be deemed waived. If any objections are so made, the Seller may be allowed until the Closing Date to cure such objections and make the title to the Option Property good and marketable of record in the Seller. Notwithstanding the foregoing, the Seller shall have no obligation to cure any title objections. If a timely objection has been made by the Buyer pursuant to this Section and title to the Option Property remains unmarketable on the Closing Date, the Buyer, as its sole and exclusive remedy, may either: (A) terminate this Agreement by giving written notice to the Seller; or (B) elect to accept the title in its unmarketable condition and without reduction of the Purchase Price by giving written notice to the Seller.

11. Preliminary Plat & Final Plat. The Buyer, at the Buyer's expense, shall obtain within 60 days of exercising the Option, a preliminary plat of the Option Property prepared by a licensed land surveyor (the "**Preliminary Plat**"). The Buyer, at the Buyer's sole expense, shall comply with all subdivision processes as required by the City Code of the City in order to accomplish the platting of the Option Property.

12. Conveyance Subject to Right of Re-entry. The Seller's conveyance of the Option Property to the Buyer pursuant to this Agreement shall be made in the form of a quit claim deed (the "**Deed**"). The Deed shall include a right of re-entry for breach of a condition subsequent in favor of the Seller (the "**Right of Re-entry**"). The condition subsequent shall be determined by the Seller in accordance with Minnesota Statutes Section 469.105 and set forth in the Deed conveying the Option Property to the Buyer in the form attached to the Development Agreement (as defined below). If the Buyer breaches such condition subsequent, the Buyer shall re-convey the Option Property back to the Seller. If the Buyer fails to re-convey the Option Property to the Seller, the Seller may elect to exercise its right of reentry by commencing an action in Hennepin County District Court to establish the breach of the condition subsequent. If the Seller establishes a breach of the condition subsequent, title to and the right to possession of the Option Property and title to all improvements located thereon reverts to the Seller, and the Buyer is not entitled to any compensation from the Seller for the Option Property or the value of any improvements the Buyer has made to the Option Property. The Buyer must record any certificate of completion or certificate of release of the Right of Re-entry in the proper County land records at its expense.

13. Contingencies.

- a. Buyer's Contingencies. If the Buyer exercises the Option, the Buyer's obligation to purchase the Option Property shall be contingent on the following:
 - i. By the end of the Due Diligence Period, the Buyer shall have determined, in its sole and absolute discretion, that it is satisfied with the results and matters disclosed by the Buyer's investigation of the

Option Property pursuant to Section 9 of this Agreement.

- ii. By the Closing Date, the Buyer shall have obtained, or caused to be obtained, in a timely manner, all required permits, licenses and approvals, including without limitation zoning and land use approvals, final plat approval, and all other approvals which must be obtained for the Development.
 - iii. By the Closing Date, the Buyer shall have obtained approvals from the Seller and the City, following a duly noticed public hearing and the satisfaction of all other conditions required by Minnesota law, of the use of a portion of the tax increments from Tax Increment Financing District No. 7 (Redevelopment District) derived from the Option Property therein.
 - iv. By the Closing Date, the Buyer shall have obtained all necessary financing for the Development.
 - v. By the Closing Date, the condition of title shall be satisfactory to the Buyer following the Buyer's examination of title as provided herein.
- b. The contingencies set forth above are for the benefit of the Buyer and may be waived by the Buyer in the Buyer's sole discretion. Notwithstanding any other provision in this Agreement, a waiver of a contingency must be in writing to be effective. At the end of the Due Diligence Period, the Buyer will give written notice to the Seller of the contingencies that have been waived, satisfied, or neither waived nor satisfied.
- c. Seller's Contingencies. If the Buyer exercises the Option, the Seller's obligation to convey the Option Property shall be contingent on the following:
- i. By the Closing Date, the Buyer shall have obtained, or cause to be obtained, in a timely manner and at its sole and absolute expense, all required permits, licenses and approvals, and shall have met, in a timely manner, all requirements of all applicable local, state, and federal laws and regulations which must be obtained or met for the Development including without limitation a building permit, any needed variances, final plat or subdivision approval, and zoning and land use approvals;
 - ii. The Buyer shall have obtained approval from the Seller of the sale of the Option Property pursuant to this Agreement following a duly noticed public hearing and the satisfaction of all other conditions required by Minnesota law;
 - iii. By the Closing Date, the Buyer shall have obtained approvals from the Seller and the City, following a duly noticed public hearing and the satisfaction of all other conditions required by Minnesota law, of the use of a portion of the tax increments from Tax Increment Financing District

No. 7 (Redevelopment District) derived from the Option Property therein;

- iv. The Buyer and the Seller shall have negotiated and mutually agreed to, the Board of Commissioners of the EDA shall have approved following the satisfaction of all conditions required by Minnesota law, and the Seller and the Buyer shall have executed, effective not later than the Closing Date, a Development Agreement (the “**Development Agreement**”), providing, among other things, for (i) the platting of the Option Property including, but not limited to, the preliminary plat, final plat, and site plan; (ii) the construction of the Development by the Buyer in accordance with plans, specifications and a timeline approved by the Seller, (iii) the use of up to 90% of the tax increment from Tax Increment Financing District No. 7 (Redevelopment District) derived from the minimum improvements on the Option Property for a period of up to 19 years to reimburse the Buyer for a portion of the costs of constructing the Development on the Option Property pursuant to a pay-as-you-go tax increment revenue note, bearing simple, non-compounding interest at a rate per annum of up to the lesser of 5.125 percent or the rate of interest on the first lien mortgage financing for the minimum improvements for the Development (the “**PAYGO Note**”) in the amount of up to \$340,000 subject to a final determination in accordance with applicable law, and (iv) the terms and conditions of the Right of Re-entry in accordance with Section 12 and the form of the Deed to be executed and delivered by the Seller at closing and containing the terms of the Right of Re-entry; and any documents ancillary thereto (collectively, the “**Development Documents**”);
- v. The Buyer shall have performed all of the obligations required to be performed by the Buyer under this Agreement or the Development Documents as of the Closing Date and any further contingencies to Closing set forth in such Development Documents shall have been satisfied as provided therein;
- vi. The Buyer shall have delivered to the Seller all of the Buyer’s Documents described in Section 19.
- vii. The Buyer shall have submitted the construction plans for the Development to the Seller and the City, and the Seller and the City shall have approved the construction plans pursuant to the Development Documents;
- viii. By the Closing Date, the Buyer shall have obtained and provided to the Seller evidence of all necessary financing for the Development; and
- ix. The Seller shall have determined that the Development to be undertaken by the Buyer on the Option Property is in conformance with this

Agreement and the development objectives set forth in resolutions of the City and the Seller authorizing use of a portion of the tax increments from Tax Increment Financing District No. 7 (Redevelopment District) derived from the Option Property therein and the Development Documents.

- d. The contingencies set forth in Section 13(c) are for the benefit of the Seller and may be waived only by the Seller in its sole and absolute discretion. Notwithstanding any other provision in this Agreement, a waiver of a contingency must be in writing to be effective. At the end of the Due Diligence Period, the Seller will give written notice to the Buyer of the contingencies that have been waived, satisfied, or neither waived nor satisfied.
- e. Seller's and Buyer's Options. In the event that any of the foregoing contingencies fail to be satisfied on or before the Closing Date:
 - i. the applicable party may terminate this Agreement, and the Buyer and the Seller shall execute and deliver to each other documentation effecting the termination of this Agreement and the Seller shall return the Earnest Money to the Buyer; or
 - ii. the applicable party may waive such failure and proceed to Closing; provided that the contingencies in Section 13(a) are solely for the benefit of the Buyer and may be waived only by the Buyer as provided in Section 13 (b) and the contingencies in Section 13(c) are solely for the benefit of the Seller and may be waived only by the Seller as provided in Section 13(d); or
 - iii. The Buyer and the Seller may mutually agree to extend the Closing Date.
- f. If Closing does not occur due to the failure of any of the above contingencies which is not waived by the applicable party, the Seller shall be entitled to retain the Option Payment, except as otherwise provided in Section 3 of this Agreement.
- g. If the above contingencies are satisfied at the end of the Due Diligence Period or the applicable party elects to waive any unsatisfied contingencies and proceed to Closing, then the Earnest Money shall become non-refundable to the Buyer except in the event of the Seller's default.

14. Real Estate Taxes and Special Assessments. The Seller shall not be responsible for the payment of any real estate taxes due or special assessments due with respect to the Option Property. The Buyer shall be responsible for all real estate taxes special assessments due with respect to the Option Property which have not been paid prior to Closing.

15. Representations and Warranties of the Seller. The Option Property is sold AS-IS. Except as provided herein, the Seller makes no representations or warranties regarding the

condition of the Option Property, its use, or the marketability of its title. The Buyer shall be satisfied solely on the basis of its own investigation. Notwithstanding the foregoing, the Seller represents and warrants to the Buyer:

- a. Unrecorded Agreements. To the Seller's knowledge, there are no unrecorded agreements, undertakings or restrictions which affect the Option Property.
- b. Leases. There are no leases or possessory rights of others regarding the Option Property.
- c. No Default Notice. The Seller has not received notice of a default or breach of any agreement related to the Option Property and is not aware of any facts that would result in the Seller being in default or breach of any such agreement.
- d. Due Diligence Documents. The Due Diligence Documents delivered or to be delivered to the Buyer hereunder are to the Seller's actual knowledge correct and complete and, to the Seller's actual knowledge, do not contain any false information.
- e. Operations. The Seller has not received any notice of any violation of any laws, ordinances, or regulations relating to the Option Property.
- f. Condition. To Seller's actual knowledge, the Option Property complies with all applicable laws, ordinances, regulations, permits, and any applicable restrictive covenants.
- g. FIRPTA. The Seller is not a "foreign person," "foreign partnership," "foreign trust," or "foreign estate," as those terms are defined in Internal Revenue Code Section 1445 and the regulations promulgated thereunder.
- h. No Proceedings. No legal or administrative proceeding is pending or, to the Seller's actual knowledge, threatened (i) which would adversely affect the Seller's right to convey the Option Property to the Buyer as contemplated in this Agreement, or (ii) affecting the Option Property. There are no condemnation or eminent domain proceedings pending or, to the Seller's knowledge, threatened with respect to the Option Property.
- i. Private Sewage Systems; Wells. There are no private sewage systems or wells of any kind located on the Option Property. Sewage generated at the Option Property goes to a facility permitted by the Minnesota Pollution Control Agency.
- j. Use of Property. To the Seller's actual knowledge, no methamphetamine production has occurred on the Option Property.
- k. Unpaid Labor and Materials. The Seller is not indebted for labor or material that might give rise to the filing of notice of mechanic's lien against any portion of the Option Property.

1. The obligations of the Buyer under this Agreement are contingent upon the representations and warranties of the Seller contained in this Agreement being true as of the Effective Date and on the Closing Date as if made on the Closing Date. Each of the foregoing representations and warranties shall be deemed remade as of the Closing Date and, as so remade, shall survive the Closing.

16. Due Diligence Documents. Within 10 days after the Effective Date, the Seller shall deliver to the Buyer copies of the documents set forth on **Exhibit B** attached hereto and incorporated herein (the “**Due Diligence Documents**”).

17. Closing Costs.

- a. The Buyer shall pay all costs of the preparation of a title commitment, including the abstracting fees, if required by the title company and all recording fees and charges related to the filing of any instrument required to make title marketable. The Buyer shall also pay the cost of obtaining any title evidence desired by Buyer, including a title commitment, the fees for standard searches with respect to the Seller and the Property, all premiums required for issuance of a title insurance policy any survey costs and all Closing fees charged by the title company and any escrow fees charged by any escrow agent engaged by the parties in connection with this Agreement.
- b. Buyer shall also pay the following costs: (1) all costs for obtaining government approvals that may be required in order to close on the Property or as required for the Buyer’s intended use of the Property; (2) the cost of preparation of any necessary platting or other subdivision documents, (3) the filing fee to record the deed, (4) the premium for any owner’s or lender’s title insurance policies obtained by or for the benefit of Buyer, (5) Mortgage Registration Tax, (6) any state deed tax, conservation fee or other federal, state or local documentary or revenue stamps or transfer tax with respect to the Deed to be delivered by the Sellers; recording fees and charges related to the filing of the Deed; (7) Buyer’s attorney’s fees; (8) the Seller’s legal, accounting fees and other out of pocket costs incurred in connection with this Agreement and the Development Documents as further provided in Section 25 hereof and in the Development Documents; and (9) all other costs as outlined in the Development Documents entered into between the Parties.

18. Seller’s Closing Documents. At Closing, the Seller shall execute and deliver to the Buyer the following documents (collectively, the “**Seller’s Closing Documents**”):

- a. A Quit Claim Deed conveying the Option Property to the Buyer.
- b. A closing statement prepared by the Title Company to be executed by the Seller, Buyer, and the Title Company at the Closing that accurately describes the economic terms of the transaction described this Agreement.
- c. An Assignment of any Due Diligence Documents that are consented to and approved by the Buyer, and miscellaneous documents conveying the Seller’s

interest to the Buyer together with the consent of all parties having a right to consent to such assignment.

- d. A non-foreign affidavit, properly executed, containing such information as is required by Code Section 1445(b)(2) and the regulations promulgated thereunder.
- e. A Designation Agreement designating the “reporting person” for purposes of completing Internal Revenue Service (“IRS”) Form 1099 and, if applicable, IRS Form 8594.

19. Documents to be Delivered by the Buyer. The Buyer agrees to deliver to the Seller the following documents (the “**Buyer’s Documents**”), duly executed as appropriate, at Closing:

- a. The Purchase Price.
- b. Such affidavits of Buyer, Certificates of Value or other documents as may be reasonably required in order to complete the transaction contemplated by this Agreement.
- c. The final plat of the Option Property as approved by the Seller and the City, to be recorded contemporaneously with Closing contemplated herein.
- d. Any documentary evidence required to satisfy the contingencies set forth herein.
- e. The Development Agreement and any documents required pursuant to the terms of the Development Documents.
- f. A minimum assessment agreement pursuant to which the Option Property and the minimum improvements as defined by the Development Agreement will be assessed based on a minimum market value of:
 - i. \$2,925,000 as of January 2, 2026; and
 - ii. \$11,700,000 as of January 2, 2027.
- g. Such other documents as shall be required to carry out the intent of this Agreement.

20. Casualty or Condemnation. If before the recording of the Deed any substantial part of the Option Property is taken by condemnation (including a deed given in lieu thereof), the Buyer shall have the option of (i) enforcing this Agreement (and in such event the insurance proceeds or condemnation award shall belong to the Buyer) or (ii) canceling the Agreement by written notice given within 30 days after the Buyer receives notice of such casualty or condemnation from the Seller. If this Agreement is canceled under this Section, the Earnest Money shall be returned to the Buyer, this Agreement shall be null and void, and the Parties’ obligations hereunder shall be of no further force and effect.

21. Remedies. If either Party defaults under this Agreement, the non-defaulting party shall have the right to terminate this Agreement by giving written notice to the defaulting party. If the defaulting party fails to cure such default within 14 days of the date of such written notice, this Agreement will terminate. The termination of this Agreement shall be the sole and absolute remedy available to the non-defaulting Party for such default.

22. Commissions. Each party represents that it has not engaged any broker in connection with the transactions contemplated by this Agreement and agrees to indemnify and hold the other harmless from anyone claiming a commission/fee through them.

23. Notices. Any notices required herein shall be deemed given when sent in the U.S. Mail, either registered or certified, return receipt requested, or by Federal Express or other overnight delivery service requiring a signature upon receipt, to the parties at the following addresses:

SELLER: Economic Development Authority of Brooklyn Center, Minnesota
6301 Shingle Creek Parkway
Brooklyn Center, MN 55430
Attn: Executive Director

With a copy to: Jenny Boulton
Kennedy and Graven, Chartered
Fifth Street Towers
150 South Fifth Street, Suite 700
Minneapolis, MN 55402

BUYER Project for Pride in Living
1035 East Franklin Avenue
Minneapolis, MN 55404
Attn: _____

With a copy to:

24. Reimbursement of Costs. Upon execution of this Agreement by both parties, the Buyer shall deposit with the Seller the sum of Ten Thousand Dollars (\$10,000.00) to pay for the Seller's reasonable out-of-pocket legal, financial consultant, and administrative fees associated with this transaction. Unexpended funds will be returned by the Seller to the Buyer and if, additional funds are needed by the Seller to pay such expenses, the Buyer will deposit such additional funds upon request by the Seller.

25. Survival. All representations, warranties, and indemnities set forth herein shall survive the Closing, except as otherwise provided herein.

26. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota.

27. Assignment. The Buyer shall have the right to assign its interest to this Agreement to an entity in which the Buyer has an ownership interest, is a member or is otherwise affiliated with. The consent of the Seller shall be required if the Buyer assigns this Agreement to any third party with which the Buyer has no connection.

28. Binding Effect. This Agreement is binding upon the Parties and their respective permitted successors and assigns.

29. Construction. This Agreement shall not be construed more strictly against one Party than the other, merely by virtue of the fact that it may have been prepared primarily by counsel for one of the Parties, it being recognized that both the Buyer and the Seller have contributed substantially and materially to the preparation of this Agreement.

30. Headings. The headings preceding the text of the sections and subsections hereof are inserted solely for convenience of reference and shall not constitute a part of this Agreement, nor shall they affect its meaning, construction, or effect.

31. Severability. The invalidity or unenforceability of any term or terms of this Agreement shall not invalidate, make unenforceable or otherwise affect any other term of this Agreement, and this Agreement shall be construed in all respects as if such invalid or unenforceable provision were omitted, and in such event, the remaining terms of this Agreement shall remain in full force and effect.

32. Computation of Time. In computing any period of time pursuant to this Agreement, the day of the act or event from which the designated period of time begins to run will not be included. The last day of the period so computed will be included, unless it is a Saturday, Sunday, or federal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or federal holiday.

33. Time of the Essence. All times, wherever specified herein for the performance by the Seller or the Buyer of their respective obligations hereunder, are of the essence of this Agreement.

34. Complete Agreement. This instrument and any exhibits, schedules or addendums attached hereto contain the entire Agreement of the Parties regarding the subject matter hereof, and supersedes all prior negotiations, agreements, or understandings, whether oral or in writing. This Agreement may not be changed orally but only by an Agreement in writing signed by the Parties.

35. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall constitute an original but all of which, taken together, shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the undersigned have signed this Option Agreement as of the day and year first written above.

SELLER:

**ECONOMIC DEVELOPMENT AUTHORITY
OF THE CITY OF BROOKLYN CENTER**

By: _____
April Graves
Its: President

By: _____
Its: Executive Director

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledgment before me this ____ day of _____, 2023, by April Graves and _____, the President and Executive Director, respectively of the Economic Development Authority of Brooklyn Center, Minnesota, a public body corporate and politic in the State of Minnesota on behalf of the Authority.

Notary Public

BUYER:

PROJECT FOR PRIDE IN LIVING, INC.

By: _____

Its: _____

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledgment before me this ____ day of _____, 2023, by _____, the _____ of Project for Pride in Living, Inc., a Minnesota nonprofit corporation on behalf of the company.

Notary Public

This document was drafted by:

Kennedy & Graven, Chartered (JSB)
150 South 5th Street, Suite 700
Minneapolis, MN 55402
(612) 337-9300

EXHIBIT A

LEGAL DESCRIPTIONS OF THE OPTION PROPERTY

A portion of a parcel of land at the northeast intersection of County Road 10 and Shingle Creek Parkway in Brooklyn Center, Minnesota currently identified as Parcel ID number 02-118-21-24-0019 to be re-platted as:

Lot 1, Block 4 Opportunity Site Addition

but subject to the final plat thereof.

EXHIBIT B

Due Diligence Documents

Copies of the following in the Seller's possession and related to the Option Property:

1. Copies of real estate tax bills and special assessments (if any), and payment status for the preceding three full calendar years;
2. Statements of any and all expenses related to the Option Property for the preceding three full calendar years;
3. Copies of all agreements affecting the Option Property;
4. All studies and reports in the possession of the Seller relating to environmental status, soil tests, and any other information regarding the environmental and soil conditions;
5. Copies of any written citations from any governmental entities pertaining to the Option Property including those pertaining to any uncured violations of any applicable laws and codes or compliance with the same;
6. All site plans, construction documents, engineer reports, and property assessments performed to date for the Option Property;
7. Any existing surveys of the Option Property; and
8. All certificates of insurance relating to the Option Property and claims made in the last three years.

OPTION AGREEMENT

THIS OPTION AGREEMENT (this “**Agreement**”) is made and entered into as of this ____ day of _____, 2023 (the “**Effective Date**”), by and between the Economic Development Authority of Brooklyn Center, Minnesota, a public body corporate and politic under the laws of Minnesota (the “**Seller**”), and Project for Pride in Living, Inc., a Minnesota nonprofit corporation (the “**Buyer**”) (together with the Seller and the Buyer referred to herein as the “**Parties**” or individually as a “**Party**”).

RECITALS

A. The Buyer intends to purchase the parcel legally described on Exhibit A attached hereto and hereby made a part hereof (the “**Option Property**”) from the Seller and to develop the Option Property into a multi-story, approximately 70-unit apartment building with at least 40% of the units occupied or held for occupancy by persons and families whose incomes do not exceed 60% of the area median income, and underground and surface parking stalls (the “**Development**”); and

B. The Seller wishes to grant the Buyer an option to acquire the Option Property, under the terms and conditions hereunder; and

C. The Seller believes that the development of the Option Property is vital and is in the best interests of the Seller and City of Brooklyn Center, Minnesota (the “**City**”), will result in preservation and enhancement of their tax base, provide additional affordable housing options in the City, and is in accordance with the public purpose and provisions of the applicable state and local laws and requirements under which the Development will be undertaken.

NOW, THEREFORE, in consideration of mutual covenants set forth in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Seller and the Buyer agree as follows:

Terms of the Agreement

1. Recitals. The recitals as set forth above are hereby incorporated into this Agreement.

2. The Option. The Seller hereby grants to the Buyer the exclusive right and option to purchase the Option Property, during the Option Period defined below, subject to the conditions set forth below (the “**Option**”).

3. Option Payment. Within five business days after the date hereof, the Buyer shall pay and deliver to Commercial Partners Title, located at 200 S. Sixth Street, Suite 1300, Minneapolis, MN 55402 (the “**Title Company**”), the sum of Two Thousand Five Hundred and No/100 dollars (\$2,500), which shall constitute the option payment (the “**Option Payment**”) hereunder. The Option Payment shall be refundable if, at the end of the Option Period (as defined below), the contingencies set forth in either Section 13(c)(ii) or 13(c)(iii) are not satisfied. In the event that the Buyer purchases the Option Property pursuant to this Agreement, the Option Payment shall be credited against the Purchase Price payable for the Option Property as set forth in Section 6 herein. In the event the Buyer does not exercise the Option or Closing (as defined below) does not occur for any reason whatsoever other than the Seller’s default hereunder or failure of the contingencies set forth in Sections 13(c)(ii) or 13(c)(iii) to be satisfied, the Option Payment shall be retained by the Seller as consideration for granting the Option.

4. Option Period.

- a. The period during which the Option may be exercised by the Buyer (the “**Option Period**”) shall commence upon the Effective Date of this Agreement and shall expire on the earlier of 60 days after the Buyer receives an allocation of tax credits for the Development the Minnesota Housing Finance Agency from (“MHFA”) or January 1, 2026 (the “**Expiration Date**”). During the Option Period, the Seller agrees it will not advertise, list, negotiate for the sale of or sell the Option Property to a third party.
- b. If the Buyer does not timely exercise the Option, the Option shall lapse, and the Option Payment shall be applied as provided in Section 3 herein and the Buyer shall have no further rights with respect to the Option Property.

5. Exercise of Option. This Option shall be deemed exercised if, within the Option Period, the Buyer gives written notice to the Seller of the Buyer’s intent to exercise the Option and the Buyer will deposit with the Title Company for the benefit of the Seller the sum of Ten Thousand and No/100 dollars (\$10,000.00), as earnest money (“**Earnest Money**”). The Earnest Money shall become nonrefundable at the end of the Due Diligence Period (defined below). In the event that Seller breaches the terms of this Agreement, the Seller shall refund the Earnest Money to the Buyer. Nothing in this Agreement shall entitle the Buyer to make any claim against the Seller or the City for any damages whatsoever and the Buyer’s remedies are strictly limited to the foregoing. Nothing in this Agreement shall be construed as a limitation of or waiver by the Seller of any immunities, defenses, or other limitations on liability to which the Seller is entitled by law.

6. Purchase Price. The total purchase price for the Option Property shall be

\$ _____, less a land write-down in the amount of up to \$ _____ as set forth in the Buyer's HTC-1 Workbook submitted to MHFA (the "**Purchase Price**"). The Purchase Price less the Earnest Money and the Option Payment shall be paid to the Seller from the Buyer on the Closing Date.

7. Closing. Subject to the terms of this Agreement, the closing of the purchase and sale of the Option Property contemplated by this Agreement (the "**Closing**") shall occur at the office of the Title Company, or at another location mutually agreed upon by the Parties, on the date 30 days after the expiration of the Due Diligence Period or such other date as agreed to by the Parties in writing (the "**Closing Date**").

8. Due Diligence Investigation. Commencing on the date that the Buyer exercises this Option, the Buyer, at its sole cost and expense, shall have a due diligence period of 180 days ("**Due Diligence Period**") to make all such investigations as the Buyer, in its sole and absolute discretion, deems reasonable and necessary in determining the suitability of the Option Property for the Buyer's needs including:

- a. To examine and inspect the Option Property, to review the Due Diligence Documents, to conduct feasibility studies with regard to the ownership and operation of the Option Property, including, but not limited to, environmental reviews, soil condition testing, surveying, engineering studies, appraisals and any other physical inspections of the Option Property as determined by the Buyer, and to investigate all physical aspects of the Option Property, and to review all other due diligence matters related to the Option Property. The Buyer may enter upon the Option Property to inspect the same, and may conduct tests and examinations with regard thereto, provided that the Buyer's activities do not unreasonably interfere with the ongoing operation of the Option Property. The Buyer shall promptly restore the Option Property to substantially the same condition in which it existed immediately prior to any physical tests conducted by or on behalf of the Buyer.
- b. To investigate all zoning, code and governmental regulations or requirements in place at the Option Property, and to obtain all land use and rezoning approvals and permits determined necessary by the Buyer for the Buyer's intended development and use of the Option Property, including but not limited to all Development Approvals defined herein.
- c. To secure funding for the purchase and development of the Option Property on terms acceptable to the Buyer, in the Buyer's sole discretion. The Parties contemplate that such funding may include, without limitation, one or more of the following:
 - i. MHFA Affordable Housing Tax Credits;
 - ii. Tax Increment Financing assistance from the Seller;
 - iii. Commercial loans for the purchase and/or development of the Option Property.

- d. To obtain, at the Buyer's sole cost, an appraisal of the Option Property that is satisfactory to the Buyer and all of the Buyer's funding sources.
- e. The Buyer shall have until the last day of the Due Diligence Period to provide written notice to the Seller of the Buyer's intention to terminate this Agreement for any reason. If the Buyer terminates this Agreement within the Due Diligence Period, the transactions contemplated herein shall be considered terminated and the Earnest Money will be returned immediately to the Buyer.

9. Right of Entry. During the Due Diligence Period, the Buyer shall have the right to enter upon the Option Property for the purpose of taking soil tests and borings, making surveys and maps, and performing investigative work, including environmental testing and assessment, as the Buyer may deem necessary; provided, however, the Buyer shall indemnify, defend, and hold the Seller harmless from any mechanics' liens or claims arising out of such investigative work by the Buyer. The Buyer may assign this right to its agents, employees, or contractors at its sole discretion. Nothing in this Agreement shall be deemed a waiver of defenses or limitations available to the Seller under Minnesota Statutes Chapter 466.

- a. In consideration for such right of entry, the Buyer agrees to:
 - i. Notify the Seller at least 48 hours in advance of the date and time that the Buyer, its agents, employees, or contractors, will enter the Option Property for the purpose for the entry, in order to permit the Seller to be present during the time any work is being done by the Buyer, its agents, employees, or contractors;
 - ii. Provide to the Seller a copy of all test results and reports prepared by the Buyer or its consultants evaluating the conditions present on the Option Property, as soon as reasonably possible following final completion thereof;
 - iii. Dispose of all solid waste generated during the course of the Buyer's sampling activities and other work on the Option Property in accordance with applicable federal, state and local laws, rules and regulations;
 - iv. Coordinate activities with the Seller so as to avoid unnecessary disruption to or interference with the Seller's use of the Option Property;
 - v. Do no unnecessary damage to the Option Property and restore the Option Property to substantially the same condition as the condition in which it was found by the Buyer at the time of entry by the Buyer, its agents, employees, or contractors; and
 - vi. Hold the Seller harmless from and indemnify and defend the Seller from any and all claims, damages, judgments or obligations, including the cost of defense of suit, arising out of damage to the Option Property or arising out of injury to anyone incurred or alleged to have been incurred in connection with or as a result of any work done pursuant to this right

of entry, or as a result of the intentional torts or negligence of the Buyer, its agents, employees, or contractors.

10. Title Review and Objections. Within 15 days after exercising the Option, the Seller shall obtain and provide a copy to the Buyer a commitment for an ALTA owner's title insurance policy which shall be periodically updated in accordance with the Development Documents as subsequently defined herein. Within 30 days after receipt of the title commitment, the Buyer shall notify the Seller in writing of any objections to title, or the objections shall be deemed waived. If any objections are so made, the Seller may be allowed until the Closing Date to cure such objections and make the title to the Option Property good and marketable of record in the Seller. Notwithstanding the foregoing, the Seller shall have no obligation to cure any title objections. If a timely objection has been made by the Buyer pursuant to this Section and title to the Option Property remains unmarketable on the Closing Date, the Buyer, as its sole and exclusive remedy, may either: (A) terminate this Agreement by giving written notice to the Seller; or (B) elect to accept the title in its unmarketable condition and without reduction of the Purchase Price by giving written notice to the Seller.

11. Preliminary Plat & Final Plat. The Buyer, at the Buyer's expense, shall obtain within 60 days of exercising the Option, a preliminary plat of the Option Property prepared by a licensed land surveyor (the "**Preliminary Plat**"). The Buyer, at the Buyer's sole expense, shall comply with all subdivision processes as required by the City Code of the City in order to accomplish the platting of the Option Property.

12. Conveyance Subject to Right of Re-entry. The Seller's conveyance of the Option Property to the Buyer pursuant to this Agreement shall be made in the form of a quit claim deed (the "**Deed**"). The Deed shall include a right of re-entry for breach of a condition subsequent in favor of the Seller (the "**Right of Re-entry**"). The condition subsequent shall be determined by the Seller in accordance with Minnesota Statutes Section 469.105 and set forth in the Deed conveying the Option Property to the Buyer in the form attached to the Development Agreement (as defined below). If the Buyer breaches such condition subsequent, the Buyer shall re-convey the Option Property back to the Seller. If the Buyer fails to re-convey the Option Property to the Seller, the Seller may elect to exercise its right of reentry by commencing an action in Hennepin County District Court to establish the breach of the condition subsequent. If the Seller establishes a breach of the condition subsequent, title to and the right to possession of the Option Property and title to all improvements located thereon reverts to the Seller, and the Buyer is not entitled to any compensation from the Seller for the Option Property or the value of any improvements the Buyer has made to the Option Property. The Buyer must record any certificate of completion or certificate of release of the Right of Re-entry in the proper County land records at its expense.

13. Contingencies.

- a. Buyer's Contingencies. If the Buyer exercises the Option, the Buyer's obligation to purchase the Option Property shall be contingent on the following:
 - i. By the end of the Due Diligence Period, the Buyer shall have determined, in its sole and absolute discretion, that it is satisfied with the results and matters disclosed by the Buyer's investigation of the

Option Property pursuant to Section 9 of this Agreement.

- ii. By the Closing Date, the Buyer shall have obtained, or caused to be obtained, in a timely manner, all required permits, licenses and approvals, including without limitation zoning and land use approvals, final plat approval, and all other approvals which must be obtained for the Development.
 - iii. By the Closing Date, the Buyer shall have obtained approvals from the Seller and the City, following a duly noticed public hearing and the satisfaction of all other conditions required by Minnesota law, of the use of a portion of the tax increments from Tax Increment Financing District No. 7 (Redevelopment District) derived from the Option Property therein.
 - iv. By the Closing Date, the Buyer shall have obtained all necessary financing for the Development.
 - v. By the Closing Date, the condition of title shall be satisfactory to the Buyer following the Buyer's examination of title as provided herein.
- b. The contingencies set forth above are for the benefit of the Buyer and may be waived by the Buyer in the Buyer's sole discretion. Notwithstanding any other provision in this Agreement, a waiver of a contingency must be in writing to be effective. At the end of the Due Diligence Period, the Buyer will give written notice to the Seller of the contingencies that have been waived, satisfied, or neither waived nor satisfied.
- c. Seller's Contingencies. If the Buyer exercises the Option, the Seller's obligation to convey the Option Property shall be contingent on the following:
- i. By the Closing Date, the Buyer shall have obtained, or cause to be obtained, in a timely manner and at its sole and absolute expense, all required permits, licenses and approvals, and shall have met, in a timely manner, all requirements of all applicable local, state, and federal laws and regulations which must be obtained or met for the Development including without limitation a building permit, any needed variances, final plat or subdivision approval, and zoning and land use approvals;
 - ii. The Buyer shall have obtained approval from the Seller of the sale of the Option Property pursuant to this Agreement following a duly noticed public hearing and the satisfaction of all other conditions required by Minnesota law;
 - iii. By the Closing Date, the Buyer shall have obtained approvals from the Seller and the City, following a duly noticed public hearing and the satisfaction of all other conditions required by Minnesota law, of the use of a portion of the tax increments from Tax Increment Financing District

No. 7 (Redevelopment District) derived from the Option Property therein;

- iv. The Buyer and the Seller shall have negotiated and mutually agreed to, the Board of Commissioners of the EDA shall have approved following the satisfaction of all conditions required by Minnesota law, and the Seller and the Buyer shall have executed, effective not later than the Closing Date, a Development Agreement (the “**Development Agreement**”), providing, among other things, for (i) the platting of the Option Property including, but not limited to, the preliminary plat, final plat, and site plan; (ii) the construction of the Development by the Buyer in accordance with plans, specifications and a timeline approved by the Seller, (iii) the use of up to 90% of the tax increment from Tax Increment Financing District No. 7 (Redevelopment District) derived from the minimum improvements on the Option Property for a period of up to [REDACTED] years to reimburse the Buyer for a portion of the costs of constructing the Development on the Option Property pursuant to a pay-as-you-go tax increment revenue note, bearing simple, non-compounding interest at a rate per annum of up to the lesser of [REDACTED] percent or the rate of interest on the first lien mortgage financing for the minimum improvements for the Development (the “**PAYGO Note**”) in the amount of up to \$ [REDACTED] subject to a final determination in accordance with applicable law, and (iv) the terms and conditions of the Right of Re-entry in accordance with Section 12 and the form of the Deed to be executed and delivered by the Seller at closing and containing the terms of the Right of Re-entry; and any documents ancillary thereto (collectively, the “**Development Documents**”);
- v. The Buyer shall have performed all of the obligations required to be performed by the Buyer under this Agreement or the Development Documents as of the Closing Date and any further contingencies to Closing set forth in such Development Documents shall have been satisfied as provided therein;
- vi. The Buyer shall have delivered to the Seller all of the Buyer’s Documents described in Section 19.
- vii. The Buyer shall have submitted the construction plans for the Development to the Seller and the City, and the Seller and the City shall have approved the construction plans pursuant to the Development Documents;
- viii. By the Closing Date, the Buyer shall have obtained and provided to the Seller evidence of all necessary financing for the Development; and
- ix. The Seller shall have determined that the Development to be undertaken by the Buyer on the Option Property is in conformance with this

Agreement and the development objectives set forth in resolutions of the City and the Seller authorizing use of a portion of the tax increments from Tax Increment Financing District No. 7 (Redevelopment District) derived from the Option Property therein and the Development Documents.

- d. The contingencies set forth in Section 13(c) are for the benefit of the Seller and may be waived only by the Seller in its sole and absolute discretion. Notwithstanding any other provision in this Agreement, a waiver of a contingency must be in writing to be effective. At the end of the Due Diligence Period, the Seller will give written notice to the Buyer of the contingencies that have been waived, satisfied, or neither waived nor satisfied.
- e. Seller's and Buyer's Options. In the event that any of the foregoing contingencies fail to be satisfied on or before the Closing Date:
 - i. the applicable party may terminate this Agreement, and the Buyer and the Seller shall execute and deliver to each other documentation effecting the termination of this Agreement and the Seller shall return the Earnest Money to the Buyer; or
 - ii. the applicable party may waive such failure and proceed to Closing; provided that the contingencies in Section 13(a) are solely for the benefit of the Buyer and may be waived only by the Buyer as provided in Section 13 (b) and the contingencies in Section 13(c) are solely for the benefit of the Seller and may be waived only by the Seller as provided in Section 13(d); or
 - iii. The Buyer and the Seller may mutually agree to extend the Closing Date.
- f. If Closing does not occur due to the failure of any of the above contingencies which is not waived by the applicable party, the Seller shall be entitled to retain the Option Payment, except as otherwise provided in Section 3 of this Agreement.
- g. If the above contingencies are satisfied at the end of the Due Diligence Period or the applicable party elects to waive any unsatisfied contingencies and proceed to Closing, then the Earnest Money shall become non-refundable to the Buyer except in the event of the Seller's default.

14. Real Estate Taxes and Special Assessments. The Seller shall not be responsible for the payment of any real estate taxes due or special assessments due with respect to the Option Property. The Buyer shall be responsible for all real estate taxes special assessments due with respect to the Option Property which have not been paid prior to Closing.

15. Representations and Warranties of the Seller. The Option Property is sold AS-IS. Except as provided herein, the Seller makes no representations or warranties regarding the

condition of the Option Property, its use, or the marketability of its title. The Buyer shall be satisfied solely on the basis of its own investigation. Notwithstanding the foregoing, the Seller represents and warrants to the Buyer:

- a. Unrecorded Agreements. To the Seller's knowledge, there are no unrecorded agreements, undertakings or restrictions which affect the Option Property.
- b. Leases. There are no leases or possessory rights of others regarding the Option Property.
- c. No Default Notice. The Seller has not received notice of a default or breach of any agreement related to the Option Property and is not aware of any facts that would result in the Seller being in default or breach of any such agreement.
- d. Due Diligence Documents. The Due Diligence Documents delivered or to be delivered to the Buyer hereunder are to the Seller's actual knowledge correct and complete and, to the Seller's actual knowledge, do not contain any false information.
- e. Operations. The Seller has not received any notice of any violation of any laws, ordinances, or regulations relating to the Option Property.
- f. Condition. To Seller's actual knowledge, the Option Property complies with all applicable laws, ordinances, regulations, permits, and any applicable restrictive covenants.
- g. FIRPTA. The Seller is not a "foreign person," "foreign partnership," "foreign trust," or "foreign estate," as those terms are defined in Internal Revenue Code Section 1445 and the regulations promulgated thereunder.
- h. No Proceedings. No legal or administrative proceeding is pending or, to the Seller's actual knowledge, threatened (i) which would adversely affect the Seller's right to convey the Option Property to the Buyer as contemplated in this Agreement, or (ii) affecting the Option Property. There are no condemnation or eminent domain proceedings pending or, to the Seller's knowledge, threatened with respect to the Option Property.
- i. Private Sewage Systems; Wells. There are no private sewage systems or wells of any kind located on the Option Property. Sewage generated at the Option Property goes to a facility permitted by the Minnesota Pollution Control Agency.
- j. Use of Property. To the Seller's actual knowledge, no methamphetamine production has occurred on the Option Property.
- k. Unpaid Labor and Materials. The Seller is not indebted for labor or material that might give rise to the filing of notice of mechanic's lien against any portion of the Option Property.

1. The obligations of the Buyer under this Agreement are contingent upon the representations and warranties of the Seller contained in this Agreement being true as of the Effective Date and on the Closing Date as if made on the Closing Date. Each of the foregoing representations and warranties shall be deemed remade as of the Closing Date and, as so remade, shall survive the Closing.

16. Due Diligence Documents. Within 10 days after the Effective Date, the Seller shall deliver to the Buyer copies of the documents set forth on **Exhibit B** attached hereto and incorporated herein (the “**Due Diligence Documents**”).

17. Closing Costs.

- a. The Buyer shall pay all costs of the preparation of a title commitment, including the abstracting fees, if required by the title company and all recording fees and charges related to the filing of any instrument required to make title marketable. The Buyer shall also pay the cost of obtaining any title evidence desired by Buyer, including a title commitment, the fees for standard searches with respect to the Seller and the Property, all premiums required for issuance of a title insurance policy any survey costs and all Closing fees charged by the title company and any escrow fees charged by any escrow agent engaged by the parties in connection with this Agreement.
- b. Buyer shall also pay the following costs: (1) all costs for obtaining government approvals that may be required in order to close on the Property or as required for the Buyer’s intended use of the Property; (2) the cost of preparation of any necessary platting or other subdivision documents, (3) the filing fee to record the deed, (4) the premium for any owner’s or lender’s title insurance policies obtained by or for the benefit of Buyer, (5) Mortgage Registration Tax, (6) any state deed tax, conservation fee or other federal, state or local documentary or revenue stamps or transfer tax with respect to the Deed to be delivered by the Sellers; recording fees and charges related to the filing of the Deed; (7) Buyer’s attorney’s fees; (8) the Seller’s legal, accounting fees and other out of pocket costs incurred in connection with this Agreement and the Development Documents as further provided in Section 25 hereof and in the Development Documents; and (9) all other costs as outlined in the Development Documents entered into between the Parties.

18. Seller’s Closing Documents. At Closing, the Seller shall execute and deliver to the Buyer the following documents (collectively, the “**Seller’s Closing Documents**”):

- a. A Quit Claim Deed conveying the Option Property to the Buyer.
- b. A closing statement prepared by the Title Company to be executed by the Seller, Buyer, and the Title Company at the Closing that accurately describes the economic terms of the transaction described this Agreement.
- c. An Assignment of any Due Diligence Documents that are consented to and approved by the Buyer, and miscellaneous documents conveying the Seller’s

interest to the Buyer together with the consent of all parties having a right to consent to such assignment.

- d. A non-foreign affidavit, properly executed, containing such information as is required by Code Section 1445(b)(2) and the regulations promulgated thereunder.
- e. A Designation Agreement designating the “reporting person” for purposes of completing Internal Revenue Service (“IRS”) Form 1099 and, if applicable, IRS Form 8594.

19. Documents to be Delivered by the Buyer. The Buyer agrees to deliver to the Seller the following documents (the “**Buyer’s Documents**”), duly executed as appropriate, at Closing:

- a. The Purchase Price.
- b. Such affidavits of Buyer, Certificates of Value or other documents as may be reasonably required in order to complete the transaction contemplated by this Agreement.
- c. The final plat of the Option Property as approved by the Seller and the City, to be recorded contemporaneously with Closing contemplated herein.
- d. Any documentary evidence required to satisfy the contingencies set forth herein.
- e. The Development Agreement and any documents required pursuant to the terms of the Development Documents.
- f. A minimum assessment agreement pursuant to which the Option Property and the minimum improvements as defined by the Development Agreement will be assessed based on a minimum market value of:
 - i. \$_____ as of January 2, 2026; and
 - ii. \$_____ as of January 2, 2027.
- g. Such other documents as shall be required to carry out the intent of this Agreement.

20. Casualty or Condemnation. If before the recording of the Deed any substantial part of the Option Property is taken by condemnation (including a deed given in lieu thereof), the Buyer shall have the option of (i) enforcing this Agreement (and in such event the insurance proceeds or condemnation award shall belong to the Buyer) or (ii) canceling the Agreement by written notice given within 30 days after the Buyer receives notice of such casualty or condemnation from the Seller. If this Agreement is canceled under this Section, the Earnest Money shall be returned to the Buyer, this Agreement shall be null and void, and the Parties’ obligations hereunder shall be of no further force and effect.

21. Remedies. If either Party defaults under this Agreement, the non-defaulting party shall have the right to terminate this Agreement by giving written notice to the defaulting party. If the defaulting party fails to cure such default within 14 days of the date of such written notice, this Agreement will terminate. The termination of this Agreement shall be the sole and absolute remedy available to the non-defaulting Party for such default.

22. Commissions. Each party represents that it has not engaged any broker in connection with the transactions contemplated by this Agreement and agrees to indemnify and hold the other harmless from anyone claiming a commission/fee through them.

23. Notices. Any notices required herein shall be deemed given when sent in the U.S. Mail, either registered or certified, return receipt requested, or by Federal Express or other overnight delivery service requiring a signature upon receipt, to the parties at the following addresses:

SELLER: Economic Development Authority of Brooklyn Center, Minnesota
6301 Shingle Creek Parkway
Brooklyn Center, MN 55430
Attn: Executive Director

With a copy to: Jenny Boulton
Kennedy and Graven, Chartered
Fifth Street Towers
150 South Fifth Street, Suite 700
Minneapolis, MN 55402

BUYER Project for Pride in Living
1035 East Franklin Avenue
Minneapolis, MN 55404
Attn: _____

With a copy to: _____

24. Reimbursement of Costs. Upon execution of this Agreement by both parties, the Buyer shall deposit with the Seller the sum of Ten Thousand Dollars (\$10,000.00) to pay for the Seller's reasonable out-of-pocket legal, financial consultant, and administrative fees associated with this transaction. Unexpended funds will be returned by the Seller to the Buyer and if, additional funds are needed by the Seller to pay such expenses, the Buyer will deposit such additional funds upon request by the Seller.

25. Survival. All representations, warranties, and indemnities set forth herein shall survive the Closing, except as otherwise provided herein.

26. Governing Law. This Agreement shall be governed by and construed in accordance

with the laws of the State of Minnesota.

27. Assignment. The Buyer shall have the right to assign its interest to this Agreement to an entity in which the Buyer has an ownership interest, is a member or is otherwise affiliated with. The consent of the Seller shall be required if the Buyer assigns this Agreement to any third party with which the Buyer has no connection.

28. Binding Effect. This Agreement is binding upon the Parties and their respective permitted successors and assigns.

29. Construction. This Agreement shall not be construed more strictly against one Party than the other, merely by virtue of the fact that it may have been prepared primarily by counsel for one of the Parties, it being recognized that both the Buyer and the Seller have contributed substantially and materially to the preparation of this Agreement.

30. Headings. The headings preceding the text of the sections and subsections hereof are inserted solely for convenience of reference and shall not constitute a part of this Agreement, nor shall they affect its meaning, construction, or effect.

31. Severability. The invalidity or unenforceability of any term or terms of this Agreement shall not invalidate, make unenforceable or otherwise affect any other term of this Agreement, and this Agreement shall be construed in all respects as if such invalid or unenforceable provision were omitted, and in such event, the remaining terms of this Agreement shall remain in full force and effect.

32. Computation of Time. In computing any period of time pursuant to this Agreement, the day of the act or event from which the designated period of time begins to run will not be included. The last day of the period so computed will be included, unless it is a Saturday, Sunday, or federal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or federal holiday.

33. Time of the Essence. All times, wherever specified herein for the performance by the Seller or the Buyer of their respective obligations hereunder, are of the essence of this Agreement.

34. Complete Agreement. This instrument and any exhibits, schedules or addendums attached hereto contain the entire Agreement of the Parties regarding the subject matter hereof, and supersedes all prior negotiations, agreements, or understandings, whether oral or in writing. This Agreement may not be changed orally but only by an Agreement in writing signed by the Parties.

35. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall constitute an original but all of which, taken together, shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the undersigned have signed this Option Agreement as of the day and year first written above.

SELLER:

**ECONOMIC DEVELOPMENT AUTHORITY
OF THE CITY OF BROOKLYN CENTER**

By: _____
April Graves
Its: President

By: _____
Its: Executive Director

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledgment before me this ____ day of _____, 2023, by April Graves and _____, the President and Executive Director, respectively of the Economic Development Authority of Brooklyn Center, Minnesota, a public body corporate and politic in the State of Minnesota on behalf of the Authority.

Notary Public

BUYER:

PROJECT FOR PRIDE IN LIVING, INC.

By: _____

Its: _____

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledgment before me this ____ day of _____, 2023, by _____, the _____ of Project for Pride in Living, Inc., a Minnesota nonprofit corporation on behalf of the company.

Notary Public

This document was drafted by:

Kennedy & Graven, Chartered (JSB)
150 South 5th Street, Suite 700
Minneapolis, MN 55402
(612) 337-9300

EXHIBIT A

LEGAL DESCRIPTIONS OF THE OPTION PROPERTY

A portion of a parcel of land at the northeast intersection of County Road 10 and Shingle Creek Parkway in Brooklyn Center, Minnesota currently identified as Parcel ID number 02-118-21-24-0019 to be re-platted as:

Lot 2, Block 4 Opportunity Site Addition

but subject to the final plat thereof.

EXHIBIT B

Due Diligence Documents

Copies of the following in the Seller's possession and related to the Option Property:

1. Copies of real estate tax bills and special assessments (if any), and payment status for the preceding three full calendar years;
2. Statements of any and all expenses related to the Option Property for the preceding three full calendar years;
3. Copies of all agreements affecting the Option Property;
4. All studies and reports in the possession of the Seller relating to environmental status, soil tests, and any other information regarding the environmental and soil conditions;
5. Copies of any written citations from any governmental entities pertaining to the Option Property including those pertaining to any uncured violations of any applicable laws and codes or compliance with the same;
6. All site plans, construction documents, engineer reports, and property assessments performed to date for the Option Property;
7. Any existing surveys of the Option Property; and
8. All certificates of insurance relating to the Option Property and claims made in the last three years.

THE BROOKLYN CENTER ECONOMIC DEVELOPMENT AUTHORITY
OF THE CITY OF BROOKLYN CENTER

RESOLUTION NO. _____

SUPPORTING USE OF TAX INCREMENT FINANCING FOR A RENTAL
HOUSING DEVELOPMENT PROJECT

WHEREAS, the Brooklyn Center Economic Development Authority (the "EDA") was created pursuant to the Economic Development Authorities Act, Minnesota Statutes, Sections 469.090 to 469.1080 (the "EDA Act"), and is authorized pursuant to Minnesota Statutes §469.174 to §469.1794 (the "TIF Act") to use Tax Increment Financing to carry out the public purposes described herein;

WHEREAS, the EDA has received a request to provide tax increment financing assistance to Project for Pride in Living (or an affiliated entity, the "Developer") for construction of a 60-unit multifamily workforce rental housing apartment (the "Project") to be located on approximately 0.867 acres of land at the northeast intersection of County Road 10 and Shingle Creek Parkway Brooklyn Center, Minnesota; and

WHEREAS, in connection with its application to Minnesota Housing for tax credits for the Project, the Developer has requested that the EDA indicate its support of the use of tax increment financing for the Project.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Commissioners of the Brooklyn Center Economic Development Authority (the "Board") as follows:

The EDA supports the use of tax increment financing for the Project in an amount not to exceed \$340,000 payable over approximately 19 years; provided, however, that authorization of tax increment financing for the Project is solely within the discretion of the City Council after satisfaction of all conditions required pursuant to the EDA Act and the TIF Act, including without limitation, (i) a public hearing; (ii) determining that tax increment financing assistance is necessary for the Project; and (iii) verification of development financing need that substantiates that "but for" the use of tax increment financing the Project would be unable to proceed.

The foregoing resolution was introduced by Commissioner _____ and duly seconded by Commissioner _____. The following Commissioners voted in favor of the resolution: _____. The following Commissioners voted against the resolution: _____. The following Commissioners were absent: _____. Whereupon the resolution was adopted.

ADOPTED: JUNE, 26 2023

President

Executive Director

Commissioner _____ introduced the following resolution and moved its adoption:

EDA RESOLUTION NO. **2023-**_____

RESOLUTION APPROVING CERTAIN OPTION AGREEMENTS
WITH PROJECT FOR PRIDE IN LIVING, INC.

WHEREAS, the Economic Development Authority of Brooklyn Center, Minnesota (the “EDA”) owns the parcels located in the City of Brooklyn Center (the “City”) currently identified as Parcel ID number 02-118-21-24-0019 and to be re-platted as Lot 1, Block 4 Opportunity Site Addition, subject to the final plat thereof (the “Lot 1 Property”) and Lot 2, Block 4 Opportunity Site Addition, subject to the final plat thereof (the “Lot 2 Property”) and, together with the Lot 1 Property, the “Option Property”); and

WHEREAS, Project for Pride in Living, Inc., a Minnesota nonprofit corporation (or a limited partnership or other entity to be formed thereby or affiliated therewith, the “Developer”), has proposed to develop the Lot 1 Property into a multi-story, approximately 60-unit apartment building and the Lot 2 Property into a multi-story, approximately 70-unit apartment building, with both buildings having at least 40% of the units occupied or held for occupancy by persons and families whose incomes do not exceed 60% of the area median income and underground and surface parking stalls (together, the “Development”); and

WHEREAS, the EDA and the Developer propose to enter into an Option Agreement related to the Lot 1 Property and an Option Agreement related to the Lot 2 Property (together, the “Option Agreements”), setting out the respective rights of the Developer to purchase the Option Property from the EDA, contingent among other things, on the Developer obtaining financing for the Development; and

WHEREAS, the EDA and the City have undertaken a program to promote economic development and job opportunities, promote the development and redevelopment of land which is underutilized within the City, and promote the development of adequate and affordable housing, and in this connection created a development district in the City; and

WHEREAS, the City and the EDA have established Tax Increment Financing District No. 7 (Redevelopment District) which includes the Option Property (the “TIF District”) pursuant to Minnesota Statutes Sections 469.174 to 469.1794, as amended (the “TIF Act”); and

WHEREAS, the City or the EDA may incur certain costs related to the TIF District which may be financed on a temporary basis from available EDA funds; and

WHEREAS, under Section 469.178, subdivision 7 of the TIF Act, the City and the EDA are authorized to advance or loan money from any fund loan from which such advances may legally be made in order to finance expenditures that are eligible to be paid with tax increments under the TIF Act; and

WHEREAS, the City has determined that it or the EDA must pay for administrative costs associated with the establishment of the TIF District and certain other costs incurred in connection

with the proposed development of the TIF District (the “Cost Advances”) on a temporary basis from the City’s General Fund, the EDA’s General Fund, or any other fund from which such advances, from time to time, may be legally made (the “Fund”) as an interfund loan pursuant to Minnesota Statutes Section 469.178, subdivision 7; and

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Economic Development Authority of Brooklyn Center, Minnesota (the “Board”), as follows:

1. Subject to all of the contingencies set forth therein, including, without limitation, the approval of the use of a portion of the tax increments from Tax Increment Financing District No. 7 (Redevelopment District) derived from the Option Property therein after all proceedings required by the TIF Act and a public hearing on the sale of the Option Property to the Developer in accordance with the requirements of law, the EDA hereby approves the Option Agreements, in substantially the forms presented to the Board, together with any related documents necessary in connection therewith, including without limitation, documents or certifications referenced in or attached thereto (the “Development Documents”), and hereby authorizes the President and Executive Director to execute, on behalf of the EDA, the Development Documents to which the EDA is a party and to carry out, on behalf of the EDA, the EDA’s obligations thereunder when all conditions precedent thereto have been satisfied.
2. The approval hereby given to the Development Documents includes approval of such additional details therein as may be necessary and appropriate and such modifications thereof, deletions therefrom and additions thereto as may be necessary and appropriate and approved by legal counsel to the EDA and by the officers authorized herein to execute said documents prior to their execution; and said officers are hereby authorized to approve said changes on behalf of the EDA. The execution of any instrument by the appropriate officers of the EDA herein authorized shall be conclusive evidence of the approval of such document in accordance with the terms hereof. This Resolution shall not constitute an offer and the Development Documents shall not be effective until the date of execution thereof as provided herein. In the event of absence or disability of the authorized officers, any of the documents authorized by this Resolution to be executed may be executed without further act or authorization of the Board by any duly designated acting official, or by such other officer or officers of the Board as, in the opinion of legal counsel to the EDA, may act on their behalf.
3. The EDA hereby authorizes the expenditure of available EDA general fund dollars for the administrative costs of the TIF District in such amount as is permitted under the TIF Act and determined necessary and set forth in writing by the Executive Director of the EDA for the establishment of the TIF District.
4. This Resolution is evidence of an internal borrowing by the EDA in accordance with Section 469.178, subdivision 7 of the TIF Act in an amount equal to the Cost Advances, and is a special, limited obligation payable solely from the respective TIF District pledged to the payment hereof under this Resolution (collectively, the “Interfund Loans”). The EDA will reimburse itself solely from the tax increment from the applicable TIF District for the Cost Advances together with interest at the rate of four percent per annum (which is the greater of the rates specified under

Section 270C.040 or 549.09, in accordance with Minnesota Statutes Section 469.178, subdivision 7); provided, however, the Executive Director of the EDA is authorized to specify a lower rate. Payments shall be applied first to accrued interest, and then to unpaid principal, unless otherwise specified by the Executive Director of the EDA. Interest accruing from the date of each Cost Advance will be compounded semiannually on February 1 and August 1 of each year and added to principal, unless otherwise specified by the Executive Director of the EDA.

5. Payments on the Interfund Loans may be subordinated to any outstanding or future bonds, notes, or contracts secured in whole or in part with available tax increment and are on a parity with any other outstanding or future interfund loans secured in whole or in part with available tax increment. The Interfund Loans shall not be deemed to constitute a general obligation of the State of Minnesota or any political subdivision thereof, including, without limitation, the City, or the EDA. Neither the State of Minnesota, nor any political subdivision thereof shall be obligated to pay the principal of or interest on the Interfund Loans or other costs incident hereto except out of the applicable TIF District. The EDA shall have no obligation to pay any principal amount of the Interfund Loans or accrued interest thereon from any other source, and such amounts may remain unpaid after the final Payment Date.
6. The EDA may at any time, make a determination to forgive the outstanding principal amount and accrued interest on the Interfund Loans, in whole or in part, on any date from time to time, to the extent permissible under law.
7. The EDA may from time to time amend the terms of this Resolution to the extent permitted by law, including without limitation, amending the payment schedule and the interest rate; provided that the interest rate may not be increased above the maximum specified in Section 469.178, subdivision 7 of the TIF Act.

Date

President

The motion for the adoption of the foregoing resolution was duly seconded by Commissioner and upon vote being taken thereon, the following voted in favor thereof:
and the following voted against the same:

whereupon said resolution was declared duly passed and adopted.



**Council/EDA Work
Session**

City Hall Council Chambers
June 26, 2023

AGENDA



ACTIVE DISCUSSION ITEMS

1. Preliminary Information on Potential Dog Park Project
Staff ask that the Council hear preliminary information regarding a potential dog park project and how it fits into the City's Capital Improvement Program (CIP).
2. City Traffic Stop and Consent Search Work Session
Q & A work session. The City will present its reply and recommendation to the DKIC proposed traffic stop and consent search ordinance.

PENDING LIST FOR FUTURE WORK SESSIONS

1. Upcoming Items
 - Memorial Policy
 - Special Assessment Policy/Franchise Fees (*referred to Financial Commission*)
 - Beautification and Public Art Commission
 - Liquor Store 2
 - Organizational Chart-Budget work sessions
 - New and Repeat Type IV Rental License Review (*referred to Housing Commission*)
 - Food Truck Ordinance/License
 - Emerald Ash Borer Policy Review (*referred to Park & Rec Commission November*)
 - Opioid Settlement
 - ARPA Funds
 - Police Labor Study
 - ~~Dog Park~~
 - Grants: Revenues & Expenses
 - Purchasing Policy
 - Commercial Vacant Building Fees
 - Interveners Impact

Council/EDA Work Session

DATE: 6/26/2023

TO: City Council

FROM: Dr. Reggie Edwards, City Manager

THROUGH: N/A

BY: Elizabeth Heyman - Director of Public Works

SUBJECT: Preliminary Information on Potential Dog Park Project

Requested Council Action:

Staff ask that the Council hear preliminary information regarding a potential dog park project and how it fits into the City's Capital Improvement Program (CIP).

Background:

The Council discussed a desire for a dog park in Brooklyn Center. Staff conducted a preliminary assessment of the planning and construction of a dog park. On Monday, June 5th, some of the information was presented during the CIP budget work session. At following council meeting on Monday, June 14th, the Council requested a presentation on staff's assessment and plan for a citywide dog park.

Budget Issues:

N/A

Inclusive Community Engagement:

N/A

Antiracist/Equity Policy Effect:

N/A

Strategic Priorities and Values:

Council/EDA Work Session

DATE: 6/26/2023

TO: City Council

FROM: Dr. Reggie Edwards, City Manager

THROUGH: N/A

BY: LaToya Turk, Director of Community, Prevention, Health & Safety

SUBJECT: City Traffic Stop and Consent Search Work Session

Requested Council Action:

Q & A work session. The City will present its reply and recommendation to the DKIC proposed traffic stop and consent search ordinance.

Background:

The Daunte Wright and Kobe Dimick-Heisler Implementation Committee (DKIC) was established to make review and make recommendations to the City Council via the Resolution 2021-73, Daunte Wright and Kobe Dimock-Heisler Community Safety and Violence Prevention Act (attached).

The DKIC presented recommendations (see attached) to the City Council in regards to traffic stops and consent searches. City staff has reviewed the proposed traffic stop and consent search ordinance recommendations and shall present its findings to the City Council for consideration.

Budget Issues:

Budget implications will be included in the work session presentation.

Antiracist/Equity Policy Effect:

Strategic Priorities and Values:

Enhanced Community Image, Inclusive Community Engagement, Safe, Secure, Stable Community, Customer Intimacy, Operational Excellence

ATTACHMENTS:

Description	Upload Date	Type
Resolution 2021-73	6/23/2023	Backup Material
Presentation	6/23/2023	Backup Material

Member Butler introduced the following resolution and moved its adoption:

RESOLUTION NO. 2021-73

RESOLUTION ADOPTING THE DAUNTE WRIGHT AND KOBE DIMOCK-
HEISLER COMMUNITY SAFETY AND VIOLENCE PREVENTION ACT

WHEREAS, the City of Brooklyn Center ("City") can create a safer, healthier, more just, and more thriving community by promoting a diversity of responses to our community's safety needs that do not rely solely on our armed law enforcement officers; and

WHEREAS, many approaches have proven to be safe and effective for responding to non-moving traffic offenses, low-level violations, to people with mental health needs or disabilities, and to other similar situations that do not involve armed law enforcement officers; and

WHEREAS, creating alternative responses in these situations will allow our law enforcement officers to focus their time, training, and expertise on serious threats to the immediate safety of our residents; and

WHEREAS, relying on our armed law enforcement officers as first responders in these situations has in some circumstances resulted in escalation, harm, and the tragic and potentially avoidable loss of life for our residents, including Daunte Wright and Kobe Dimock-Heisler; and

WHEREAS, a diversity of approaches will improve overall public safety, better address the root causes of many systemic issues, promote racial justice, better protect vulnerable members of our community, and more efficiently allocate public resources while recognizing there is still work to be done to address policing mindset and culture; and

WHEREAS, the residents of Brooklyn Center have demanded change in our City and will help co-create new approaches to health and safety in our community, and this Act affirms our commitment to an intentional, inclusive and collaborative process that involves City leadership and the community working together to fully implement the intent this Act; and

WHEREAS, the City Council will be drawing upon the best aspects of many different existing models and polices from all across the country in order to adapt them for our City with the help of residents, experts and data analysis, and the City is committing to all of these measures in a single, unified Act to deliver true transformational change for our community; and

WHEREAS, the City Council is committed to putting in the work necessary to bring about changes as quickly as possible in how the City provides public safety while recognizing that some of these measures will take longer to implement than others, and that additional work remains to be done to create a healthier and more equitable community even beyond this Act.

NOW, THEREFORE, the City Council of the City of Brooklyn Center, Minnesota, resolves as follows:

1. Act Adopted. The Daunte Wright and Kobe Dimock-Heisler Community Safety and Violence Prevention Act ("Act") is hereby adopted for the City.
2. Community Response Department. The City will create an unarmed Community Response Department to respond to all incidents where a City resident is primarily experiencing a medical, mental health, disability-related, or other behavioral or social need, including by the creation of a Community Response Department consisting of trained medical and mental health professionals, social workers, or other staff and volunteers, and by a dispatch system routing appropriate calls to the Community Response Department and not to the Police Department; and by any other appropriate changes in ordinance, practices or policies.
3. Traffic Enforcement Department. The City will create an unarmed civilian Traffic Enforcement Department to enforce all non-moving traffic violations in the City, including by creating the civilian Traffic Enforcement Department and by any other appropriate changes in ordinance, practices or policies, including restricting or eliminating the types of traffic offenses enforced by the City's armed law enforcement patrol officers.
4. Department of Community Safety and Violence Prevention. The City will create a new Department of Community Safety and Violence Prevention (the "Department") that will be responsible for overseeing all city agencies and city efforts regarding community health and public safety, and ensuring a well-coordinated, public health-oriented approach throughout our city that relies upon a diversity of evidence-based approaches to public safety, and with a Director who has appropriate credentials and experience including public health expertise, and that at minimum the following existing and to-be-created City agencies will all report directly to the Department and be subject to the authority of its Director: the Police Department, the Fire Department, the Traffic Enforcement Department, and the Community Response Department.
5. Community Safety and Violation Prevention Committee. The City will create a permanent Community Safety and Violence Prevention Committee. The Director will provide the Mayor with a list of candidates to serve on the committee and the Mayor will recommend candidates to the City Council for appointment. A majority of the committee members must be City residents with direct experience being arrested, detained, or having other similar contact with Brooklyn Center Police, or have had direct contact with one or more of the other services to be provided by the new Department. The City Council may appoint City staff to serve as liaisons to the committee, but no City staff member will have a vote on the committee. The committee will: review and make recommendations regarding the policing response to recent protests; review the current collective bargaining agreement between the City and the Police Department and make recommendations prior to the renegotiation of the agreement and before its final approval; recommend the City Council create a separate and permanent civilian oversight committee for the new Department; review Chapter 19 of the City Code and make recommendations with regard to repealing or amending provisions or penalties therein, including fines and fees; and periodically make any other recommendations to the City Council related to initiating programs or policies to improve community health in the City.

6. Use of Force. The City will review and update its policies, practices and training to more appropriately regulate the use of force by its armed law enforcement officers including, for example, by requiring de-escalation, exhaustion of reasonable alternatives before using deadly force, prohibitions on using deadly force in certain situations including firing upon moving vehicles, prohibiting certain uses of force or other policing tactics during First Amendment protests and assemblies, and additional revisions as needed.
7. Citation and Summons for Low Level Offenses. To immediately prevent any further harm and to better protect the peace and safety of all City residents while this Act is being fully implemented, the City Council directs the City Manager to implement forthwith a citywide "citation and summons" policy requiring officers to issue citations only, and prohibiting custodial arrests or consent searches of persons or vehicles, for any non-moving traffic infraction, non-felony offense, or non-felony warrant, unless otherwise required by law, and the Implementation Committee will make recommendations regarding making these policy changes permanent and/or modifying them as needed, including by appropriate changes in ordinance, practices or policies.
8. Implementation Committee. The City will create a Community Safety and Violence Prevention Implementation Committee ("Implementation Committee"), including residents from the City and other local, state and national experts in public health-oriented approaches to community safety, to be chaired by the Mayor, and with members recommended by the Mayor and confirmed by the City Council, that will propose amendments, ordinances, resolutions, policies, guidelines or other recommendations for the review, adoption and/or implementation by City Council or City staff, as appropriate, that would fully implement the will and intent of City Council as expressed in this Act. The City Council may appoint City staff to serve as liaisons to the Implementation Committee, but City staff shall not have a vote on the committee. The Implementation Committee shall provide its recommendations directly to the City Council.
9. Community Involvement. The Implementation Committee will ensure the community has the opportunity to review and comment upon the all implementation plans, including by making periodic progress reports in open City Council meetings monthly, or more frequently upon the Council's request; that the Implementation Committee is empowered to explore external sources of funding to implement the Act and that the City may retain additional counsel, temporary staff, and consultants as reasonable and necessary to enable the Implementation Committee to complete its work; and the Implementation Committee will present recommendations to City Council for initial consideration not later than 180 days from the date of this Act.
10. Implementation and Staff Support. The directives contained in this Act shall be carried out in compliance with the law and the City Charter. The City Attorney, City Manager, Chief of Police and other City personnel are authorized and directed to provide all necessary assistance and support to all committees created pursuant to this Act, including by supplying the committees with any and all data necessary to perform their duties, including confidential or private data as requested with appropriate protections, and budgetary, staffing or other

information, and assisting with the crafting of amendments, ordinances, or policies as requested by the Implementation Committee. This Act authorizes, to the greatest extent possible, the implementation of the measures identified herein without further policy approvals from the City Council. To the extent additional approvals are needed, or legal barriers are identified, in the implementation of these measures or the recommendations of the Implementation Committee, the City Manager or City Attorney are directed to bring those issues to the City Council's attention for further direction or action as needed.

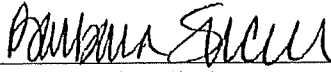
May 15, 2021

Date



Mike Elliott, Mayor

ATTEST:



City Clerk

The motion for the adoption of the foregoing resolution was duly seconded by member
Graves

and upon vote being taken thereon, the following voted in favor thereof:

Butler, Elliott, Graves, Ryan

and the following voted against the same:

Lawrence-Anderson

whereupon said resolution was declared duly passed and adopted.

Policy Workgroup Recommendations

Daunte Wright & Kobe Dimock-Heisler
Community Safety & Violence Prevention Resolution

Why Policy Change in Brooklyn Center Is Important: Vehicle Stops

- Excessive stops for minor equipment issues erode community trust in law enforcement
- Minimal Effectiveness in finding evidence of larger crimes
- Racial disparities in enforcement
- Deadly outcomes

Vehicle Stop Policy Recommendation:

- Vehicles would no longer be stopped solely for the following violations:
 - Invalid or expired registration
 - No functioning license plate light
 - No operative muffler
 - Exceeding vehicle noise rules of the Pollution Control Agency
 - Cracked or discolored windshield or rearview mirror decorations

Vehicle Stop Policy Recommendations:

- Vehicles would no longer be stopped solely for the following violations (cont.):
 - Inoperative windshield wipers
 - Excessive window tinting
 - Improperly displayed license plate or permit sticker
 - Improper operational condition
 - Broken or improperly used headlights, tail lights, or turn signals
- Vehicles can be stopped solely for the above listed offenses under the following conditions:
- Officers may pull someone over if the windshield is so heavily damaged that it poses a dangerous condition.
- Officers may pull someone over if the car's equipment poses a dangerous condition.

Vehicles can be stopped solely for the above listed offenses under the following conditions:

- Vehicles can be stopped solely for the above listed offenses under the following conditions:
- Officers may pull someone over if the windshield is so heavily damaged that it poses a dangerous condition.
- Officers may pull someone over if the car's equipment poses a dangerous condition.

Change in Vehicle Stops Policy Established Elsewhere:

Several cities have already adopted a changed vehicle stop policy, including:

- Minneapolis
- Lansing, Michigan
- Philadelphia
- Pittsburgh
- Seattle
- Los Angeles
- Virginia (state law)

Research Related to Vehicle Stop Policies :

- An extensive study at Stanford found that black and hispanic drivers were stopped and searched at a higher rate than white drivers.
- Data after 1M stops studied with various jurisdictions from 2011 - 2018
 - *A large scale analysis of racial disparities in police stops across the United States*, Nature Human Behavior, Vol 4, July 2020
- A [Vera Institute report](#) from October 2021 found that:
 - When researchers examined statistics surrounding “must stop” situations that presented a clear danger and lower-level stops that did not, they found that virtually all of the racial disparities in stops could be attributed to the lower-level stops.
- Non-public safety stops also expose police officers to unnecessary danger.
- The [most common proactive policing activity](#) preceding a fatality is an officer-initiated traffic stop.

Council/EDA Work Session

DATE: 6/26/2023

TO: City Council

FROM: Dr. Reggie Edwards, City Manager

THROUGH: N/A

BY: Dr. Reggie Edwards, City Manager

SUBJECT: Upcoming Items

Requested Council Action:

- Memorial Policy
- Special Assessment Policy/Franchise Fees (*referred to Financial Commission*)
- Beautification and Public Art Commission
- Liquor Store 2
- Organizational Chart-Budget work sessions
- New and Repeat Type IV Rental License Review (*referred to Housing Commission*)
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- Emerald Ash Borer Policy Review (*referred to Park & Rec Commission November*)
- Opioid Settlement
- ARPA Funds
- Police Labor Study
- ~~Dog Park~~
- Grants: Revenues & Expenses
- Purchasing Policy
- Commercial Vacant Building Fees
- Interveners Impact

Background:

Budget Issues:

Antiracist/Equity Policy Effect:

Strategic Priorities and Values: