Council Study Session
City Hall Council Chambers
January 28, 2019

AGENDA

1. City Council Discussion of Agenda Items and Questions - 6 p.m.

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

2. Miscellaneous

3. Discussion of Work Session Agenda Item as Time Permits

4. Adjourn

CITY COUNCIL MEETING
City Hall Council Chambers
January 28, 2019

AGENDA

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

Provides an opportunity for the public to address the Council on items which are not on the agenda. Open Forum will be limited to 15 minutes, it is not televised, and it may not be used to make personal attacks, to air personality grievances, to make political endorsements, or for political campaign purposes. Council Members will not enter into a dialogue with citizens. Questions from the Council will be for clarification only. Open Forum will not be used as a time for problem solving or reacting to the comments made but, rather, for hearing the citizen for informational purposes only.

2. Invocation - 7 p.m.

3. Call to Order Regular Business Meeting

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

4. Roll Call

5. Pledge of Allegiance

6. Approval of Agenda and Consent Agenda

The following items are considered to be routine by the City Council and will be enacted by one motion. There will be no separate discussion of these items unless a Councilmember so requests, in which event the item will be removed from the consent agenda and considered at the end of Council Consideration Items.

a. Approval of Minutes

- Motion to approve the minutes from:

- *January 14, 2019 Study Session*
- *January 14, 2019 Regular Session*
- *January 14, 2019 Work Session*

b. Approval of Licenses

- Motion to approve licenses as presented

c. Resolution Appointing Brooklyn Center Representatives to Executive Committee and/or Board of Directors of the Brooklyn Bridge Alliance for Youth, Hennepin Recycling Group, Local Government Information Systems, Minneapolis Northwest Convention & Visitors Bureau, North Metro Mayors Association, Northwest Suburbs Cable Communications Commission, Pets Under Police Security, and Twin Lake Joint Powers Organization

- Motion to approve a resolution appointing Brooklyn Center Representatives to Executive Committee and/or Board Directors of the Brooklyn Bridge Alliance for Youth, Hennepin Recycling Group, Local

Government Information Systems, Minneapolis Northwest Convention & Visitors Bureau, North Metro Mayors Association, Northwest Hennepin Human Services Council, Northwest Suburbs Cable Communications Commission, Pets Under Police Security, and Twin Lake Joint Powers Organization

d. Resolution Appointing City Council Members to Serve as Liaisons to City Advisory Commissions and as City Representatives/Voting Delegates for Other Organizations for 2019

- Approve a resolution appointing City Council Members to Serve as Liaisons to City Advisory Commissions and as City Representatives/Voting Delegates for Other Organizations for 2019

e. Resolution Appointing Municipal Trustees to the Brooklyn Center Firefighters Relief Association Board of Trustees

- Motion to approve a resolution Appointing Municipal Trustees to the Brooklyn Center Firefighters Relief Association Board of Trustees

f. Resolution Approving the Restoration Agreement Relating to Hazardous Conditions at 6842 West River Rd

- Motion to approve a resolution approving the restoration agreement with respect to the hazardous property existing at 6842 West River Road in the City of Brooklyn Center

g. Motion Appointing Members to Serve on the Financial, Housing and Planning Commission

- Motion to approve a resolution appointing members to Serve on the Various City Commissions

7. Presentations/Proclamations/Recognitions/Donations

8. Public Hearings

a. Resolution Vacating All Drainage and Utility Easements Within TopGolf 2nd Addition

- Motion to open the Public Hearing, take public input, close the Public Hearing and consider approval of a resolution vacating certain easements as referenced above that are associated with the TopGolf final plat in connection with the re-plat of TopGolf 2nd Addition.

b. Resolution Vacating All Ingress/Egress Easements Within LOT 1, BLOCK 1, Chrysler Motors Corporation 2nd Addition and LOT 1, BLOCK 1, Wangstad's Brooklyn Terrace

- Motion to open the Public Hearing, take public input, close the Public Hearing and consider approval of a resolution vacating certain easements as referenced above that are associated with the shared driveway access.

9. Planning Commission Items

a. Resolution Approving Planning Commission Application No. 2019-001 for A Preliminary and Final Plat for TopGolf 2nd Addition, and Dedication of Certain Right-of-Way (Located in the Vicinity of 6420 Camden Avenue North)

- Motion to approve a resolution regarding recommended disposition of Planning Commission Application No. 2019-001 requesting approval of the preliminary and final plat of TopGolf 2ND Addition and dedication certain right-of-way.

b. Resolution Approving Planning Commission Application No. 2019-002 for a Special Use Permit (2800 Freeway Boulevard)

- Motion to approve a resolution regarding the recommended disposition of Planning Commission Application 2019-002 for approval and issuance of a Special Use Permit to operate an autism therapy center with ancillary outdoor playground in the C1 (Service/Office) District (located at 2800 Freeway Boulevard)

c. Resolution Approving Planning Commission Application No. 2019-003 for a PUD Amendment (Northwesterly of the Intersection of Shingle Creek Parkway and Freeway Boulevard)

- Motion to approve a resolution regarding the recommended disposition of Planning Commission Application No. 2019-003, for amendments to the 1995 Planned Unit Development for certain parcels located northwesterly of the intersection of Shingle Creek Parkway and Freeway Boulevard and allowances for an indoor showroom and outdoor storage for the property located at 6601 Shingle Creek Parkway

10. Council Consideration Items

a. Follow Up to Jammin Wings Public Hearing Concerns

- Consider the responses from City Staff and City Attorney and Approve a Resolution regarding Jammin Wings Liquor Violation

b. Resolution Approving and Authorizing the Execution of a Letter of Intent to Purchase 1350 Shingle Creek Crossing

- Motion to approve the Resolution Approving and Authorizing the Execution of a Letter of Intent to Purchase 1350 Shingle Creek Crossing

c. Resolution Authorizing the Preparation of Plans and Specifications and Authorizing Advertisement for Bids for the Construction of a Municipal Liquor Store

- Motion to approve a Resolution Authorizing the Preparation of Plans and Specifications and Authorizing Advertisement for Bids for the Construction of a Municipal Liquor Store

11. Council Report

12. Adjournment

COUNCIL ITEM MEMORANDUM

DATE: 1/28/2019

TO: Curt Boganey, City Manager

THROUGH: Reggie Edwards, Deputy City Manager

FROM: Barb Suciu, City Clerk

SUBJECT: Approval of Minutes

Requested Council Action:

- *Motion to approve the minutes from:*
  - *January 14, 2019 Study Session*
  - *January 14, 2019 Regular Session*
  - *January 14, 2019 Work Session*

Background:

For your consideration, attached are the minutes from the above referenced meetings.

Strategic Priorities and Values:

Operational Excellence

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
JANUARY 14, 2019
CITY HALL – COUNCIL CHAMBERS

CALL TO ORDER

The Brooklyn Center City Council met in Study Session called to order by Mayor Mike Elliott at 6:00 p.m.

ROLL CALL

Mayor Mike Elliott and Councilmembers Marquita Butler, April Graves, and Dan Ryan. Councilmember Kris Lawrence-Anderson was absent and excused. Also present were City Manager Curt Boganey, Deputy City Manager Reggie Edwards, Finance Director Nate Reinhardt, Community Development Director Meg Beekman, Police Chief Tim Gannon, City Attorney Troy Gilchrist, and Mary Mullen, TimeSaver Off Site Secretarial, Inc.

CITY COUNCIL DISCUSSION OF AGENDA ITEMS AND QUESTIONS

Councilmember Ryan requested the following amendments to the following City Council meeting minutes:

-December 10, 2018, Study/Work Session Minutes:
-page 1, 2nd to last paragraph, last sentence, replace "Budget" with "Finance"

-December 10, 2018, Regular Session Minutes:
-page 12, 4th paragraph should read: "Councilmember Ryan stressed the importance of explaining to the public that the bond issuance is not an obligation taken on by the City, but it is an obligation taken on by the Community Housing Development Corporation."
-page 18, under Councilmember Ryan's Report, replace "Metropolitan Council" with "Metro Cities"

Mayor Elliott requested that all City Council meeting documents should be amended to reflect that the meeting packet binder is located at the entrance to the Council Chambers, and not at the podium. Mr. Boganey agreed.

It was the majority consensus of the City Council to accept the corrections to the December 10, 2018 Study/Work Session and Regular Session minutes.

MISCELLANEOUS

Consent Agenda

Mr. Boganey stated a revised list of Rental Licenses was provided for the City Council's review, and to be considered for approval under the Consent Agenda.

Mr. Boganey stated he had provided information for the City Council regarding the purchase of a cell phone for the Mayor. He added the cost that he originally quoted was higher than what is anticipated. He noted he would provide further information later in the meeting.

Mr. Boganey stated Consent Agenda Item H related to paid on-call firefighters being recognized for years of service requires City Council approval as it is a City Council policy. He added this item can be removed from the Consent Agenda if the City Council wishes to discuss it further.

There was consensus among the City Councilmembers to leave Consent Agenda Item H related to paid on-call firefighters on the Regular Agenda.

Liaison Appointments

Mr. Boganey stated, after discussion with the Mayor, City Staff did not include Liaison Appointments on the Regular Meeting agenda. He added the City's new mayor would like to have additional time to review the appointments. He noted this issue would be included on the City Council's next Regular Meeting agenda, and incumbents will serve until the new appointments are approved.

EDA Election of Officers

Mr. Boganey stated the Economic Development Authority (EDA) Agenda Item 4A relates to appointment of EDA officers. He added the only action that is required on this item is the appointment of a new President, in accordance with EDA by-laws.

Mr. Boganey stated the cost of a new cell phone for the Mayor would be $749, with an additional $15 per month for the cellular plan.

Newly Elected Conference

Councilmember Ryan noted the League of Minnesota Cities will hold a conference for both experienced and newly-elected City officials. He added the conference will be held February 1 and 2, 2019, in Plymouth.

Mayor Elliott stated he is already registered for that conference.

DISCUSSION OF WORK SESSION AGENDA ITEMS AS TIME PERMITS

COMMUNITY DEVELOPMENT BLOCK GRANT FUNDING ALLOCATION DISCUSSION

Community Development Director Beekman reviewed Community Development Block Grant (CDBG) funding allocation for 2019-2020, for which a City resolution must be submitted to Hennepin County in February 2019. She added the CDBG funds are allocated to Hennepin County by the Department of Housing and Urban Development (HUD) and distributed by the County to participating suburban cities. She added a resolution is required on an annual basis to approve receipt of CDBG funding.

Ms. Beekman stated a public allocation is determined by the County for administration and distribution of CDBG funds within each city. She added the proposed resolution is based on an anticipated allocation of $257,550 for 2019-2020. She noted this figure can be adjusted, and the County provides a list of eligible programs or uses for the funding, including Code enforcement and neighborhood revitalization, including the Housing Rehabilitation Program.

Ms. Beekman requested the City Council's consideration of programs or areas for potential funding that can be researched or reviewed by City Staff, as reviewed in the Staff memo.

Councilmember Ryan stated CDBG funding should not be used to support the 15-year Capital Improvement Plan. He added the City's Remove and Rebuild Program is funding through the City's Tax Increment Financing (TIF) districts.

Councilmember Butler asked how many residents were served in 2018-2019 by CDBG funding related to housing, and whether the entire amount can be used for housing improvements. She added Ms. Beekman had mentioned there is a waiting list with 23 residents. Ms. Beekman stated funding is set aside for qualified applicants, and an inspection is required. She added the applicant can decide how to use the funds, after which the remaining funding goes back to the pool. She noted the program serves approximately 5-8 households on an annual basis.

Mayor Elliot stated a portion of the total funding could be allocated for Code Enforcement activities as well.

Councilmember Graves stated she would not recommend an amended budget. She added she would support a down payment system. Councilmember Butler agreed, as many residents have expressed a desire to be homeowners and she is glad the City started that system. She added she is in favor of using the funds for housing rehabilitation, and perhaps something new outside, but not playground equipment.

Councilmember Ryan stated he appreciates Councilmembers Butler's and Graves' comments, but much greater funding would be required to address home maintenance and improvement, as well as down payment assistance. He added it is important to determine which would provide the most benefit for residents.

Mayor Elliott stated he would like to see funds allocated to areas other than home rehabilitation and down payment assistance. He requested cost vs. impact analysis on from City Staff on potential funding areas that would provide the most impact and benefit, as well as any negative impact that could result from redirecting funding away from Code enforcement.

ADJOURN STUDY SESSION TO INFORMAL OPEN FORUM WITH CITY COUNCIL

Councilmember Ryan moved and Councilmember Butler seconded to close the Study Session at 6:41 p.m.

Motion passed unanimously.

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
JANUARY 14, 2019
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 Mike Elliott at 6:45 p.m.

ROLL CALL

Mayor Mike Elliott, Councilmembers April Graves and Dan Ryan, and Marquita Butler. Councilmember Kris Lawrence-Anderson was absent and excused. Also present were City Manager Curt Boganey, Deputy City Manager Reggie Edwards, Finance Director Nate Reinhardt, Community Development Director Meg Beekman, Police Chief Tim Gannon, City Attorney Troy Gilchrist, and Mary Mullen, TimeSaver Off Site Secretarial, Inc.

Mayor Mike Elliott opened the meeting for the purpose of Informal Open Forum.

Diane Sannes, 7006 Willow Lane, presented a letter of thanks to the City Council from the Yang family for the recent City-wide Youth Art Contest. She added awards were presented to three members of their family.

Ms. Sannes congratulated the new mayor and expressed her anticipation that positive changes will be made during this very historic time in the City of Brooklyn Center.

Rex Newman, a former resident of Brooklyn Center, stated he recently sold his home of 28 years and moved to Brooklyn Park. He added he served on several City committees over the years, and he is sad to say good-bye to friends and neighbors.

Councilmember Ryan expressed his appreciation for Mr. Newman's hard work and efforts on the Finance and Cable Commissions. He thanked Mr. Newman for his service to the City of Brooklyn Center.

Mayor Elliott thanked Mr. Newman for his service and wished him all the best. He stated Mr. Newman is always welcome to come back.

Councilmember Graves stated she appreciated Mr. Newman's ability to ask tough questions while he served on the Finance Commission. She wished him good luck and thanked him for his service.

Mr. Boganey also thanked Mr. Newman for his service and for his questions and comments, which were always helpful.

Barbara Jensen, 6539 Drew Avenue, welcomed the new City Council, adding she looks forward to wonderful things in Brooklyn Center. She added the new Mayor will be a guide for the Councilmembers and community.

Hawa Dukuly, 3355 Oliver Avenue North, stated she would like to bless the meeting attendees. She thanked the City Council, City Staff, and residents of Brooklyn Center.

Mayor Elliott introduced Ms. Dukuly as his mother. He stated Ms. Dukuly attended the meeting with his daughter, Michelle Elliott.

Wayne Brown, owner of Jammin Wings, requested clarification from the City Council regarding his business. Councilmember Graves stated this issue would be addressed as part of the Regular Meeting. She added the City Council could not discuss the issue during Open Forum.

Councilmember Ryan moved and Councilmember Butler seconded to close the Informal Open Forum at 6:51 p.m.

Motion passed unanimously.

2. INVOCATION

Councilmember Graves offered a personal reflection for the Invocation, as well as a quote from Dr. Martin Luther King, Jr.: "A genuine leader is not a searcher for consensus but a molder of consensus."

Pastor Rick Zeck, Brooklyn United Methodist Church, offered a prayer for the new leaders of the City of Brooklyn Center.

ADMINISTER CEREMONIAL OATH OF OFFICE

City Clerk Barb Suciu administered the oath of office to Mayor Mike Elliot and Councilmembers-Elect April Graves and Dan Ryan.

3. CALL TO ORDER REGULAR BUSINESS MEETING

The Brooklyn Center City Council met in Regular Session called to order by Mayor Elliott at 7:00 p.m.

4. ROLL CALL

Mayor Mike Elliott and Councilmembers Marquita Butler, April Graves, and Dan Ryan. Councilmember Kris Lawrence-Anderson was absent and excused. Also present were City Manager Curt Boganey, Deputy City Manager Reggie Edwards, Finance Director Nate Reinhardt, Community Development Director Meg Beekman, Police Chief Tim Gannon, City Attorney Troy Gilchrist, and Mary Mullen, TimeSaver Off Site Secretarial, Inc.

5. PLEDGE OF ALLEGIANCE AND FLAG CEREMONY BY BOY SCOUTS TROOP 3403

The Pledge of Allegiance was recited, and the flag ceremony was led by Brooklyn Center's Boy Scout Troop 3403.

6. APPROVAL OF AGENDA AND CONSENT AGENDA

Councilmember Ryan moved and Councilmember Graves seconded to approve the Agenda and Consent Agenda, as amended, with amendments to the Study Session and Regular Session minutes of December 10, 2018, and the following consent items were approved:

6a. APPROVAL OF MINUTES

1. December 10, 2018 – Study Session
2. December 10, 2018 – Regular Session

6b. LICENSES

GASOLINE SERVICE STATION LICENSES

Boulevard Enterprises Inc.	5300 Dupont Avenue N
Christy's Auto Service	Brooklyn Center MN 55430
Kabalan Co.	1505 69th Avenue N
dba Pump N' Munch	Brooklyn Center MN 55430
Northern Tier Retail LLC	1901 57th Avenue N
dba Speedway #4058	Brooklyn Center MN 55430
Northern Tier Retail LLC	6950 Brooklyn Boulevard
dba Speedway #3192	Brooklyn Center MN 55430
Northern Tier Retail LLC	6545 West River Road
dba Speedway #4160	Brooklyn Center MN 55430

LIQUOR OFF-SALE 3.2 PERCENT MALT LIQUOR

Kabalan Co.	1505 69th Avenue N
dba Pump N' Munch	Brooklyn Center MN 55430

MECHANICAL CONTRACTORS

Edina Heating & Cooling, Inc.	15753 Cedar Ridge Road Eden Prairie MN 55347
Farr Plumbing & Heating	2525 Nevada Avenue #104

	Golden Valley, MN 55427
Heating & Cooling Experts, LLC	123 Cedar Street White Bear Lake MN 55110
Larson Plumbing, Inc. dba Larson Plumbing & Heating Sustainable Heating & Cooling, Inc.	3095 162nd Lane NW Andover, MN 55304 21646 Thomas Street Wyoming, MN 55092
Thelen Heating & Cooling	1717 13th Street Brainerd, MN 56401
Twin Peaks Hearing & A/C	12901 221st Avenue NE Elk River MN 55330

TOBACCO

Kabalan Co. dba Pump N' Munch	1505 69th Avenue N Brooklyn Center MN 55430

RENTAL

INITIAL (TYPE IV – one-year license)

5331 70th Circle	Boulari Kabore
5416 Fremont Avenue N	Luisa Navraez

INITIAL (TYPE II – two-year license)

5448 Dupont Avenue N	Paul Gathumbi
5921 Ewing Avenue N	Manuel J. Bonete
6915 Logan Avenue N	Trang Lam
5949 Vincent Avenue N	Olufemi Kolawale Olagbaju
6661 Xerxes Place	Ashwin Goel

RENEWAL (TYPE IV – one-year license)

4913 Winchester Lane	Huda Hassen
3401-3413 47th Avenue N	Ryan Lake Apartments
3601 47th Avenue N	Halverson & Blaiser Group, Ltd Ryan Creek Manor
1107 57th Avenue N	Bob Robson
7018 Brooklyn Boulevard	Nelia G. Schaff
4212 61st Avenue N	John Hostetler
1118 62nd Avenue N	Elbrus Management
5325 70th Circle	Douglas Allen Wahl
5606 Bryant Avenue N	Marc Silverstein
6725 Bryant Avenue N	Vong Duong
3612 Commodore	Invitation Homes
5724 Logan Avenue N	Konstantin Ginzberg

RENEWAL (TYPE III – one-year license)

4500 58th Avenue N	TLN LA NEL – Twin Lake North
5001 Ewing North	Bartholomew Dabrowski

5700 Camden Avenue N	Quality Residences/ Danmark Properties, LLC
5600 Judy Lane	Nita Morlock

RENEWAL (TYPE II – two-year license)

6445 James Circle N	Kasawa Hospitality
5500 Knox Avenue N	Marc Silverstein
4201 Lakeside Avenue #201	Justin Frederick
4201 Winchester Lane	Theresa Burns & Eric Poehler

RENEWAL (TYPE I – three-year license)

6700 Humboldt Avenue N	John Roder – Sterling Square
6742-44 France Avenue N	Infinite Property LLC
5341-43 Penn Avenue	Margery Schwab
3106 64th Avenue N	Invitation Homes
5550 Girard Avenue N	Jim Jasper/RESTART
7037 Humboldt Avenue N	San Yen Liew
7125 Kyle Avenue N	Prosperous Property LLC
4110 Lakebreeze Avenue	Mindy Jean Brummer
4201 Lakeside Avenue #104	Minneapolis Property LLC
5728 Logan Avenue N	Konstantin Ginzberg
3018 Ohenry Road	COSCO Properties
6901 Quail Avenue N	Prosperous Property LLC
6824 Regent Avenue N	Cari Gilseth
5924 Washburn Avenue N	Ryan McLuen
4912 Zenith Avenue N	Frank Jin & Emily Zhao

6c. RESOLUTION NO. 2019-001 DESIGNATING OFFICIAL NEWSPAPER

6d. RESOLUTION NO. 2019-002 DESIGNATING DEPOSITORIES OF CITY FUNDS

6e. RESOLUTION NO. 2019-003 APPROVING THE 2019 FEE SCHEDULE

6f. RESOLUTION NO. 2019-004 GRANTING CORPORATE AUTHORITY FOR SIGNING OF CHECKS AND TRANSACTIONS OF FINANCIAL BUSINESS MATTERS

6g. RESOLUTION NO. 2019-005 OPTING NOT TO WAIVE LIMITED TORT LIABILITY FOR 2019

6h. RESOLUTION NO. 2019-006 AMENDING SECTION 2.94 OF CITY COUNCIL CODE OF POLICY TO INCLUDE PAID-ON-CALL FIREFIGHTERS

Motion passed unanimously.

7. PRESENTATIONS/PROCLAMATIONS/RECOGNITIONS/DONATIONS

7a. RESOLUTION NO. 2019-007 RECOGNIZING SERVICE AND CONTRIBUTIONS OF MAYOR TIM WILLSON

Mayor Elliott read in full a Resolution expressing gratitude to Mayor Tim Willson for his service to the City of Brooklyn Center from January 1, 2012 – December 31, 2018. He commented on the presence of Senator Chris Eaton at the meeting.

Mayor Elliott reviewed the numerous accomplishments of the City Council under the tenure of Mayor Willson.

Councilmember Ryan stated he served on the City Council for 12 years with Tim Willson as Mayor. He added he feels great pride in the accomplishments of the last 12 years. He noted he is optimistic and confident about the future of the new City Council, to continue to build upon past accomplishments.

Councilmember Butler thanked Mayor Willson for the kindness, leadership and guidance he showed to her as a new Councilmember. She recognized the length of his tenure, as well as his dedication and hard work.

Councilmember Graves stated she has grown to appreciate former Mayor Willson as a friend and mentor, always willing to work through differences and stay positive for the greater good of the City of Brooklyn Center. She added she hopes Mayor Willson will continue to help guide the City, just as she continues to learn from him.

City Manager Curt Boganey stated the City Council has enjoyed 12 years of success under Mayor Willson, which is the longest he has worked for a City or Mayor in his career. He expressed his appreciation and gratitude for the leadership of Mayor Willson, his confidence in and support of City staff and Mr. Boganey himself. He noted that confidence and support allowed City Staff to make progress and achieve a measure of success.

Mayor Elliott thanked Mayor Willson for his years of service to Brooklyn Center. He added he has worked with Mayor Willson collaboratively with the City's youth organizations. He noted he has come to know Mayor Willson as someone who cares deeply about the issues affecting the community's young people. He thanked Mayor Willson for his service and expressed his hope that Mayor Willson will continue to be involved as the City moves forward.

Mayor Elliott stated he is grateful to Mayor Willson for his offer to provide any assistance during this transition period.

Councilmember Ryan moved and Councilmember Graves seconded to adopt RESOLUTION

NO. 2019-007 Recognizing Service and Contributions of Mayor Tim Willson

Motion passed unanimously.

7b. CERTIFICATE OF ACHIEVEMENT FOR EXCELLENCE IN FINANCIAL REPORTING

Mr. Boganey acknowledged receipt of the Certificate of Achievement for Excellence in Financial Reporting, for the year ending December 31, 2017. He added this certificate is the highest form of recognition for Federal and State financial reporting. He noted the City of Brooklyn Center has received this award for many years.

Finance Director Nate Reinhardt accepted the Certificate on behalf of City Staff.

Councilmember Butler moved and Councilmember Graves seconded to acknowledge Certificate of Achievement for Excellence in Financial Reporting.

Motion passed unanimously.

8. PUBLIC HEARINGS

8a. ORDINANCE NO. 2018-17 AMENDING CHAPTER 23 OF THE BROOKLYN CENTER CITY CODE REGARDING HOSPITALITY ACCOMMODATIONS

Police Chief Tim Gannon reviewed the proposed amendments to Chapter 23 of the City Code, related to hospitality accommodations. He added the Ordinance includes language changes and definitions for best practices. He noted the Ordinance provides guidelines for implementation of procedural changes, including an enhanced point system related to the type of call for service.

Police Chief Gannon stated City Staff recommends approval of the Ordinance.

Councilmember Graves stated the point system is well thought out, and she supports its implementation as it is a step in the right direction. She asked for clarification regarding domestic violence calls and compliance orders for deficiencies.

Police Chief Gannon stated a reasonable amount of time is allowed for proprietors to complete items listed in the compliance order before their property is reviewed again. He added the Ordinance is not intended to impede a call for service. Inspectors will be reviewing hotel rooms for safety and health reasons, but never to gain entrance to a room.

Mayor Elliott asked about the financial burden this amendment could place on proprietors, in terms of expenses related to inspections, repairs and upgrades. Police Chief Gannon stated most hotels incur these types of expenses as part of their regular maintenance. He added proprietors that have been approached have not indicated any apprehension with regard to this amendment.

Mr. Boganey stated some hotels could be in a level 3 situation, in which they would incur substantial costs. He added it is in their interests to comply, as these best practices have been proven to reduce police calls.

Mayor Elliott asked whether there is a time frame for implementation and compliance. Police Chief Gannon stated hotels will be on different improvement schedules, and ample time is given to complete necessary improvements or repairs. He added it is not the City's intent to negatively impact the hotels' ability to conduct their business. He noted hotels will be given their license type, along with provisions and a building compliance checklist.

Mayor Elliott asked how the license type is determined and issued. Police Chief Gannon stated it is based on calls for service at the hotel, divided by the number of rooms. He added Code violations do not count toward license type.

Mr. Boganey stated the licenses will be issued from the City Clerk's office, like all other City licenses.

Councilmember Graves asked whether proactive police calls would get a point taken away. Police Chief Gannon stated the City wants to maintain a good relationship with hotel owners and managers. He stressed that it is not the City's intent to use the point system against hotel proprietors.

Councilmember Ryan stated the point system is an innovative approach to a performance-based licensing system, creating incentives for hotels to do a better job and reduce the number of police calls. He expressed confidence that there will be a decrease in police calls if hotels can comply with best practices.

Councilmember Graves moved and Councilmember Butler seconded to open the Public Hearing at 7:48 p.m.

Motion passed unanimously.

There were no comments.

Councilmember Graves moved and Councilmember Ryan seconded to close the Public Hearing at 7:49 p.m.

Motion passed unanimously.

Councilmember Graves requested that City Staff provide updates to the City Council to see how the points system is working. Mr. Boganey agreed.

Councilmember Ryan moved and Councilmember Butler seconded to adopt ORDINANCE NO. 2018-17 Amending Chapter 23 of the Brooklyn Center City Code Regarding Hospitality Accommodations.

Motion passed unanimously.

Councilmember Ryan moved and Councilmember Butler seconded to adopt RESOLUTION NO. 2019-008 for Summary Publication of the adopted Ordinance.

Motion passed unanimously.

8b. ORDINANCE NO. 2018-18 AMENDING CHAPTER 12 OF THE CITY CODE OF ORDINANCES REGARDING TENANT PROTECTIONS – SECOND READING AND PUBLIC HEARING

Ms. Meg Beekman reviewed the proposed amendment of City Code Chapter 12, regarding tenant protection. She stated the proposed amendment was reviewed by the Housing Commission at the City Council's request, and a few minor revisions have been recommended. She added the amended language of the Ordinance will bring it into compliance with State law and applies to properties with 3 or more rental units. She noted the proposed amendment does not prohibit the raising of rent but allows renters ample time to find new accommodations.

Ms. Beekman stated there is some uncertainty regarding enforcement, and no clear legal path for tenants, as this is a new Ordinance. City Staff sought feedback and comment from stakeholders, including landlords and renters. HOME line, a tenant advocacy organization, expressed their support for the recommended updates, and added they would support a Notice of Sale ordinance. Many landlords expressed concern regarding unintended consequences.

City Staff recommends approval of the adoption of the amended Ordinance, and the Summary of Publication

Councilmember Graves requested clarification regarding HOME Line's recommendation. Ms. Beekman stated stakeholders involved in drafting the model Ordinance I St. Louis Park requested a provision for multi-family properties that 20% or more properties must be affordable at 60% or less of the Area Median Income. She added HOME Line recommends that it should apply to any percentage for properties, which would cover every rental property. She noted this will diminish the risk of landlords raising rents to avoid adhering to the Ordinance.

Councilmember Graves asked whether the Ordinance is working as a preventative measure in cities in which it has been enacted, and no relocation benefits have been dispersed. Ms. Beekman agreed and confirmed the Ordinance seems to be effective. She added the intention is to freeze lease terms and allow tenants ample notice and time to relocate if necessary. She added landlords are incentivized to not make any changes to leases, and provide adequate notice, because the alternative is a costly penalty.

Mr. Boganey agreed. He stated, in addition, advanced notice requirements could result in more affordable housing, as other organizations would have more opportunity to purchase the property and create affordable housing. He added the proposed tenant protection ordinance encourages a property sale in a humane manner that supports those who are living in the rental units, while not interfering with or prohibiting sale of the property.

Councilmember Graves moved and Councilmember Butler seconded to open the Public Hearing at 8:19 p.m.

Motion passed unanimously.

Barbara Jensen, 6539 Drew Avenue, asked how tenants will be made aware of the amended Ordinance. She asked whether accommodations will be made for residents who do not speak English. She expressed her support of the concept.

City Attorney Troy Gilchrist stated the property owner has an obligation to provide written notice to tenants when a new owner closes on a property. He added property owners are also required to provide affidavit to the City that notice of the sale was given to renters. He noted a language requirement in the amended Ordinance contains an advisory that landlords must translate the notice into several languages.

Councilmember Butler moved and Councilmember Graves seconded to close the Public Hearing at 8:23 p.m.

Motion passed unanimously.

Councilmember Butler thanked Ms. Beekman for her hard work on this effort, which is a good first step toward protecting the area's rental residents. She expressed her appreciation at the City Council's willingness to be one of the first communities to enact this type of legislation.

Councilmember Ryan stated local rental households are burdened by increased rents and lack of affordability. He expressed his hope that the Ordinance succeeds in providing support and protection for local renters.

Councilmember Graves moved and Councilmember Butler seconded to adopt ORDINANCE NO. 2018-18 Amending Chapter 12 of the City Code of Ordinances Regarding Tenant Protections – Second Reading and Public Hearing

Motion passed unanimously.

Councilmember Ryan moved and Councilmember Graves seconded to adopt RESOLUTION NO. 2019-009 Approving Summary Publication of the adopted Ordinance.

Motion passed unanimously.

8c. LIQUOR LICENSE VIOLATION – JAMMIN WINGS

Mr. Boganey stated this agenda item was carried forward from the City Council's December 4, 2018, Regular Meeting.

Deputy City Manager Reggie Edwards reviewed the liquor license violation that occurred on October 9, 2018, at Jammin Wings, when alcohol was served to an individual that was under 21years of age. He added a previous violation was incurred on January 22, 2018, for operating at 2:00 a.m. with an expired license. It was the 2nd violation in 2018. A $1,300 penalty was imposed by the City Council, after which $1,000 of the penalty was suspended contingent upon any further liquor license violations. At the time of the 2nd violation, an invoice was sent to the property owner for the citation balance of $1,000.

Mr. Edwards requested City Council consideration of a potential fine for the 2nd violation of the liquor license.

Councilmember Butler requested clarification regarding the appropriate action or process.

Mr. Gilchrist stated this is an enforcement action, and the City Council should decide if any penalties apply. The proprietor's liquor license was renewed by the City Council at the end of 2018. He recommended that the City Council direct City Staff to prepare a resolution reflecting their decision in this case for consideration at the City Council's next Regular Meeting.

Councilmember Graves moved and Councilmember Butler seconded to open the Public Hearing at 8:34 p.m.

Motion passed unanimously.

Wayne Brown, owner of Jammin Wings, stated the first license he obtained was through the State of Minnesota, and not the City of Brooklyn Center. He added he does not think the City should impose a fine based on an expired license from the State, and he wishes to contest that penalty.

Mr. Brown stated he purchased Jammin Wings in 2013, and the property was vandalized in June 2013. He added he called 911 three times before an officer arrived and told him to leave the premises. He noted the building was destroyed while the police were present as a result of that incident, and he never received an apology. He expressed concern that there is a stigma against Jammin Wings and himself at the City's Police Department, and he feels there is harassment when he calls 911.

Mr. Brown stated he requested police presence at Jammin Wings four years ago and was told that the City did not provide that service. He added he has been at Topgolf several times, and there is always a police presence there. He added he is happy to see that the City is allowing a

police presence, but he would like to know why he was not allowed the same opportunity. He noted Jammin Wings has been doing a good job for the last year, and recently received an email communication from Sergeant Mike Coleman, commending Jammin Wings for operating their business under the guidelines set forth in the liquor license.

Mr. Brown stated the Ordinance recently changed from 2:00 a.m. to 1:00 a.m. closing, and police began to come into his building at 1:00 a.m. to check on display of alcohol and ensure that they stopped serving. He added Topgolf is not being required to stop serving at 1:00 a.m. He expressed his frustration and belief that everybody should be doing the same thing. He requested a personal meeting to discuss these matters with City Staff. He noted he would like the City Council to reinstate his 2:00 a.m. liquor license.

Mr. Brown stated he intends to have Sergeant Coleman get to know his staff and business better. He added he has worked with the Police Department in the past to combat credit card fraud. He hopes they can continue to work together for the good of the community and the patrons of Jammin Wings.

Mr. Gilchrist clarified that the public hearing is related to the violation of serving liquor to an underage person on October 9, 2018.

Mr. Brown stated he is not contesting that violation. He added he is contesting the fine he received from the City under his State license.

Mr. Gilchrist stated the City has the authority to act on the State license. He added State law violation is also a violation of City Code and enforceable by the City Council. He re-iterated that the focus of tonight's discussion is the violation for serving an under-age person, and any other issues are not up for discussion.

Mayor Elliott asked whether there is an appeal process for the prior violation. Mr. Gilchrist stated there is no appeal in City structure, but perhaps in District Court.

Mr. Brown stated the underage liquor license violation is the first time that has happened at Jammin Wings in 5.5 years of operation.

Councilmember Graves asked who completes the compliance checks. Mr. Boganey stated they are carried out by the Police Department routinely on all liquor establishments, and he believes it is done once or twice per year.

Mr. Brown stated he is getting compliance checks more than twice per year. Councilmember Graves stated Mr. Brown should document compliance checks.

Councilmember Butler stated while she understands these issues are not being addressed tonight, she would like to have more information and understand the situation from the City's standpoint.

She requested further information from City Staff regarding Mr. Brown's allegations, including clarification regarding police presence at Topgolf, and a definition of display of alcohol. She noted she would like to know what actions are taken by the Police Department to establish a rapport with local business owners.

Mr. Boganey agreed to provide that information.

Councilmember Ryan stated he believes there is a $500 fine in the City of Minneapolis for sale of alcohol to a minor. He added this is a commonplace issue with on-sale and off-sale liquor licenses. He thanked Mr. Brown for sharing his concerns.

Councilmember Graves moved and Councilmember Ryan seconded to close the Public Hearing at 9:00 p.m.

Motion passed unanimously.

Councilmember Butler stated, in her opinion, Mr. Brown's license should not be revoked, as it would have a large negative impact on his ability to do business. She suggested a penalty for the violation.

Councilmember Graves agreed. She added she would still like to see a staff report on the issues raised by Mr. Brown, as she has heard of similar issues from another business in the City. She stated the fine of $1,300 is quite a bit higher than the fine of $500 in Minneapolis as noted by Councilmember Ryan.

Councilmember Ryan agreed, adding the fine should be proportionate to the violation, and requested recommendations from City Staff on an appropriate dollar amount.

Mayor Elliott stated Mr. Brown has indicated a willingness to work with the City, and he too would like to see a staff report related to Mr. Brown's allegations. He added there have not been any police calls to Jammin Wings in the past year, and the business has shown improvement over time.

Mr. Gilchrist stated the City Council should discuss a monetary penalty and direct City Staff to draft a resolution with the penalty amount, and request a staff report on Jammin Wings as discussed, to be reviewed at the City Council's next regular meeting.

Mayor Elliott stated the he would support no additional penalty based on Mr. Brown's willingness to comply with City regulations and his previous work with the Police Department, as well as his obvious desire to be a good member of the community.

Councilmember Graves agreed, adding she would like the City Council to be made aware of any discrepancy in the amount of the fine. She added Mr. Brown has already paid the $1,000 deferred penalty.

Councilmember Butler stated she would not support a penalty of more than $500, as Mr. Brown has not had any other violations in the past 5 years, and he has paid the $1,000 deferred penalty.

Mr. Boganey stressed the importance of setting a precedence for similar violations that may occur, for purposes of consistency. He added the City Council can direct City Staff to provide a Resolution with findings of fact, with or without a penalty.

Councilmember Graves stated the City Council has expressed consensus that the deferred penalty of $1,000, paid by Mr. Brown, is an adequate fee for the subsequent violation in October 2018.

Councilmember Ryan stated he would support a staff report and resolution with two options as recommended by Mr. Boganey.

Councilmember Ryan moved and Councilmember Graves seconded to request that City Staff prepare a Staff Report and alternate Resolutions for City Council consideration regarding penalty for liquor license violation at Jammin Wings.

Motion passed unanimously.

Mr. Boganey stated, for purposes of clarification, the City Council has also requested a separate report in response to unrelated issues raised by Mr. Brown at tonight's meeting. Mayor Elliott agreed.

9. PLANNING COMMISSION ITEMS

-None.

10. COUNCIL CONSIDERATION ITEMS

10a. RESOLUTION NO. 2019-010 SELECTING PRESIDING OFFICERS – MAYOR PRO TEM AND ACTING MAYOR PRO TEM

Mr. Boganey reviewed the City's policy for appointment of Mayor Pro Tem and Acting Mayor Pro Tem. He added, according to the language of the Charter, the City Council chooses the Mayor Pro Tem.

Mayor Elliott nominated Councilmember Butler for Mayor Pro Tem.

Councilmember Ryan stated Mayor Pro Tem has traditionally been the Councilmember with the longest tenure, and Acting Mayor Pro Tem is the second-longest serving member. He added these appointments are at the discretion of the City Council.

Councilmember Graves nominated Councilmember Ryan for Mayor Pro Tem.

Councilmember Butler stated she appreciates Mayor Elliott's confidence, but she supports appointment of Councilmember Ryan as Mayor Pro Tem.

Councilmember Graves moved and Councilmember Butler seconded to adopt RESOLUTION NO. 2019-010 Selecting Presiding Officers: Mayor Pro Tem Dan Ryan and Acting Mayor Pro Tem Kris Lawrence-Anderson.

Motion passed unanimously.

10b. RESOLUTION NO. 2019-011 DECLARING COMMITMENT TO THE BROOKLYN CENTER CITY CHARTER

Mr. Boganey presented this item, and reviewed the resolution confirming the City Council's commitment to the City Charter.

Mayor Elliott asked whether the resolution prevents the City Council from communicating directly with City Staff. Mayor Boganey stated conversations should be directed first to the City Manager, but they are not precluded.

Mayor Elliott asked whether the City Attorney has any comments related to the resolution, since it is an interpretation of the City Charter. He added the resolution seems to state that approval to communicate with City Staff must be granted by the City Manager.

Mr. Gilchrist stated the resolution will not change what is currently stated in the City Charter. He added the resolution reaffirms recognition of City Council interaction with City Staff, and the City Manager's responsibility for managing City Staff and their time.

Councilmember Graves stated Mr. Boganey has done a great job of connecting the City Council's concerns and comments with the correct staff person and getting information back to the Council quickly. She expressed her support of moving forward with the resolution.

Councilmember Ryan stated a discussion regarding the City Charter could be postponed to an upcoming City Council retreat. He added the current system works well, and the City should adhere to it.

Mayor Elliott stated he supports the resolution, but would like to table the discussion for further review at a City Council retreat.

Councilmember Ryan moved and Councilmember Butler seconded to adopt RESOLUTION NO. 2019-011 Declaring Commitment to the Brooklyn Center City Charter.

.

Motion passed unanimously.

10c. RESOLUTION NO. 2019-012 RECOGNIZING THE CONTRIBUTIONS OF ETHNIC POPULATIONS AND HERITAGE CELEBRATIONS

Mr. Boganey presented this item and reviewed the resolution to recognize contributions of ethnic populations, as well as dates of heritage celebrations in Brooklyn Center.

Councilmember Graves stated Indigenous People's Day is not on the list of heritage celebrations. She added Indigenous People's Day replaced Columbus Day in the State of Minnesota.

Councilmember Butler expressed agreement with Councilmember Graves that Columbus Day should be replaced with Indigenous People's Day in the list of heritage celebrations.

Mr. Boganey stated the resolution can be amended to reflect the City Council's discussion.

Councilmember Graves moved and Councilmember Butler seconded to amend RESOLUTION NO. 2019-012 as follows:

- replace "Columbus Day" with "Indigenous People's Day"

Motion passed unanimously.

Councilmember Graves moved and Councilmember Ryan seconded to adopt RESOLUTION NO. 2019-012 Recognizing the Contributions of Ethnic Populations and Heritage Celebrations, as amended.

Motion passed unanimously.

10d. ORDINANCE NO. 2019-01 AMENDING CHAPTER 1 AND 35 OF THE CITY CODE OF ORDINANCES REGARDING BEE KEEPING

Ms. Meg Beekman presented this agenda item, related to the issue of bee keeping in the City of Brooklyn Center, to allow up to four hives in the R1 and R2 Zoning Districts. She reviewed requirements for bee keepers and registration of bees, as well as the application process. She added it is not anticipated that no extra staffing will be needed.

Councilmember Graves requested clarification regarding inspection and certification. Ms. Beekman stated inspections would be conducted by City Staff, according to the City's licensing procedures. She added the City of Brooklyn Park has an active bee keeping Ordinance, after which the proposed Ordinance was modeled. She noted the inclusion of a requirement that bee keeper must participate in an instructional class presented by the University of Minnesota.

Councilmember Graves asked whether there is a cost related to certification. Ms. Beekman stated an application and fee of $75 is required, as well as registration in the U of M bee keeping class.

Councilmember Graves noted that the Housing Commission did not recommend a registration process for chickens. She asked whether there is the potential difference between these two types of licenses.

Ms. Beekman stated the Housing Commission recommended a registration policy for bees as well as notification for neighbors in case of a medically documented allergy. She added that will not be a problem with chickens.

Councilmember Ryan expressed his support of the proposed Ordinance. He asked whether the application fee will cover administrative costs. Ms. Beekman stated the registration fee would defer processing time spent by City staff. She added the certification process would not be administered by the City.

Mayor Elliott asked whether residents who are already keeping bees will be grandfathered in to this process. Mr. Boganey stated, in cases like this, when the City Council is considering new regulations, the requirements will also be applied to any resident who is already participating in the regulated activity.

Ms. Beekman stated any residents who are already keeping bees will be notified that they must be registered and certified. Mr. Gilchrist agreed, adding it is always difficult to enforce a grandfather clause.

Councilmember Ryan moved and Councilmember Graves seconded to adopt ORDINANCE NO. 2019-01 Amending Chapter 1 and 35 of the City Code of Ordinances Regarding Bee Keeping and calling for a public hearing and second reading to be held on February 11, 2019.

Motion passed unanimously.

11. COUNCIL REPORT

Councilmember Ryan stated he would forego his report due to the late hour.

Councilmember Graves stated she would also forego her report. She noted that the Inner Hero organization is sponsoring a community policy dialogue on Tuesday, January 15, 2019, in Brooklyn Park. Councilmember Ryan stated the event will be held at Brooklyn United Methodist Church from 5:00 – 7:00 p.m., and both Brooklyn Park and Brooklyn Center Police Chiefs will be present.

Councilmember Butler stated she would forego her report. She noted an open house and ribbon-cutting ceremony will be held at Bank of America on Thursday, January 17, 2019, beginning at 3:00 p.m.

Mayor Elliott stated he plans to attend the upcoming Black Heritage Council meeting, which will address housing and other general concerns.

12. ADJOURNMENT

Councilmember Ryan moved and Councilmember Graves seconded adjournment of the City Council meeting at 10:20 p.m.

Motion passed unanimously.

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

WORK SESSION
JANUARY 14, 2019
CITY HALL – COUNCIL CHAMBERS

CALL TO ORDER

The Brooklyn Center City Council/Economic Development Authority (EDA) met in Work Session called to order by Mayor/President-Elect Mike Elliott at 10:33 p.m.

ROLL CALL

Mayor/President Mike Elliott and Councilmembers/Commissioners Marquita Butler, April Graves, and Dan Ryan. Councilmember/Commissioner Kris Lawrence-Anderson was absent and excused. Also present were City Manager Curt Boganey, Deputy City Manager Reggie Edwards, Finance Director Nate Reinhardt, City Attorney Troy Gilchrist, and Mary Mullen, TimeSaver Off Site Secretarial, Inc.

Reorder Agenda

Mayor/President Elliott asked whether Work Session Agenda items could be deferred due to the late hour.

Mr. Boganey stated Agenda Item 1 related to CDBG funding was already addressed at the Study Session, but Agenda Items 3-5 can be deferred. He requested City Council consideration of Agenda Item 2, and invited Mr. Reinhardt to address the City Council/Economic Development Authority (EDA).

There was majority Consensus among the City Council to defer Work Session Agenda Items 3-5.

COMMUNITY DEVELOPMENT BLOCK GRANT FUNDING ALLOCATIONN DISCUSSION

This item was addressed during the January 14, 2019 Study Session.

BC LIQUOR STORE #1 RELOCATION

Mr. Reinhardt introduced this agenda item, and reviewed project specifics, including lease agreements, site maps and development impact. He added the lease for Store #1 will end in June 2020. He noted a market study was completed by Shenehon Company, commercial real estate appraisers, which confirmed that the proposed location for Store #1 is appropriate due to its close

proximity to the old location as well as other shopping destinations and can be expected to retain its customer base.

Mr. Reinhardt reviewed the site plans, adding the project will be constructed to the same standards as other Shingle Creek Crossing buildings. He added project budgets are being prepared by David Hunt, Design-Build Consulting, Inc. He noted bid amounts will include an alternative bid for undeveloped property near the site, as it would be more cost effective to purchase the property at the same time.

Mr. Reinhardt stated two resolutions will be presented to the City Council for consideration at their January 24, 2019, meeting: a Resolution to enter into Letter of Intent to purchase the property from Gatlin Development; and a Resolution to prepare bidding documents for the construction of a municipal liquor store.

Mayor/President Elliot asked whether there has been any analysis completed regarding impact to the area. Mr. Reinhardt stated that was covered in the market study completed by Shenehon Company.

Councilmember/Commissioner Graves stated she supports the proposed development, which is a good use of the site and a way to grow more small businesses.

Councilmember/Commissioner Butler expressed concern regarding the impact to the number of police calls to the area that could result from the proposed liquor store. Mayor/President Elliott agreed, adding that was the intent of his question as well.

Councilmember/Commissioner Ryan stated the liquor store could be placed at the site facing Xerxes Avenue, which would provide more visibility but probably a higher land cost. Mr. Reinhardt confirmed this, adding that site was reviewed as a possible location, but it would be necessary to merge 2 parcels to have a big enough footprint.

The majority consensus of the City Council to direct City Staff to prepare resolutions for consideration at the City Council's next Regular Meeting, and to provide additional information on the impact of the proposed development on police calls in the area.

COUNCIL RETREAT DISCUSSION
STATE LEGISLATIVE PRIORITIES
REQUEST TO PROVIDE A CITY PHONE TO THE MAYOR

These items were deferred to a future Work Session.

ADJOURNMENT

Councilmember/Commissioner Graves moved and Councilmember/Commissioner Butler seconded adjournment of the City Council/Economic Development Authority Work Session at 11:00 p.m.

Motion passed unanimously.

COUNCIL ITEM MEMORANDUM

DATE: 1/28/2019

TO: Curt Boganey, City Manager

THROUGH: Reggie Edwards, Deputy City Manager

FROM: Alix Bentrud, Deputy City Clerk

SUBJECT: Approval of Licenses

Requested Council Action:

- *Motion to approve 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.

The liquor license renewals are based on past practices of distance requirements and may require an amendment in the future.

GAMBLING PERMIT - EXEMPT

Organization	**Date of Event**
YMCA of the Greater Twin Cities 651 Nicollet Mall	March 9, 2019 Earle Brown Heritage Center

MECHANICAL CONTRACTORS

Air Comfort Heating & A/C	19170 Jasper St NW Anoka 55303
Air Conditioning Associates, Inc.	55 Ivy Ave W St. Paul 55117
Armstrong Plumbing LLC	1327 2nd Ave Newport 55055
Faircon Service Co.	764 Vandalia St St. Paul 55114
Gallagher Heating & Air Cond. Inc.	5418 336th Ln NW Cambridge 55008
Legacy Companies Inc.	8850 Wentworth Ave S Bloomington 55420
Liberty Comfort Systems, Inc.	627 East River Rd Anoka 55303

Minnetonka Plumbing, Inc.

520 River Street S.
PO Box 1080, Delano 55328

TEMPORARY LIQUOR LICENSE

Organization
St. Alphonsus Catholic Church
7025 Halifax Ave N

Date of Event
March 2, 2019

Strategic Priorities and Values:

Safe, Secure, Stable Community

COUNCIL ITEM MEMORANDUM

Rental License Category Criteria Policy – Adopted by City Council 09-10-2018

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

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 on January 28, 2019

Property Address	Dwelling Type	Renewal or Initial	Owner	Property Code Violations	License Type	Police CFS *	Final License Type **	Previous License Type ***
7131 Ewing Ave N	Single Family	Initial	Next Edison/Lori Meehan	5	IV	N/A	IV	
1112 Emerson LA N	Single Family	Initial	Bodhi Tree/ Mark Ronea	25	IV		IV	
7018 Brooklyn Blvd	1 Bldg 8 Units	Renewal	Nelia Schaff	6	IV	0	IV	IV
4734 Twin Lake Ave	Single Family	Renewal	Elizabeth Becht	2	I	0	I	IV
6736 Perry Ave N	Single Family	Renewal	Mark Colville	10	IV	0	IV	II
6316 Quail Ave N	Single Family	Renewal	Tim Xiong	1	I	0	I	III
1421 63rd LA N	Single Family	Renewal	Gary Fraser	0	I	0	I	I
6230 Quail Ave N	Single Family	Renewal	Kurt Templin	0	I	0	I	II
4200 Joyce LA	Single Family	Renewal	Paul Yang	1	I	0	I	IV
4207 Lakeside Ave N #329	Single Family	Renewal	Sherry Hill	0	I	0	I	II
5517 Knox Ave N	Single Family	Renewal	Roger Harris	3	II	0	II	II
6325 Kyle Ave N	Single Family	Renewal	Cuong Pham	3	II	0	II	III

* CFS = Calls For Service for Renewal Licenses Only (Initial Licenses are not applicable to calls for service and will be listed N/A.)

** License Type Being Issued Type II = 2 Year Type III = 1 Year

*** Initial licenses will not show a previous license type

All properties are current on City utilities and property taxes

COUNCIL ITEM MEMORANDUM

DATE: 1/28/2019

TO: Curt Boganey, City Manager

THROUGH: Dr. Reggie Edwards, Deputy City Manager

FROM: Barb Suciu, City Clerk

SUBJECT: Resolution Appointing Brooklyn Center Representatives to Executive Committee and/or Board of Directors of the Brooklyn Bridge Alliance for Youth, Hennepin Recycling Group, Local Government Information Systems, Minneapolis Northwest Convention & Visitors Bureau, North Metro Mayors Association, Northwest Suburbs Cable Communications Commission, Pets Under Police Security, and Twin Lake Joint Powers Organization

Requested Council Action:

- Motion to approve a resolution appointing Brooklyn Center Representatives to Executive Committee and/or Board Directors of the Brooklyn Bridge Alliance for Youth, Hennepin Recycling Group, Local Government Information Systems, Minneapolis Northwest Convention & Visitors Bureau, North Metro Mayors Association, Northwest Hennepin Human Services Council, Northwest Suburbs Cable Communications Commission, Pets Under Police Security, and Twin Lake Joint Powers Organization

Background:

The City of Brooklyn Center has entered into several Joint and Cooperative Agreements with various organizations. Each of the joint powers agreements have been reviewed and the organizations whose agreements provide that appointment of directors be made by the governing body or by City Council resolution have been identified.

Some of the agreements require annual appointment, some provide that a director is appointed until succeeded, and some provide that a certain position serve as the representative. A summary of each of the Joint and Cooperative Agreements can be found in the Section VII of the City Council Reference Book.

Budget Issues:

There are no budget issues to consider.

Strategic Priorities and Values:

Enhanced Community Image, Operational Excellence

Member introduced the following resolution and moved its adoption:

RESOLUTION NO. 2019 -_____

RESOLUTION APPOINTING BROOKLYN CENTER REPRESENTATIVES TO EXECUTIVE COMMITTEE AND/OR BOARD OF DIRECTORS OF THE BROOKLYN BRIDGE ALLIANCE FOR YOUTH, HENNEPIN RECYCLING GROUP, LOCAL GOVERNMENT INFORMATION SYSTEMS, MINNEAPOLIS NORTHWEST CONVENTION & VISITORS BUREAU, NORTH METRO MAYORS ASSOCIATION, NORTHWEST SUBURBS CABLE COMMUNICATIONS COMMISSION, PETS UNDER POLICE SECURITY, AND TWIN LAKES JOINT POWERS ORGANIZATION

WHEREAS, the City of Brooklyn Center entered into a Joint Powers Agreement for the establishment of the Brooklyn Bridge Alliance for Youth on November 24, 2008, and Article III, Section 3.2, of the joint powers agreement states that each member appoints one member of its governing body as a voting Director, one Alternate Director, one Director from the City's Police Department, and one Director from the City's Parks and Recreation Department; and

WHEREAS, the City of Brooklyn Center entered into a Joint and Cooperative Agreement for the establishment of Hennepin Recycling Group on August 1, 1988, and Article IV, Section 2, of the joint powers agreement states that the governing body of a member appoints directors; and

WHEREAS, the City of Brooklyn Center entered into a Joint and Cooperative Agreement for the establishment of Local Government Information Systems (LOGIS), on May 1, 1972, and Article IV, Section 1, of the joint powers agreement states that the governing body of a member appoints directors; and

WHEREAS, the City of Brooklyn Center entered into a Joint and Cooperative Agreement for the establishment of the North Metro Convention and Tourism Bureau, now known as Minneapolis Northwest Convention & Visitors Bureau, on September 8, 1986, and Article IV, Section 2, of the bylaws states that each member City may appoint one Director and one Alternate Director to the Board of Directors.

WHEREAS, the City of Brooklyn Center entered into a Joint Powers Agreement for the establishment of the North Metro Mayors Association on June 26, 1989, and the joint powers agreement states that the governing body of a member appoints two directors, one of whom shall be the City Manager or other designee; and

WHEREAS, the City of Brooklyn Center entered into a Joint and Cooperative Agreement for the establishment of the Northwest Suburbs Cable Communications Commission on September 24, 1979, and Article VI, Section 1, of the joint powers agreement states that the City Council of a member appoints Commissioners; and

RESOLUTION NO._____

WHEREAS, the City of Brooklyn Center entered into a Joint and Cooperative Agreement for the establishment of Pets Under Police Security (PUPS) on September 10, 1990, and Article IV, Section 2, of the joint powers agreement states that the governing body of a member appoints directors; and

WHEREAS, the City of Brooklyn Center entered into a Joint and Cooperative Agreement for the establishment of the Twin Lakes Joint Powers Organization on January 14, 1991, and Article IV, Section 2, of the joint powers agreement states that the governing body of a member appoints directors; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Center, Minnesota, that the following appointments are hereby approved:

Brooklyn Bridge Alliance for Youth, Member
Brooklyn Bridge Alliance for Youth, Alternate Member
Brooklyn Bridge Alliance for Youth, Police
Brooklyn Bridge Alliance for Youth, Parks and Recreation
Hennepin Recycling Group, Director
Hennepin Recycling Group, Alternate Director
Local Government Information Systems (LOGIS), Director
Local Government Information Systems (LOGIS), Alternate Director
Minneapolis Northwest Convention & Visitors Bureau, Director
Minneapolis Northwest Convention & Visitors Bureau, Alternate Director
North Metro Mayors Association, Director – City Manager
North Metro Mayors Association, Director
Northwest Suburbs Cable Communications Commission, Council
Northwest Suburbs Cable Communications Commission, Resident
Pets Under Police Security, Director
Pets Under Police Security, Alternate Director
Twin Lakes Joint Powers Organization, Director
Twin Lakes Joint Powers Organization, Alternate Director

January 28, 2019
Date

_____
Mayor

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.

COUNCIL ITEM MEMORANDUM

DATE: 1/28/2019

TO: Curt Boganey, City Manager

THROUGH: Dr. Reggie Edwards, Deputy City Manager

FROM: Barb Suciu, City Clerk

SUBJECT: Resolution Appointing City Council Members to Serve as Liaisons to City Advisory Commissions and as City Representatives/Voting Delegates for Other Organizations for 2019

Requested Council Action:

- *Approve a resolution appointing City Council Members to Serve as Liaisons to City Advisory Commissions and as City Representatives/Voting Delegates for Other Organizations for 2019*

Background:

At the first meeting of the year, the City Council Members are appointed to serve as Council Liaisons to City Advisory Commissions and as Council representatives or voting delegates/alternates for boards, committees, or organizations in which the City participates.

This item was postponed from the first meeting of the year to allow the new Mayor additional time to review the information and make the appointments.

2018 Council Appointments were are as follows:

Commission/Organization	**Council Member**
Financial Commission	Kris Lawrence-Anderson
Housing Commission	Marquita Butler
Park & Recreation Commission	April Graves
Brooklyns Youth Council	April Graves
Crime Prevention Program	Kris Lawrence-Anderson
Earle Brown Days Committee	Marquita Butler Tim Willson, Alternate
League of Minnesota Cities	Dan Ryan; Tim Willson Alternate
Metro Cities	Dan Ryan; Tim Willson Alternate

The 2019 appointments are defined in the attached resolution.

Budget Issues:

No budget issues.

Strategic Priorities and Values:

Operational Excellence

Member introduced the following resolution and moved its adoption:

RESOLUTION NO._____

RESOLUTION APPOINTING CITY COUNCIL MEMBERS TO SERVE AS LIAISONS TO CITY ADVISORY COMMISSIONS AND AS CITY REPRESENTATIVES/VOTING DELEGATES FOR OTHER ORGANIZATIONS FOR 2019

WHEREAS, the City of Brooklyn Center City Council members are appointed to serve as liaisons to City Advisory Commissions and to serve as City Representatives/Voting delegates for other organizations annually; and

WHEREAS, this resolution will ratify the appointments.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Center, Minnesota, that the following appointments are hereby approved:

Commission/Organization	**Council Member**
Financial Commission	
Housing Commission	
Park & Recreation Commission	
Brooklyns Youth Council	
Crime Prevention Program	
Earle Brown Days Committee	
League of Minnesota Cities	
Metro Cities	

January 28, 2019
Date

_____
Mayor

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.

COUNCIL ITEM MEMORANDUM

DATE: 1/28/2019

TO: Curt Boganey, City Manager

THROUGH: Dr. Reggie Edwards, Deputy City Manager

FROM: Barb Suciu, City Clerk

SUBJECT: Resolution Appointing Municipal Trustees to the Brooklyn Center Firefighters Relief Association Board of Trustees

Requested Council Action:

- Motion to approve a resolution Appointing Municipal Trustees to the Brooklyn Center Firefighters Relief Association Board of Trustees

Background:

Annually the City Council needs to appoint municipal trustees to the Brooklyn Center Firefighters Relief Association Board of Trustees.

Article V of the Brooklyn Center Firefighters Relief Association Bylaws states:

Article V
BOARD OF TRUSTEES

5.1 Composition. The Board of Trustees shall consist of nine (9) members. Six (6) trustees shall be elected from the membership of the relief association. There shall be three (3) officials drawn from the Municipality. The three (3) Municipal Trustees must be one (1) elected municipal official and one (1) elected or appointed municipal official who are designated as municipal representatives by the municipal governing board annually and the chief of the municipal fire department. The Municipal Trustees must be designated annually by the City Council of the Municipality.

A resolution is attached for review and consideration.

Budget Issues:

There are not budget issues to consider

Strategic Priorities and Values:

Safe, Secure, Stable Community, Operational Excellence

Member introduced the following resolution and moved its adoption:

RESOLUTION NO. _____

RESOLUTION APPOINTING MUNICIPAL TRUSTEES TO THE BROOKLYN CENTER FIREFIGHTERS RELIEF ASSOCIATION BOARD OF TRUSTEES

WHEREAS, Article V of the Brooklyn Center Firefighters Relief Association Bylaws states that the Board of Directors shall consist of three (3) officials drawn from the Municipality; and

WHEREAS, the three (3) Municipal Officials must be one (1) elected municipal official and one (1) elected or appointed municipal official who are designated as municipal representatives by the municipal governing board annually, and the chief of the municipal fire department.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Center, Minnesota, that the following appointments are hereby approved for 2019:

Elected Municipal Official
Elected or Appointed Municipal Official
Fire Chief

January 28, 2019
Date

_____
Mayor

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.

COUNCIL ITEM MEMORANDUM

DATE: 1/28/2019

TO: Curt Boganey, City Manager

THROUGH: Meg Beekman, Community Developement Director

FROM: Jesse Anderson, Deputy Director of Community Development

SUBJECT: Resolution Approving the Restoration Agreement Relating to Hazardous Conditions at 6842 West River Rd

Requested Council Action:

- Motion to approve a resolution approving the restoration agreement with respect to the hazardous property existing at 6842 West River Road in the City of Brooklyn Center

Background:

The property at 6842 West River Rd. N. currently has a partially constructed, unfinished, single family home and an existing accessory building. The house is in the process of being rebuilt due to a fire that occurred in 2000. The owner began constructing the house in 2007.

Staff have been pursuing code violations at the property through several criminal actions. These have resulted in charges, convictions and the owner serving various sentences. A detailed history of the property is included in the attached Inspection Report, dated June 22, 2018. The property remains in violation of several City ordinances.

After many attempts to meet with the owner were unsuccessful, the City obtained an administrative search warrant through the courts to allow inspectors onto the property to inspect the premises and grounds.

The inspection was conducted on June 22, 2018, at 9:00 am. Dan Jerzak and Jesse Anderson conducted the inspection of the property and were accompanied by Brooklyn Center Police Commander Gabler, Sgt. Colleen Fricke and Officer Sara Fry. The complete Inspection Report is attached. The owner did answer the door and appeared to have been awoken by the visit. The owner walked staff around the outside of his property where numerous storage and inoperable vehicles along with several other violations were noted. The owner also provided inspectors access to inside the house. The home is unfinished with the framing and shell of the building mostly complete. The house does not have plumbing, electrical, mechanical, and flooring, drywall, or insulation. Nor are there any finishes such as trim or carpet. The majority of the floor area was covered with items and debris approximately 5 feet high with narrow paths through the home. The owner did admit to inspectors that he sleeps at the property. The home has temporary electrical wiring running throughout the house that is not compliant with Code and poses an electrical hazard.

On June 27, 2018, the property was posted as unfit for occupancy and staff reported concerns regarding the owner to Hennepin County Adult Protection.

On June 29, 2018, the City sent and delivered a letter to the owner detailing the violations and stating that the violations needed to be fixed and the owner needed to contact the City by July 23, 2018, with evidence that corrections have been made.

On July 23, 2018 the City Inspector Dan Jerzak visited the property and spoke with the owner. The property remained in violation and the owner did not allow the inspector inside of the property.

City Staff have worked with the City Attorney's office through housing court in an effort to obtain a court order for the improvement to be made at the property. There have been multiple delayed court hearings at the request of the property owner. Staff have worked with the City Attorney's Office and Mr. Berg's Attorney to create a Restoration Agreement in order to avoid a Court Ordered Abatement. The following is a summary of the agreement:

a. **Exterior storage**. All materials or equipment will be stored inside or removed from the Property by March 31, 2019.
b. **Vegetation**. The Owners will complete driveway and yard cover by December 31, 2019. The Owners will remove dead trees and fallen dead trees from the Property by March 31, 2019. The Owners shall properly stack all stored wood, none of which may be rotting, by March 31, 2019.
c. **Vehicles**.
    a. *Removal of vehicles and boats.* The Owners will remove 10 automobiles, 3 boats, 2 boat trailers, and one boat launch from the Property by January 31, 2019.
    b. *Remaining vehicles and boats*. All remaining automobiles, boats, and trailers must be operable have current licensed tabs and registration by May 31, 2019.
    c. l*ocation of remaining vehicles and boats.* The Owners will park all remaining vehicles including boats on improved surfaces by June 30, 2019. "Improved surfaces" means the existing paved driveway or a paved or gravel extension of the driveway.
d. **No Occupancy**. The Owners agree that no certificate of occupancy has been issued for the Property as of the date of this Agreement and agree the Property is not fit for human habitation. The Owners will not occupy, and will not allow any other people to occupy, the house on the Property without a certificate of occupancy being issued.
e. **Construction of the home**.
    a. The Owners will remove all temporary wiring in the home and have a licensed electrician correct all electrical hazards pursuant to an electrical permit. The Owners will ensure proper wiring to the home and meter. The electrical permit must be inspected with all work completed by May 31, 2019.
    b. The Owners shall obtain a building permit by May 1, 2019 to complete construction of the house. The Owners will remove or cover bolts sticking out of house by December 31, 2019.
    c. The Owners will repair or replace the stairs to the house by December 31, 2019.
    d. The Owners will obtain a certificate of occupancy by December 31, 2019.

The next court hearing is scheduled for January 31, 2019, If the agreement is approved by City Council it will be presented to the Judge in court for approval.

Budget Issues:

If the owner doesn't comply with the exterior items, the City will pursue an abatement of the conditions. The estimated direct cost of the clean-up and repairs is $25,000 – $35,000 depending on bids obtained from contractors. The property owners of record will be billed for all associated costs of abatement, and if unpaid, the costs will be specially assessed against the property.

Strategic Priorities and Values:

Safe, Secure, Stable Community

Member introduced the following resolution and moved its adoption:

RESOLUTION NO. _____

A RESOLUTION APPROVING RESTORATION AGREEMENT WITH RESPECT TO THE HAZARDOUS PROPERTY EXISTING AT 6842 WEST RIVER ROAD IN THE CITY OF BROOKLYN CENTER

WHEREAS, the property located at 6842 West River Road, legally described on Exhibit A, attached hereto, contains a partially built, single-family dwelling (the "Subject Property" or "Property"); and

WHEREAS, David W. Berg and Gwendyne C. Berg are the owners ("Owners") of the Subject Property; and

WHEREAS, on August 13, 2018, the City Council passed Resolution No. 2018-144 (the "Resolution") declaring the partially-built house and accessory structures located on the Property to be hazardous buildings within the meaning of Minnesota Statutes, Section 463.15; and

WHEREAS, the Resolution further established that the Property constitutes a hazardous property within the meaning of Minnesota Statutes, Section 463.15; and

WHEREAS, the Resolution authorized the issuance of an order for abatement of the hazardous conditions and buildings on the Property within the meaning of Minnesota Statutes, Section 463.15; and

WHEREAS, the Resolution and the City's Order for Abatement of a Hazardous Building dated August 17, 2018 (the "City Order") was personally served on the Owners on September 7, 2018 along with a Summons; and

WHEREAS, the City initiated legal action enforce the City Order in Hennepin County District Court on September 28, 2018 (Court File No. 27-CV-18-16489); and

WHEREAS, the Owners seek to rehabilitate the Property; and

WHEREAS, the Owners have signed a Restoration Agreement, attached hereto as Exhibit B, that will allow the Owners additional time to rehabilitate the Property as required in the City's Order; and

WHEREAS, the City consents to the rehabilitation of the Property without further court action on this matter subject to the terms of the Restoration Agreement; and

WHEREAS, under the Restoration Agreement the City may perform certain outstanding work not completed by specific deadlines and assess the costs for the work against the Property; and

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Brooklyn Center, Minnesota as follows:

1. The Restoration Agreement is approved.

2. The City Manager is authorized to hire a contractor or contractors to correct the hazardous conditions on the Property if the Owners fail to comply with the terms of the Restoration Agreement to remove the conditions by the dates specified in the Restoration Agreement.

3. The City Attorney and City staff are authorized to take all necessary legal steps to secure compliance with the Restoration Agreement.

4. The Mayor and City Manager are authorized to execute a release of the Restoration Agreement at the request of the City Attorney and City staff under the terms outlined in the Restoration Agreement providing for such a release.

5. The City Attorney and City staff are authorized to carry out the intent of this resolution.

Passed and duly adopted this _____ day of January 2019, by the City Council of the City of Brooklyn Center, Minnesota.

January 28, 2019
Date

_____
Mayor

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.

EXHIBIT A TO RESOLUTION

Legal Description

Lot 2, "Auditor's Subdivision Number 310, Hennepin County, Minnesota"; EXCEPT:

That part of Lot 2, "Auditor's Subdivision Number 310, Hennepin County, Minnesota", Lying Easterly of the 50 foot road running through said Lot 2, the center line of said road being described as follows: Beginning at a point on the South line of said Lot 2, a distance of 362 feet East of the Southwest corner of said Lot 2 as measured along said South line; Thence Northerly to a point on the North line of said Lot 2, said point being a distance of 387 feet East of the Northwest corner of said Lot 2, as measured along said North line, according to the recorded plat thereof, and situate in Hennepin County, Minnesota.

Abstract Property

EXHIBIT B TO RESOLUTION
(Restoration Agreement)

[Attached hereto]

RESTORATION AGREEMENT

This Restoration Agreement (this "Agreement") is entered into as of January ___, 2019 by and between the City of Brooklyn Center, a municipal corporation under the laws of Minnesota (the "City") and David W. and Gwendyne C. Berg.

RECITALS

WHEREAS, David W. Berg and Gwendyne C. Berg are the fee owners (the "Owners") of the property located at 6842 West River Road, Brooklyn Center, Minnesota and legally described as:

Lot 2, "Auditor's Subdivision Number 310, Hennepin County, Minnesota"; EXCEPT:

That part of Lot 2, "Auditor's Subdivision Number 310, Hennepin County, Minnesota", Lying Easterly of the 50 foot road running through said Lot 2, the center line of said road being described as follows: Beginning at a point on the South line of said Lot 2, a distance of 362 feet East of the Southwest corner of said Lot 2 as measured along said South line; Thence Northerly to a point on the North line of said Lot 2, said point being a distance of 387 feet East of the Northwest corner of said Lot 2, as measured along said North line, according to the recorded plat thereof, and situate in Hennepin County, Minnesota.

Abstract Property.

(the"Property"); and

WHEREAS, on August 13, 2018, the City Council passed Resolution No. 2018-144 (the "Resolution") declaring the partially-built house and accessory structures located on the Property to be hazardous buildings within the meaning of Minnesota Statutes Section 463.15; and

WHEREAS, Resolution No. 2018-144 further established that the Property constitutes a hazardous property within the meaning of Minnesota Statutes Section 463.15; and

WHEREAS, the Resolution authorized the issuance of an order for abatement of the hazardous conditions and buildings on the Property within the meaning of Minnesota Statutes Section 463.15; and

WHEREAS, the Resolution and the City's Order for Abatement of a Hazardous Building dated August 17, 2018 (the "City Order") was personally served on the Owners on September 7, 2018 along with a Summons; and

WHEREAS, the City recorded a notice of lis pendens against the Property with Hennepin County Office of the Registrar of Titles (Doc. No. A10598473); and

WHEREAS, the City initiated legal action enforce the City Order in Hennepin County District Court on September 28, 2018 (Court File No. 27-CV-18-16489); and

WHEREAS, the Owners seek to rehabilitate the Property; and

WHEREAS, the City consents to the rehabilitation of the Property without further court action on this matter subject to the terms of this Agreement; and

NOW, THEREFORE, in consideration of the mutual covenants and promises set forth in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged by both parties to this Agreement, the City and the Owners agree as follows:

AGREEMENT

1. Recitals. The City and the Owners agree that the foregoing Recitals are true and correct and are fully incorporated into this Agreement.

2. Abatement of the Hazardous Conditions. The City Order is attached as Exhibit A and is hereby incorporated into this Agreement. The Owners agree that they will abate the hazardous conditions on the Property as follows:

A. Exterior storage. All materials or equipment will be stored inside or removed from the Property by March 31, 2019. No equipment or material shall be left out, except new construction materials or equipment brought onto the Property after March 31, 2019 that are actively being used in the construction of the home and are utilized or removed from the Property within three weeks from the date on which the materials or equipment arrive on the Property. The number of temporary structures shall be reduced to one by March 31, 2019. The Property may have one temporary structure not to exceed size of existing temporary structure so long as the Owners possess an active building permit for the completion of the new single family home on the Property. The temporary structure must be removed by December 31, 2019.

B. Vegetation. The Owners will complete driveway and yard cover by December 31, 2019. The Owners will remove dead trees and fallen dead trees from the Property by March 31,

2019. The Owners shall properly stack all stored wood, none of which may be rotting, by March 31, 2019.

C. Vehicles.

a. *Removal of vehicles and boats.* The Owners will remove 10 automobiles, 3 boats, 2 boat trailers, and one boat launch from the Property by January 31, 2019.

b. *Remaining vehicles and boats*. All remaining automobiles, boats, and trailers must be operable have current licensed tabs and registration by May 31, 2019. "Remaining" refers to vehicles not removed by January 31, 2019 as described in subparagraph a. "Operable" means fully functional on city streets or water. The Owners must show the current licensed tabs and registration to the City and demonstrate the operability of each vehicle and boat to the City by May 31, 2019 by contacting the City and allowing an inspection by the City for this purpose. Any vehicles or boats that do not meet these requirements must be removed no later than June 7, 2019.

c. *Location of remaining vehicles and boats.* The Owners will park all remaining vehicles including boats on improved surfaces by June 30, 2019. "Improved surfaces" means the existing paved driveway or a paved or gravel extension of the driveway. "Improved surfaces" does not mean a concrete or gravel pad in the middle of the property that does not amount to an extension of the existing driveway. The Owners will allow access to the Property on or before June 30, 2019 so that the City can confirm the remaining vehicles are properly sited.

d. *Storage in remaining vehicles and boats.* The remaining vehicles, including boats, cannot be used for storage of items, except two pickup trucks and two trailers may be used to store materials for no more than 10 days.

e. *Commercial vehicles.* Commercial vehicles are prohibited to be stored on the Property.

f. *Visitors*. This paragraph does not apply to vehicles belonging to visitors who are not staying overnight on the Property.

D. No Occupancy. The Owners agree that no certificate of occupancy has been issued for the Property as of the date of this Agreement and agree the Property is not fit for human habitation. The Owners will not occupy, and will not allow any other people to occupy, the house on the Property without a certificate of occupancy being issued. The Owners will not stay overnight and will not allow other people to stay overnight at the Property, this includes inside the house, a vehicle, motor home, or temporary structure on the Property.

E. Construction of the home. The Owners will remove all temporary wiring in the home and have a licensed electrician correct all electrical hazards pursuant to an electrical permit. The Owners will ensure proper wiring to the home and meter. The electrical

permit must be inspected with all work completed by May 31, 2019. The Owners shall obtain a building permit by May 1, 2019 to complete construction of the house. The Owners will remove or cover bolts sticking out of house by December 31, 2019. The Owners will repair or replace the stairs to the house by December 31, 2019. The Owners will obtain a certificate of occupancy by December 31, 2019. If the home is incomplete and certificate of occupancy not issued by December 31, 2019, the home will be subject to be registered as a vacant property and all applicable requirements.

F. Permits, approval and inspections. This Agreement is neither a substitute for nor a waiver of the City's permitting and inspection requirements. The Owners or their contractor(s) will obtain all necessary permits for the work on the Property. To obtain a building permit, the Owners will need updated plans for the house that meet current City Code. If the Owners meet the conditions to obtain a permit, the City will not withhold or otherwise interfere with the Owners' ability to obtain a building permit. All plumbing permits will require a state plumbing licensed contractor. All electrical permits will require a state licensed electrical contractor. All mechanical permits will require a city licensed mechanical contractor. Any and all alterations of the property will comply with City Code requirements. In addition to inspections required under the permits, the Owners will allow City staff to inspect the Property to determine progress on the following dates: April 1, 2019, May 3, 2019, July 1, 2019, September 3, 2019, November 1, 2019, and January 2, 2020. The Owners will allow the City access to all areas of the Property for the inspections, including within all fenced-in areas on the Property.

3. Performance. If the Owners fail to properly complete the items in Paragraphs 2A, 2B, or 2C, including subparts, or fail to complete the items by the deadlines contained in Paragraphs 2A, 2B, or 2C, after notice to Owner Mr. Berg, the City shall have the right to enter onto the Property and complete those items shortly after the deadlines. In such an event, the Owners hereby grant to the City, and its agents, employees, contractors, and invitees, the right to enter upon the Property for the purpose of conducting activities on the Property necessary to accomplish the items outlined in Paragraphs 2A, 2B, or 2C. The cost for such work will be assessed against the Property as described in Paragraph 4 of this Agreement without the need for further action or approval by the court.

If the Owners fail to comply with Paragraphs 2D and 2F above, they will be subject to administrative fines.

If the Owners comply with the terms of Paragraph 2 of this Agreement, including the subparts, the City agrees that it will not enforce the City Order, will discharge the notice of lis pendens against the Property, will dismiss the currently pending action in court without prejudice (Court File No. 27-CV-18-16489), and will record a release of this Agreement with the County.

4. Special Assessment of City Expenses; Waiver. The City is authorized pursuant to Minnesota Statutes Sections 463.21 and 463.22 to assess the expenses that it incurs as a result of its enforcement of the City Order including specifically, but not exclusively, demolition or repair costs, disposal costs including costs to remove items from the Property, other costs to remove the hazardous conditions on the Property, filing fees, service fees, publication fees, attorneys' fees,

witness fees and traveling expenses (the "Expenses"). If the City has to perform work as outlined in Paragraph 3 of this Agreement, then the Owners, for themselves and their successors and assigns, hereby waive the right to object to the City's assessment of 100 percent (100%) of the Expenses incurred by the City in an amount not to exceed $50,000. The Owners hereby further waive their right to appeal the levy of the special assessment pursuant to Minnesota Statutes Section 429.081, or reapportionment thereof upon land division pursuant to Minnesota Statutes Section 429.071, subdivision 3, or otherwise; and further specifically agrees with respect to such special assessment against the Property that:

a. Any requirements of Minnesota Statutes Chapter 429, with which the City does not comply are hereby waived by the Owners with respect to the City's Expenses;

b. The increase in fair market value of the Property resulting from the work will be in an amount at least equal to the total cost assessed to the Property, and that such increase in fair market value is a special benefit resulting from said work;

c. The Owners' waiver of their right to object to the City's assessment of 100 percent of the Expenses against the Property as outlined above so long as it is reasonable, fair and equitable and there are no other properties against which the Expenses should be assessed; and

d. It is the intention of the City to provide for the payment of such special assessment in up to five (5) annual installments starting in the year 2021, with interest at the annual rate of five percent (5%) accruing from the date of the assessment hearing.

5. **No destruction of partially-built house.** Nothing in this agreement authorizes the destruction or tearing down of the partially completed home.

6. **Waiver of Claims**. If the City has to perform work as outlined in Paragraph 3 of this Agreement, the Owners agree to hold harmless the City, its officials, employees, contractors, and agents from and against any and all liability, loss, costs, damages, expenses, claims, actions, or judgments, including reasonable attorneys' fees which they, or their agents or contractors may hereinafter sustain, incur, or be required to pay, arising out of or by reason of this Agreement, except for personal injury, gross negligence, intentional behavior, and or actions arising from wanton disregard for the property or personal rights of the Owners. Nothing in this Agreement shall be construed as a waiver by the City of any immunities, defenses, or other limitations on liability to which the City is entitled by law, including but not limited to the maximum monetary limits on liability established by Minnesota Statutes Chapter 466 or otherwise.

Should the City, complete any of the work as outlined in Paragraph 3 of this Agreement, the Owners waive any and all claims against the City for the removal or destruction of any and all personal items, which are part of the property to be removed as outlined in Paragraphs 2A, 2B or 2C of this Agreement. As part of this waiver, the Owners knowingly acknowledge and agree that

none of the items that remain on the Property, after the agreed-upon removal dates in Paragraphs 2A, 2B, or 2C need to be salvaged or sold, and, accordingly, the City may dispose of said items and need not make any attempt to salvage or sell said items The City may not keep any said items, nor give them to any of its employees or agents.

7. General Provisions. This Agreement represents the entire agreement between the parties and supersedes in all respects all prior agreements of the parties, whether written or otherwise, with respect to the Property. No change, modification or waiver of any provisions of this Agreement will be binding unless it is in writing and signed by both parties. This Agreement shall be construed according to the laws of the state of Minnesota. Any provision of this Agreement which is void or unenforceable may be severed from the remaining provisions without affecting the enforceability of the remaining provisions.

8. Execution in Counterparts. This Agreement may be executed and delivered in two or more counterparts, each of which, when so delivered, shall be an original, but such counterparts shall together constitute but one and the same instrument and agreement. This Agreement shall be deemed to be effective on the last such day any such counterpart is executed.

9. Run with the Land. The provisions of this Agreement shall run with the land and be binding upon the Owners and their respective heirs, successors, and assigns.

10. Recording. The City will record this Agreement against the Property in the land records of Hennepin County.

11. Attorney Representation. The Parties acknowledge that they have been represented by counsel in connection with the execution of this Agreement and intend that no rules construing provisions of this Agreement against the position of the drafter shall be applied. The Parties further represent and declare that in executing this document they have relied solely upon their own judgment, belief and knowledge, or the advice and recommendation of their own independently selected counsel, and that they have not been influenced to any extent whatsoever in executing this document by any representations or statements except those expressly contained or referred to in this Agreement.

12. Nothing in this Agreement shall prevent either party from bringing a court action based on an alleged breach of this Agreement.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the City and the Owners have caused this Restoration Agreement to be duly executed in their names and on their behalf on or as of the date first above written.

CITY OF BROOKLYN CENTER

By: _____
Mike Elliott
Its: Mayor

By: _____
Curt Boganey
Its: City Manager

STATE OF MINNESOTA)
) SS.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this _____ day of January, 2019, by Mike Elliott and Curt Boganey, the Mayor and City Manager, respectively of the City of Brooklyn Center, a Minnesota municipal corporation, on behalf of the City.

_____
Notary Public

OWNERS

By: _____
David W. Berg

By: _____
Gwendyne Berg

STATE OF MINNESOTA)
) SS.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this _____ day of January, 2019, by David W. Berg and Gwendyne Berg, a married couple.

_____
Notary Public

THIS INSTRUMENT DRAFTED BY:

Kennedy & Graven, Chartered (LBK)
470 U.S. Bank Plaza
200 South Sixth Street
Minneapolis, MN 55402
(612) 337-9300

EXHIBIT A

City Order

27-CV-18-16489

Filed in District Court
State of Minnesota
9/28/2018 3:40 PM

STATE OF MINNNESOTA

COUNTY OF HENNEPIN

DISTRICT COURT

FOURTH JUDICIAL DISTRICT

Case Type: Other Civil
Court File No:_____

In the Matter of the Hazardous Buildings and Property Located at 6842 West River Road, Brooklyn Center, Minnesota

ORDER FOR ABATEMENT OF HAZARDOUS BUILDINGS AND PROPERTY

TO: All owners, occupants, and all lienholders of record.

The City Council of the City of Brooklyn Center orders that within 20 days of service of this Order that you abate the hazardous conditions which exist on the property located at: 6842 West River Road, in the City of Brooklyn Center, which property is legally described on Exhibit A attached hereto.

The City of Brooklyn Center, pursuant to Minnesota Statutes Sections 463.15 to 463.261, finds that the building and accessory structures located at the above-referenced address constitute hazardous buildings within the meaning of Minnesota Statutes Section 463.15 subdivision 3 and City Code Section 12-1103, specifically due to the bolts sticking out from the partially constructed house six inches where a deck/porch would attach, an inoperable electrical meter box, live electrical wires throughout the interior of the partially constructed house, temporary stairs do not meet code, and temporary tents lacking ability to meet load requirements and not made out of weather-resistant materials.

The City of Brooklyn Center, pursuant to Minnesota Statutes Section 463.15 to 463.261, finds the property located at the above-referenced address constitutes a hazardous property within the meaning of Minnesota Statutes Section 463.15 subdivision 3 and City Code Section

12-1103, specifically due to the accumulation of construction debris such as scrap wood and deteriorated equipment, dead trees in the yard, uncovered ground in the yard, erosion and drainage issues, and twenty-five (25) inoperable vehicles, many of which are filled with debris, have expired tabs, and have flat tires.

Pursuant to the above-referenced statutes and ordinances, it is hereby ORDERED that you abate the hazardous property conditions within 20 days of the date of service of this Order by either removing the building or repairing the property by completing the following:

1. Remove or cover the bolts extending from the partially-built house;
2. Ensure the electrical box is operable and meets code;
3. Properly cover or otherwise make safe the live electrical wires inside the partially-built house;
4. Repair or replace stairs to partially-built house to meet code;
5. Remove all temporary tents;
6. Remove all excess junk, garbage, construction debris, equipment, and other items from outside the partially-built house;
7. Remedy eroston and drainage issues on property;
8. Cover ground in yard of property to comply with the code; and
9. Remove all inoperable vehicles including cars, trucks, trailers, and boats from the property.

You must apply for and obtain any appropriate permit(s), if applicable, for the work you intend to perform from the appropriate City offices before abating the hazardous conditions. This Order is not a permit. Further, all work completed is subject to inspection by the City's

Filed in District Court
State of Minnesota
9/28/2018 3:40 PM

building inspector, Fire inspector, and other staff as required to ensure compliance with applicable rules and law.

You are further advised that unless such corrective action is taken or an Answer is served on the City and filed with the Hennepin County District Court Administrator within 20 days of the date of service of this Order upon you, a motion for summary enforcement of this Order will be made to the Hennepin County District Court.

You are further advised that if you do not comply with this Order and the City is compelled to take any corrective action, all necessary costs incurred by the City in taking the corrective action will be assessed against the property pursuant to Minnesota Statutes Section 463.21. In connection thereto, the City intends to recover all its expenses incurred in carrying out this Order, including specifically but not exclusively, filing fees, service fees, publication fees, attorneys' fees, appraisers' fees, witness fees, including expert witness fees and traveling expenses incurred by the City from the time this Order was originally made pursuant to Minnesota Statutes Section 463.22.

Dated: August 17, 2018

KENNEDY & GRAVEN, CHARTERED

By: _____

Troy J. Gilchrist (#0228849)
Elizabeth C. Brodeen-Kuo (#391949)
470 U.S. Bank Plaza
200 South Sixth Street
Minneapolis, MN 55402
(612) 337-9300

ATTORNEYS FOR THE CITY OF BROOKLYN CENTER

Filed in District Court
State of Minnesota
9/28/2018 3:40 PM

EXHBIT A

Legal Description

Lot 2, "Auditor's Subdivision Number 310, Hennepin County, Minnesota"; EXCEPT:

That part of Lot 2, "Auditor's Subdivision Number 310, Hennepin County, Minnesota", Lying Easterly of the 50 foot road running through said Lot 2, the center line of said road being described as follows: Beginning at a point on the South line of said Lot 2, a distance of 362 feet East of the Southwest corner of said Lot 2 as measured along said South line; Thence Northerly to a point on the North line of said Lot 2, said point being a distance of 387 feet East of the Northwest corner of said Lot 2, as measured along said North line, according to the recorded plat thereof, and situate in Hennepin County, Minnesota.

Abstract Property

OWNERS

By: David W. Berg
David W. Berg

By: Gwendyne Berg
Gwendyne Berg

STATE OF MINNESOTA)
) SS.
COUNTY OF ~~HENNEPIN~~ Cass)

The foregoing instrument was acknowledged before me this 22 day of January, 2019, by David W. Berg and Gwendyne Berg, a married couple.

Monica Johnson
Notary Public

MONICA R JOHNSON
NOTARY PUBLIC MINNESOTA
My Commission Expires Jan 31 2023

* Notarizing for David Berg

THIS INSTRUMENT DRAFTED BY:

Kennedy & Graven, Chartered (LBK)
470 U.S. Bank Plaza
200 South Sixth Street
Minneapolis, MN 55402
(612) 337-9300

SARAH J TULENCHIK
Notary Public-Minnesota
My Commission Expires Jan 31, 2021

Sarah J Tulenchik
Notarizing for Gwendyne Berg
Cass County
Minnesota

COUNCIL ITEM MEMORANDUM

DATE: 8/13/2018

TO: Curt Boganey, City Manager

THROUGH: Meg Beekman, Community Development Director

FROM: Jesse Anderson, Deputy Director of Community Development

SUBJECT: Resolution Ordering the Abatement of Conditions Creating a Nuisance and a Hazardous Property Existing at 6842 West River Rd in the City of Brooklyn Center

Requested Council Action:

- Motion to approve resolution

Background:

The property at 6842 West River Rd N currently has a partially constructed, unfinished, new single family home and an existing accessory building. The house is in the process of being rebuilt due to a fire that occurred in 2000. The owner began constructing the house in 2007.

Staff have been pursuing code violations at the property through several criminal actions. These have resulted in charges, convictions and the owner serving various sentences. A detailed history of the property is included in the attached Inspection Report, dated June 22, 2018. The property remains in violation of several City ordinances.

After many attempts to meet with the owner were unsuccessful, the City obtained an administrative search warrant through the courts to allow inspectors onto the property to inspect the premises and grounds.

The inspection was conducted on June 22, 2018, at 9:00 am. Dan Jerzak and Jesse Anderson conducted the inspection of the property and were accompanied by the Brooklyn Center Police Commander Gabler, Sgt. Colleen Fricke and Officer Sara Fry. The complete Inspection Report is attached. The owner did answer the door and appeared to have been awoken by the visit. The owner walked staff around the outside of his property where numerous storage and inoperable vehicles along with several other violations were noted. The owner also provided inspectors access to inside the house. The home is unfinished with the framing and shell of the building mostly complete. The house does not have plumbing, electrical, mechanical, and flooring, drywall, or insulation. Nor are there any finishes such as trim or carpet. The majority of the floor area was covered with items and debris approximately 5 feet high with narrow paths through the home. The owner did admit to inspectors that he sleeps at the property. The home has temporary electrical wiring running throughout the house that is not compliant with Code and poses an electrical hazard.

On June 27, 2018, the property was posted as unfit for occupancy and staff reported concerns regarding the owner to Hennepin County Adult Protection.

On June 29, 2018, the City sent and delivered a letter to the owner detailing the violations and stating that the violations needed to be fixed and the owner needed to contact the City by July 23, 2018, with evidence that corrections have been made.

On July 23, 2018 the City Inspector Dan Jerzak visited the property and spoke with the owner. The property remained in violation and the owner did not allow the inspector inside of the property.

Based on findings, staff recommends the City Council adopt the findings of the City Inspectors regarding the hazardous conditions, and authorize the City Manager to abate the nuisance by removing all inoperable vehicles, removing any remaining junk and debris, and repairing the house and property, subject to approval of such action by the District Court. If declared a hazardous property, the City will follow requirements as established by Minnesota Statutes, including but not limited to, notification and court actions as indicated in the attached Resolution.

Budget Issues:

The estimated direct cost of the clean-up and repairs is $25,000 – $35,000 depending on bids obtained from contractors. A record of costs associated with enforcement of this order will be kept including administrative time, attorneys' fees, and all other related costs. The property owners of record will be billed for all associated costs of abatement, and if unpaid, the costs will be specially assessed against the property.

Strategic Priorities and Values:

Safe, Secure, Stable Community

Member _____ introduced the following resolution and moved its adoption:

CITY OF BROOKLYN CENTER

RESOLUTION NO. _____

A RESOLUTION ORDERING THE ABATEMENT OF CONDITIONS CREATING A NUISANCE AND A HAZARDOUS PROPERTY EXISTING AT 6842 WEST RIVER ROAD IN THE CITY OF BROOKLYN CENTER

WHEREAS, the property located at 6842 West River Road, legally described on Exhibit A, attached hereto, which contains a partially built, single-family dwelling (the "Subject Property" or "Property"); and

WHEREAS, David W. Berg is the owner ("Owner") of the Subject Property; and

WHEREAS, the City has previously pursued criminal actions against the Owner for the condition of the Subject Property over the course of many years, none of which have conclusively resolved the issues surrounding the condition of the Subject Property; and

WHEREAS, on June 27, 2017, the Subject Property was inspected and the following violations were noted: no stairs to the door on the partially constructed house, incomplete driveway, bolts sticking out approximately six inches from house where a deck/porch would attach, no permit applied for or issued for work at the Subject Property, inoperable vehicles, and multiple temporary structures in the yard;

WHEREAS, on May 22, 2018, the City received a complaint regarding the condition of the exterior of the Subject Property;

WHEREAS, on May 22, 2018, the City's Deputy Director of Community Development viewed the Subject Property from the right of way and noted the following violations: no active building permit for the construction of the house, bolts sticking out approximately six inches from house where a deck/porch would attach, electrical meter box on outside of house inoperable, temporary stairs do not meet code requirements, accumulation of construction debris on property, temporary tents and tarp covered structures do not meet code requirements for load or materials used, dead/diseased trees, drainage and erosion issues, and uncovered ground; and

WHEREAS, in May 2018, the City's Deputy Director of Community Development made numerous attempts to contact the Owner via telephone to obtain consent from him to inspect the Subject Property and no calls were answered nor voicemails returned; and

WHEREAS, on June 4, 2018 the City sent a letter to the Owner requesting an inspection of the Subject Property pursuant to City Code 03-103 and 15-506 and requesting a response or the City would seek an administrative search warrant; and

WHEREAS, the Owner did not respond to the June 4, 2018 letter or the phone calls; and

WHEREAS, the City applied for and obtained an administrative search warrant to inspect the Subject Property on June 14, 2018; and

WHEREAS, on June 22, 2018, the City executed the administrative search warrant to inspect the Subject Property; and

WHEREAS, during the June 22, 2018 inspection of the Subject Property, the City's Deputy Director of Community Development observed multiple violations of the City's Code of Ordinances including: bolts sticking out from the partially constructed house six inches where a deck/porch would attach, an inoperable electrical meter box, live electrical wires throughout the interior of the house, temporary stairs do not meet code, accumulation of construction debris such as scrap wood and deteriorated equipment, temporary tents lacking ability to meet load requirements and not made out of weather-resistant materials, dead trees in the yard, uncovered ground in the yard, erosion and drainage issues, and twenty-five (25) inoperable vehicles many filled with debris, have expired tabs, and have flat tires; and

WHEREAS, as a result of the June 22, 2018 inspection, the City's Deputy Director of Community Development determined the Subject Property constituted a hazardous property under Minn. Stat. § 463.15 and deemed the partially-built house unfit for human habitation; and

WHEREAS, on June 29, 2018, the City sent a letter to the Owner via certified mail detailing the violations observed during the June 22, 2018 inspection and stating that the violations needed to be fixed and the Owner needed to contact the City by July 23, 2018 with evidence of the corrections, as shown in Exhibit B, or the City would proceed with corrective actions such as a hazardous property abatement order; and

WHEREAS, the Owner has not fixed the violations or taken any steps to abate the hazardous conditions of the structures on the Subject Property; and

WHEREAS, the City has communicated its intent to the Owner of the Subject Property that if he failed to comply with the applicable City codes, the City would institute a hazardous property and hazardous building action; and

WHEREAS, Minnesota Statutes, Section 463.161 authorizes the governing body of any city or town to order the owners of any hazardous property or building within the municipality to correct or remove the hazardous condition; and

WHEREAS, Minnesota Statutes, Section 463.15, subdivision 3 defines a "hazardous building or hazardous property" as "any building or property, which because of inadequate maintenance, dilapidation, physical damage, unsanitary condition or abandonment, constitutes a fire hazard or a hazard to public safety or health;" and

WHEREAS, Minnesota Statutes, Section 463.161 *et seq.* authorizes a city to correct or remove a hazardous condition of any hazardous building or hazardous property if the owner of record fails to do so after a reasonable time and the district court enters a judgment sustaining the city' s order; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Center as follows:

1. The partially-built house and accessory structures located on the Subject Property are hazardous as defined by Minnesota Statutes, Section 463.15 and City Code Section 12-1103.

2. The Subject Property is hazardous as defined by Minnesota Statutes, Section 463.15.

3. The partially-built house is unfit for human habitation pursuant to City Code Section 12-1101.

4. The condition of the Subject Property violates City Code Sections 12-406 (exterior steps), 12-504 (electrical violations), 12-702 (exterior walls), 12-707 (accessory buildings), 19-103 (accumulation of rubbish/brush/debris and inoperable vehicles), 19-711 (yard maintenance), and 20-301 (dead/diseased tree).

5. An Abatement Order substantially similar to that attached as Exhibit C shall be served upon all parties with an interest in the Subject Property in order to effectuate this Resolution.

6. The City Attorney and City staff are authorized to take all necessary legal steps to secure compliance with the Abatement Order and to obtain authority to remove and abate the hazardous conditions on the Subject Property by court order and assess the costs thereof against the Subject Property.

Passed and duly adopted this _____ day of August 2018, by the City Council of the City of Brooklyn Center, Minnesota.

_____
_____, Mayor

ATTEST:

_____
_____, City Clerk

EXHIBIT A TO RESOLUTION

Legal Description

Lot 2, "Auditor's Subdivision Number 310, Hennepin County, Minnesota"; EXCEPT:

That part of Lot 2, "Auditor's Subdivision Number 310, Hennepin County, Minnesota", Lying Easterly of the 50 foot road running through said Lot 2, the center line of said road being described as follows: Beginning at a point on the South line of said Lot 2, a distance of 362 feet East of the Southwest corner of said Lot 2 as measured along said South line; Thence Northerly to a point on the North line of said Lot 2, said point being a distance of 387 feet East of the Northwest corner of said Lot 2, as measured along said North line, according to the recorded plat thereof, and situate in Hennepin County, Minnesota.

Abstract Property

EXHIBIT B TO RESOLUTION

Letter to Owner

June 29, 2018

David W. Berg
6842 West River Road
Brooklyn Center, MN 55430

RE: Property Maintenance—IMMEDIATE ACTION REQUIRED

Dear Mr. Berg,

As I explained in my letter to you dated June 4, 2018, the City received a complaint from a citizen regarding the condition of your property located at 6842 W River Road. I viewed your property from the right of way on the same date we received the complaint, May 22, 2018. At that time, I observed a number of code violations. You did not respond to my June 4 letter requesting an inspection so the City obtained an administrative search warrant to inspect the property for code violations.

Pursuant to the administrative search warrant, on June 22, 2018, I inspected the property along with Dan Jerzak and police escort. You were present during the inspection.

The following violations were observed during our inspection of your property along with references to the relevant sections of City Code:

1. Exterior walls (Chapter 12-702): Walls, roof, exterior- The exterior of the building does not have deck/porch and bolts are sticking out approximately 6" from the dwelling at the locations of where the deck/porch would attach to the house. The locations of the bolts are at both top and bottom of the deck/porch location and are every 24"-36". The exterior siding has been stained. The property does not have an active building permit for the construction of the new dwelling.

2. Electrical Violations (Chapter 12-504): The electrical meter boxes on the outside of the dwelling are required to be operable. This violation would require a permit and a permit has not been applied for. There are live electrical wires throughout the interior of the home in violation and is an electrical hazard.

3. Exterior Steps (Chapter 12-406): The temporary stairs that are being used do not meet code. This structure does not meet 12-406 of the Brooklyn Center Code of Ordinances. In order to complete the steps, a building permit must be obtained and the plans must be approved by the Building Official.

4. Accumulation of Rubbish/Brush/Debris (Chapters 19-103.11 and 19-103.4): The property is in violation of 19-103.11 and 19-103.4 of the Brooklyn Center Code of Ordinances. Construction debris is stored throughout the property. Items such as car batteries, scrap

City of Brooklyn Center | 6301 Shingle Creek Pkwy | Brooklyn Center, MN 55430-2199 (763) 569-3300 www.cityofbrooklyncenter.org

wood, deteriorated equipment, fallen down temporary tents, and tools are present throughout the property.

5. Accessory Buildings (Chapters 12-702 and 12-707): The temporary tents on the property are in violation of 12-702 & 12-707 of the Brooklyn Center Code of Ordinances. The tent does not meet wind and snow load requirements and is not made of a decay resistant material. The tent was to be removed previously by court order. There tarp covered structures in the backyard of the property.

6. Dead/Diseased Tree (Chapter 20-301): There are multiple dead trees in the yard of the property.

7. Yard Maintenance (Chapter 19-711): The property has a great deal of uncovered ground on the property. There are drainage and erosion issues throughout the property. These conditions violate 19-711 of the Brooklyn Center Code of Ordinances. Some areas remain without yard cover.

8. Inoperable Vehicles (Chapter 19-1303): All vehicles are required to be operable and must have current license tabs. The following vehicles are in violation of city code with expired tabs, flat tires, filled with debris or other conditions that make the vehicle inoperable.

   i. RV-C5229 White and Tan RV with expired tabs and flat tires
   ii. 357123 Dark Green Pick up
   iii. Red Station wagon with flat tires and filled with debris no plate
   iv. Black SUV Isuzu with no plates flat tire
   v. 35782 Tan Jeep filled with debris
   vi. White SUV Isuzu with no plates, tires in poor condition and filled with debris
   vii. Red Subaru Station wagon with no plates, tires in poor condition and filled with debris
   viii. 35781 White Van with tires in poor condition
   ix. 216 GWG vehicle with expired tabs and tires in poor condition
   x. Red SUV on a trailer with no plate and in poor condition
   xi. 400 XTH White/Silver Sedan with no plates, tires in poor condition and filled with debris
   xii. MN 0516fz Blue/White/Red Boat in poor condition and flat tires on trailer
   xiii. Green and White Boat in poor condition and flat tires on trailer
   xiv. Small wood utility trailer with flat tires and has a wheel barrow on top.
   xv. 658-AZV Trans sport van with tires in poor condition and expired tabs.
   xvi. 900-BRJ Trans sport van with tires in poor condition and expired tabs.
   xvii. Blue hoarse trailer in poor condition and flat tires.
   xviii. White RV trailer in poor condition and flat tires.
   xix. White Covered trailer with flat tires
   xx. Boat and trailer ACBX-978 in poor condition under tarp with flat tires.
   xxi. Boat and trailer ABRH-423 in poor condition under tarp with flat tires.
   xxii. Yellow boat trailer without boat and flat tires

xxiii. ABGV-222 trailer in poor condition with flat tires
xxiv. 366-DCP with expired tabs and flat tires.
xxv. Trailer with green hitch and silver cover with flat tires

Additionally, there are currently no open permits on the property at this time. All permits related to the construction of the home have expired and do not have final inspections.

With respect to the primary structure, during our inspection, we noted evidence to indicate that you have been living in the structure. As you are aware, the main structure on the property is a house that has not been issued a certificate of occupancy because it remains only partially built. The structure is not connected to a water supply or sanitary sewer service. The structure has temporary electrical wiring running throughout that poses an electrical hazard. Further, the structure appears to be used for storage with very narrow walking paths. Due to its unfinished construction, the lack of a certificate of occupancy, and the code violations listed above, the structure is not fit for human habitation. Accordingly, on June 27, 2018, the City posted the property as unfit for human occupancy.

This property has multiple life-safety and health concerns. **Based on our inspection, we have determined this property constitutes a hazardous property and contains hazardous buildings under Minn. Stat. § 463.15.**

If the conditions outlined above are not corrected by July 23, 2018 the City will proceed with corrective actions including but not limited to a hazardous property abatement order to remove or remedy the hazardous conditions on the property.

If you correct any of the violations listed in this notice, please contact me with evidence demonstrating the corrections. Please contact me with any questions regarding this correspondence. My number is (763) 569-3420 or Dan Jerzak at 763-569-3312. Thank you.

Sincerely,

Jesse Anderson
Deputy Director of Community Development
City of Brooklyn Center

EXHIBIT C TO RESOLUTION

Abatement Order

STATE OF MINNNESOTA DISTRICT COURT

COUNTY OF HENNEPIN FOURTH JUDICIAL DISTRICT

Case Type: Other Civil

In the Matter of the Hazardous
Building Located at 6842 West River Road,
Brooklyn Center, Minnesota

ORDER FOR ABATEMENT OF A HAZARDOUS PROPERTY

TO: All owners, occupants, and all lienholders of record.

The City Council of the City of Brooklyn Center orders that within 20 days of service of this Order that you abate the hazardous conditions which exist on the property located at: 6842 West River Road, in the City of Brooklyn Center, which property is legally described on Exhibit A attached hereto.

The City of Brooklyn Center, pursuant to Minnesota Statutes Sections 463.15 to 463.261, finds that the building and accessory structures located at the above-referenced address constitute hazardous buildings within the meaning of Minnesota Statutes Section 463.15 subdivision 3 and City Code Section 12-1103, specifically due to the bolts sticking out from the partially constructed house six inches where a deck/porch would attach, an inoperable electrical meter box, live electrical wires throughout the interior of the partially constructed house, temporary stairs do not meet code, and temporary tents lacking ability to meet load requirements and not made out of weather-resistant materials.

The City of Brooklyn Center, pursuant to Minnesota Statutes Section 463.15 to 463.261, finds the property located at the above-referenced address constitutes a hazardous property

within the meaning of Minnesota Statutes Section 463.15 subdivision 3 and City Code Section 12-1103, specifically due to the accumulation of construction debris such as scrap wood and deteriorated equipment, dead trees in the yard, uncovered ground in the yard, erosion and drainage issues, and twenty-five (25) inoperable vehicles, many of which are filled with debris, have expired tabs, and have flat tires.

Pursuant to the above-referenced statutes and ordinances, it is hereby ORDERED that you abate the hazardous property conditions within 20 days of the date of service of this Order by either removing the building or repairing the property by completing the following:

1. Remove or cover the bolts extending from the partially-built house;
2. Ensure the electrical box is operable and meets code;
3. Properly cover or otherwise make safe the live electrical wires inside the partially-built house;
4. Repair or replace stairs to partially-built house to meet code;
5. Remove all temporary tents;
6. Remove all excess junk, garbage, construction debris, equipment, and other items from outside the partially-built house;
7. Remedy erosion and drainage issues on property;
8. Cover ground in yard of property to comply with the code; and
9. Remove all inoperable vehicles including cars, trucks, trailers, and boats from the property.

You must apply for and obtain any appropriate permit(s), if applicable, for the work you intend to perform from the appropriate City offices before abating the hazardous conditions. This Order is not a permit. Further, all work completed is subject to inspection by the City's

building inspector, Fire inspector, and other staff as required to ensure compliance with applicable rules and law.

You are further advised that unless such corrective action is taken or an Answer is served on the City and filed with the Hennepin County District Court Administrator within 20 days of the date of service of this Order upon you, a motion for summary enforcement of this Order will be made to the Hennepin County District Court.

You are further advised that if you do not comply with this Order and the City is compelled to take any corrective action, all necessary costs incurred by the City in taking the corrective action will be assessed against the property pursuant to Minnesota Statutes Section 463.21. In connection thereto, the City intends to recover all its expenses incurred in carrying out this Order, including specifically but not exclusively, filing fees, service fees, publication fees, attorneys' fees, appraisers' fees, witness fees, including expert witness fees and traveling expenses incurred by the City from the time this Order was originally made pursuant to Minnesota Statutes Section 463.22.

Dated _____, 2018

KENNEDY & GRAVEN, CHARTERED

By:_____

Troy J. Gilchrist (#0228849)
Elizabeth C. Brodeen-Kuo (#391949)
470 U.S. Bank Plaza
200 South Sixth Street
Minneapolis, MN 55402
(612) 337-9300

ATTORNEYS FOR THE CITY OF BROOKLYN CENTER

EXHBIT A TO ABATEMENT ORDER

Legal Description

Lot 2, "Auditor's Subdivision Number 310, Hennepin County, Minnesota"; EXCEPT:

That part of Lot 2, "Auditor's Subdivision Number 310, Hennepin County, Minnesota", Lying Easterly of the 50 foot road running through said Lot 2, the center line of said road being described as follows: Beginning at a point on the South line of said Lot 2, a distance of 362 feet East of the Southwest corner of said Lot 2 as measured along said South line; Thence Northerly to a point on the North line of said Lot 2, said point being a distance of 387 feet East of the Northwest corner of said Lot 2, as measured along said North line, according to the recorded plat thereof, and situate in Hennepin County, Minnesota.

Abstract Property

Inspection Record

Date: 6/22/2018

Property Address: 6842 West River Rd
Name: David W Berg
Date of Birth: 06-15-1938

The following violation were noted during an inspection of the property on 5/22/2018

Criminal Court Summary

Mr. Berg was charged with 3 housing maintenance violations and one count of public nuisance in 2013. He failed to make numerous appearances and his case remained in bench warrant status for long stretches of multiple months. He eventually appeared and we negotiated a phased abatement plan, which he failed to complete.

On January 28, 2015 he pled guilty to one of the housing maintenance violations. As a part of his sentence, he was ordered to abate all code violations on his property and was given six months by the court to do so (deadline 6/29/15). He again failed to abate and we filed a probation violation. When he finally appeared on that, he eventually admitted to the violation on 2/10/16.

He would continue to fail to comply with City and court directives to abate and eventually had 5 days of his sentence revoked in May of 2016, and was ordered to comply again. His property was re-evaluated for compliance in November of 2016. Again, it was not in compliance and he was ordered to serve an additional 5 days of jail. A new review hearing was set for April 2017 and 10 additional days were then revoked due to his continued non-compliance, but he was given a June 2017 review date to complete all remaining items and he was to be given the opportunity to avoid additional jail if he complied.

He appeared in June of 2017 and still was not in compliance. He was taken into custody that day to serve the previously ordered additional 10 days and our office believed that his probation would be extended (by agreement in lieu of execution of all remaining time) as it had been at each of the previous appearances, but the judge declined to do so at that hearing, for some reason. We subsequently wrote to the judge and requested reconsideration, providing a procedural history for the matter. The judge declined to change her mind and decided that his probation would not be extended any further and that the case would be closed after he completed the most recently ordered 10 days of jail.

Recent Inspection Activities:

February 9, 2016: Mr. Bergs agreed to correct the violations by May 2, 2016. After the court appearance Jesse Anderson, Deputy Director of Building and Community Standards met with Mr. Berg to discuss the progress. The inspector advised Mr. Berg to apply for a permit and focus on completing the project. He was also advised that constructing a gate on his driveway would not correct the violations.

February 16, 2016: Mr. Anderson called and spoke to Mr. Berg and asked if there was progress and if he had hired a contractor. Mr. Anderson informed him the he should promptly begin working on the home.
February 23, 2016: Mr. Anderson called and left a message for Mr. Berg. The message asked for an update on the progress, asked if any help was needed, and also provided the phone number of a non-profit agency that provides construction consultation service.
March 23, 2016: Mr. Anderson called and left a message for Mr. Berg asking him to call back with an update and also offered help with the project.
April 29, 2016: The property was inspected and the violations weren't corrected. The yard, stairs, driveway and exterior of the home remained uncompleted. Also, items remained stored outside. It was noted that there had been some excavation work completed and post installed along side of the driveway.
July 25, 2016: The property is still in violation. There are no stairs to doors, the driveway has not been completed, the bolts are still on the outside of the property, and there is starting to be some yard cover due to weeds growing in. Also, there has been no permit applied for or issued for the work at the property.
October 18, 2016. Mr. Anderson called and spoke to Mr. Berg and informed him that he had missed his court date and a warrant had been issued. He stated that he missed court because he had downed tree at his property up north, so he wanted to take care of that 1st.
November 28, 2016. The property is still in violation. There are no stairs to doors, the driveway has not been completed, the bolts are still on the outside of the property, and there is starting to be some yard cover due to weeds growing in. There are sign of erosion on the driveway due to recent rain. Also, there has been no permit applied for or issued for the work at the property.
January 31, 2017. Mr. Anderson called all 3 phone numbers known for Mr. Berg. Left message requesting a call back to schedule a meeting to discuss violations at property.
April 3, 2017. The property is still in violation. There are no stairs to door, the driveway has not been completed, the bolts are still on the outside of the property, and there is starting to be some yard cover due to weeds growing in. There are sign of erosion on the driveway. Also, there has been no permit applied for or issued for the work at the property. Further, there was some view of the fenced portion of the yard due to damaged section of fencing. There are inoperable vehicles and multiple temporary structures in the backyard of the property.
June 27, 2017. The Property was inspected and remains in violation.
May 22, 2018. A complaint was received from a citizen regarding the condition of the property. Numerous calls we made in an attempt to speak with Mr. Berg regarding his property. He is not answering his call or returning voicemails. Dan Jerzak and Jesse Anderson visited the property and noted the home remains unfinished with no active permits. There were multiple violations noted including vehicles that appeared to have flat tires, a fence in disrepair, driveway in disrepair, no stairs to the doors that access the home and outside storage. See Attached photos.
June 4, 2018. A letter was sent to Mr. Berg requesting an inspection. The letter stated that the City would be looking to obtain an administrative search warrant.
June 14, 2018. The administrative search warrant was signed by a judge.
June 15, 2018. A voicemail was left for Mr. Berg stating that an inspection was to be conducted on June 22, 2018.

June 22, 2018. At 9:00 am Dan Jerzak and Jesse Anderson conducted an inspection of the property. We were accompanied by the Brooklyn Center Police officers Colleen Fricke. Mr. Berg did answer the door partially dressed and appeared to have been awoken by our visit. Mr. Berg walked us around the outside of his property where numerous storage and inoperable vehicle violations were noted. Mr. Berg also provided access to inside the house. The home is unfinished with the framing and shell of the building mostly complete. The house does not have plumbing, electrical, mechanical, and flooring, drywall, etc. The majority of the floor area was covered with storage approximately 5 feet high with narrow paths through the home. Mr. Berg did admit that he sleeps at the property at times and refers to it as camping. Mr. Berg has clothing in the property as well as food, a refrigerator, tv, toaster oven and a microwave. The home has temporary electrical wiring running throughout the house that does pose to be an electrical hazard. There were bottles with urine on the second level of the home that the owner stated he reuses when he is upstairs. There was a toilet in the basement that was not connected to water. Mr. Berg stated that he fills a bucket with water from the main water line to flush the toilet. The main water line into the home did not have a water meter.

June 27, 2018. Jesse Anderson and Dan Jerzak visited the property. The property was posted as unfit for occupancy. The owner did not answer the door; however it did appear that the vehicle he drives was at the property.

Violations:

1. Exterior walls: (Chapter 12-702 Walls, roof, exterior)The exterior of the building does not have deck/porch and bolts are sticking out approximately 6" from the dwelling at the locations of where the deck/porch would attach to the house. The locations of the bolts are at both top and bottom of the deck/porch location and are every 24"-36". The exterior siding has been stained.

   -This violation remains. The property does not have an active building permit for the construction of the new dwelling.

2. Electrical Violations: (12-504)
   - The electrical meter boxes on the outside of the dwelling are required to be operable. This violation would require a permit and a permit has not been applied for.
   - Further there are live electrical wires throughout the interior of the home in violation and is an electrical hazard.

3. Exterior Steps: The temporary stairs that are being used do not meet code. This structure does not meet 12-406 of the Brooklyn Center Code of Ordinances. In order to complete the steps, a building permit must be obtained and the plans must be approved by the Building Official.

4. Accumulation of Rubbish/Brush/Debris: The property is in violation of 19-103.11 and 19-103.4 of the Brooklyn Center Code of Ordinances. Construction debris is stored throughout the property.

   Items such as car batteries
   Scrap wood
   Deteriorated equipment

Fallen down temporary tents
Tools

5. Accessory Buildings: The temporary tents on the property are in violation of 12-702 & 12-707 of the Brooklyn Center Code of Ordinances. The tent does not meet wind and snow load requirements and is not made of a decay resistant material. The tent was to be removed previously by court order.
   -There tarp covered structures in the backyard of the property.

6. Dead/Diseased: Tree Chapter 20-301: There are multiple dead trees in the yard of the property.

7. Yard Maintenance: The property has a great deal of uncovered ground on the property. There are drainage and erosion issues throughout the property. These conditions violate 19-711 of the Brooklyn Center Code of Ordinances. Some areas remain without yard cover.

8. 19-1303 Inoperable Vehicles: All vehicles are required to be operable and must have current license tabs. The following vehicles are in violation of city code with expired tabs, flat tires, filled with debris or other conditions that make the vehicle inoperable.

   - RV-C5229 White and Tan RV with expired tabs and flat tires
   - 357123 Dark Green Pick up
   - Red Station wagon with flat tires and filled with debris no plate
   - Black SUV Izuzu with no plates flat tire
   - 35782 Tan Jeep filled with debris
   - White SUV Izuzu with no plates, tires in poor condition and filled with debris
   - Red Subaru Station wagon with no plates, tires in poor condition and filled with debris
   - 35781 White Van with tires in poor condition
   - 216 GWG vehicle with expired tabs and tires in poor condition
   - Red SUV on a trailer with no plate and in poor condition
   - 400 XTH White/Silver Sadan with no plates, tires in poor condition and filled with debris
   - MN 0516fz Blue/White/Red Boat in poor condition and flat tires on trailer
   - Green and White Boat in poor condition and flat tires on trailer
   - Small wood utility trailer with flat tires and has a wheel barrow on top.
   - 658-AZV Trans sport van with tires in poor condition and expired tabs.
   - 900-BRJ Trans sport van with tires in poor condition and expired tabs.
   - Blue hoarse trailer in poor condition and flat tires.
   - White RV trailer in poor condition and flat tires.
   - White Covered trailer with flat tires
   - Boat and trailer ACBX-978 in poor condition under tarp with flat tires.
   - Boat and trailer ABRH-423 in poor condition under tarp with flat tires.
   - Yellow boat trailer without boat and flat tires
   - ABGV-222 trailer in poor condition with flat tires
   - 366-DCP with expired tabs and flat tires.
   - Trailer with green hitch and silver cover with flat tires

Building Permit

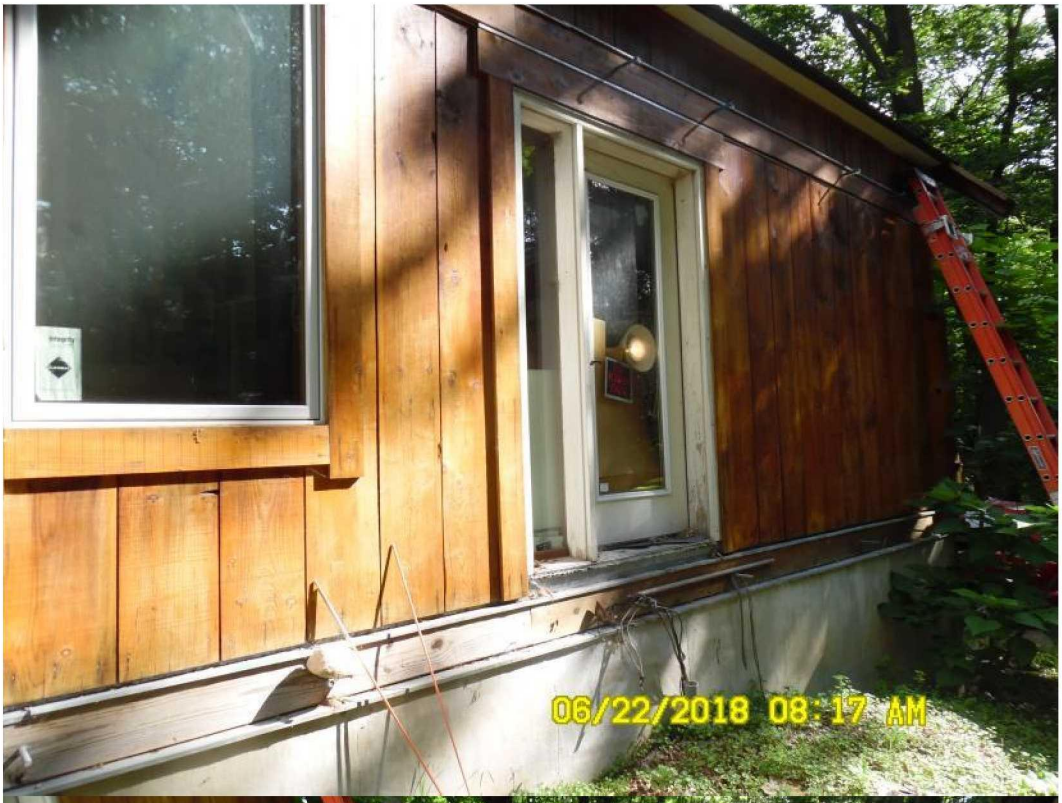
There are currently no open permits on the property at this time. All permits related to the construction of the home have expired and do not have final inspections.

Jesse Anderson

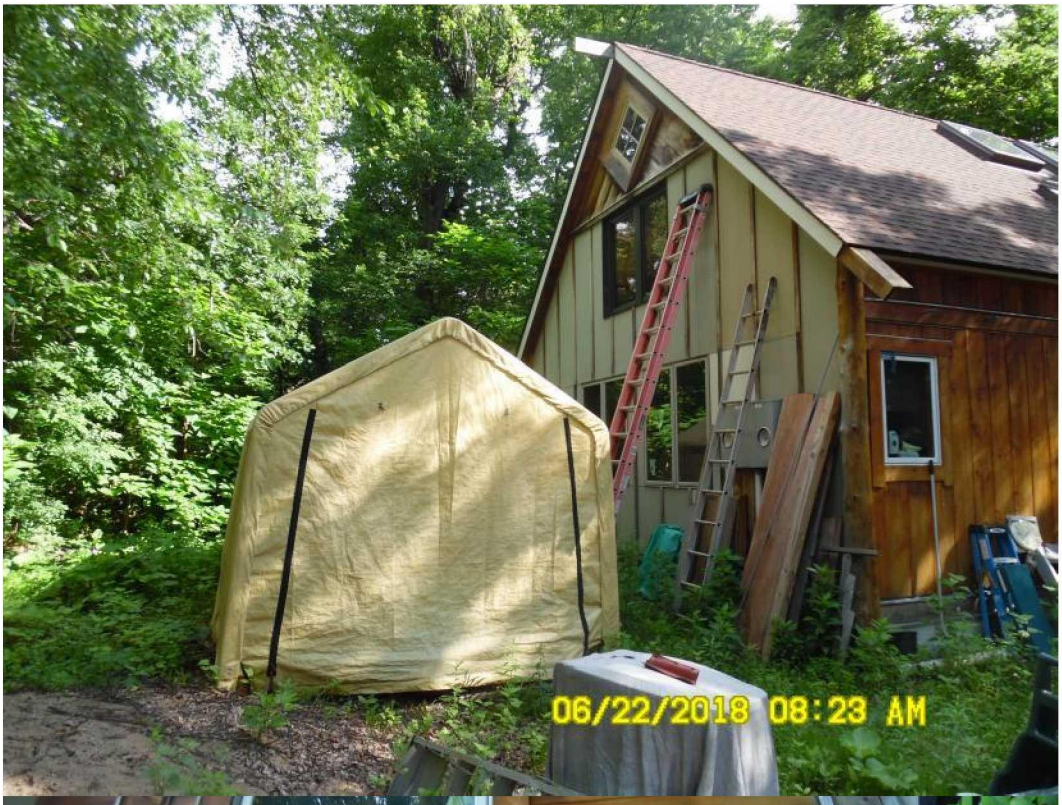
Deputy Director of Community Development


06/22/2018 08:16 AM


06/22/2018 08:16 AM


06/22/2018 08:17 AM


06/22/2018 08:19 AM


06/22/2018 08:23 AM


06/22/2018 08:23 AM


06/22/2018 08:23 AM

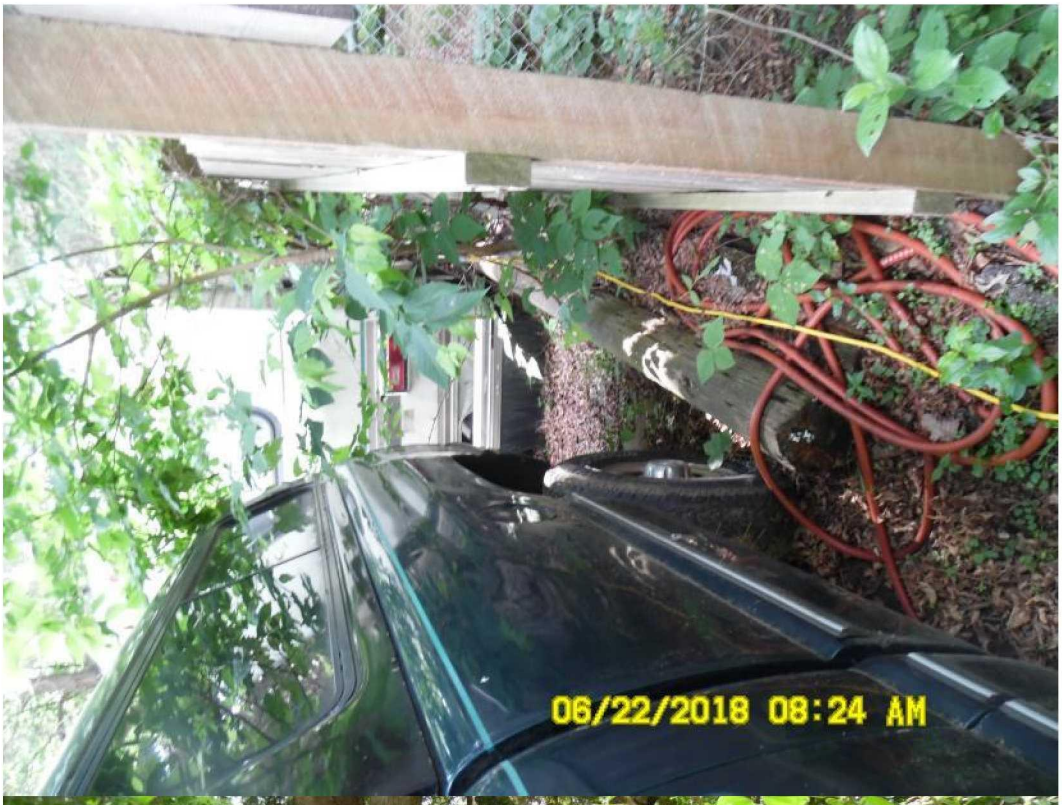

06/22/2018 08:23 AM


Minnesota
RV C5229 E
06/22/2018 08:23 AM


Sundancer
06/22/2018 08:23 AM

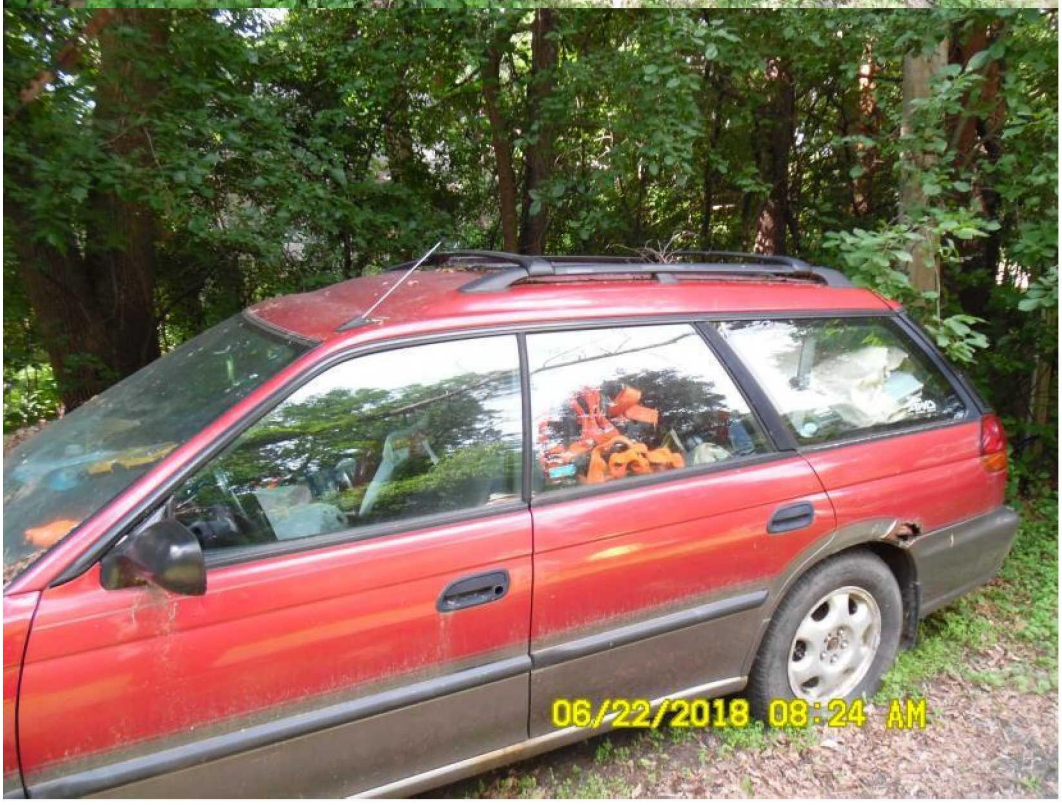

4X4
357123
06/22/2018 08:24 AM

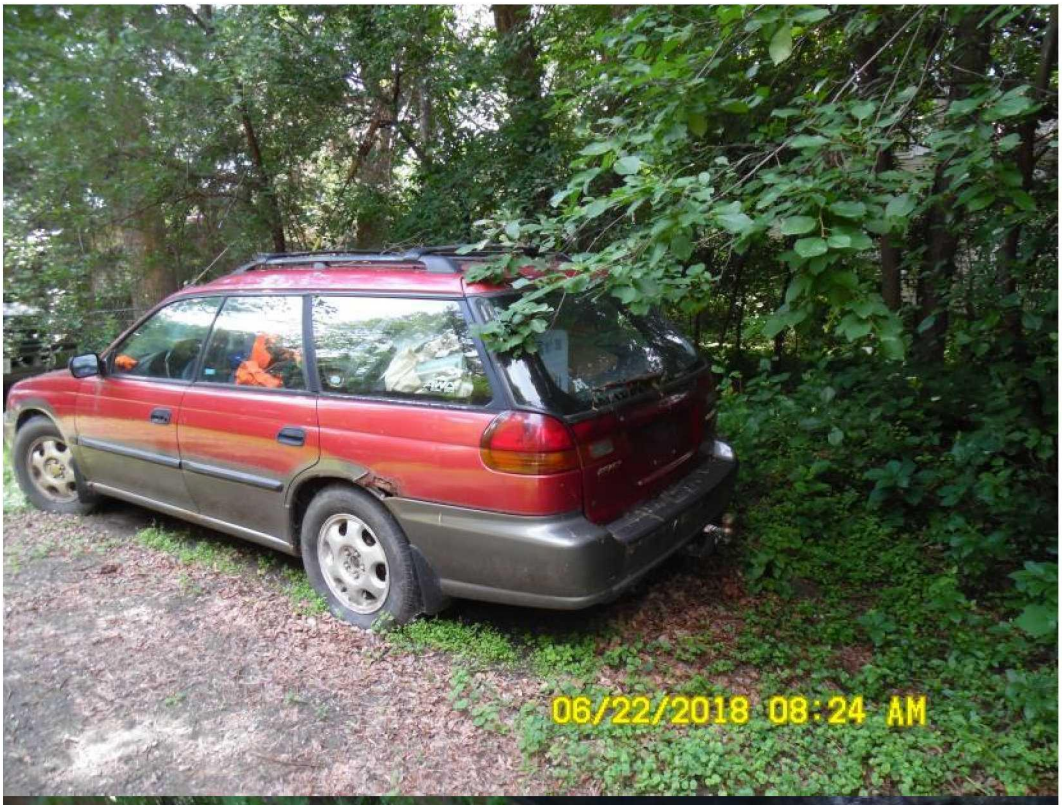

06/22/2018 08:24 AM


06/22/2018 08:24 AM


06/22/2018 08:24 AM


06/22/2018 08:24 AM

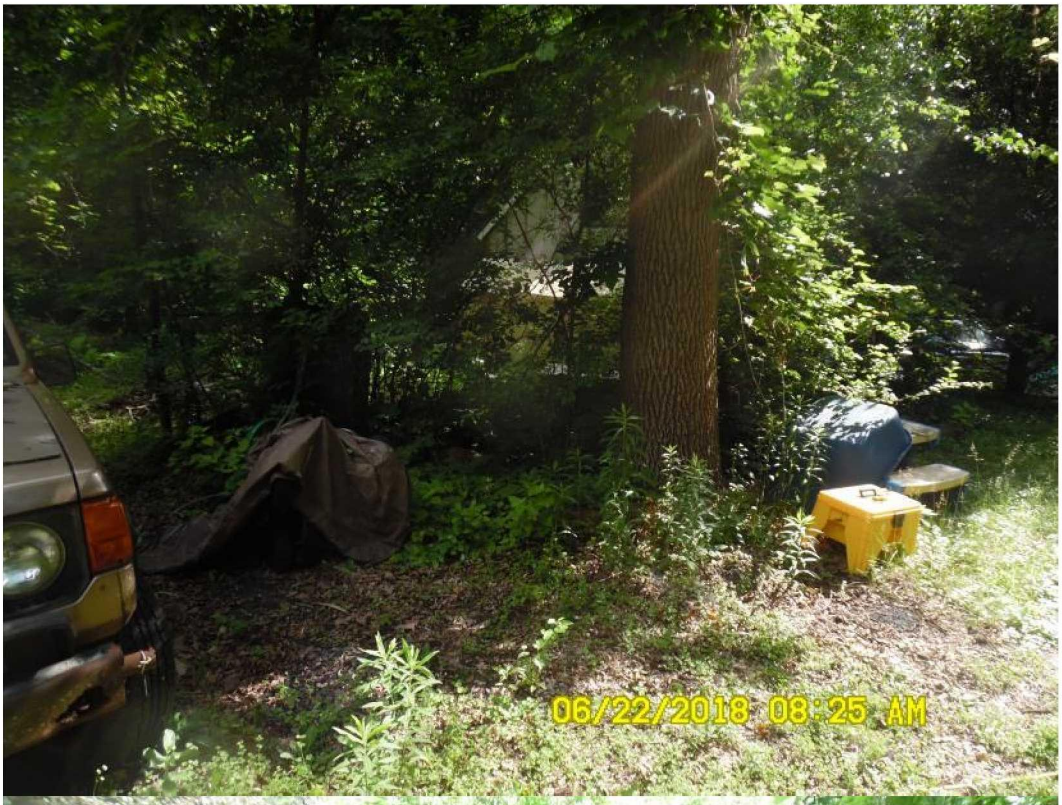

06/22/2018 08:24 AM


06/22/2018 08:24 AM


06/22/2018 08:24 AM


ISUZU
06/22/2018 08:25 AM

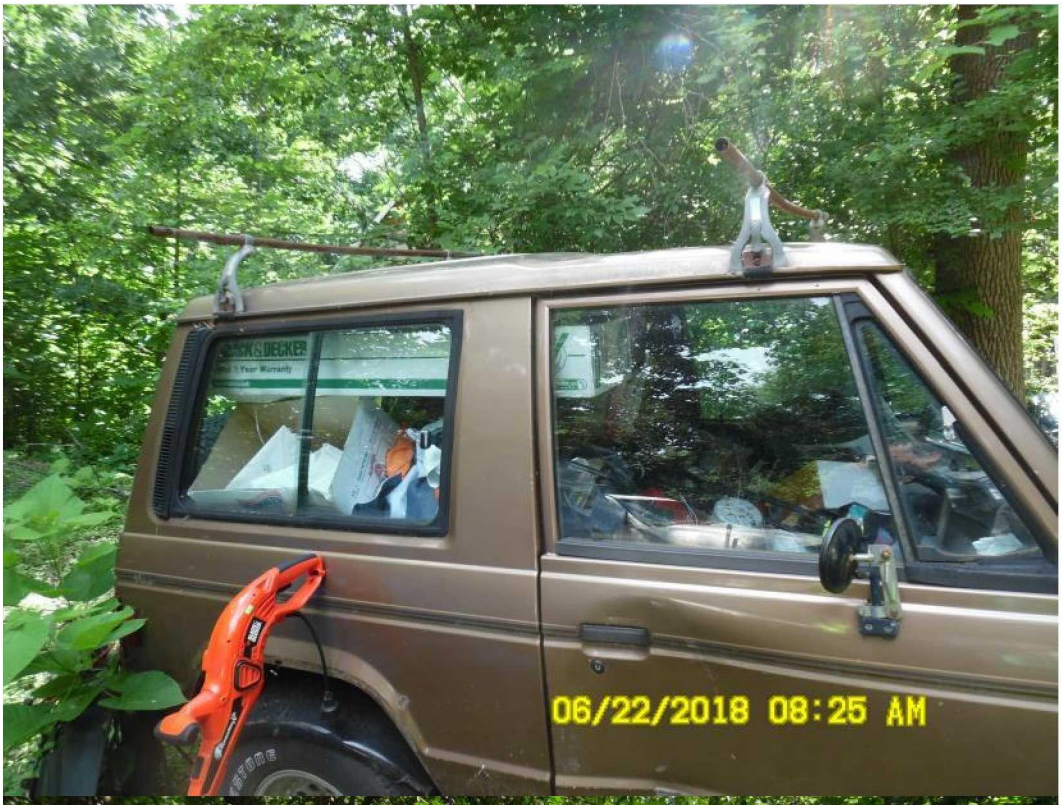

MITSUBISHI
352782
06/22/2018 08:25 AM


06/22/2018 08:25 AM


06/22/2018 08:25 AM

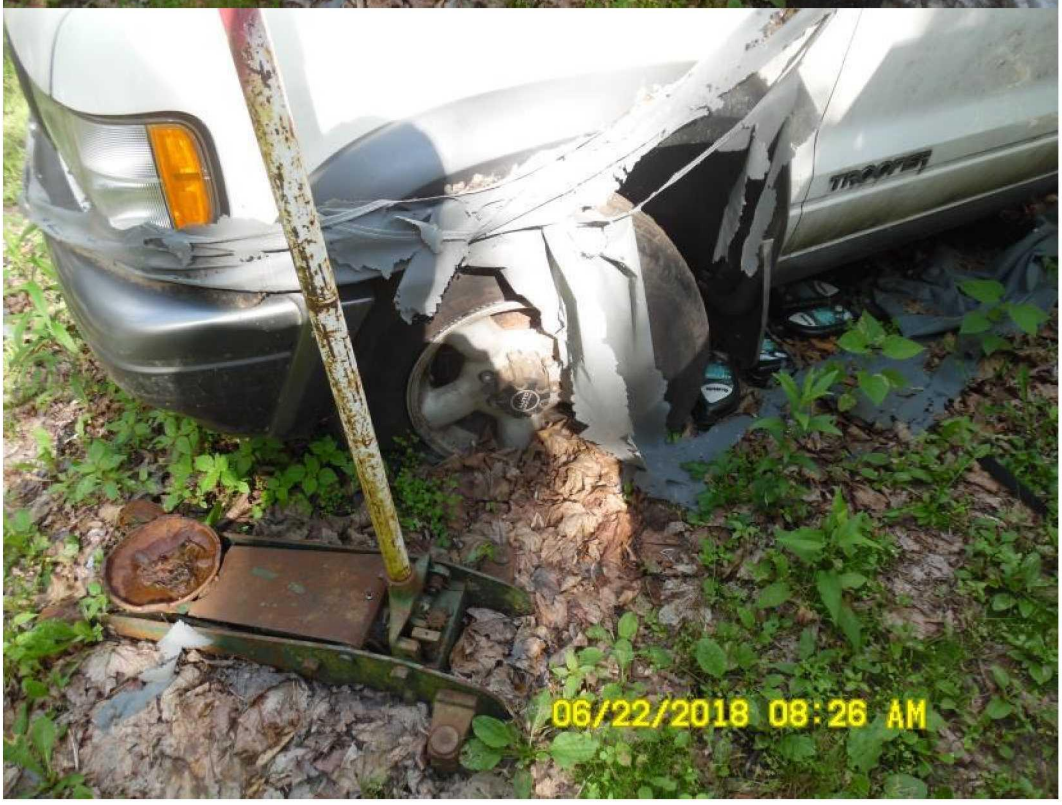

06/22/2018 08:25 AM

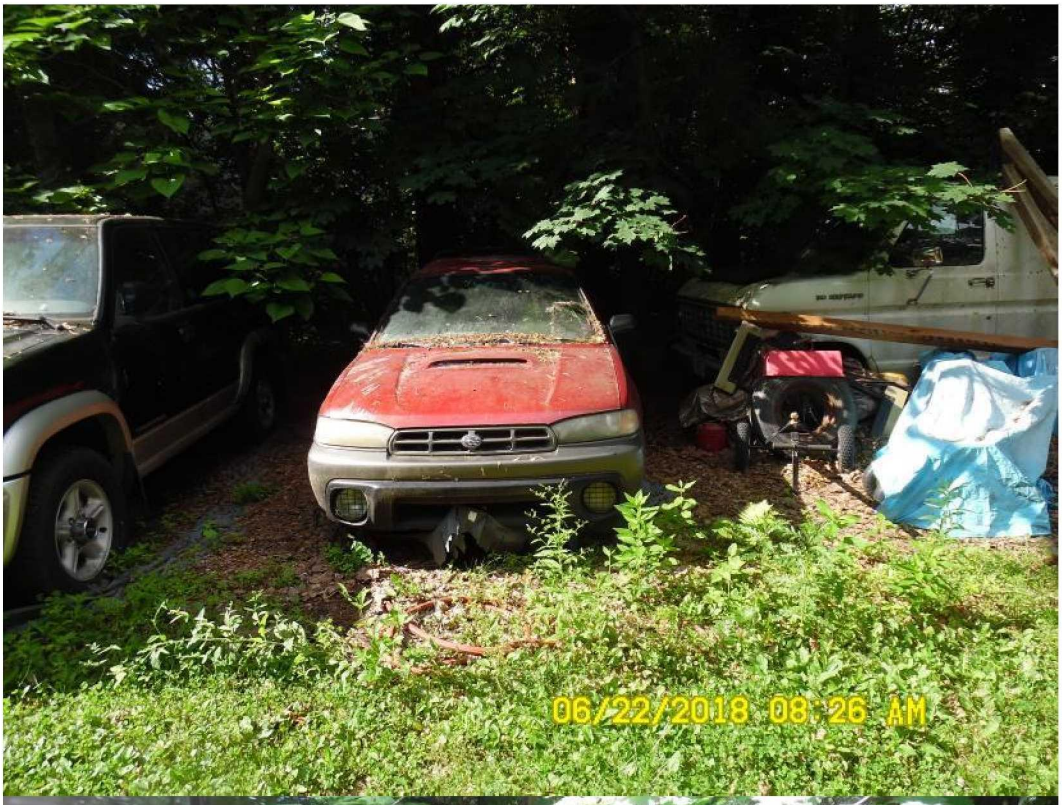

06/22/2018 08:25 AM

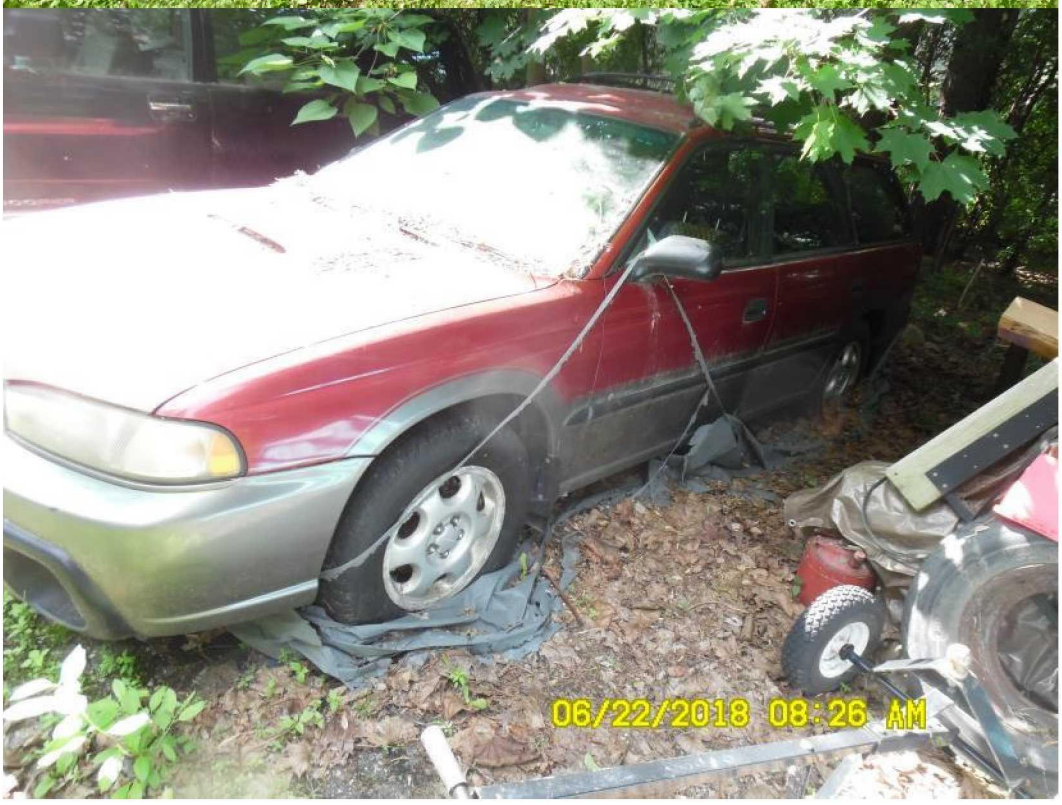

06/22/2018 08:25 AM

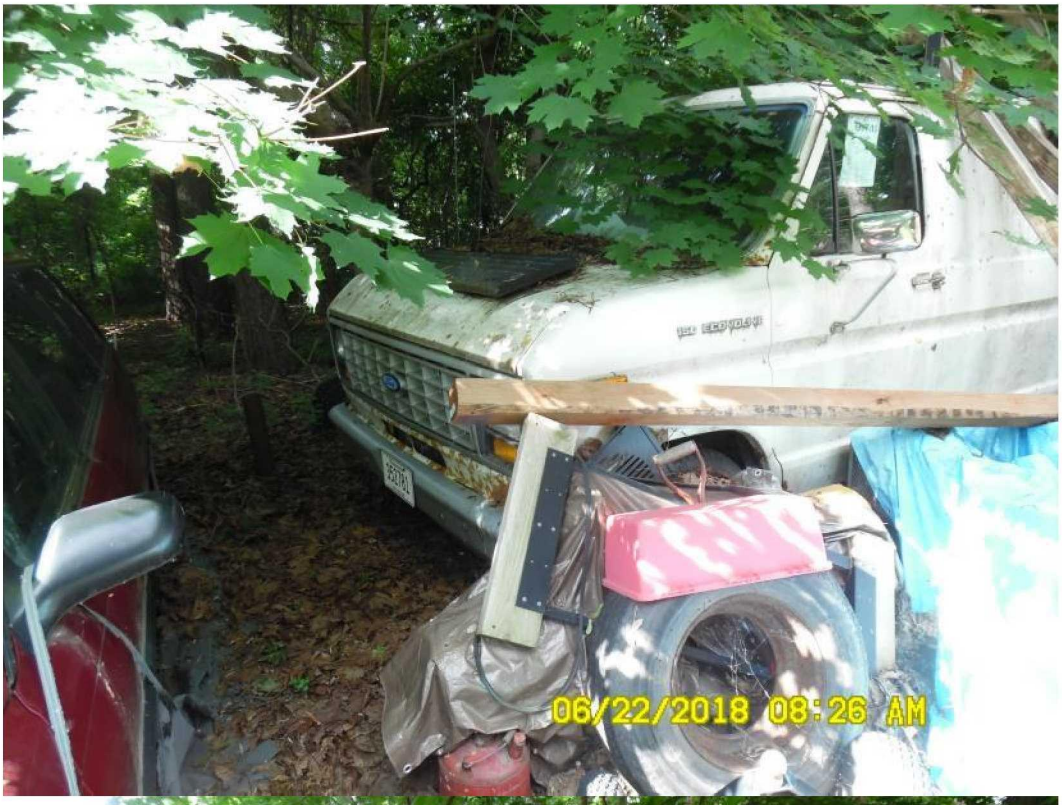

06/22/2018 08:25 AM


06/22/2018 08:26 AM


06/22/2018 08:26 AM


06/22/2018 08:26 AM


06/22/2018 08:26 AM

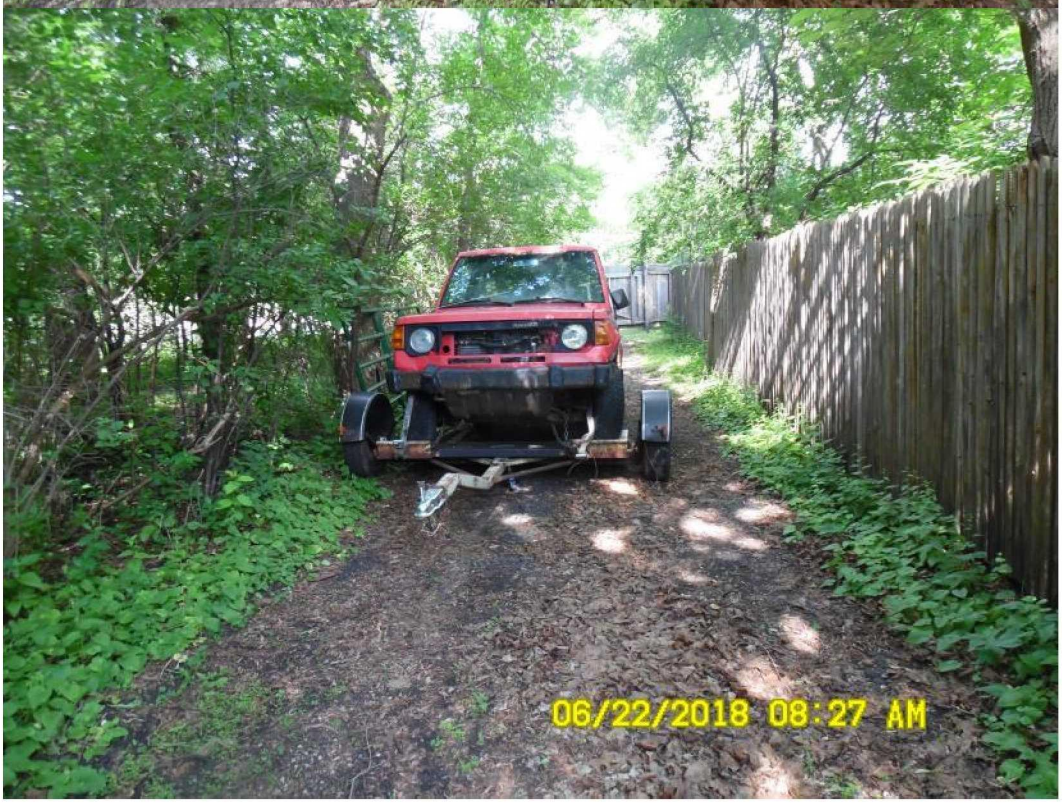

06/22/2018 08:26 AM


06/22/2018 08:26 AM


06/22/2018 08:26 AM


Minnesota
216 GWG
10,000 lakes
06/22/2018 08:27 AM


06/22/2018 08:27 AM


06/22/2018 08:27 AM

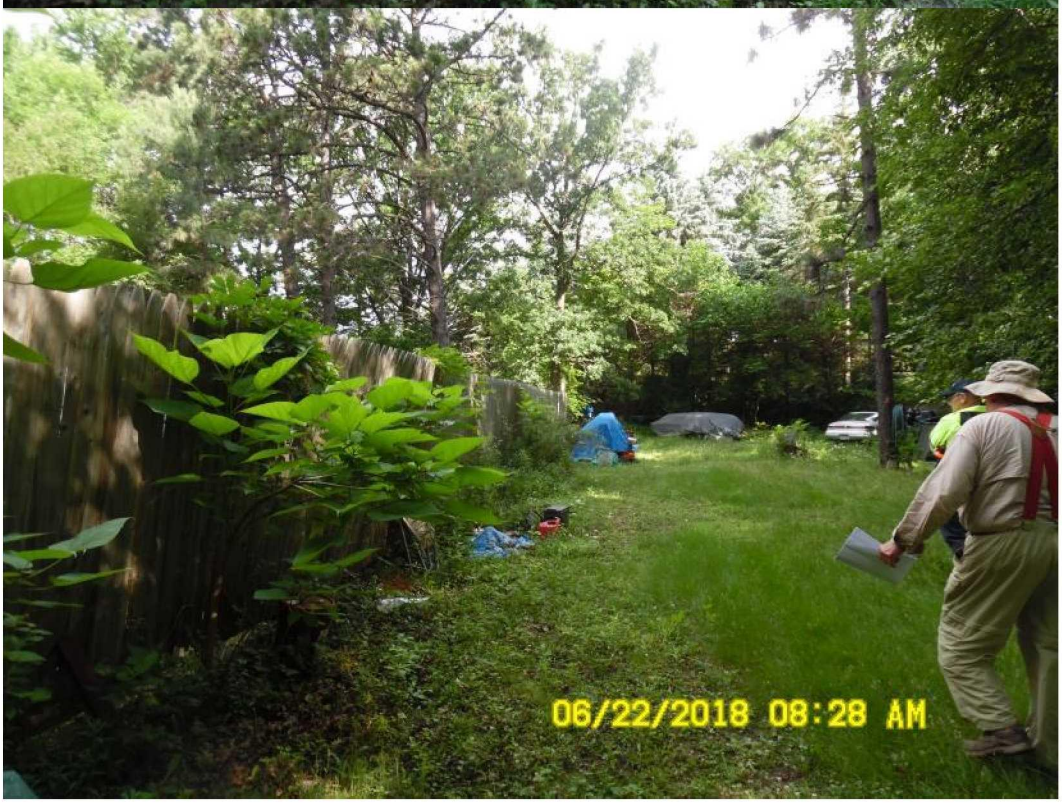

06/22/2018 08:27 AM


06/22/2018 08:27 AM


CASE
06/22/2018 08:27 AM


06/22/2018 08:28 AM


06/22/2018 08:28 AM

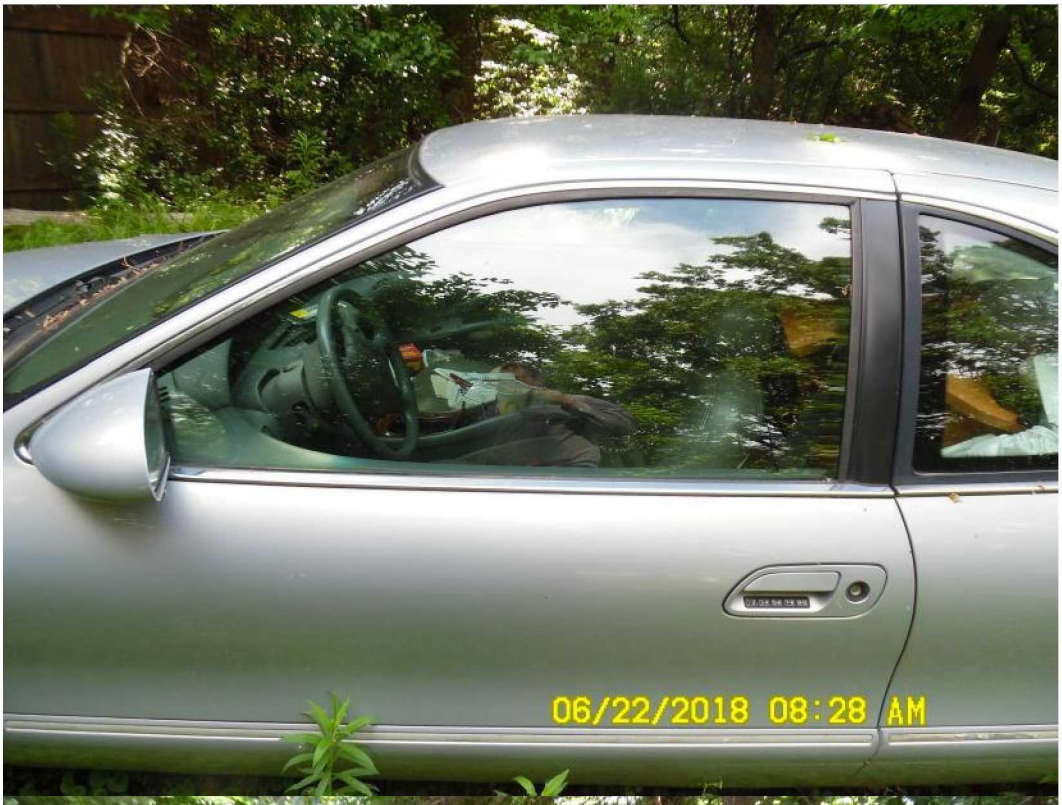

06/22/2018 08:28 AM

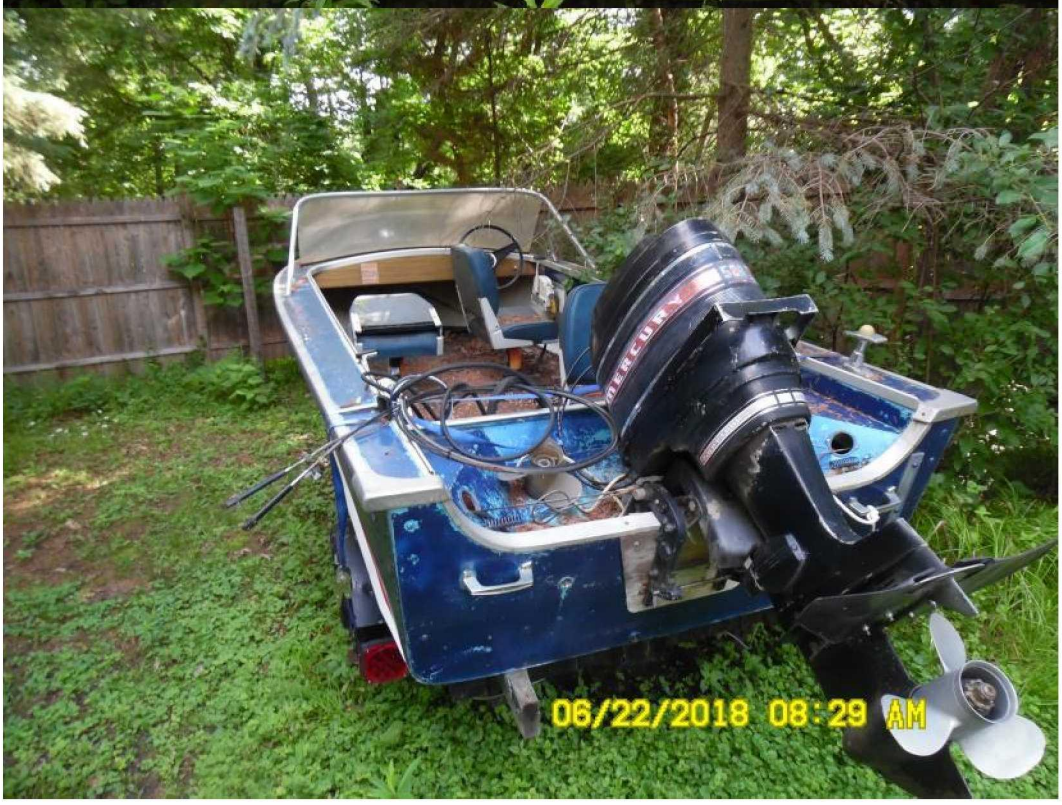

06/22/2018 08:28 AM


06/22/2018 08:28 AM


06/22/2018 08:28 AM


06/22/2018 08:28 AM


06/22/2018 08:28 AM


MERCURY
06/22/2018 08:29 AM


MN 0516FZ 18
06/22/2018 08:29 AM


06/22/2018 08:29 AM


06/22/2018 08:29 AM


06/22/2018 08:29 AM

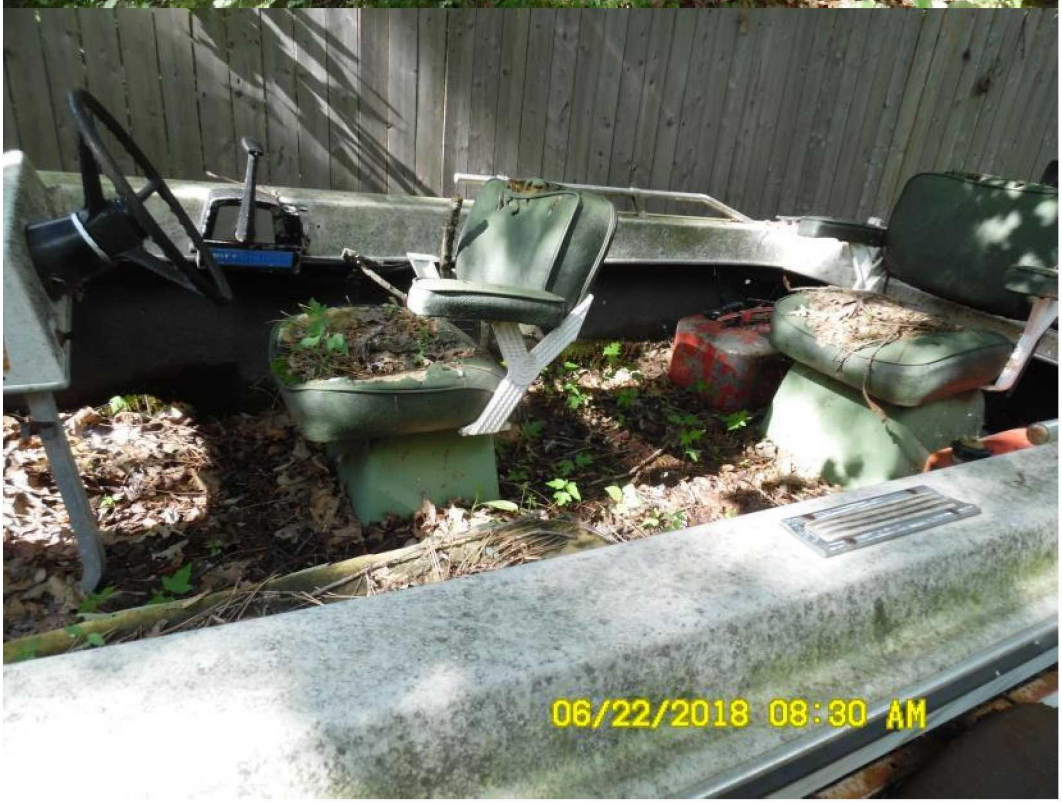

06/22/2018 08:29 AM


06/22/2018 08:30 AM


06/22/2018 08:30 AM


FORESTER
06/22/2018 08:30 AM

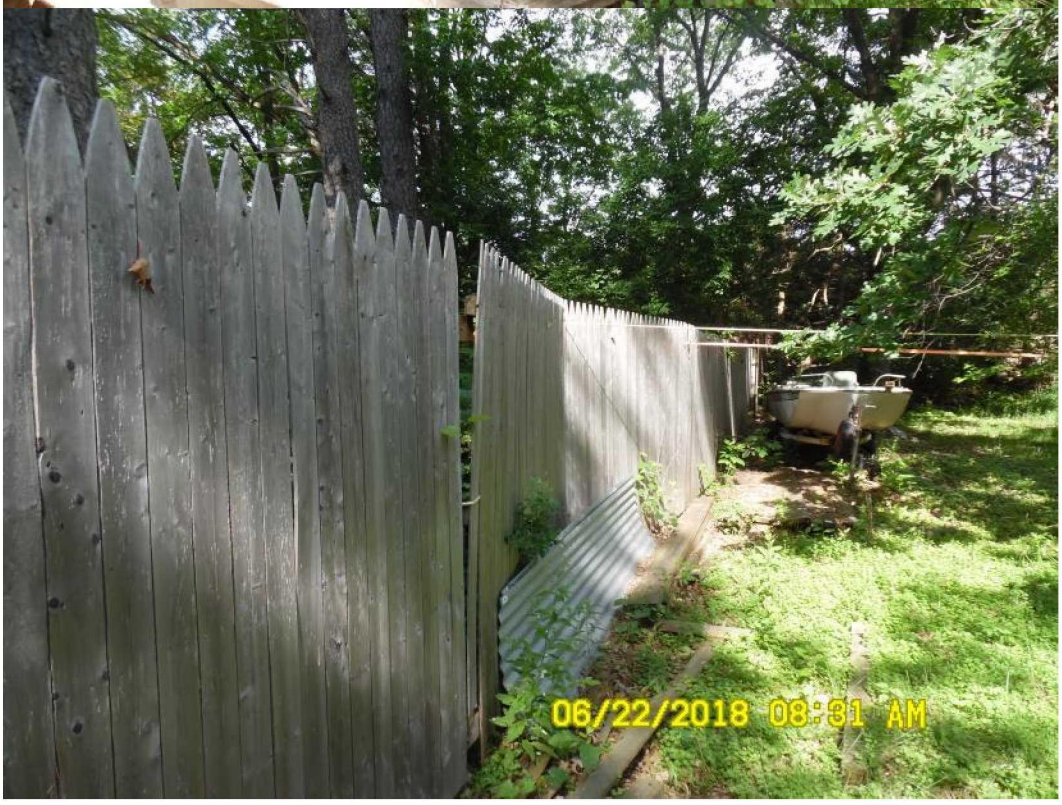

06/22/2018 08:30 AM

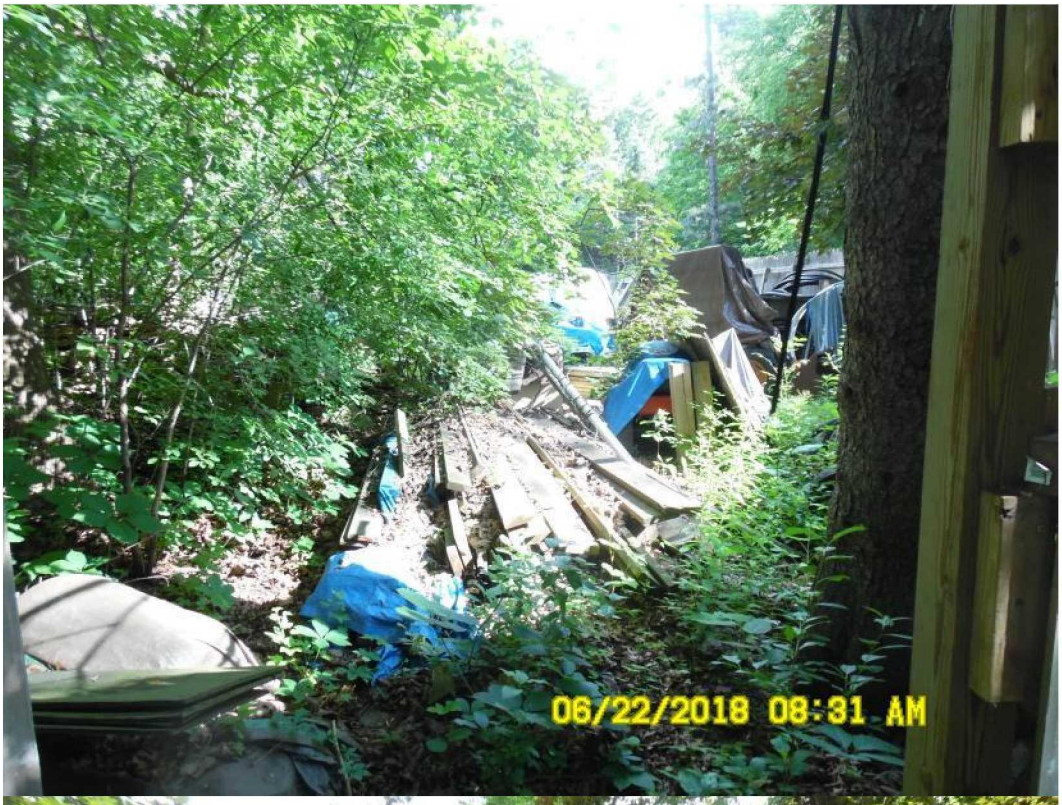

06/22/2018 08:30 AM

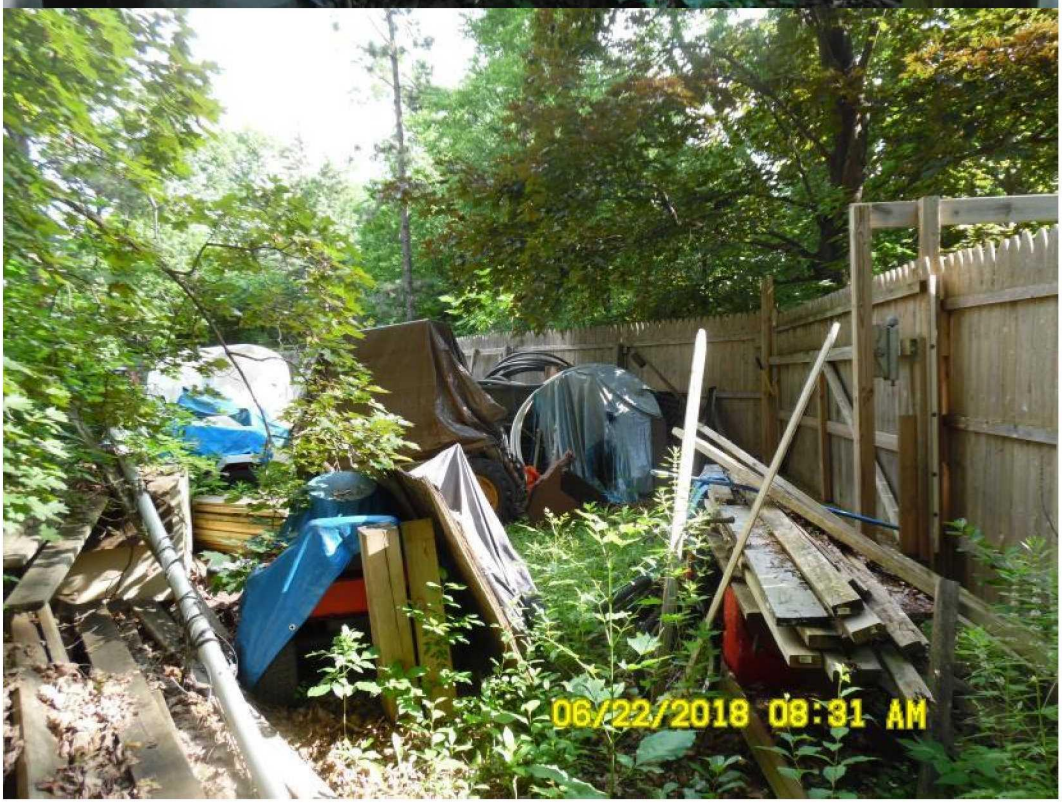

06/22/2018 08:30 AM


06/22/2018 08:30 AM

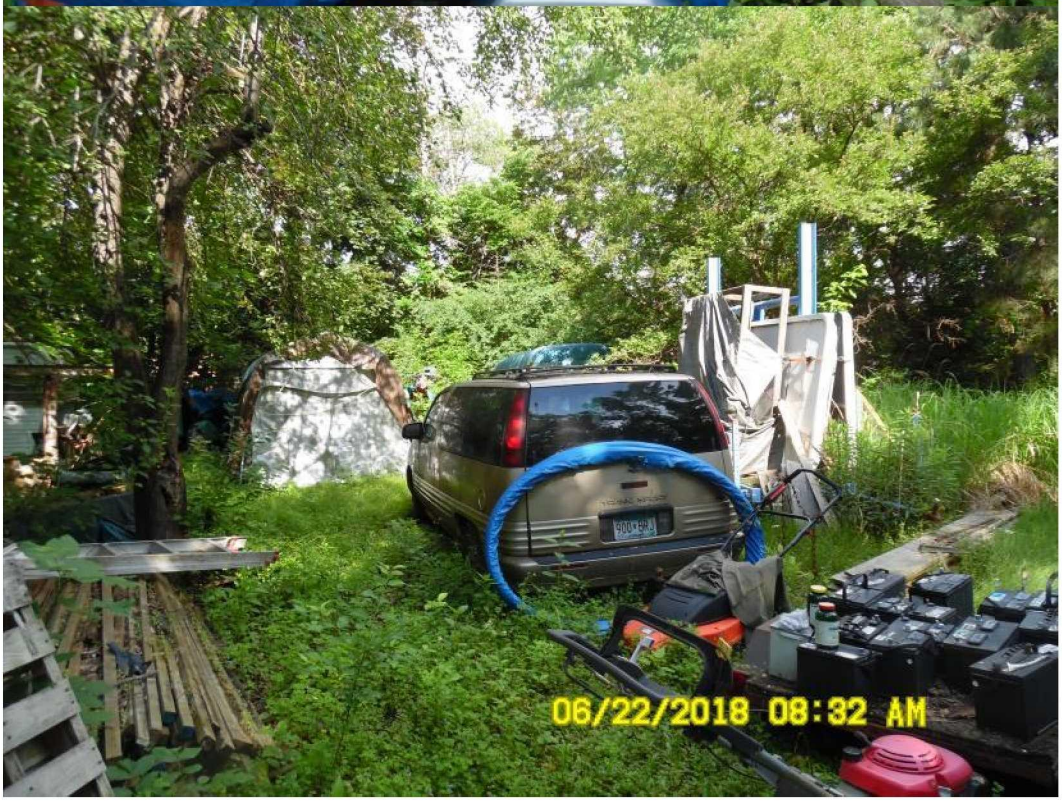

06/22/2018 08:31 AM


06/22/2018 08:31 AM


06/22/2018 08:31 AM

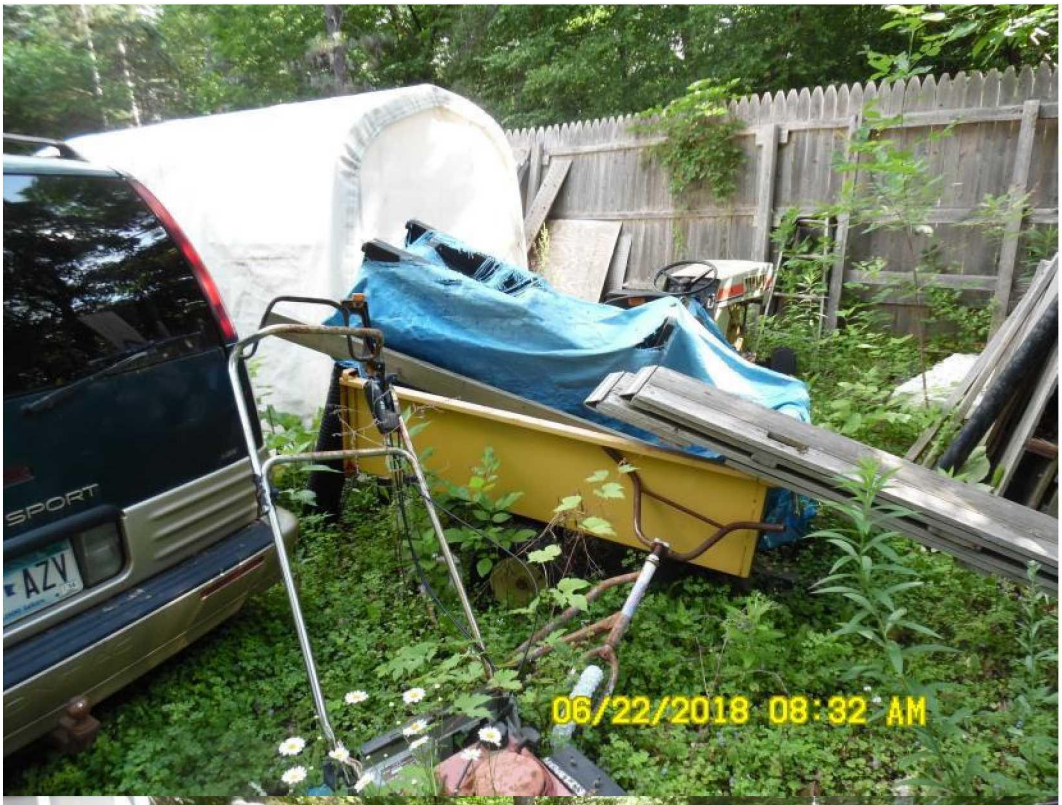

06/22/2018 08:31 AM


06/22/2018 08:32 AM


06/22/2018 08:32 AM


TRANS SPORT
658 AZV
10,000 lakes
06/22/2018 08:32 AM


TRANS SPORT
658 AZV
10,000 lakes
06/22/2018 08:32 AM


SPORT
AZV
06/22/2018 08:32 AM


06/22/2018 08:32 AM


TRANS SPORT
900 BRJ
06/22/2018 08:32 AM


06/22/2018 08:32 AM


06/22/2018 08:33 AM


06/22/2018 08:33 AM

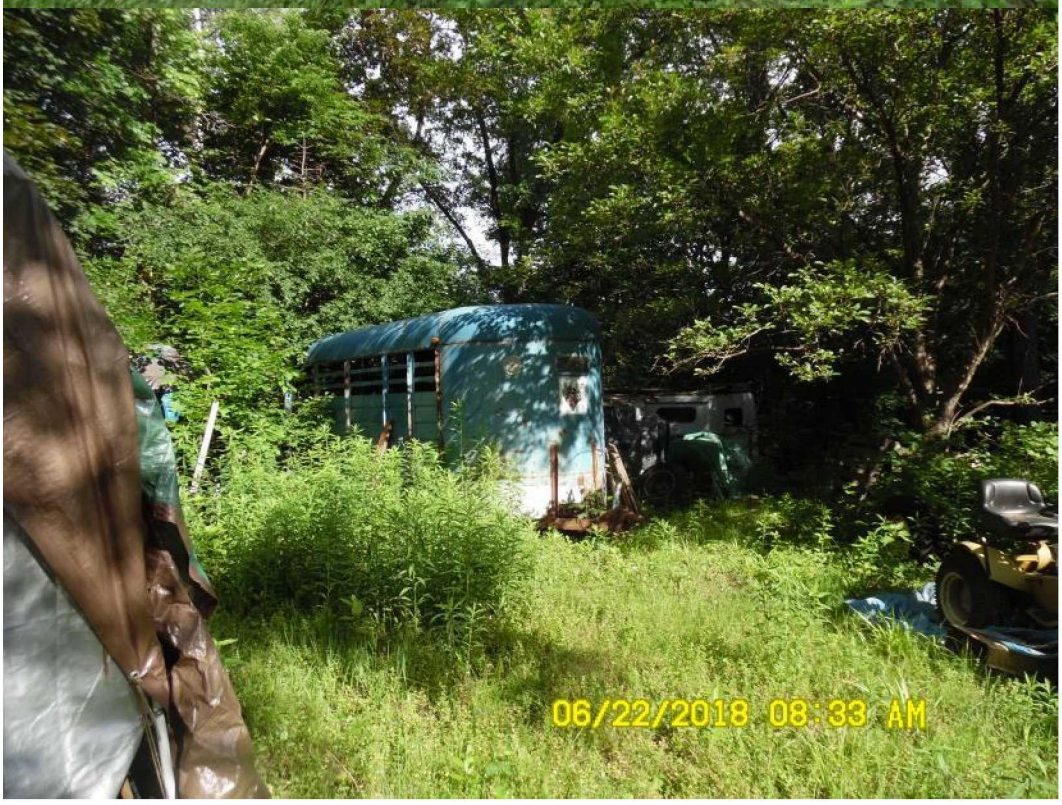

06/22/2018 08:33 AM


658 AZV
06/22/2018 08:33 AM


06/22/2018 08:33 AM


06/22/2018 08:33 AM


900 BRJ
06/22/2018 08:33 AM


06/22/2018 08:33 AM


06/22/2018 08:34 AM


06/22/2018 08:34 AM


06/22/2018 08:34 AM

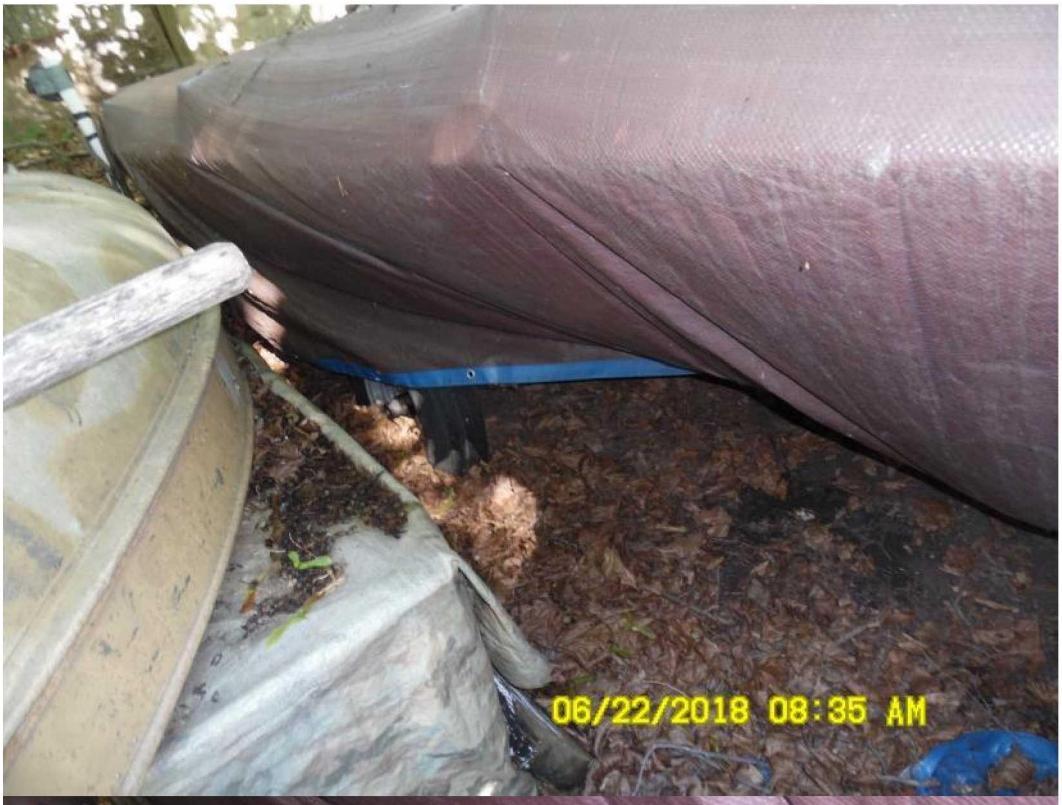

06/22/2018 08:34 AM


06/22/2018 08:34 AM


06/22/2018 08:34 AM


06/22/2018 08:34 AM


06/22/2018 08:34 AM


06/22/2018 08:35 AM


06/22/2018 08:35 AM


06/22/2018 08:35 AM

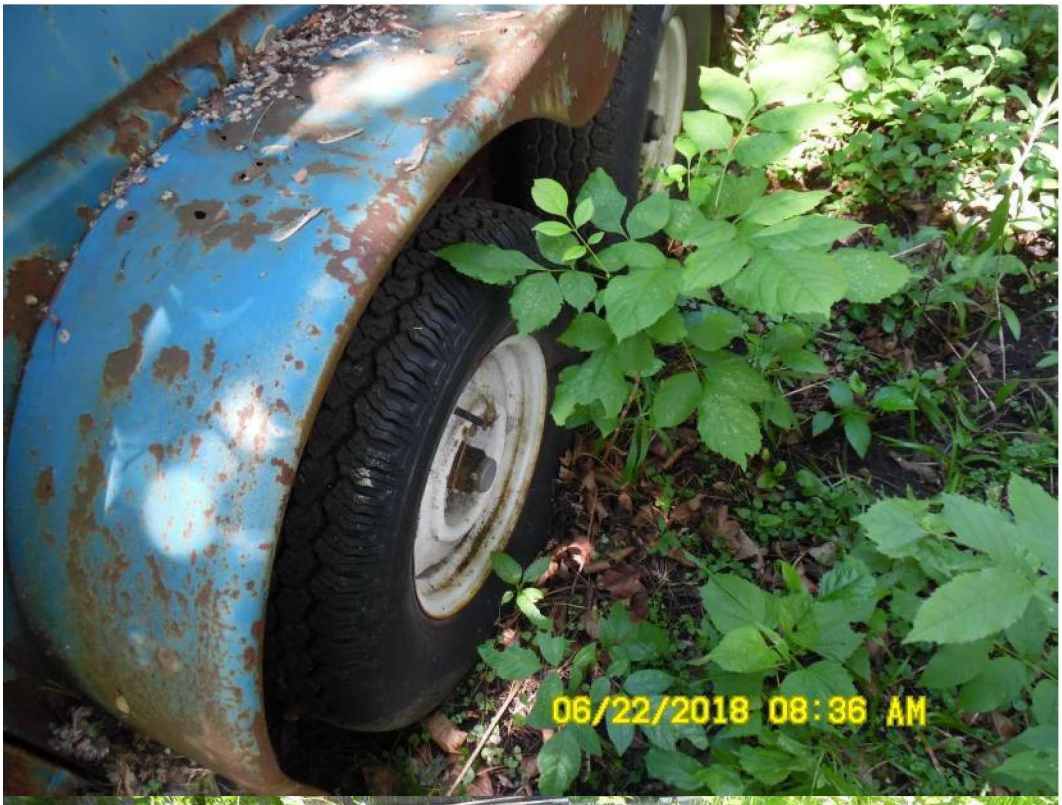

ACBX 978
06/22/2018 08:35 AM


06/22/2018 08:35 AM


ABRH 423
06/22/2018 08:36 AM


06/22/2018 08:36 AM


06/22/2018 08:36 AM


06/22/2018 08:36 AM


06/22/2018 08:36 AM

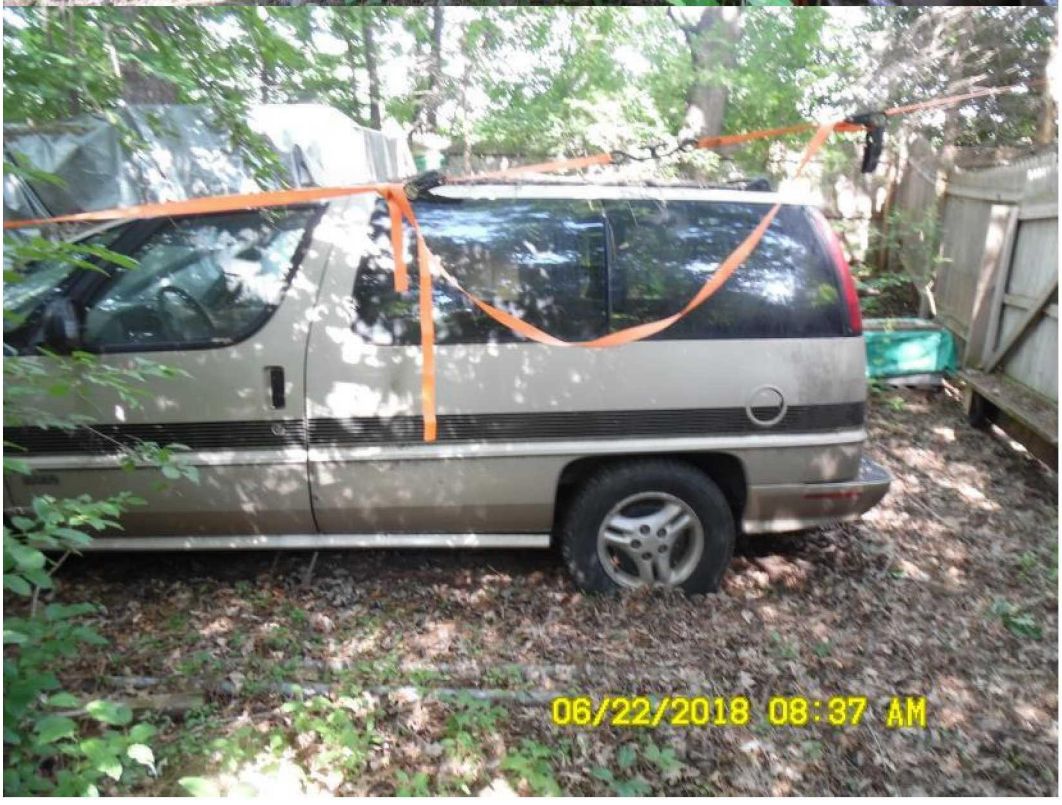

06/22/2018 08:36 AM

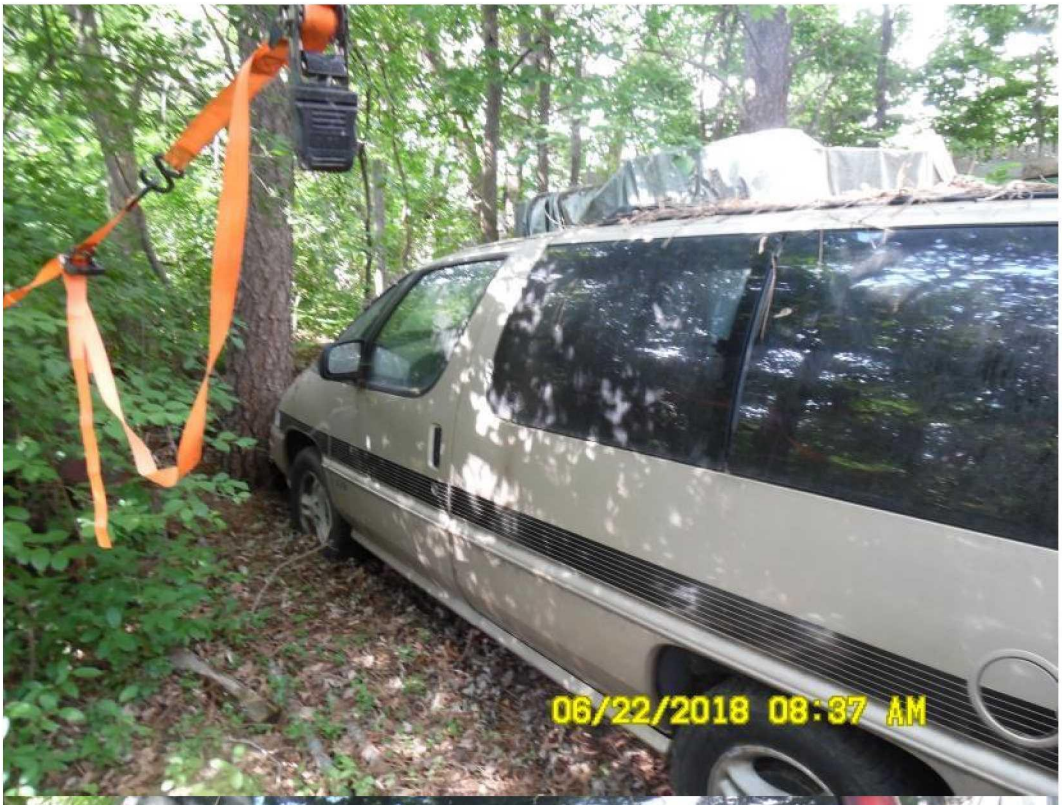

MINNESOTA TRAILER PERMANENT REG.
ABGV 222
3000 GVW
06/22/2018 08:37 AM

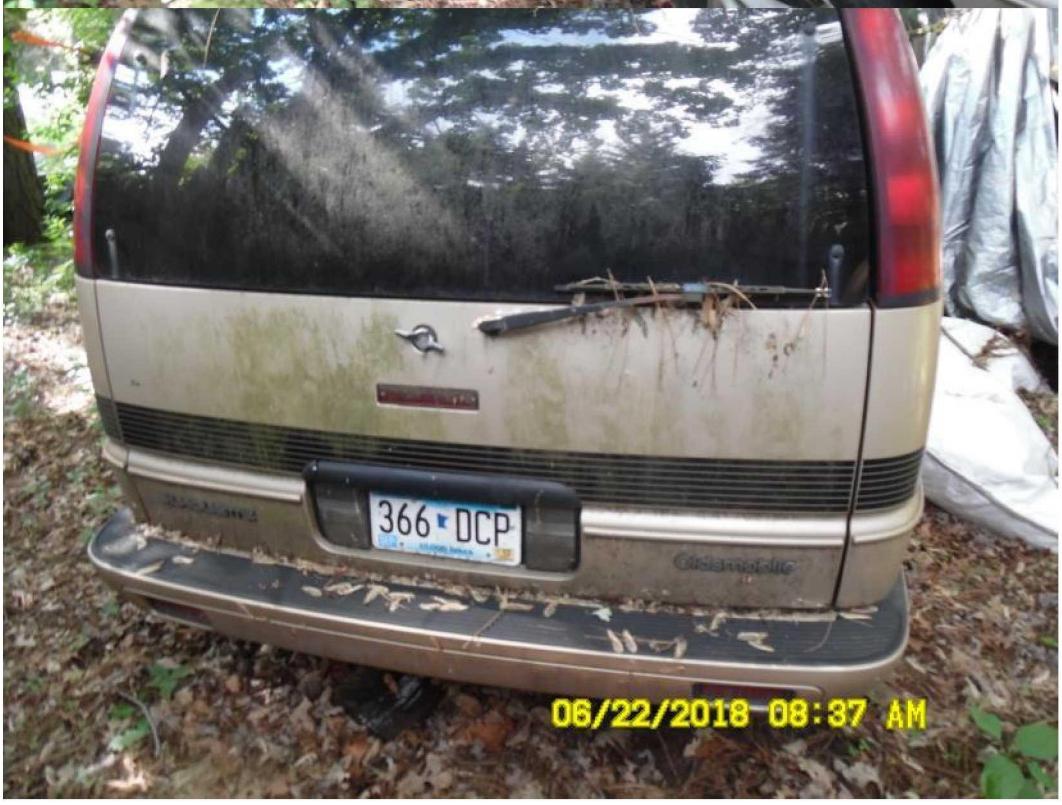

06/22/2018 08:37 AM


06/22/2018 08:37 AM


06/22/2018 08:37 AM


06/22/2018 08:37 AM

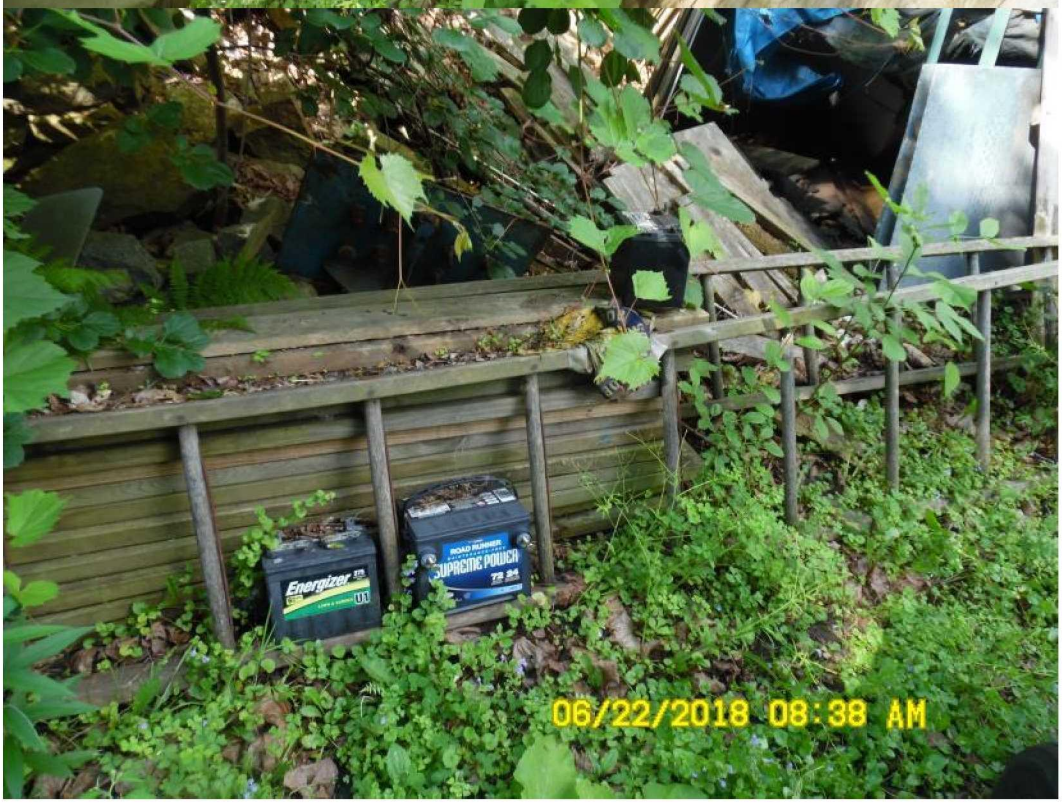

06/22/2018 08:37 AM


366 DCP
06/22/2018 08:37 AM

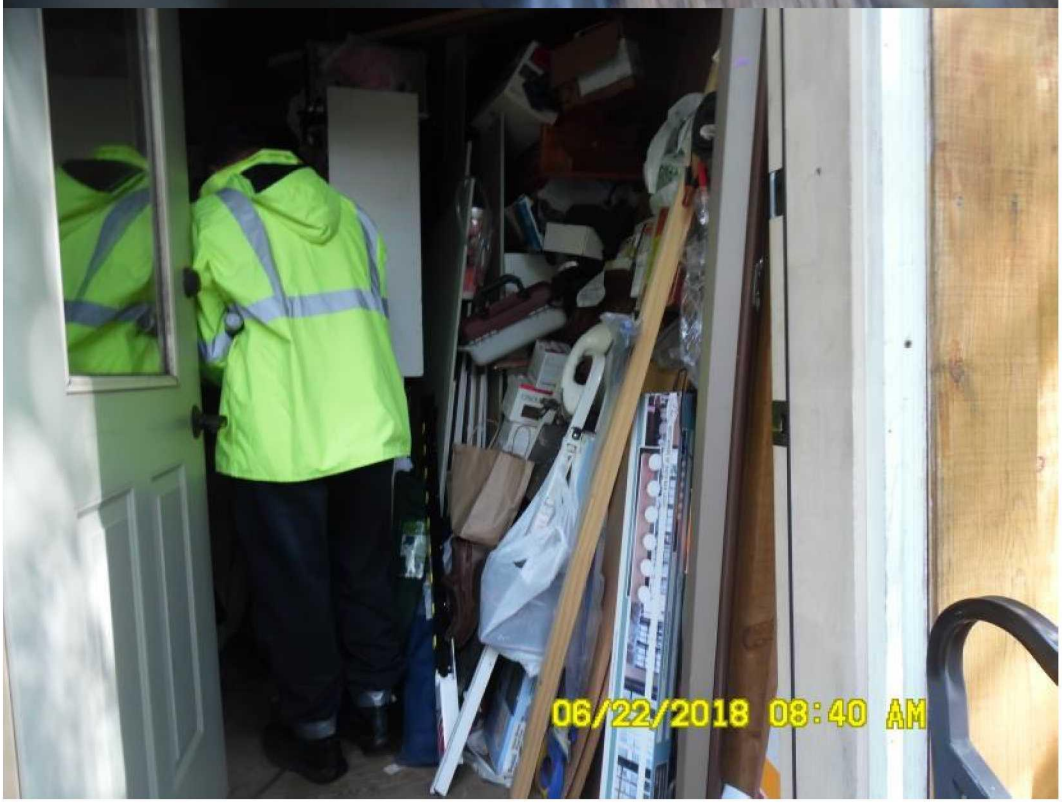

06/22/2018 08:37 AM

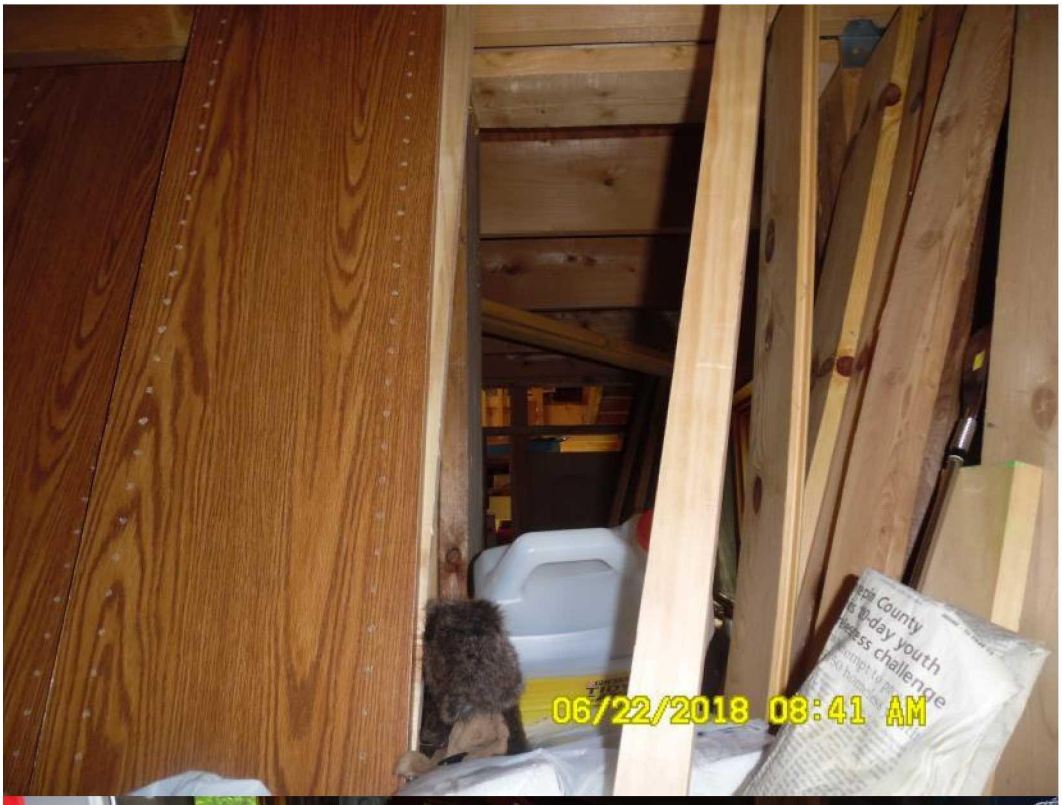

06/22/2018 08:37 AM

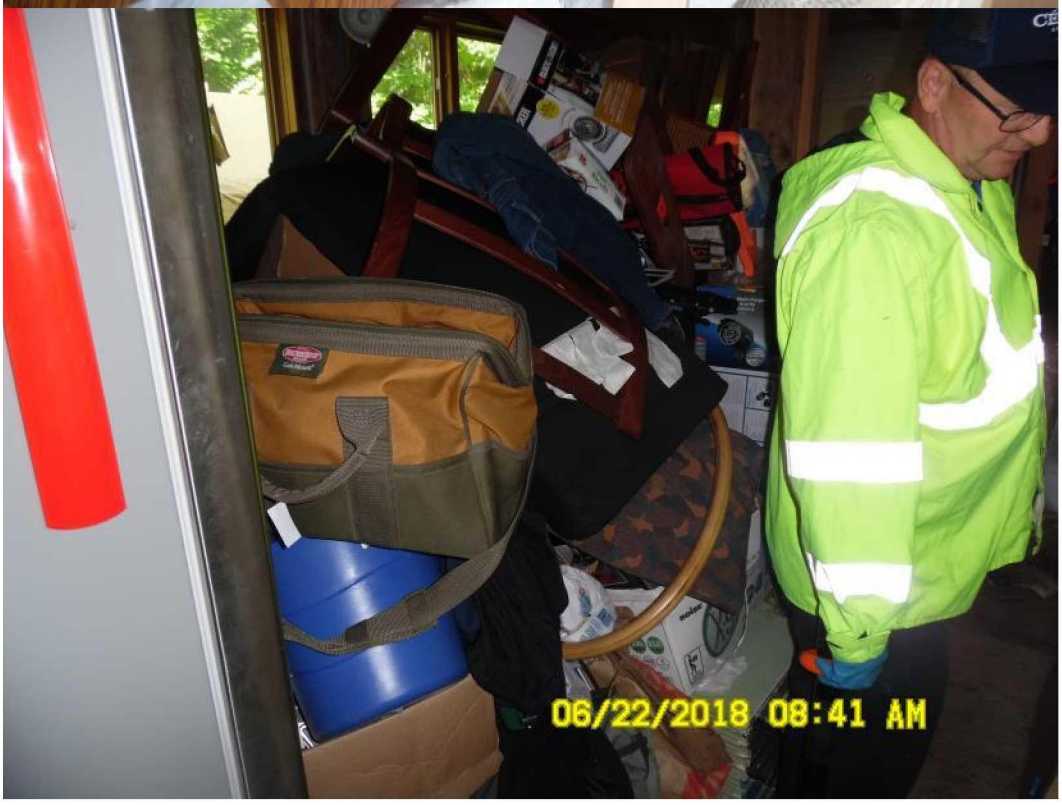

06/22/2018 08:38 AM


Energizer
SUPREME POWER
06/22/2018 08:38 AM

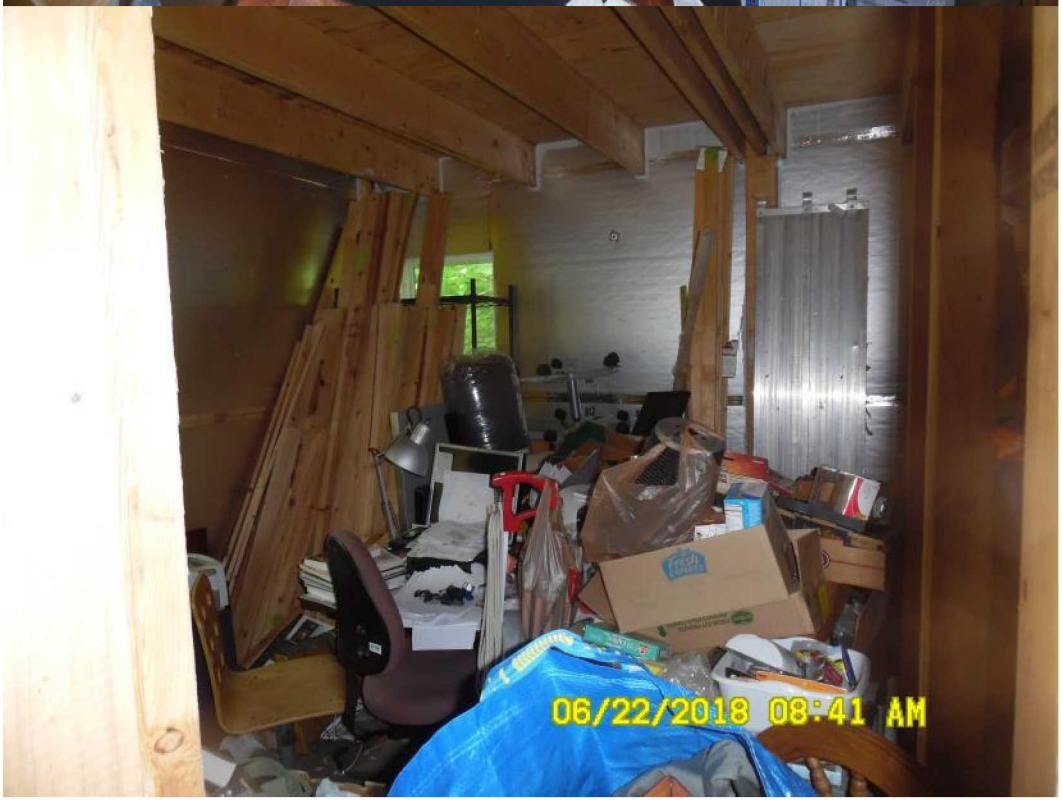

06/22/2018 08:40 AM


06/22/2018 08:40 AM

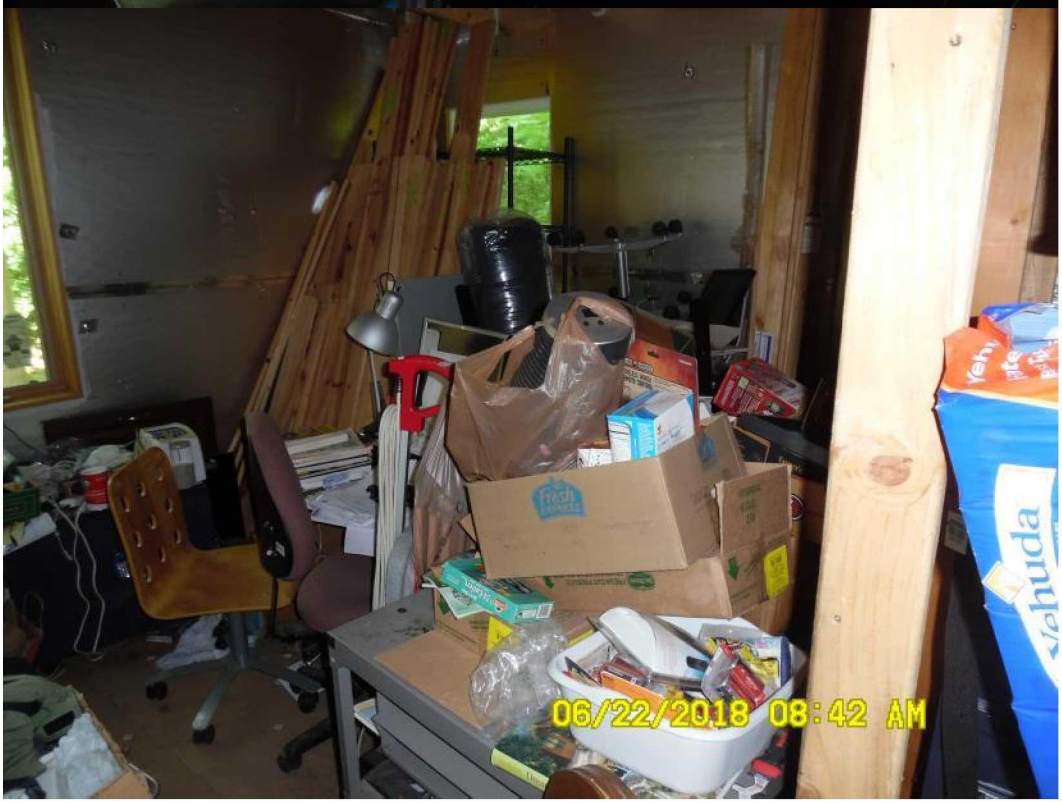

06/22/2018 08:41 AM

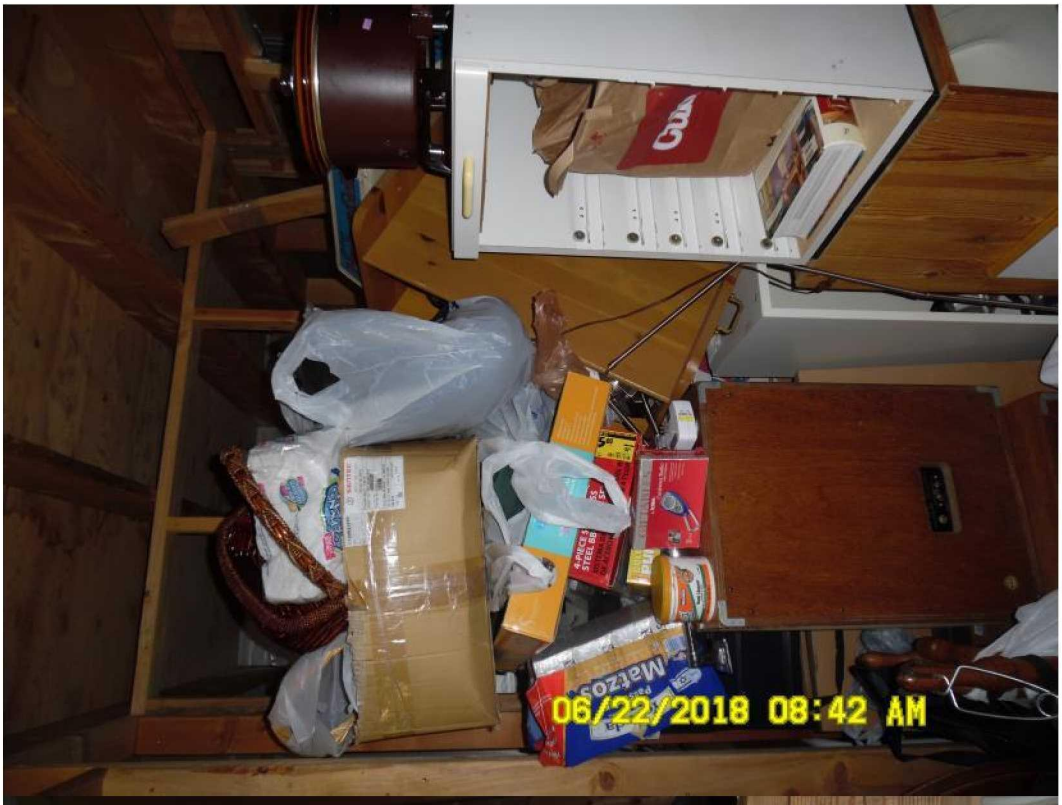

06/22/2018 08:41 AM

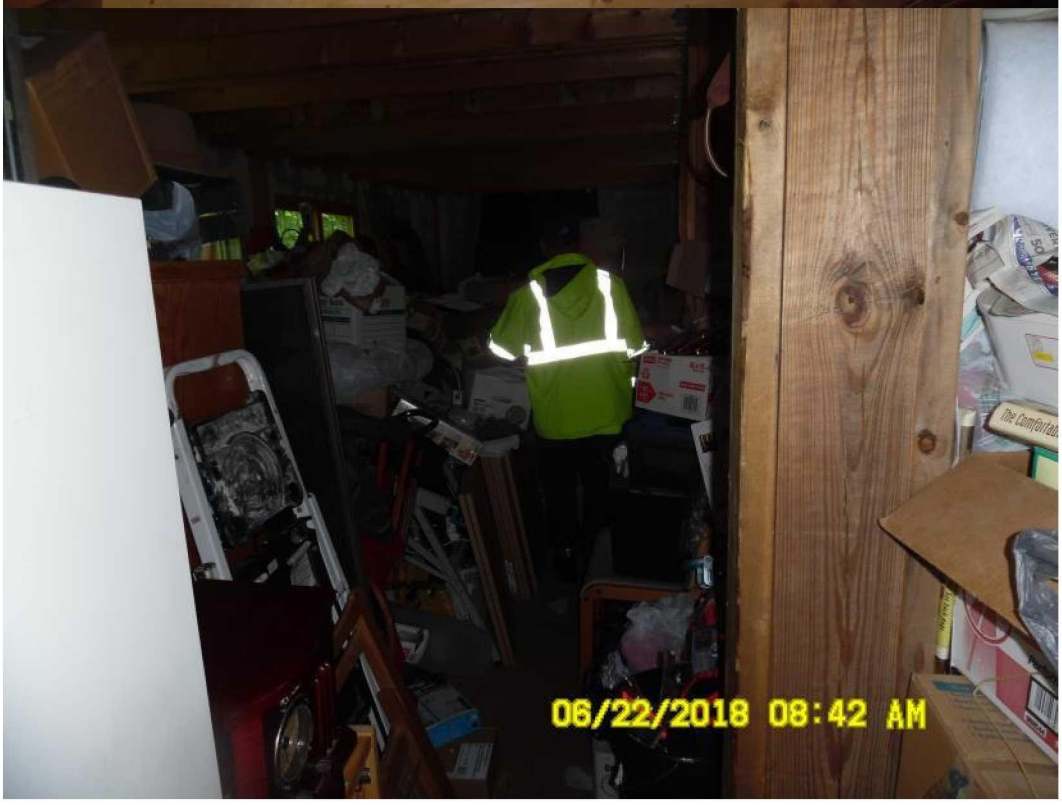

06/22/2018 08:41 AM


06/22/2018 08:41 AM


06/22/2018 08:42 AM

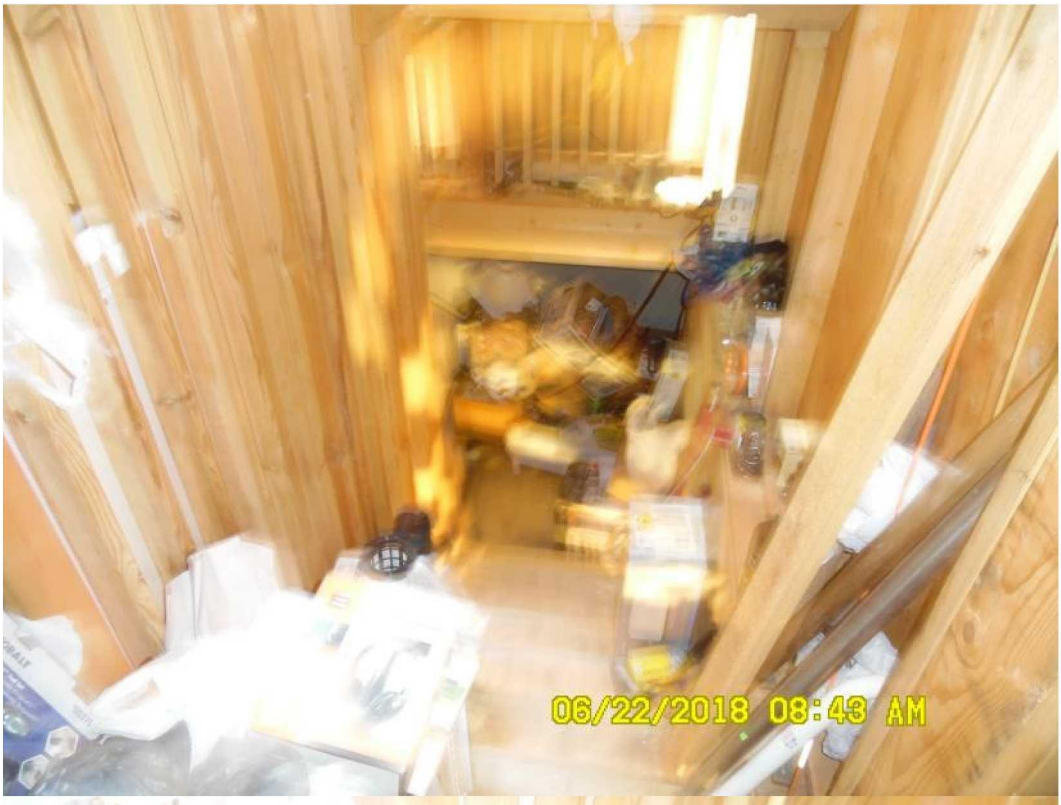

06/22/2018 08:42 AM


06/22/2018 08:42 AM


06/22/2018 08:42 AM


06/22/2018 08:42 AM

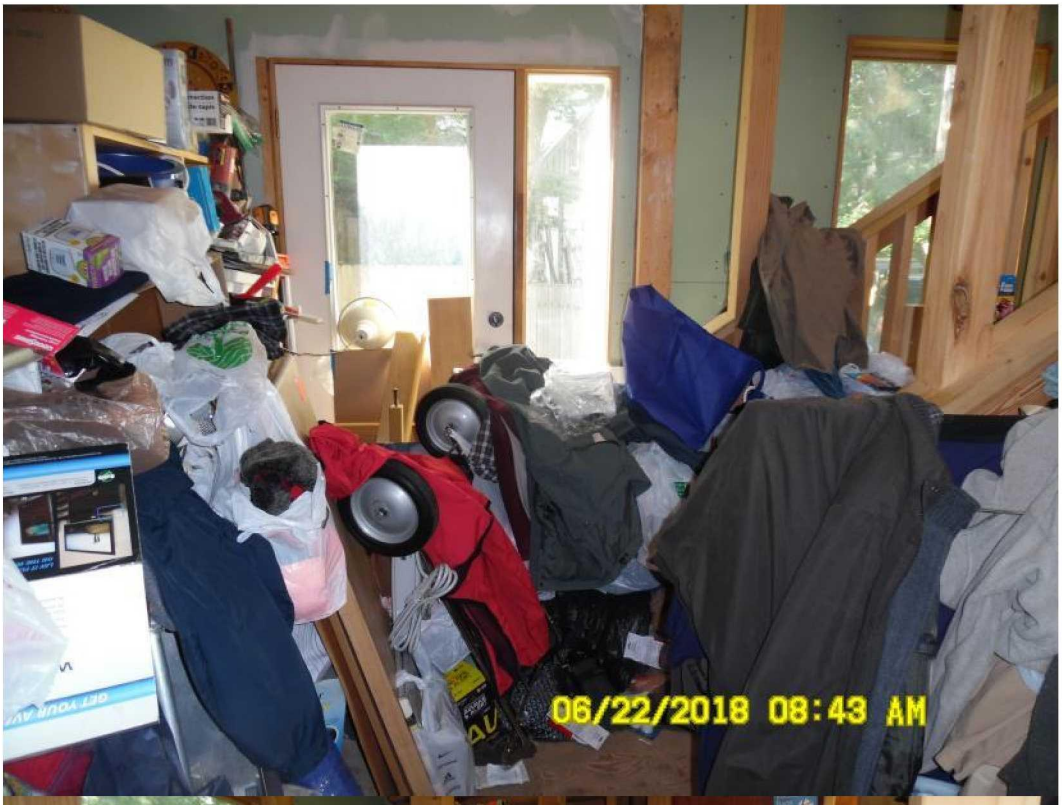

06/22/2018 08:42 AM

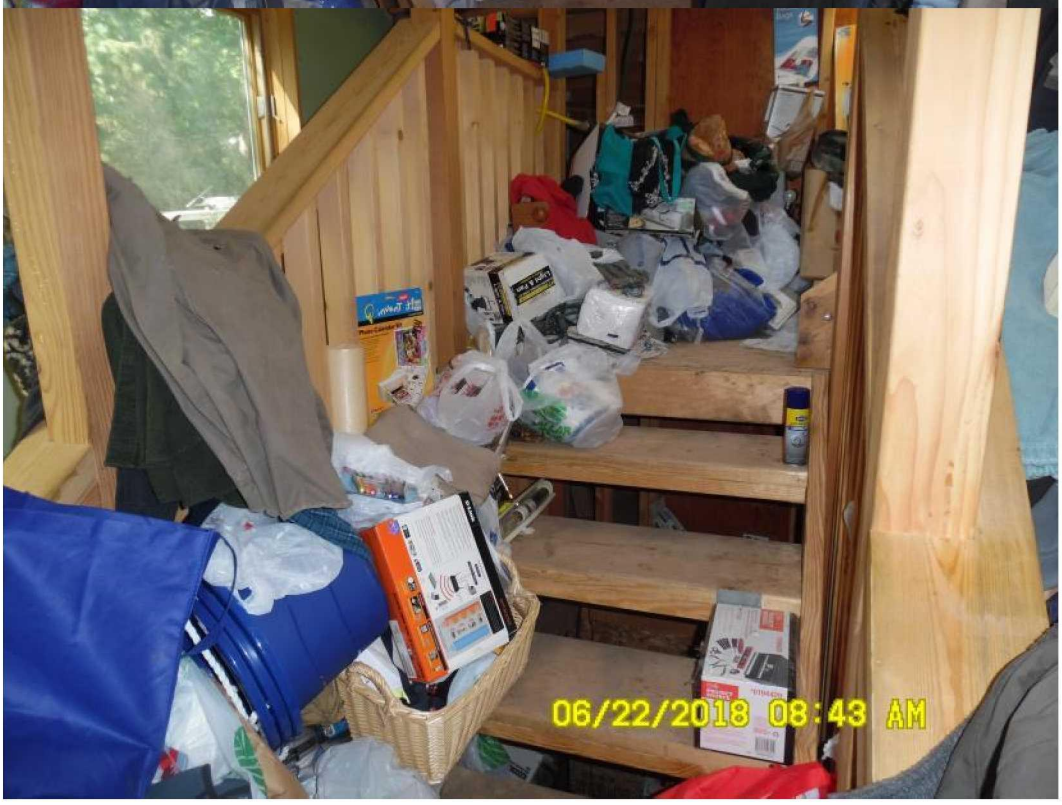

06/22/2018 08:43 AM

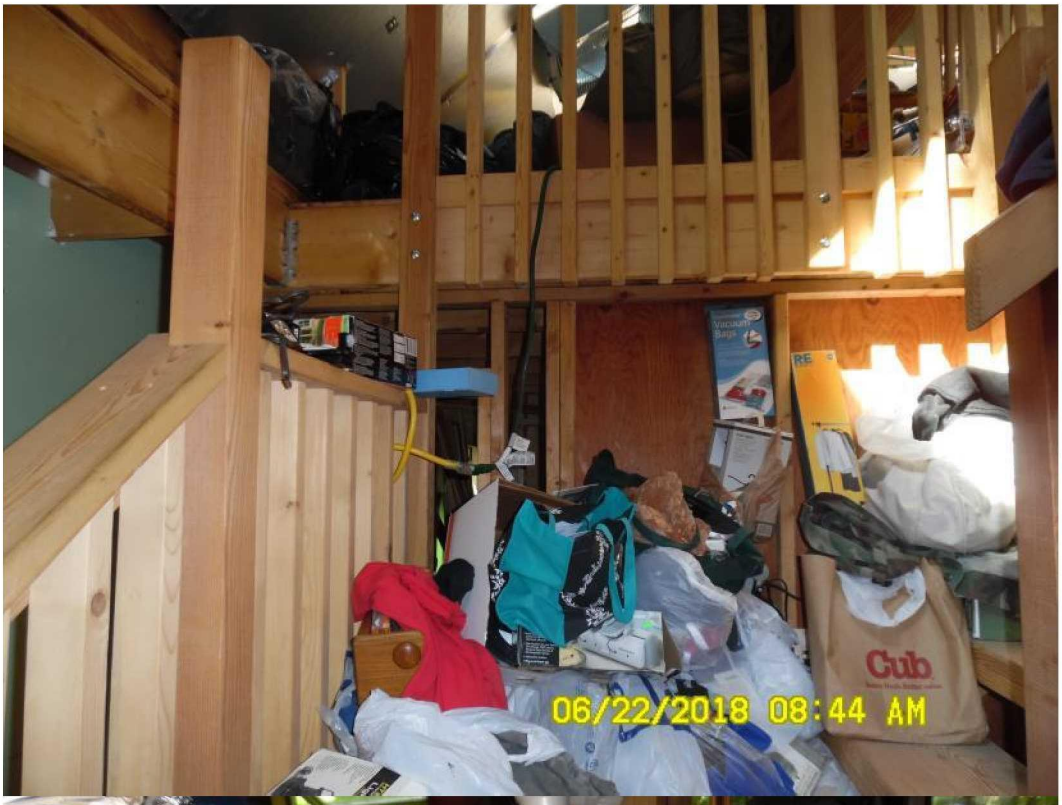

06/22/2018 08:43 AM


06/22/2018 08:43 AM

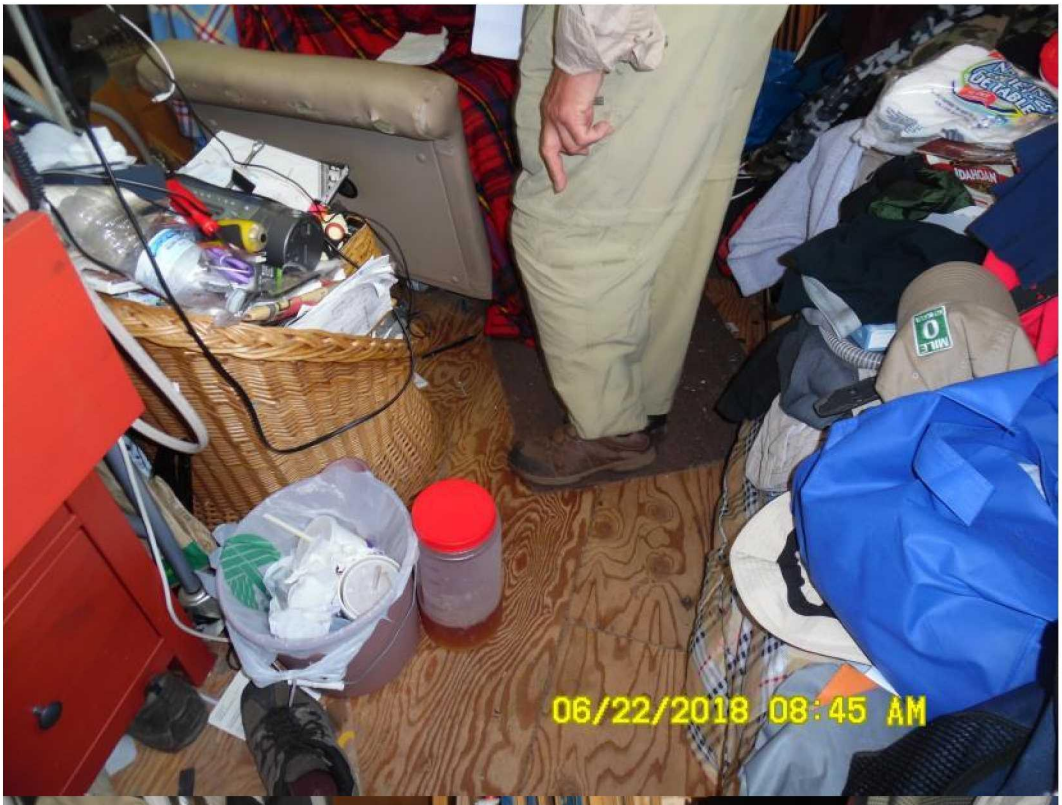

06/22/2018 08:43 AM

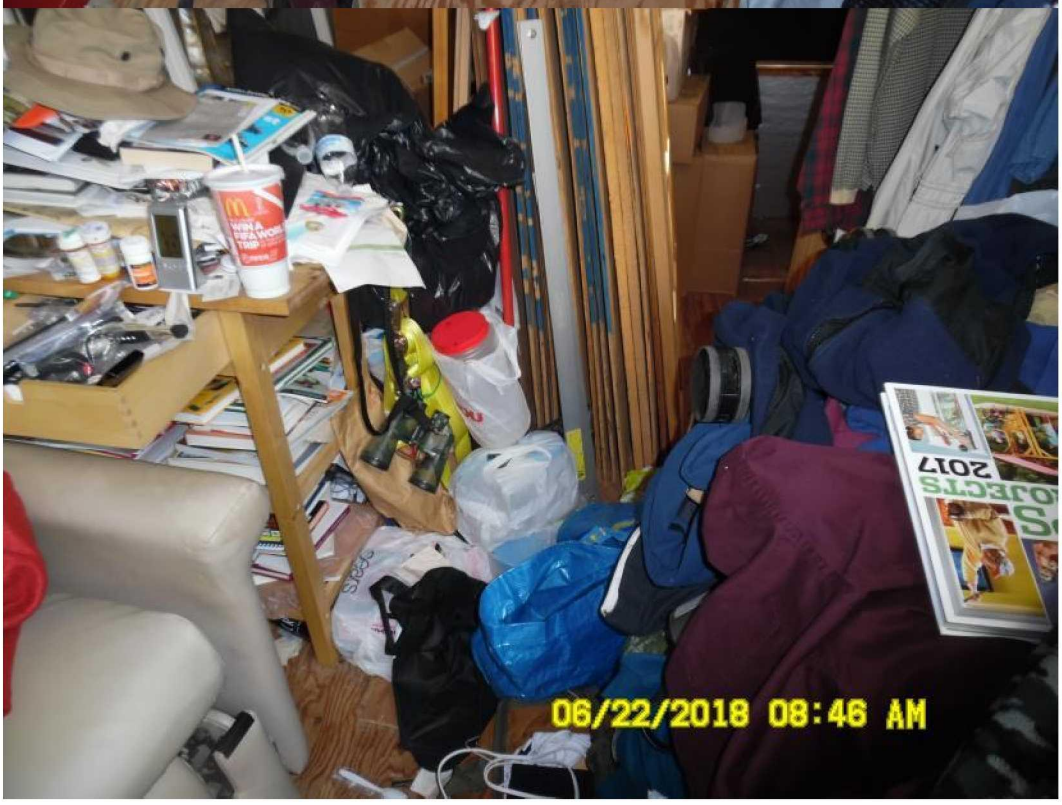

06/22/2018 08:43 AM

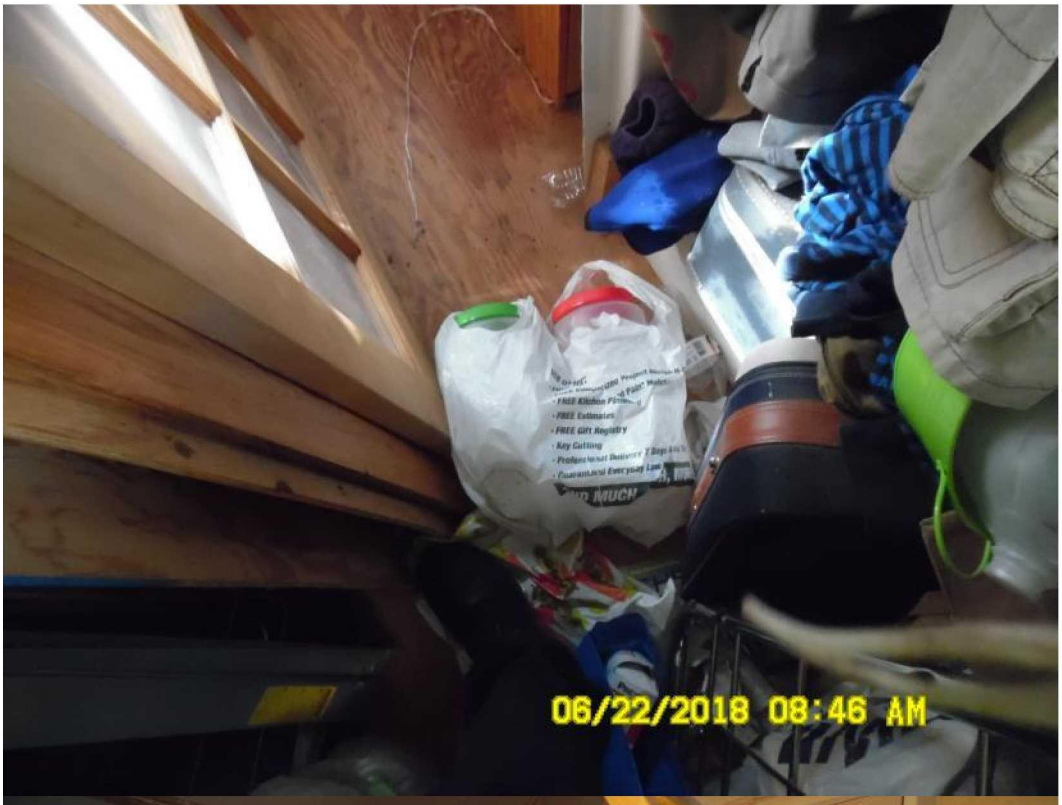

06/22/2018 08:43 AM

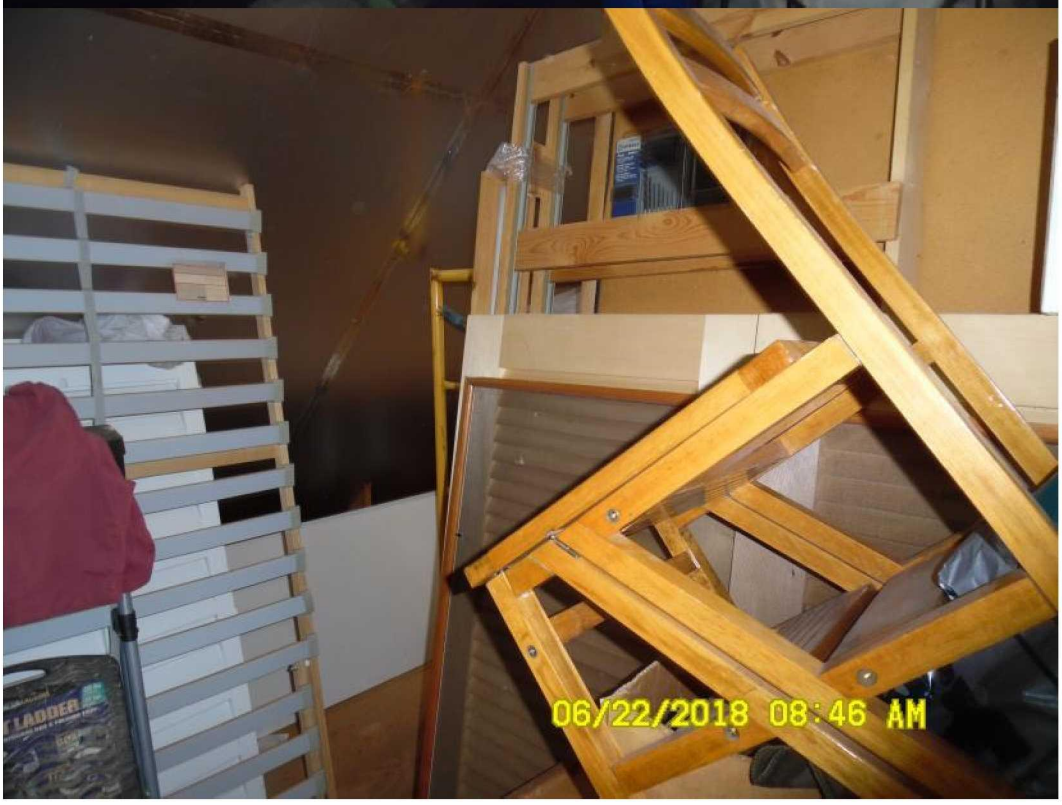

Cub
06/22/2018 08:44 AM


06/22/2018 08:44 AM

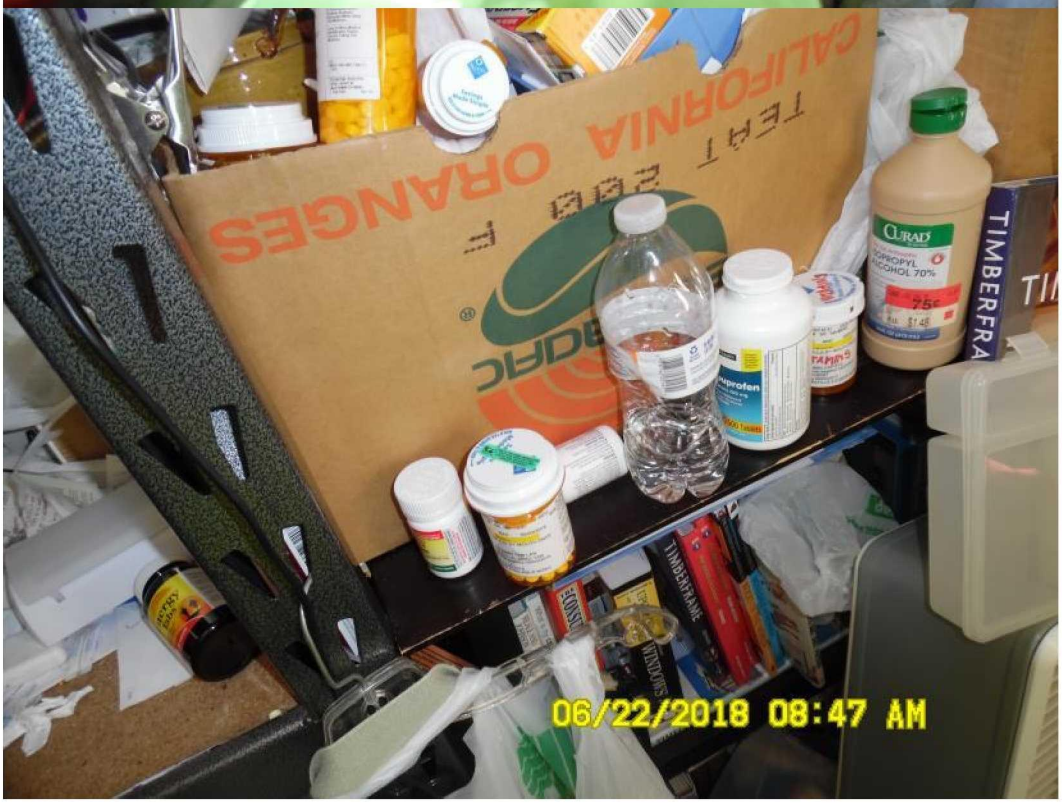

06/22/2018 08:45 AM

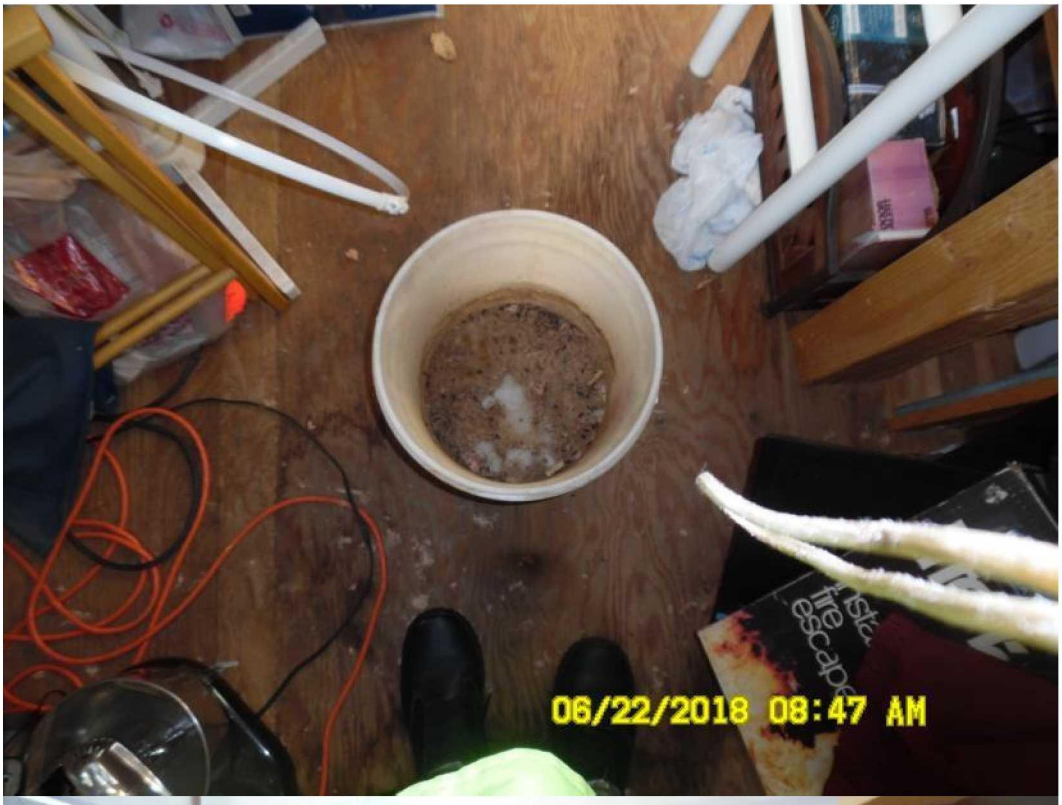

06/22/2018 08:46 AM


06/22/2018 08:46 AM


06/22/2018 08:46 AM


06/22/2018 08:47 AM

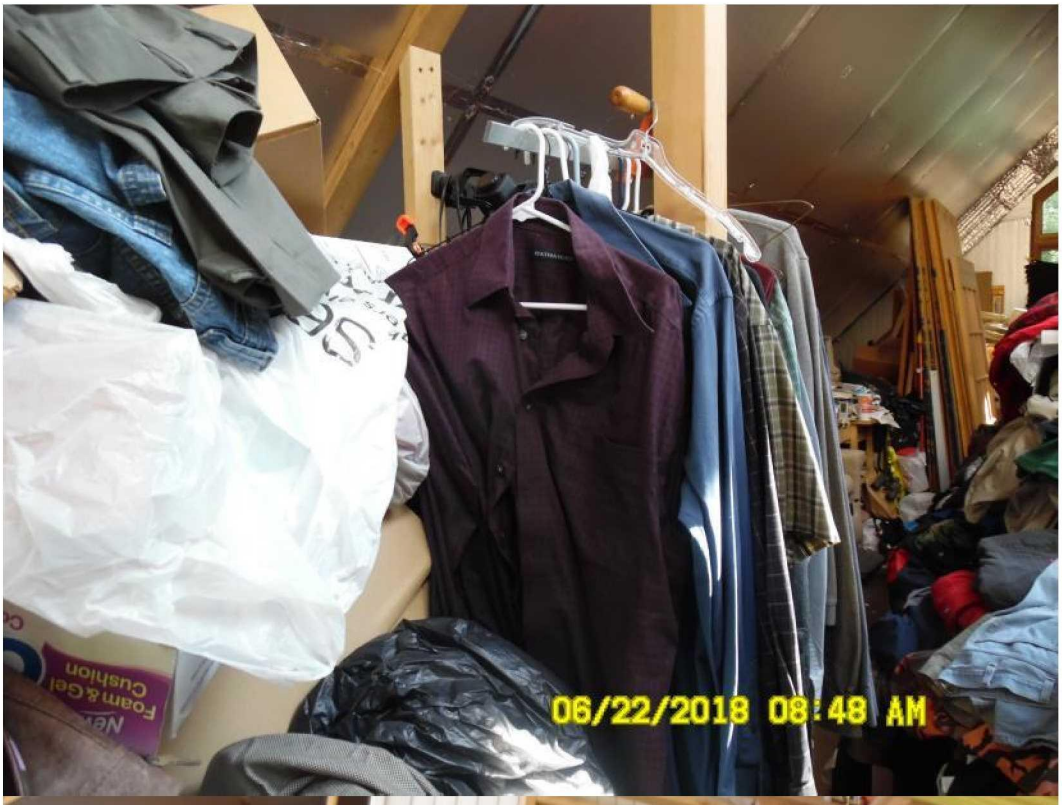

CALIFORNIA ORANGES
TIMBERFRA
06/22/2018 08:47 AM


06/22/2018 08:47 AM

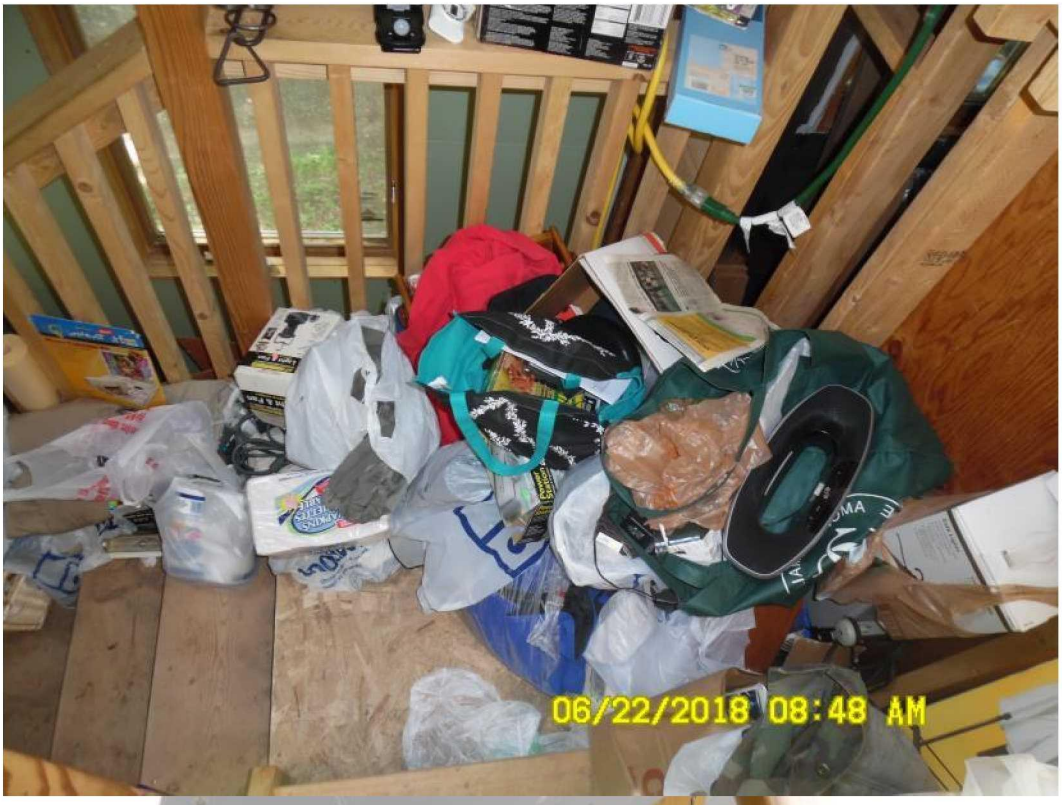

06/22/2018 08:48 AM


06/22/2018 08:48 AM

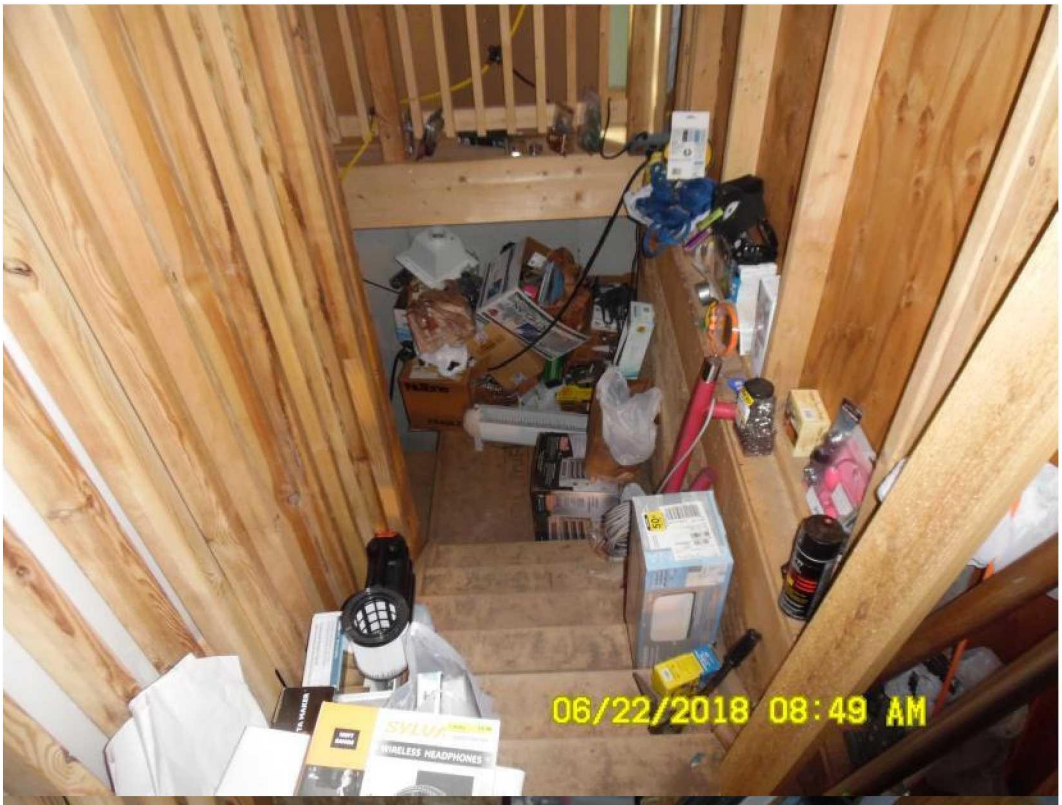

5710
CHICKEN WINGS
06/22/2018 08:48 AM

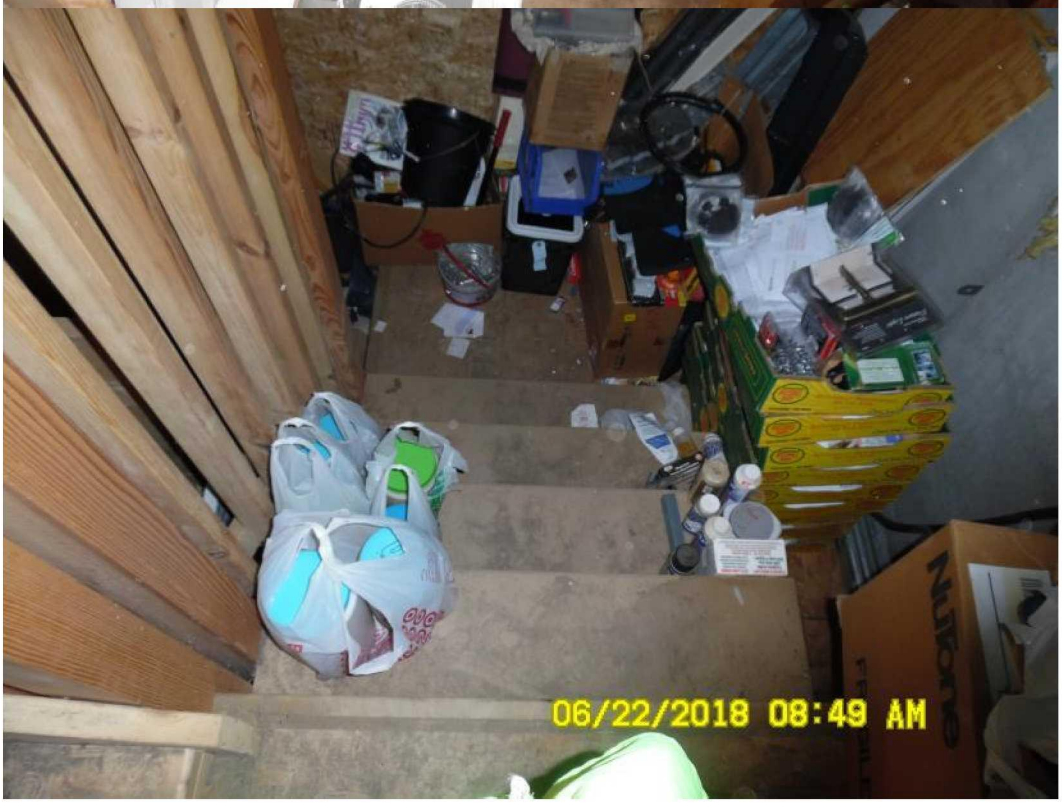

06/22/2018 08:48 AM


06/22/2018 08:48 AM

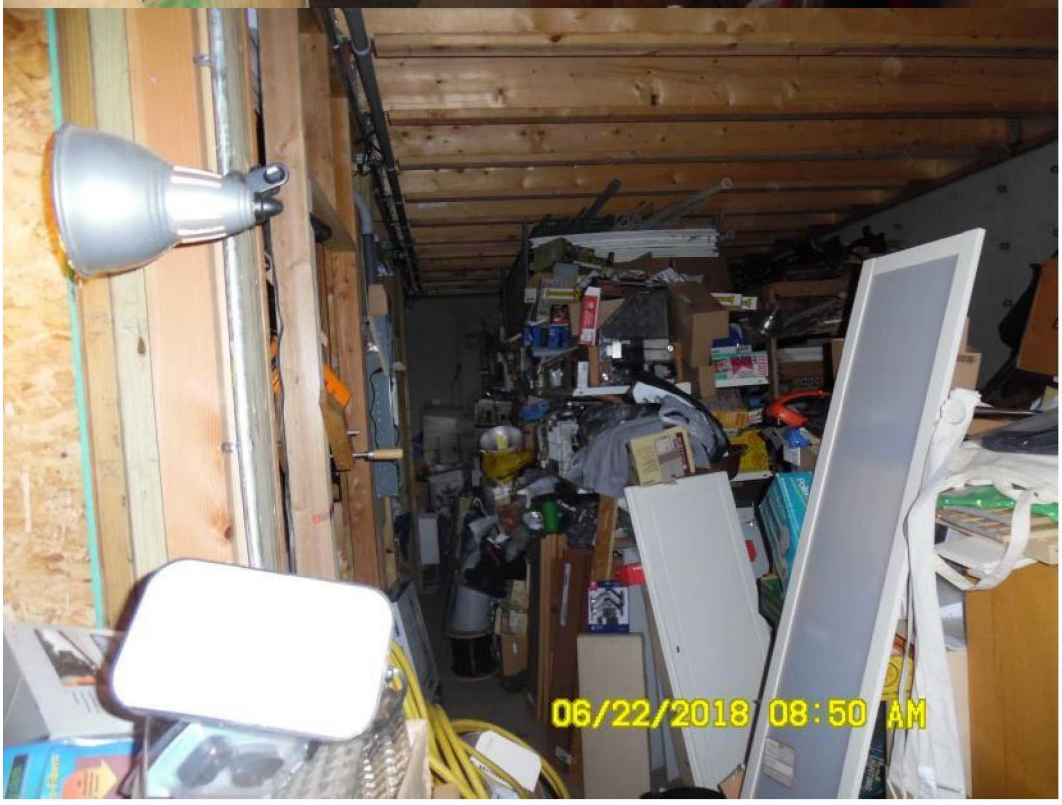

06/22/2018 08:48 AM

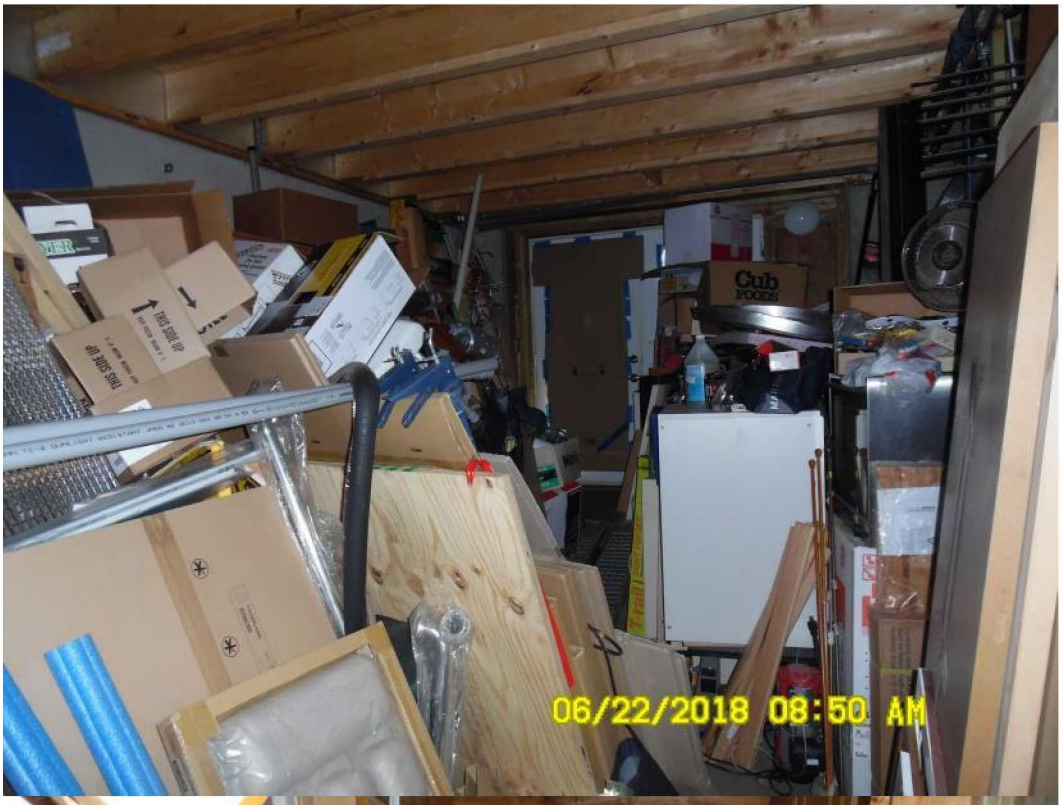

06/22/2018 08:49 AM

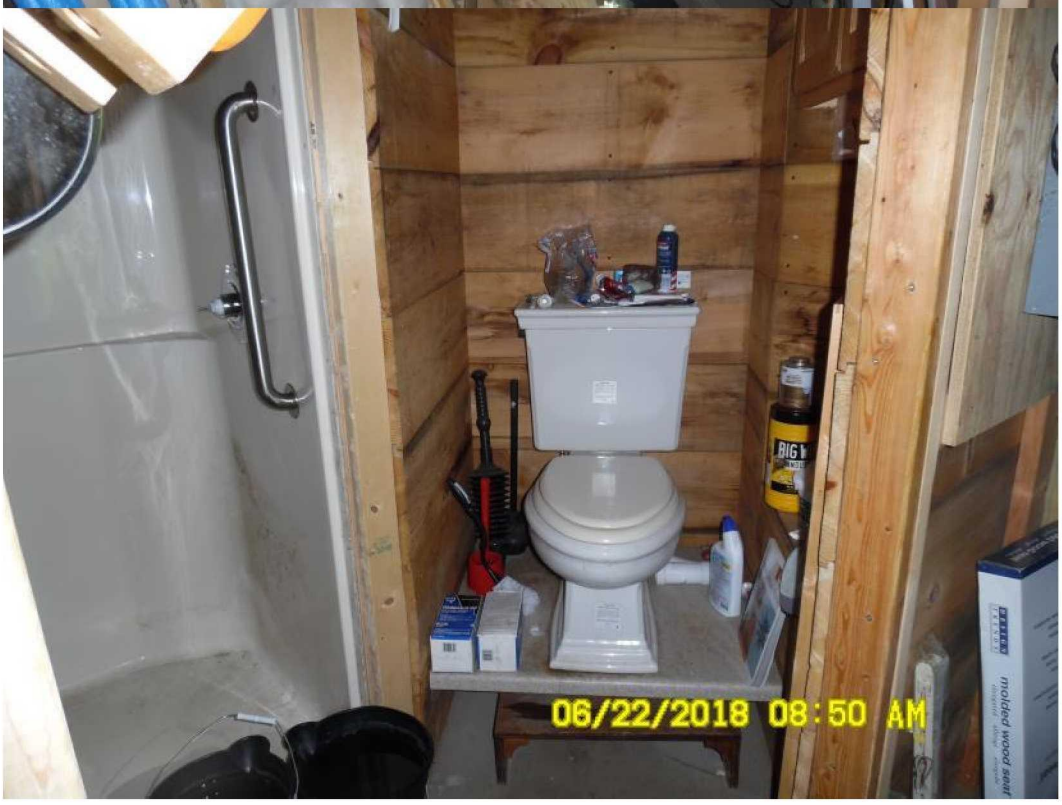

06/22/2018 08:49 AM

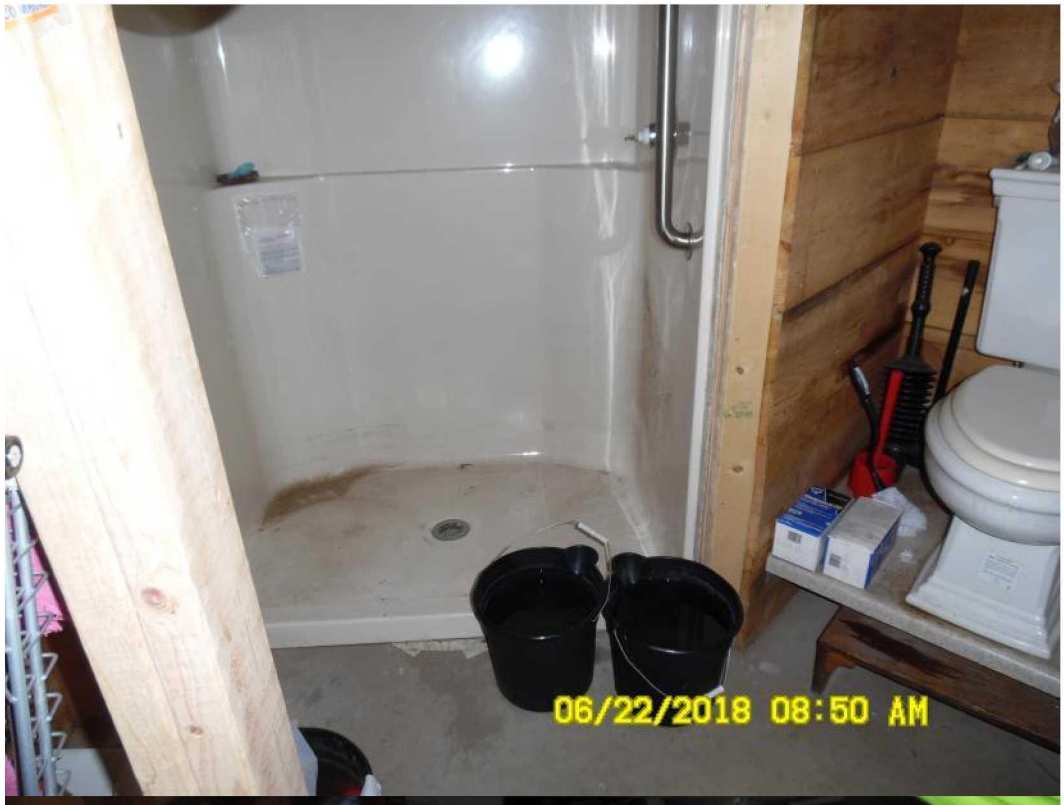

06/22/2018 08:49 AM


06/22/2018 08:49 AM


06/22/2018 08:50 AM

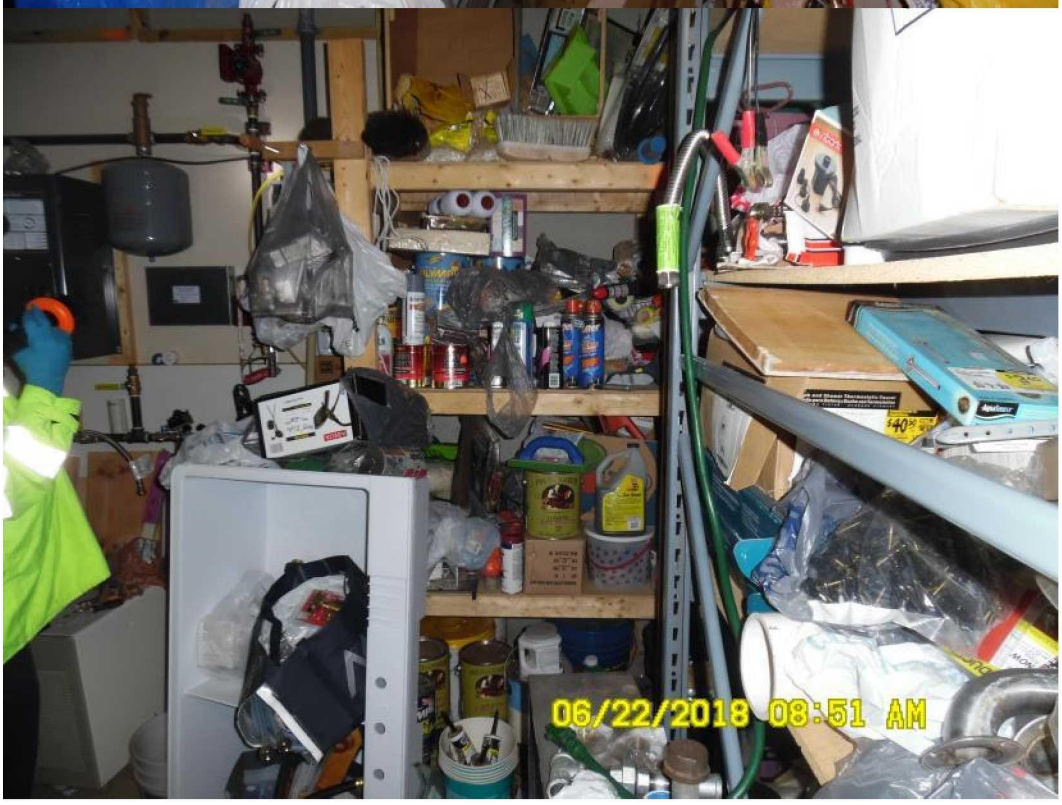

06/22/2018 08:50 AM

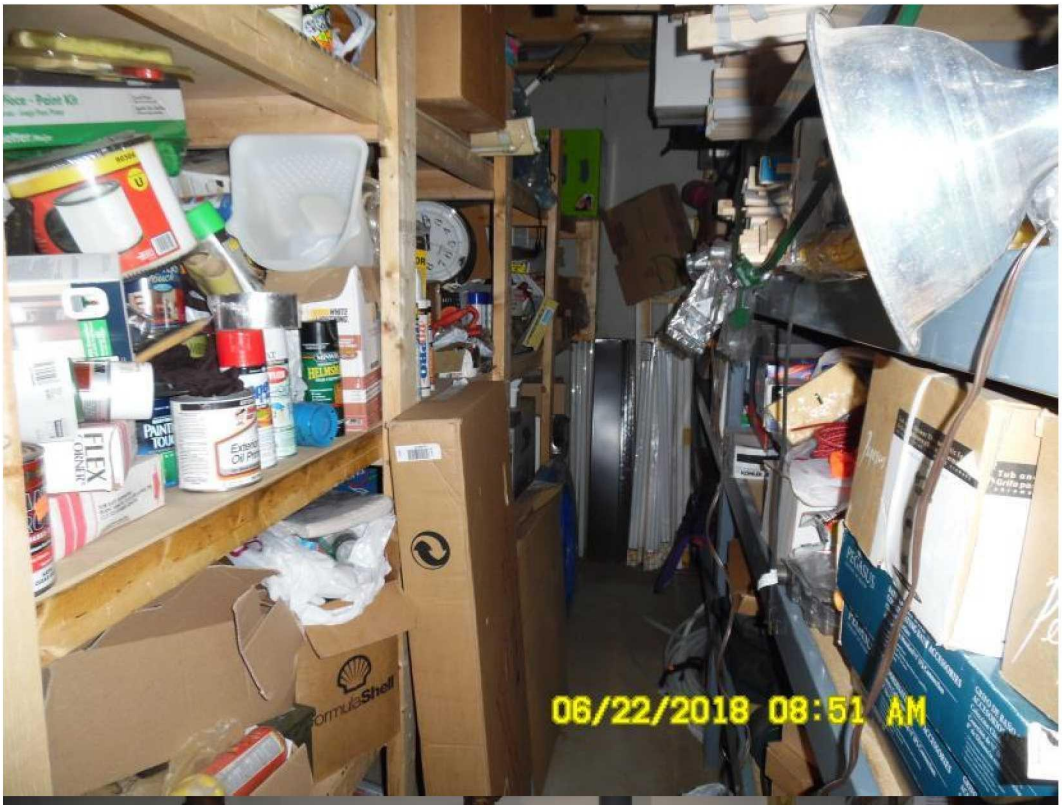

06/22/2018 08:50 AM


06/22/2018 08:50 AM


06/22/2018 08:51 AM

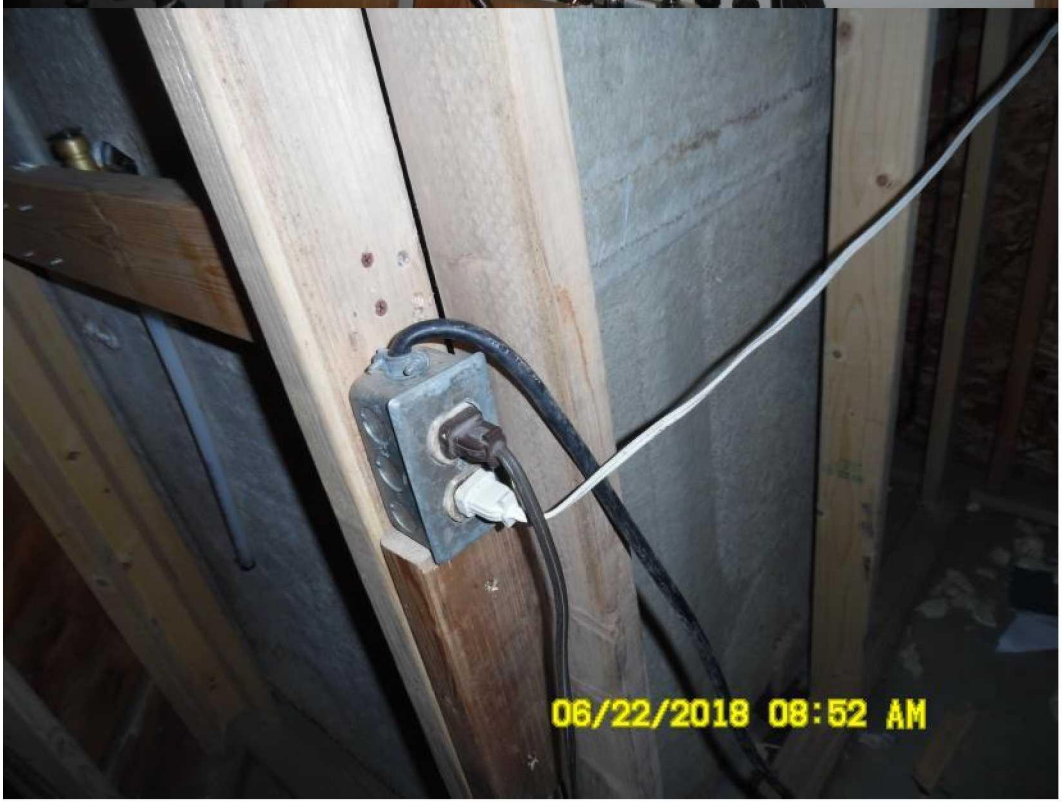

06/22/2018 08:51 AM

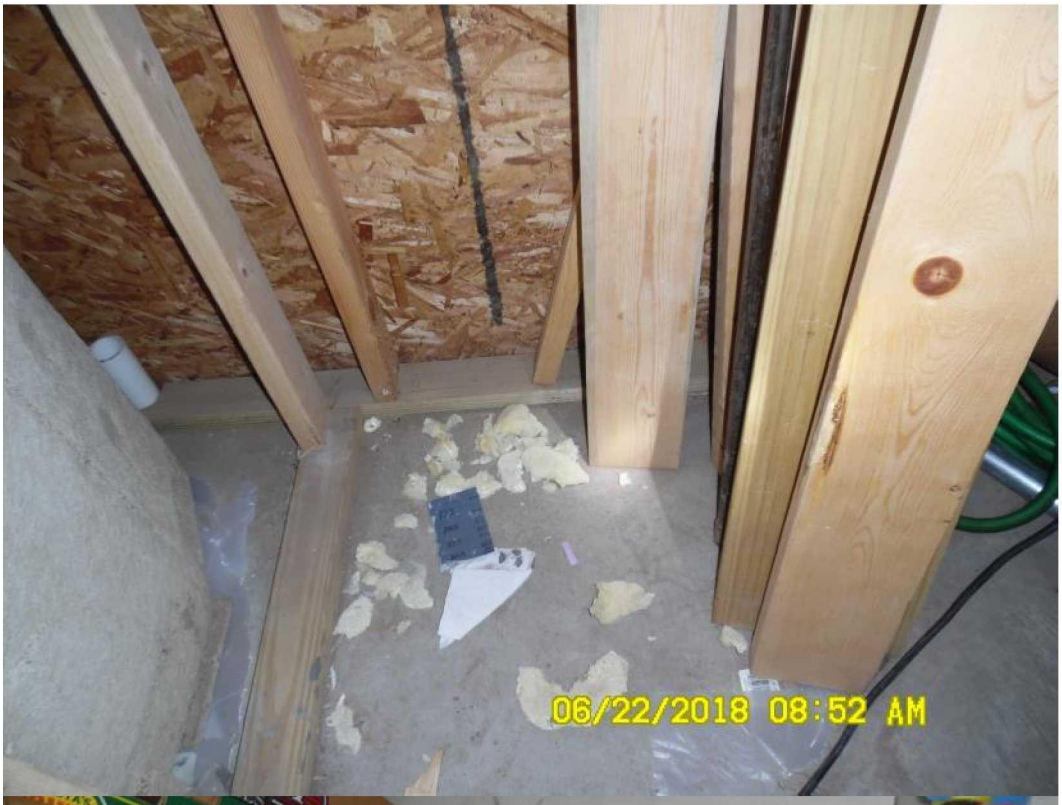

06/22/2018 08:51 AM


06/22/2018 08:51 AM

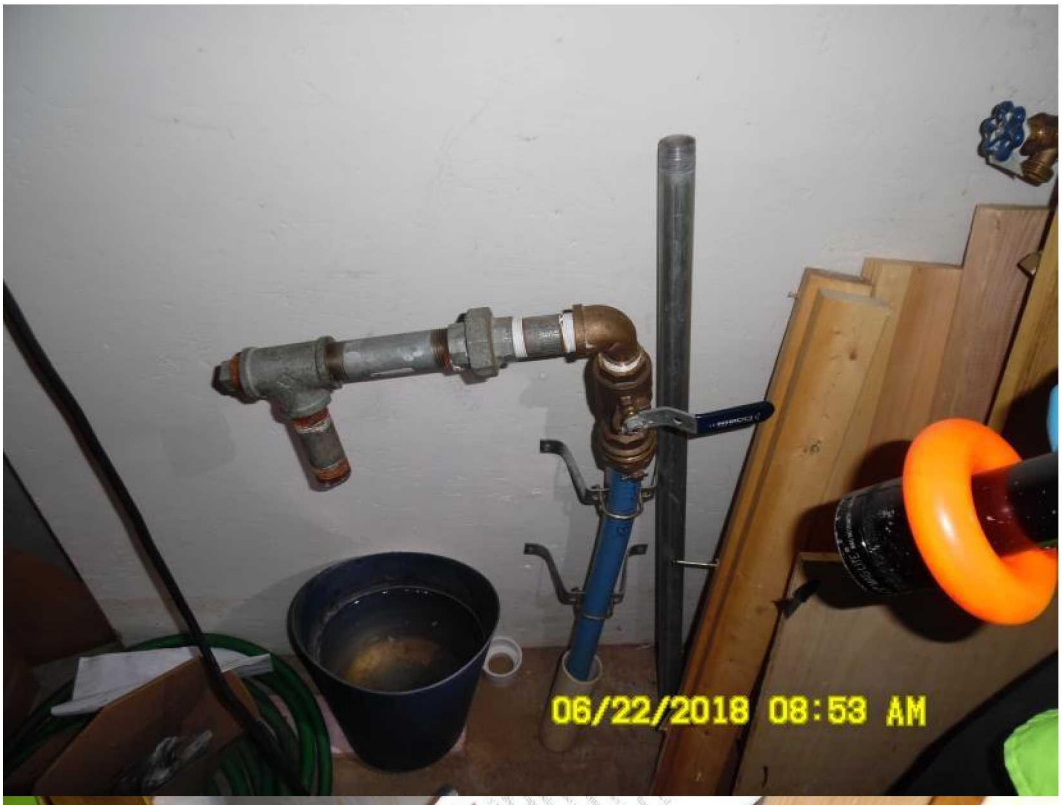

06/22/2018 08:51 AM


06/22/2018 08:52 AM

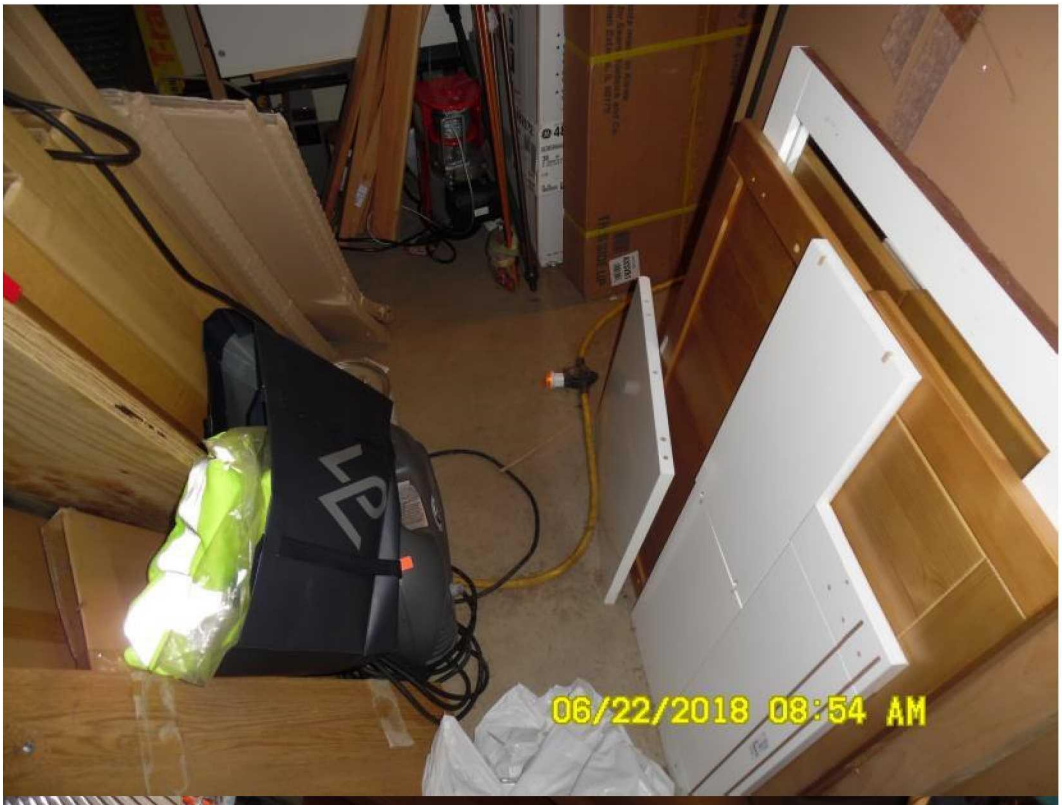

06/22/2018 08:52 AM


06/22/2018 08:52 AM


naturally ripened
LOCALLY GROWN
06/22/2018 08:52 AM

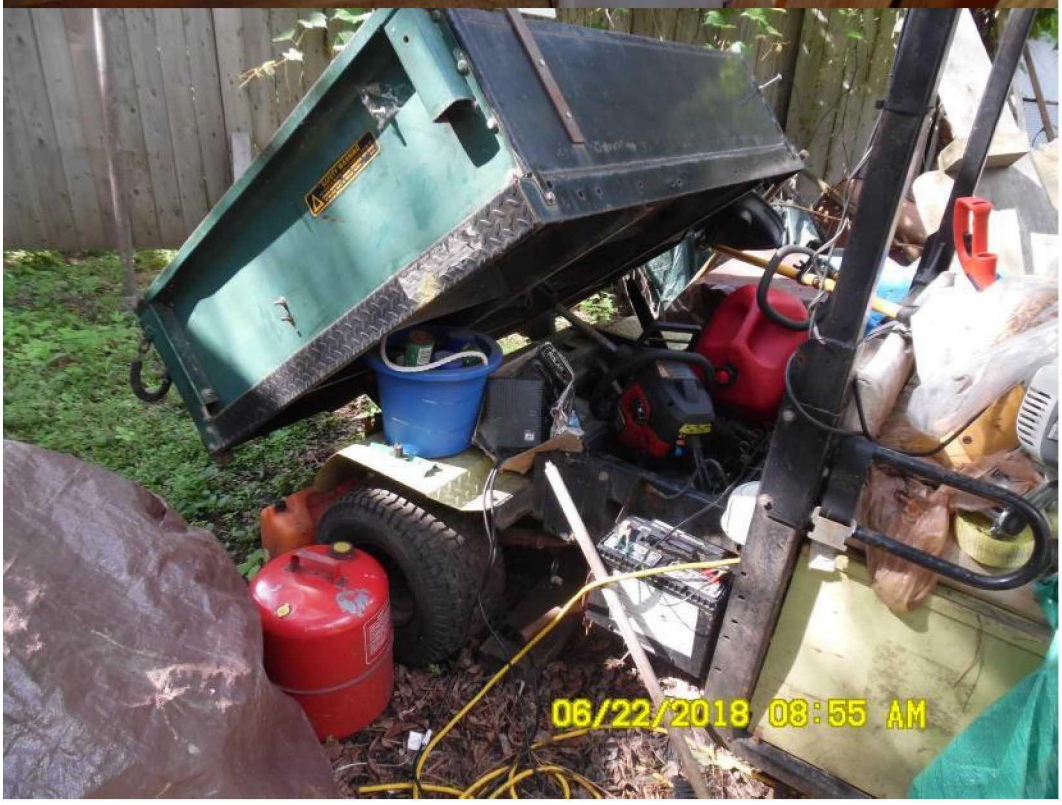

06/22/2018 08:53 AM

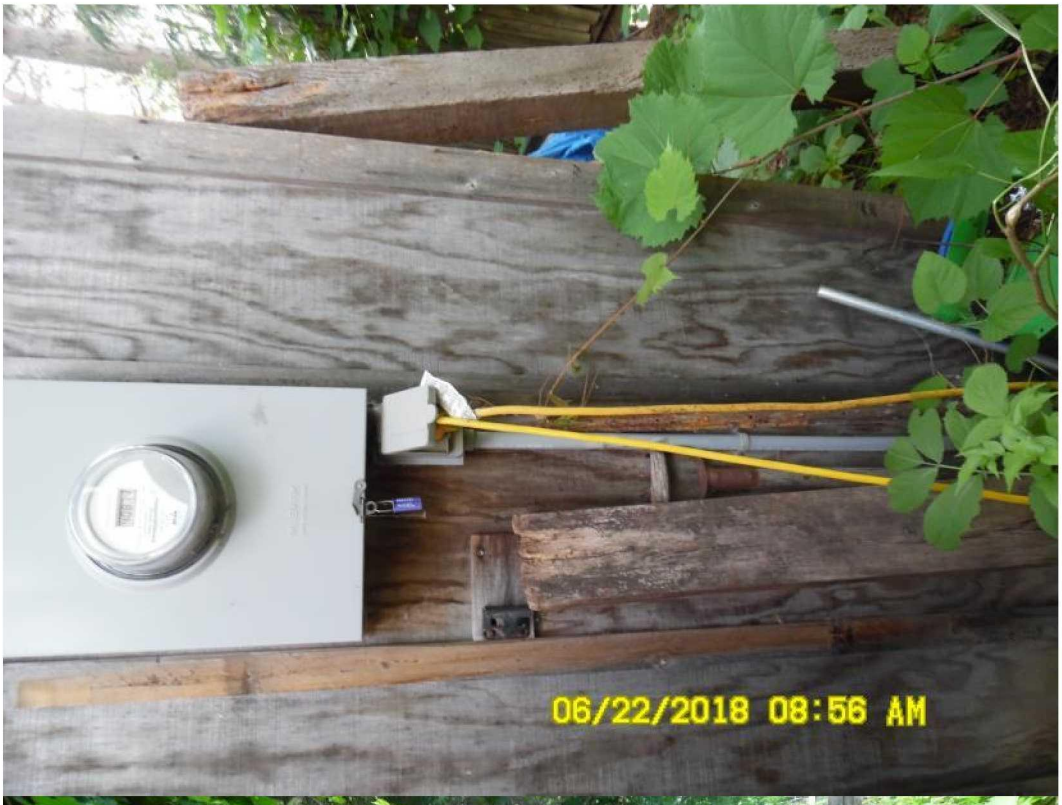

06/22/2018 08:53 AM


06/22/2018 08:54 AM

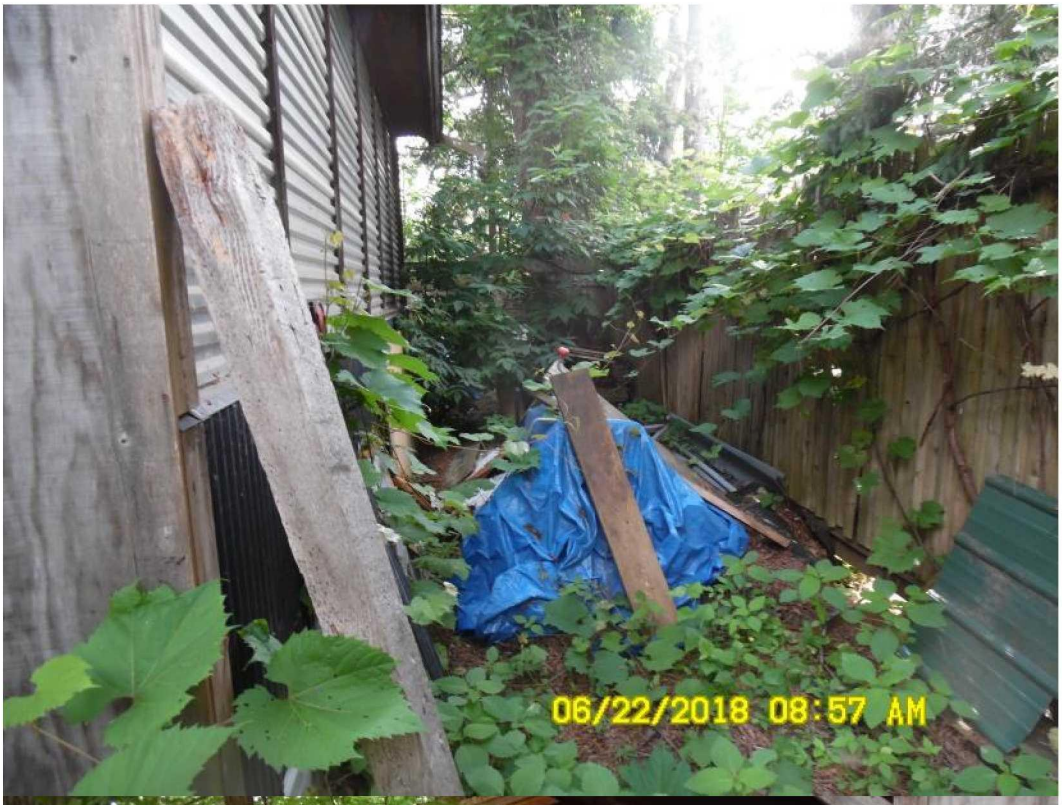

06/22/2018 08:54 AM

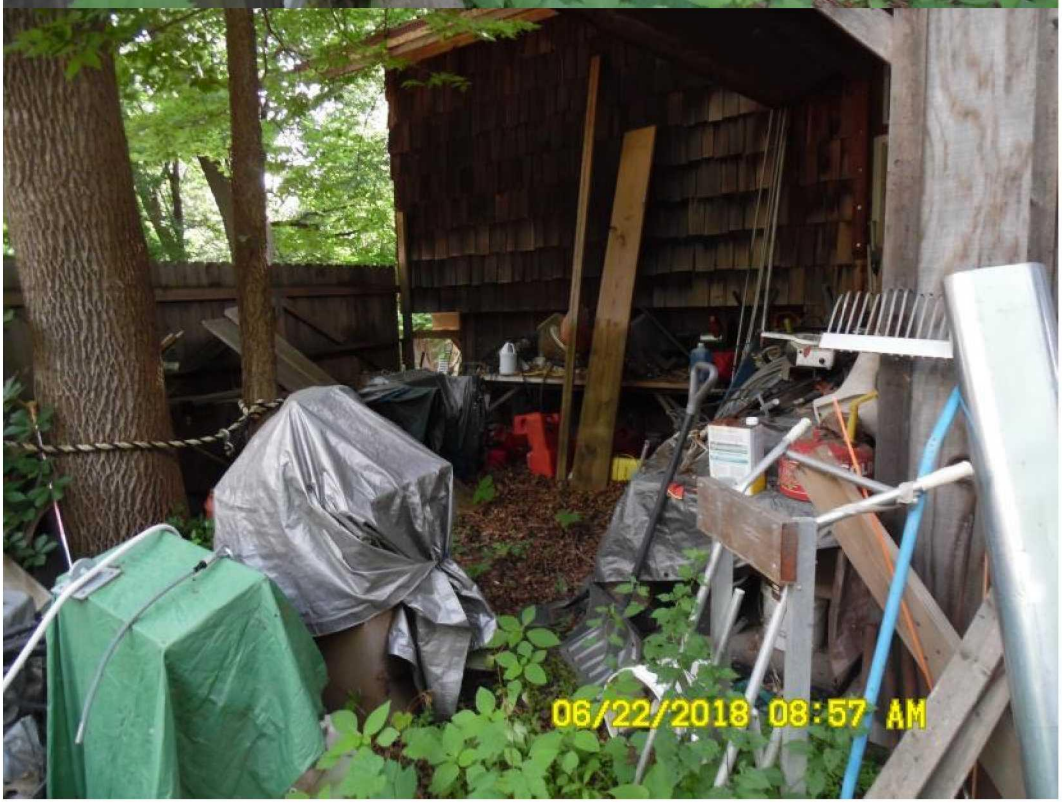

06/22/2018 08:54 AM

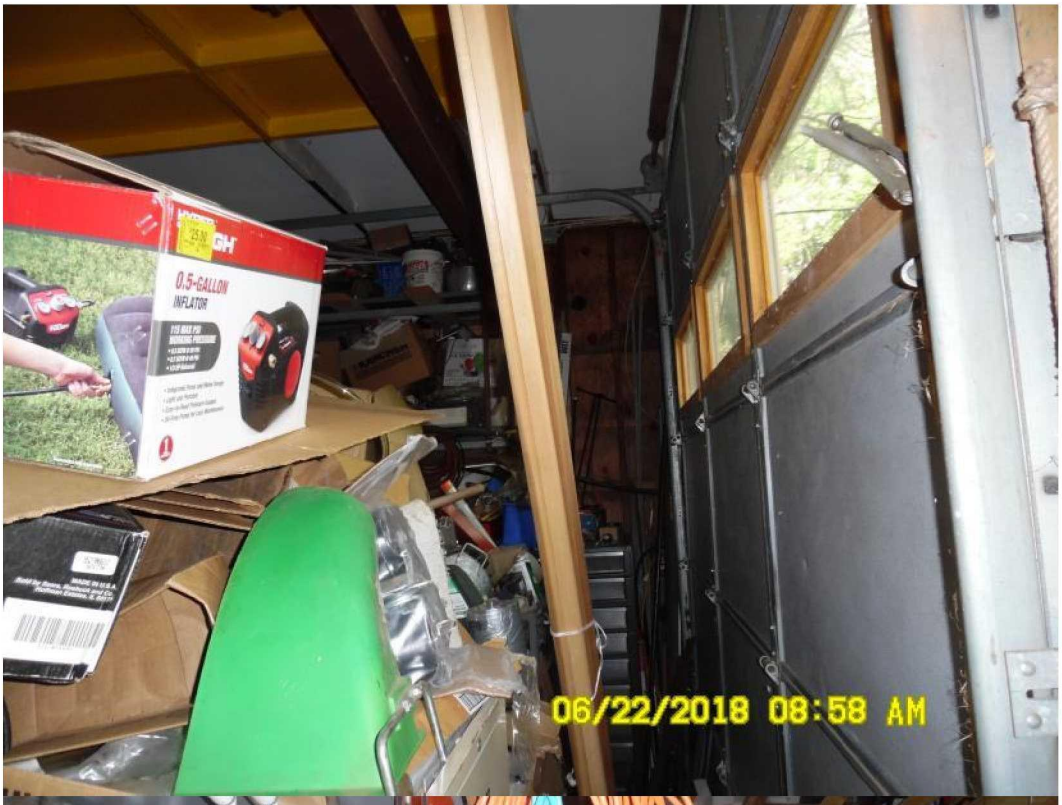

06/22/2018 08:55 AM

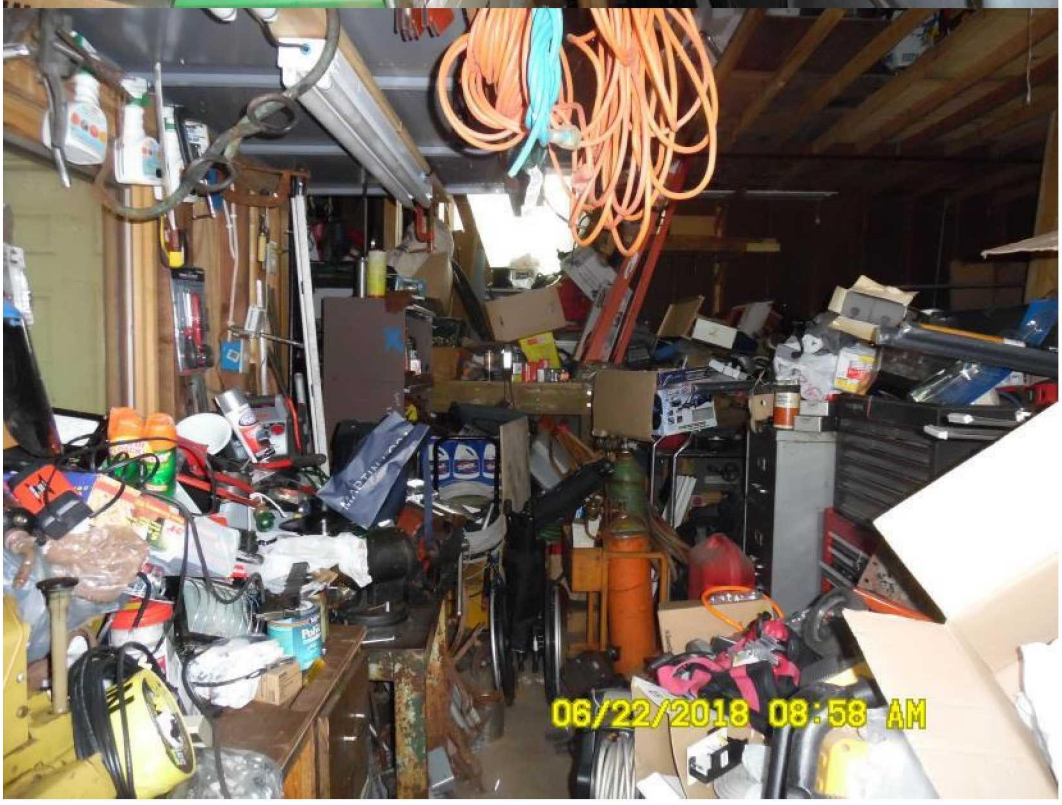

06/22/2018 08:56 AM

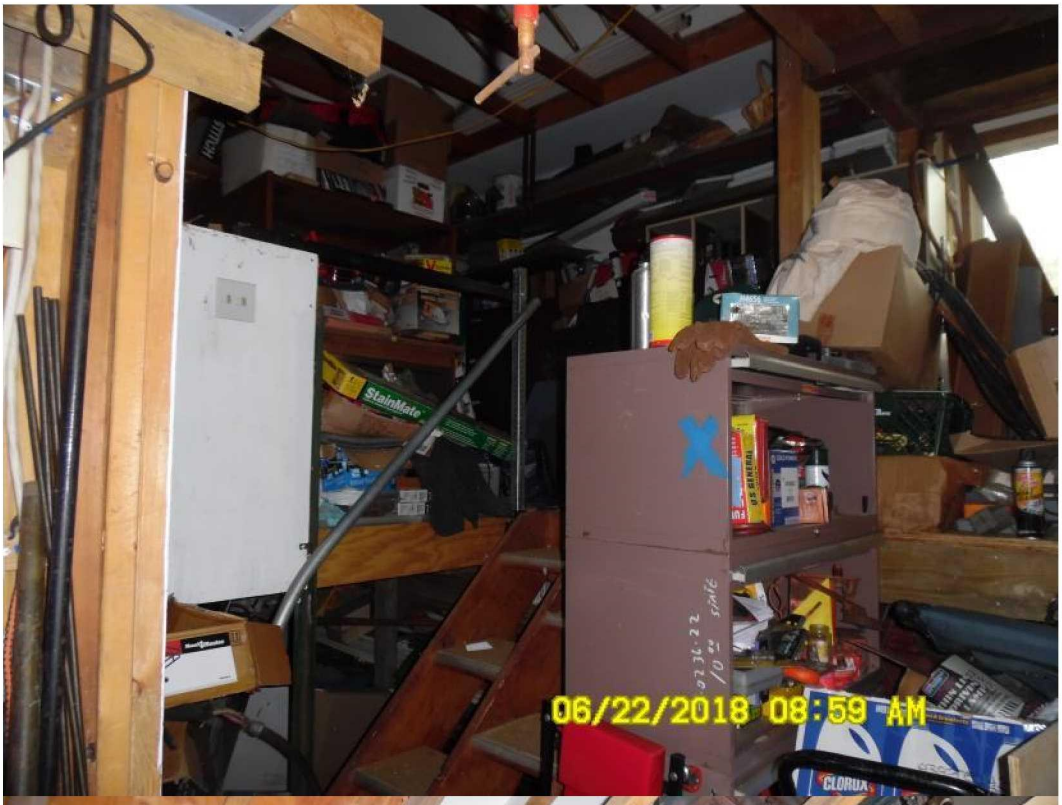

06/22/2018 08:57 AM


06/22/2018 08:57 AM

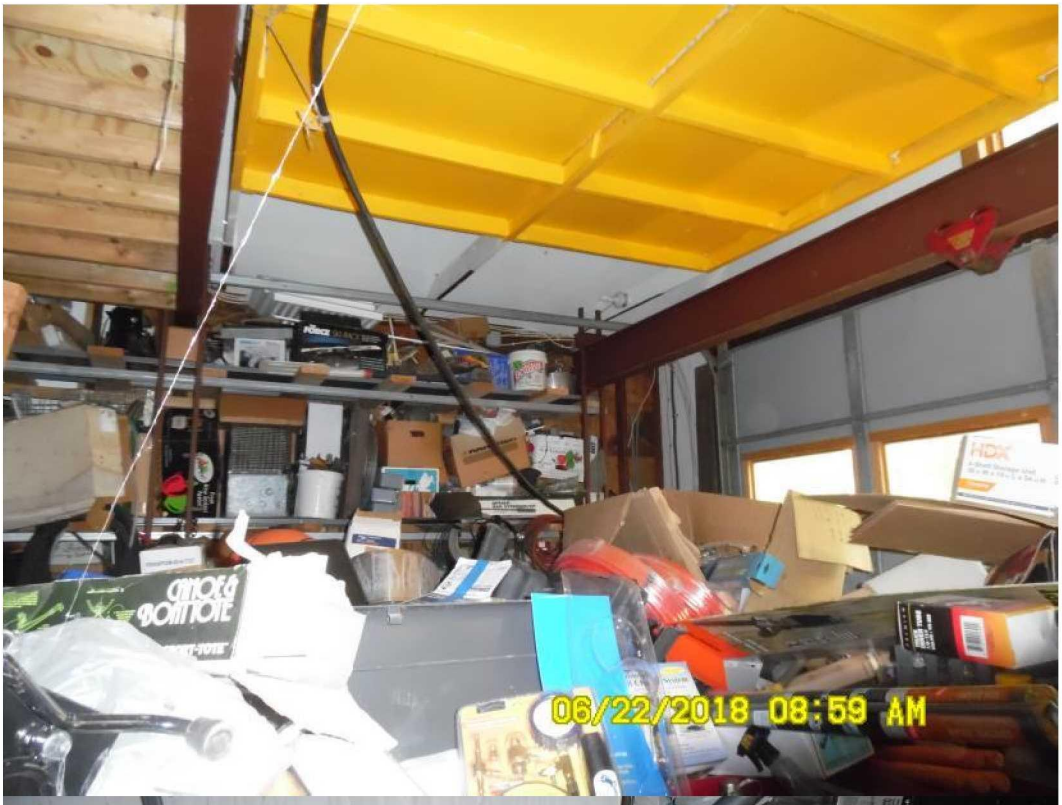

06/22/2018 08:57 AM

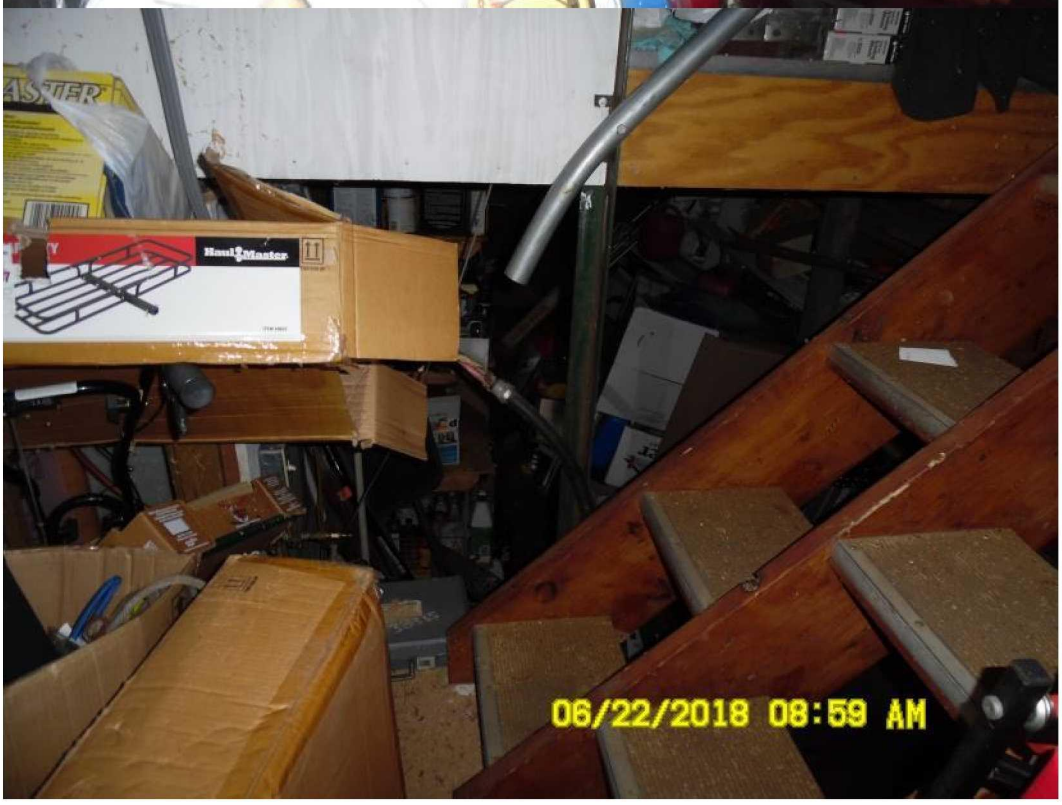

0.5-GALLON
INFLATOR
06/22/2018 08:58 AM


06/22/2018 08:58 AM

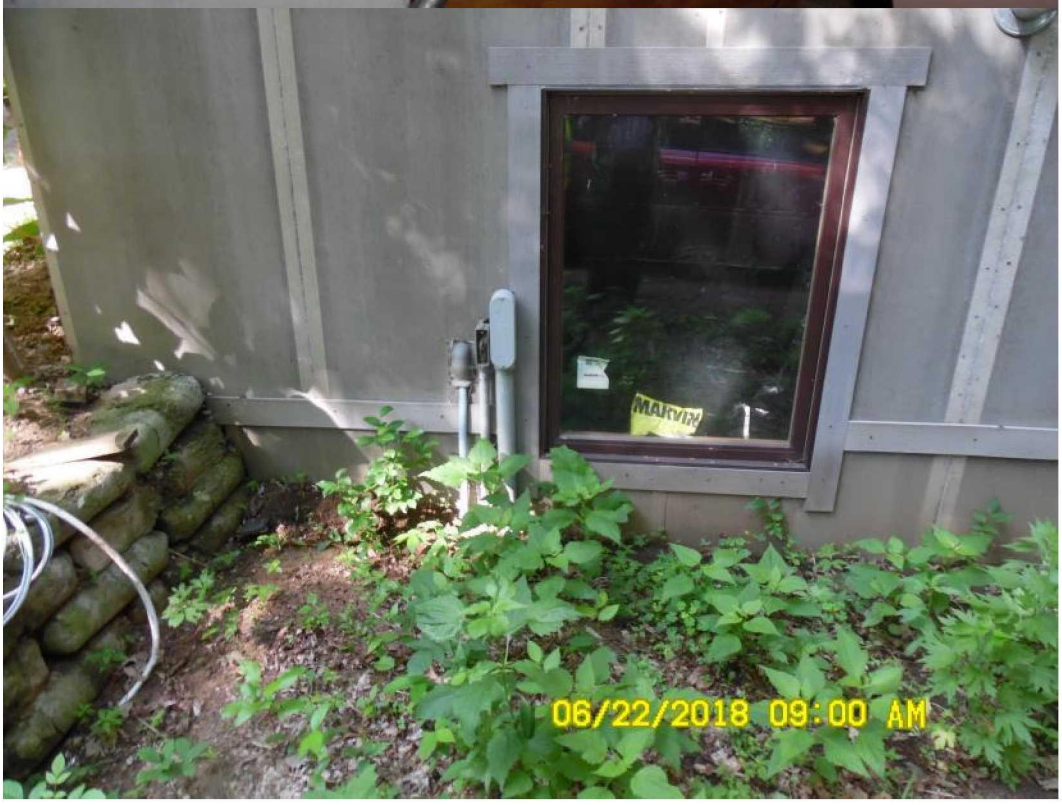

StainMate
06/22/2018 08:59 AM


06/22/2018 08:59 AM


06/22/2018 08:59 AM


Haul-Master
06/22/2018 08:59 AM


StainMate
06/22/2018 08:59 AM


MARVIN
06/22/2018 09:00 AM


06/22/2018 09:01 AM

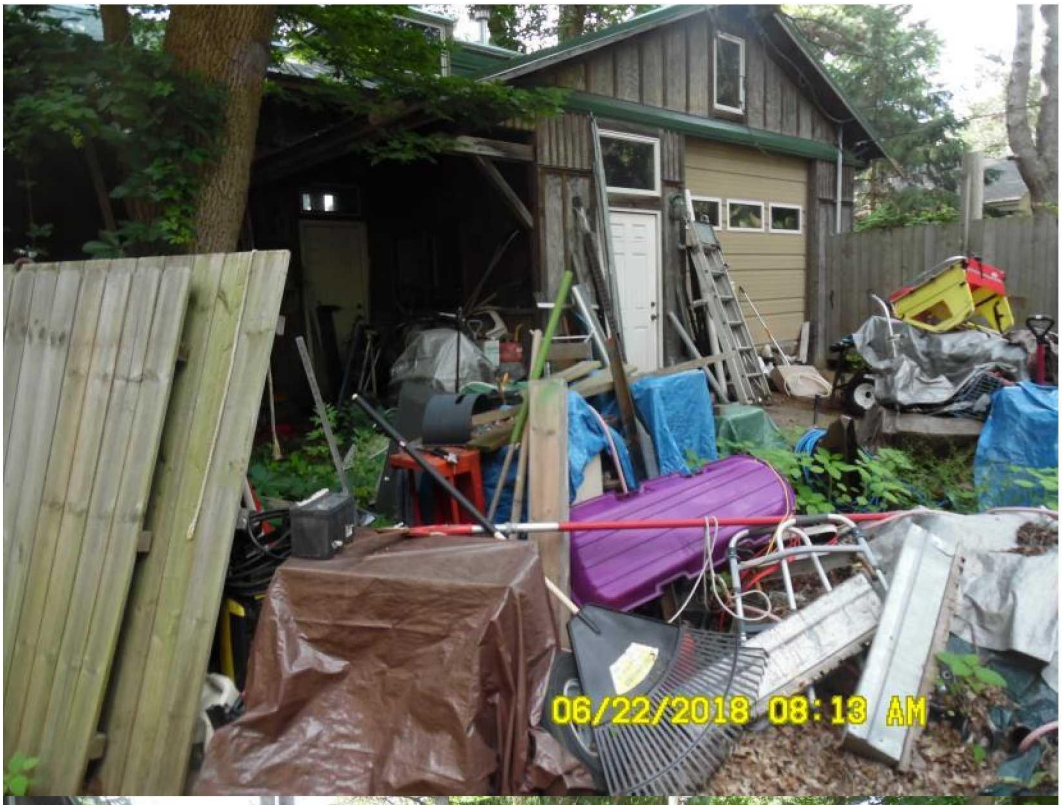

06/22/2018 09:01 AM

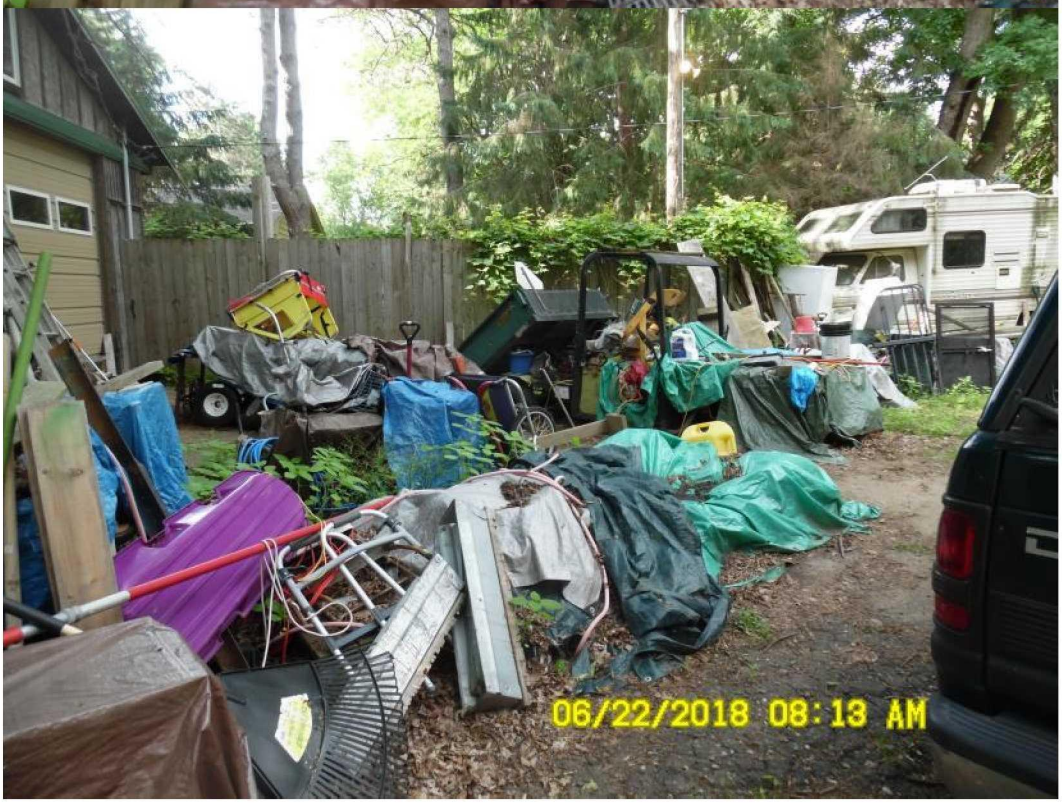

06/22/2018 09:01 AM


06/22/2018 09:01 AM

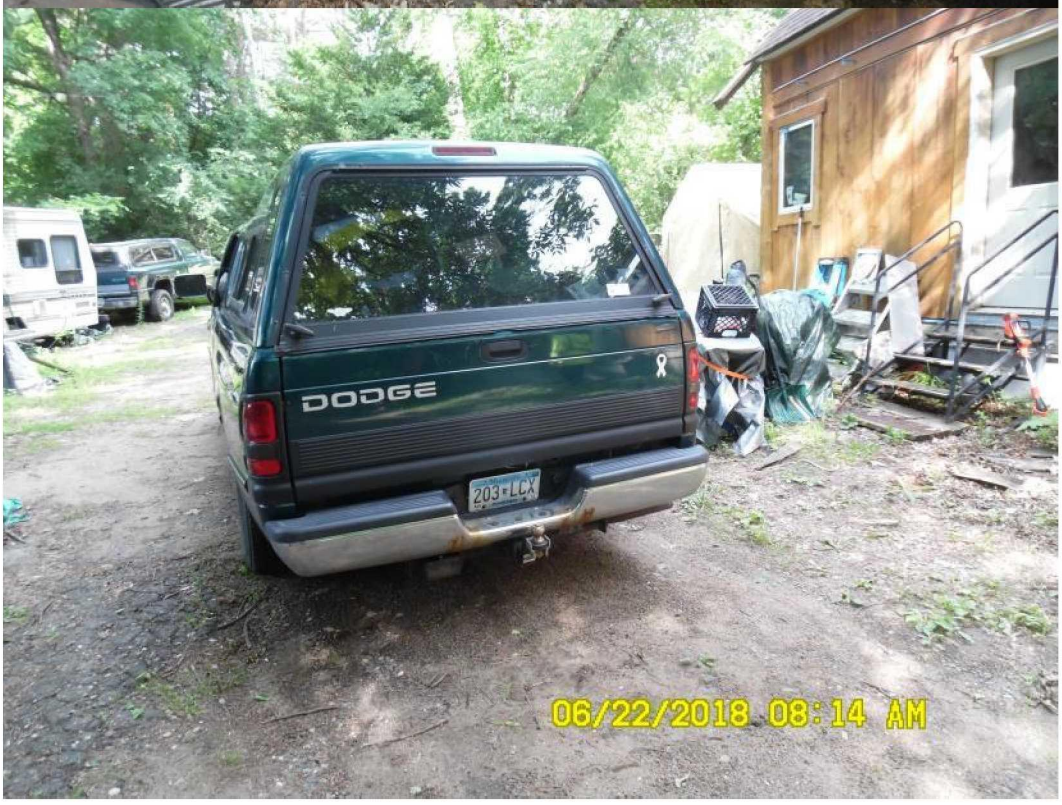

06/22/2018 09:01 AM


06/22/2018 09:02 AM

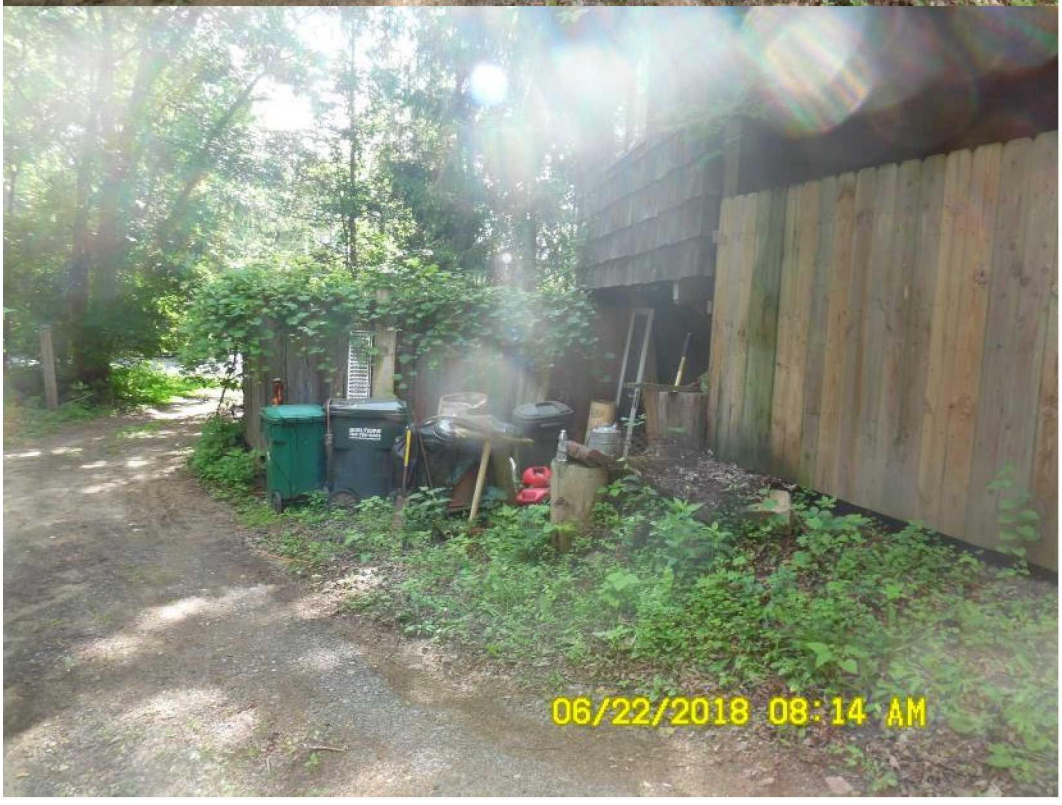

06/22/2018 08:13 AM


06/22/2018 08:13 AM


DODGE
06/22/2018 08:13 AM


DODGE
06/22/2018 08:14 AM


06/22/2018 08:14 AM


06/22/2018 08:14 AM

COUNCIL ITEM MEMORANDUM

DATE: 1/28/2019

TO: Curt Boganey, City Manager

THROUGH: Dr. Reggie Edwards, Deputy City Manager

FROM: Barb Suciu, City Clerk

SUBJECT: Motion Appointing Members to Serve on the Financial, Housing and Planning Commission

Requested Council Action:

- Motion to approve a resolution appointing members to Serve on the Various City Commissions

Background:

The City has several Commission's that residents of Brooklyn Center can apply to serve on. In November, commission members whose term was expiring was given the opportunity to re-apply for their current position. The following residents are returning members of their respective commission.

Financial Commission
Dean Van Der Werf 6736 Regent Ave N
(member since 2011)

Housing Commission
Tamika Baskin 6042 Ewing Ave N
(member since 2016)

Planning Commission
Randall Christensen 7001 Regent Ave N
(member since 2013)

John MacMillan 6417 Colfax Ave N
(member since 2015)

Stephen Schonning 5515 Fremont Ave N
(member since 2013)

Budget Issues:

There are no budget issues to consider.

COUNCIL ITEM MEMORANDUM

DATE: 1/28/2019

TO: Curt Boganey, City Manager

THROUGH: Doran Cote, Public Works Director

FROM: Andrew Hogg, Assistant City Engineer

SUBJECT: Resolution Vacating All Drainage and Utility Easements Within TopGolf 2nd Addition

Requested Council Action:

- Motion to open the Public Hearing, take public input, close the Public Hearing and consider approval of a resolution vacating certain easements as referenced above that are associated with the TopGolf final plat in connection with the re-plat of TopGolf 2nd Addition.

Background:

A public hearing is scheduled on January 28, 2019. The public hearing is to consider vacating certain easements as referenced above that are associated with the TopGolf re-plat. The Planning Commission has reviewed the final plat for TopGolf 2nd Addition. In connection with the final plat and easement dedication proceedings, the developer is requesting release and termination of easements that are either no longer needed or are being replaced by new easements. The following easements are proposed to be released and terminated as indicated:

That all parts of the drainage and utility easements, over, under and across TopGolf Addition, Hennepin County, Minnesota.

As part of the public hearing and notification process, affected entities with interests in said existing easements have been notified in accordance with City Ordinance and State Statute. It is staff's opinion that portions of the easements proposed to be vacated are no longer needed and should not negatively affect rights to public easements. We are unaware of any entity objecting to the proposed vacation.

The attached exhibits outline the release and termination of easements and show the locations of said existing easements. The City Attorney has reviewed the release and termination documents and concurs to the purpose and form of the documents.

Staff recommends that a presentation be provided to the City Council prior to holding the public hearing. Following the presentation, a public hearing to consider vacating the easements as referenced above should be conducted to receive public comments. A resolution vacating all easements within TopGolf 2nd Addition is provided for City Council consideration upon closing of the public hearing.

Budget Issues:

There are no budget issues to consider.

Strategic Priorities and Values:

Targeted Redevelopment

Member introduced the following resolution and moved its adoption:

RESOLUTION NO. _____

RESOLUTION VACATING ALL DRAINAGE AND UTILITY EASEMENTS WITHIN TOPGOLF 2ND ADDITION

WHEREAS, certain existing easements are no longer needed on LOT 1, BLOCK 1, TOPGOLF ADDITION; and

WHEREAS, the easements proposed to be vacated on the described properties are identified as follows (collectively, the "Easements"):

Drainage and Utility Easements shown as located on LOT 1, BLOCK 1, TopGolf 2nd Addition;

WHEREAS, after due notice and public hearing, the City Council has determined that the Easements will be no longer needed and it is in the public interest to vacate the Easements; and

WHEREAS, the vacated Easements shall be official pending approval of the final plat by City Council and recording of the plat.

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

1. The City Council hereby approves the vacation of Easements described above and depicted in the attached Exhibit A conditioned on the approval and recording of the final plat for TopGolf 2nd Addition.

2. The City Clerk is directed to prepare a Notice of Completion of Vacation Proceedings and to record it with the Hennepin County Recorder or Hennepin County Registrar of Titles, as appropriate.

January 28, 2019
Date

_____
Mayor

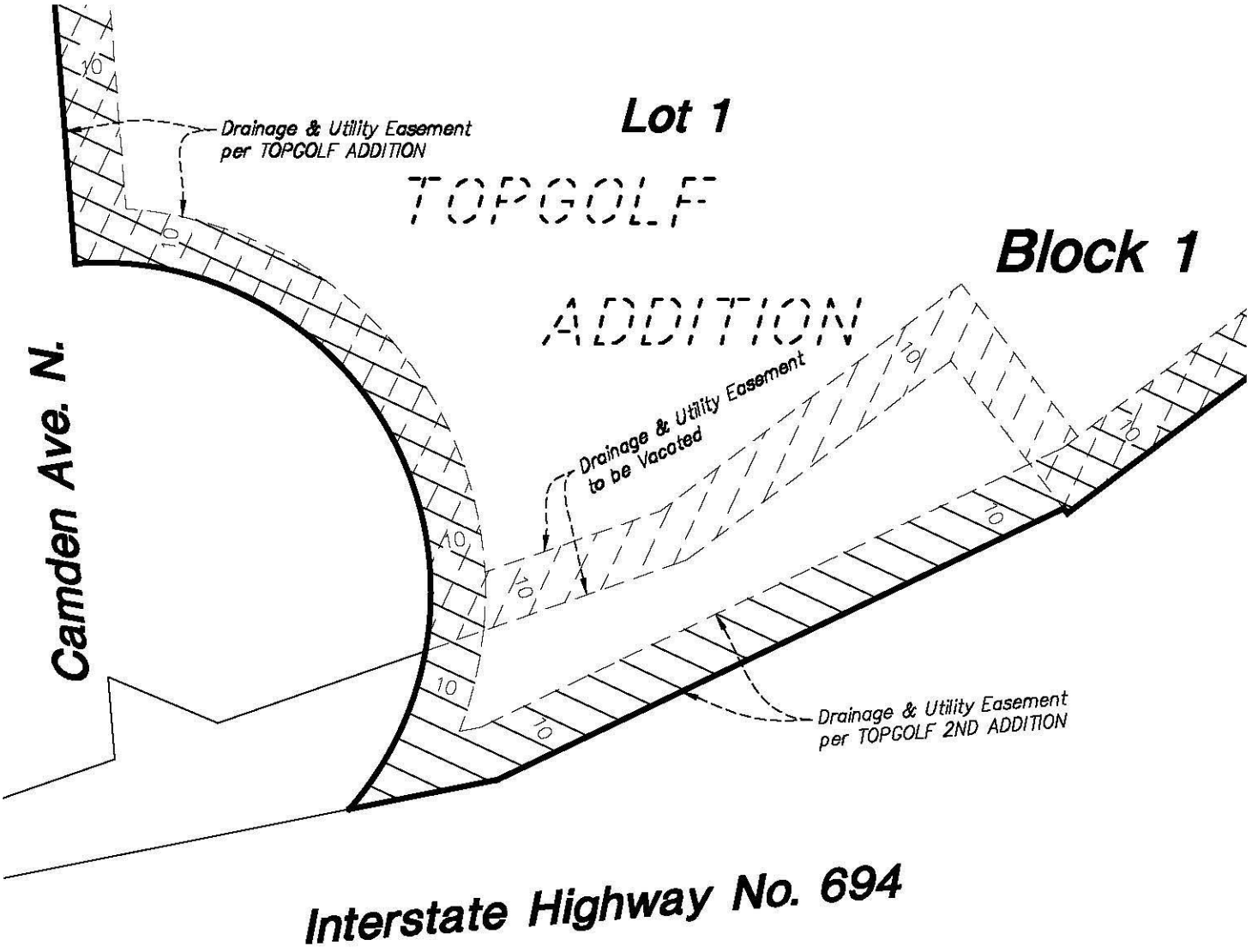
ATTEST: _____
City Clerk

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.

EXHIBIT



TOPGOLF ADDITION Drainage & Utility Easement (Existing) To be vacated

TOPGOLF 2ND ADDITION Drainage & Utility Easement (Proposed)

Note: TOPGOLF 2ND ADDITION has not been recorded as of the date of this exhibit.

N

0 30

SCALE IN FEET

PROJECT NUMBER: 16366E DRAWN BY: SFH SHEET NUMBER 1 OF 1

W:\2016\16366E\CADD DATA\SURVEY_dwg Sheet Files\S16366E-EXH-D&U2

LOUCKS

7200 Hemlock Lane, Suite 300
Maple Grove, MN 55369
763.424.5505
www.loucksinc.com

PLANNING
CIVIL ENGINEERING
LAND SURVEYING
LANDSCAPE ARCHITECTURE
ENVIRONMENTAL

© 2019

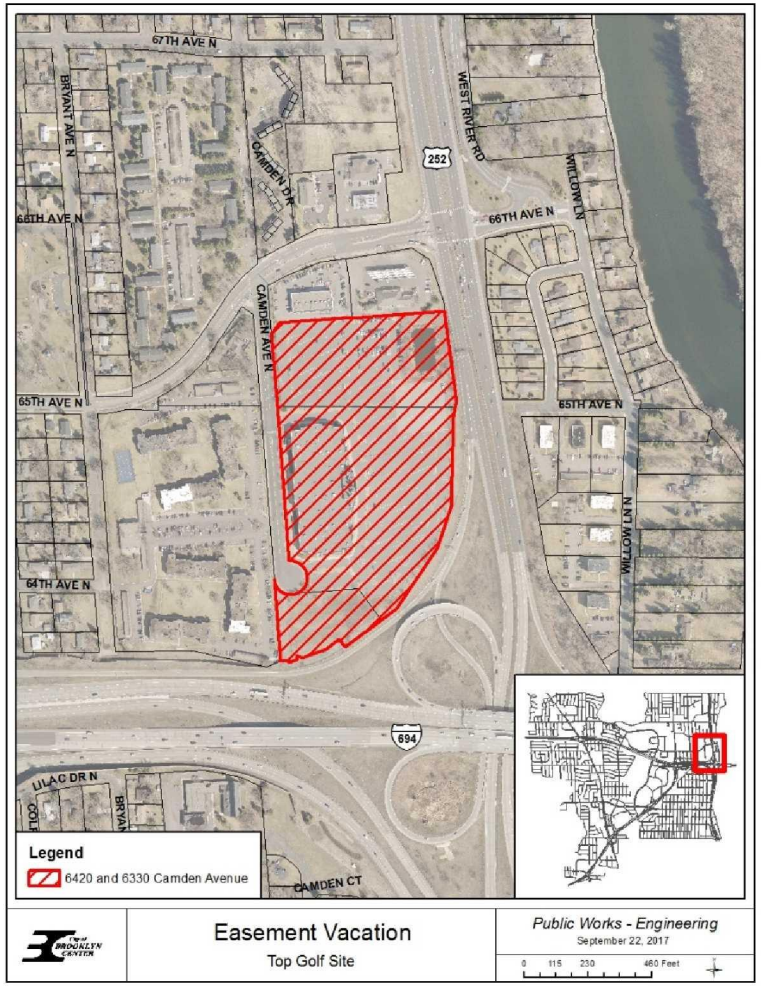
I hereby certify that this survey, plan or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.

Max L. Stanislowski - PLS

License No. 48988

Date 01/03/19

Topgolf Addition



Public Hearing Vacation of Easements, January 28, 2019

Doran Cote,Public Works Director

Easement Vacation

TOPGOLF ADDITION

- Vacation of underlying platted easements

- Needed drainage and utility easements are included under new plat

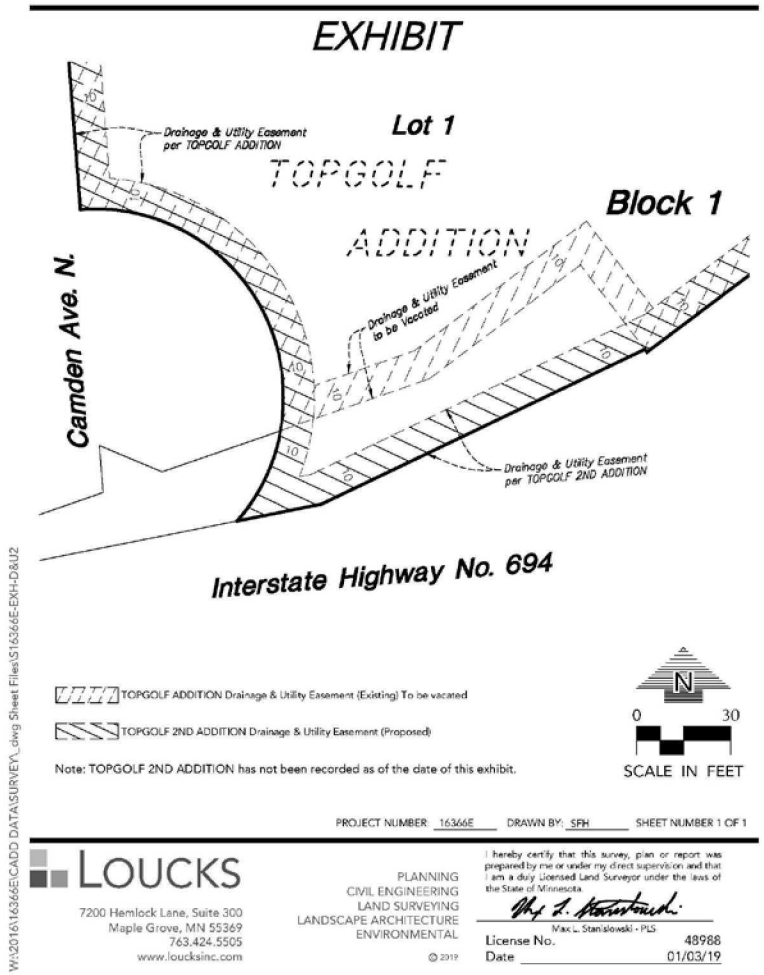


EXHIBIT
Lot 1
TOPGOLF
ADDITION
Block 1
Drainage & Utility Easement per TOPGOLF ADDITION
Drainage & Utility Easement to be Vacated
Drainage & Utility Easement per TOPGOLF 2ND ADDITION
Camden Ave. N.
Interstate Highway No. 694
TOPGOLF ADDITION Drainage & Utility Easement (Existing) To be vacated
TOPGOLF 2ND ADDITION Drainage & Utility Easement (Proposed)
Note: TOPGOLF 2ND ADDITION has not been recorded as of the date of this exhibit.
N
0
30
SCALE IN FEET
PROJECT NUMBER: 16366E DRAWN BY: SFH SHEET NUMBER 1 OF 1
LOUCKS
7200 Hemlock Lane, Suite 300
Maple Grove, MN 55369
763.424.5505
www.loucksinc.com
PLANNING
CIVIL ENGINEERING
LAND SURVEYING
LANDSCAPE ARCHITECTURE
ENVIRONMENTAL
© 2019
I hereby certify that this survey, plan or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota
Max L. Stanislowski - PLS
License No. 48988
Date 01/03/19
W:\2016\16366E\CADD DATA\SURVEY_dwg Sheet Files\S16366E-EXH-D8U2

Requested Council Action:

Motion to open Public Hearing
Motion to take Public input
Motion to close Public Hearing
Motion to adopt Resolution

Vacation of easements are contingent upon:
Filing of Final Plat, Topgolf 2nd Addition

COUNCIL ITEM MEMORANDUM

DATE: 1/28/2019

TO: Curt Boganey, City Manager

THROUGH: Doran Cote, Public Works Director

FROM: Andrew Hogg, Assistant City Engineer

SUBJECT: Resolution Vacating All Ingress/Egress Easements Within LOT 1, BLOCK 1, Chrysler Motors Corporation 2nd Addition and LOT 1, BLOCK 1, Wangstad's Brooklyn Terrace

Requested Council Action:

- Motion to open the Public Hearing, take public input, close the Public Hearing and consider approval of a resolution vacating certain easements as referenced above that are associated with the shared driveway access.

Background:

A public hearing is scheduled on January 28, 2019. The public hearing is to consider vacating certain easements as referenced above that are associated with the shared driveway access. The shared driveway constructed outside of the easement, the developer is requesting release and termination of easements that are either no longer needed or are being replaced by new easements. The following easements are proposed to be released and terminated as indicated:

That all parts of the Ingress/Egress Easement, over, under and across LOT 1, BLOCK 1, Chrysler Motors Corporation 2ND Addition AND LOT 1, BLOCK 1, Wangstad's Brooklyn Terrace, Hennepin County, Minnesota.

As part of the public hearing and notification process, affected entities with interests in said existing easements have been notified in accordance with City Ordinance and State Statute. It is staff's opinion that the portions of the easements proposed to be vacated are no longer needed and should not negatively affect rights to public easements. We are unaware of any entity objecting to the proposed vacation.

The attached exhibits outline the release and termination of easements and show the locations of said existing easements. The City Attorney has reviewed the release and termination documents and concurs to purpose and form of the documents.

Staff recommends that a presentation be provided to the City Council prior to holding the public hearing. Following the presentation, a public hearing to consider vacating the easements as referenced above should be conducted to receive public comments. A resolution vacating all easements within LOT 1, BLOCK 1, Chrysler Motors Corporation 2ND Addition AND LOT 1, BLOCK 1, Wangstad's Brooklyn Terrace is provided for City Council consideration upon closing of the public hearing.

Budget Issues:

There are no budget issues to consider.

Strategic Priorities and Values:

Targeted Redevelopment

Member introduced the following resolution and moved its adoption:

RESOLUTION NO._____

RESOLUTION VACATING ALL INGRESS/EGRESS EASEMENTS WITHIN LOT 1, BLOCK 1, CHRYSLER MOTORS CORPORATION 2ND ADDITION AND LOT 1, BLOCK 1, WANGSTAD'S BROOKLYN TERRACE

WHEREAS, certain existing easements are no longer needed on LOT 1, BLOCK 1, CHRYSLER MOTORS CORPORATION 2ND ADDITION AND LOT 1, BLOCK 1, WANGSTAD'S BROOKLYN TERRACE; and

WHEREAS, the easements proposed to be vacated on the described properties are identified as follows:

(1) Ingress and egress easement shown as located on LOT 1, BLOCK 1, CHRYSLER MOTORS CORPORATION 2ND ADDITION AND LOT 1, BLOCK 1, WANGSTAD'S BROOKLYN TERRACE;

WHEREAS, after due notice and public hearing, the City Council has determined that the Easements will be no longer needed and it is in the public interest to vacate the Easements; and

WHEREAS, the vacated Easements shall be official pending approval of the final plat by City Council.

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

1. The City Council hereby approves the vacation of Easements described above and depicted in the attached Exhibit A conditioned on approval and recording of the updated easement dedication.

2. The City Clerk is directed to prepare a Notice of Completion of Vacation Proceedings and to record it with the Hennepin County Recorder or Hennepin County Registrar of Titles, as appropriate.

January 28, 2019
Date

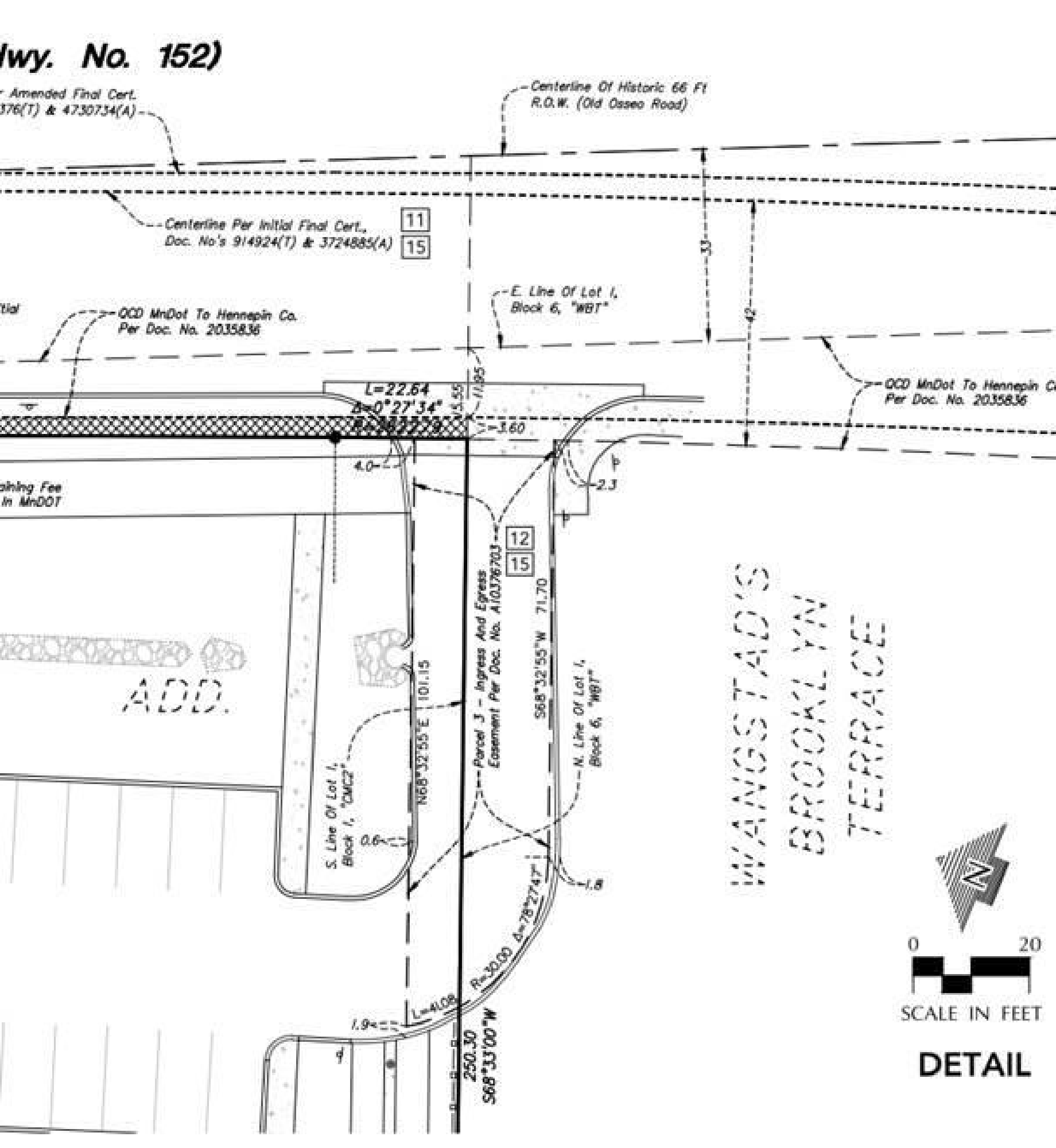
_____
Mayor

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.


lwy. No. 152)
Amended Final Cert.
376(T) & 4730734(A)
Centerline Of Historic 66 Ft
R.O.W. (Old Osseo Road)
Centerline Per Initial Final Cert.,
Doc. No's 914924(T) & 3724885(A)
11
15
33
42
E. Line Of Lot 1,
Block 6, "WBT"
OCD MnDot To Hennepin Co.
Per Doc. No. 2035836
L=22.64
Δ=0°27'34"
R=2822.79
11.85
13.55
3.60
4.0
2.3
aining Fee
In MnDOT
12
15
Parcel 3 - Ingress And Egress
Easement Per Doc. No. A10378703
S68°32'55"W 71.70
N68°32'55"E 101.15
S. Line Of Lot 1,
Block 1, "CMC2"
N. Line Of Lot 1,
Block 6, "WBT"
0.6
1.8
1.9
L=41.08
R=2930.00 Δ=78°27'47"
250.30
S68°33'00"W
0
20
SCALE IN FEET
DETAIL



Sanctuary Easement Vacation

Public Works - Engineering
January 17, 2019

0 50 100 200 Feet

LOT 1, BLOCK 1, CHRYSLER MOTORS CORPORATION 2ND ADDITION AND LOT 1, BLOCK 1, WANGSTAD'S BROOKLYN TERRACE

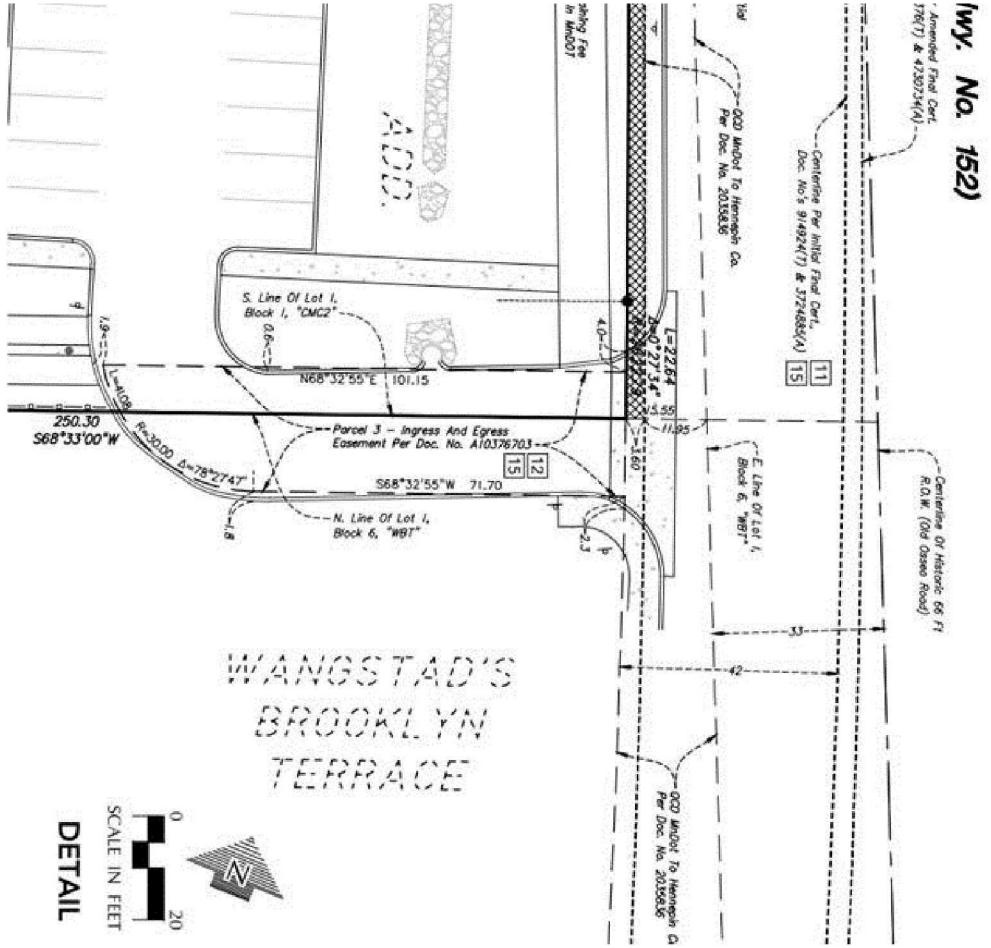


Easement Vacation

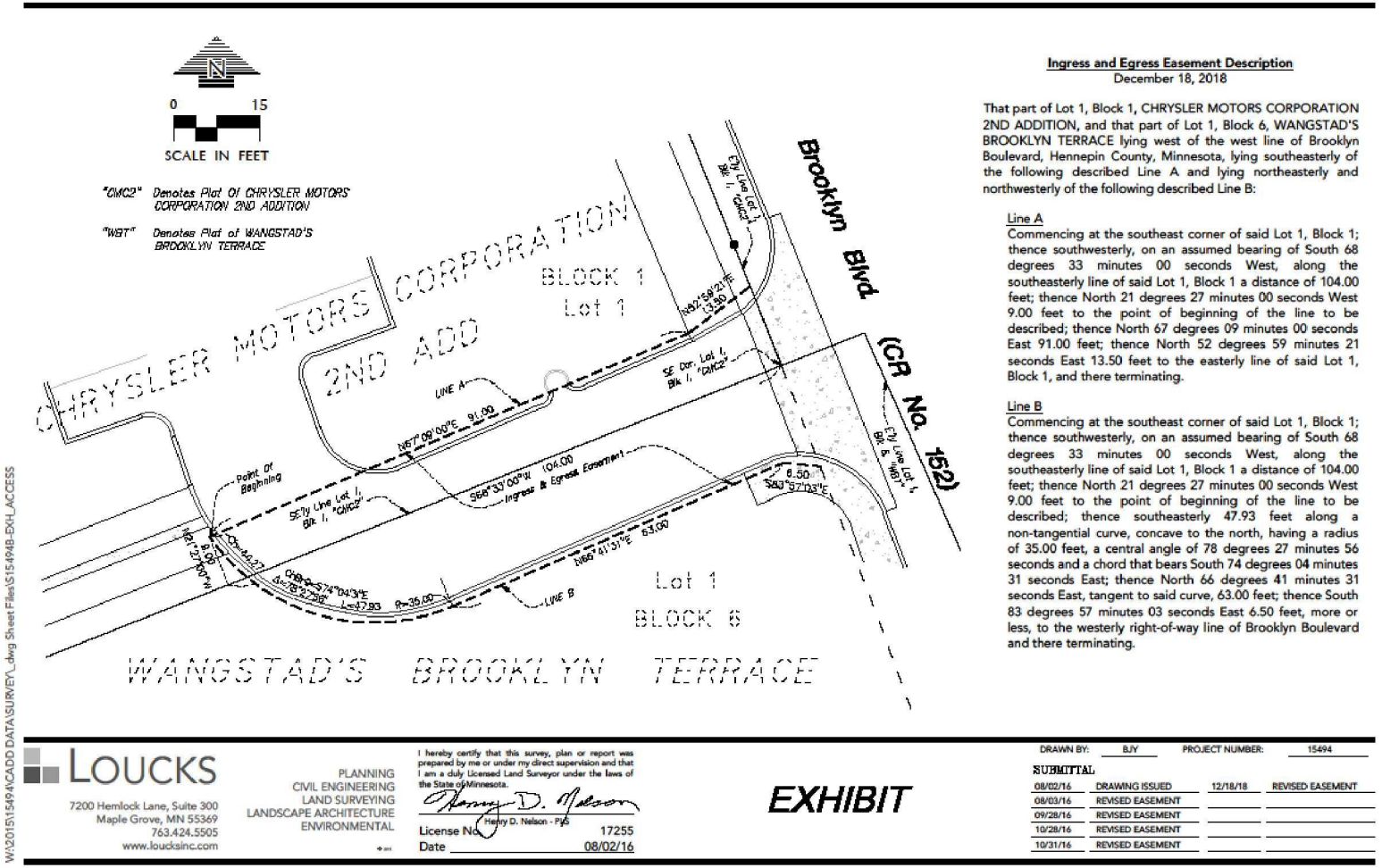
LOT 1, BLOCK 1, CHRYSLER MOTORS CORPORATION 2ND ADDITION AND
LOT 1, BLOCK 1, WANGSTAD'S BROOKLYN TERRACE

- Vacation of underlying platted Ingress/Egress easement
- Needed to record new Ingress/Egress easement

Existing Easement to be Vacated



Proposed Easement



Ingress and Egress Easement Description
December 18, 2018

That part of Lot 1, Block 1, CHRYSLER MOTORS CORPORATION 2ND ADDITION, and that part of Lot 1, Block 6, WANGSTAD'S BROOKLYN TERRACE lying west of the west line of Brooklyn Boulevard, Hennepin County, Minnesota, lying southeasterly of the following described Line A and lying northeasterly and northwesterly of the following described Line B:

Line A
Commencing at the southeast corner of said Lot 1, Block 1; thence southwesterly, on an assumed bearing of South 68 degrees 33 minutes 00 seconds West, along the southeasterly line of said Lot 1, Block 1 a distance of 104.00 feet; thence North 21 degrees 27 minutes 00 seconds West 9.00 feet to the point of beginning of the line to be described; thence North 67 degrees 09 minutes 00 seconds East 91.00 feet; thence North 52 degrees 59 minutes 21 seconds East 13.50 feet to the easterly line of said Lot 1, Block 1, and there terminating.

Line B
Commencing at the southeast corner of said Lot 1, Block 1; thence southwesterly, on an assumed bearing of South 68 degrees 33 minutes 00 seconds West, along the southeasterly line of said Lot 1, Block 1 a distance of 104.00 feet; thence North 21 degrees 27 minutes 00 seconds West 9.00 feet to the point of beginning of the line to be described; thence southeasterly 47.93 feet along a non-tangential curve, concave to the north, having a radius of 35.00 feet, a central angle of 78 degrees 27 minutes 56 seconds and a chord that bears South 74 degrees 04 minutes 31 seconds East; thence North 66 degrees 41 minutes 31 seconds East, tangent to said curve, 63.00 feet; thence South 83 degrees 57 minutes 03 seconds East 6.50 feet, more or less, to the westerly right-of-way line of Brooklyn Boulevard and there terminating.

Requested Council Action:

Motion to open Public Hearing
Motion to take Public input
Motion to close Public Hearing
Motion to adopt Resolution

Vacation of easements are contingent upon:
Filing of Ingress/Egress Easement at Hennepin County

COUNCIL ITEM MEMORANDUM

DATE: 1/28/2019

TO: Curt Boganey, City Manager

THROUGH: Meg Beekman, Community Development Director

FROM: Ginny McIntosh, City Planner/Zoning Administrator

SUBJECT: Resolution Approving Planning Commission Application No. 2019-001 for A Preliminary and Final Plat for TopGolf 2nd Addition, and Dedication of Certain Right-of-Way (Located in the Vicinity of 6420 Camden Avenue North)

Requested Council Action:

- Motion to approve a resolution regarding recommended disposition of Planning Commission Application No. 2019-001 requesting approval of the preliminary and final plat of TopGolf 2ND Addition and dedication certain right-of-way.

Background:

Max Stanislowski of Loucks, Inc, ("the Applicant") on behalf of VEREIT Real Estate L.P. is requesting review and consideration of preliminary and final plat approval for a re-plat of the existing TopGolf Addition located in the vicinity of 6420 Camden Avenue North ("the Subject Property"). Approval the requested re-plat would allow for the incorporation of a parcel to the south (PID: 36-119-21-42-0023), and dedicate certain right-of-way (ROW) to the City of Brooklyn Center.

These requests are associated with additional requests to revise existing drainage and utility easements on the Subject Property. As easement vacations are handled through the Public Works Department, a separate application has since been submitted for review and consideration of those requests.

Requests for approval of the plat require that a public hearing be scheduled in accordance with Section 15-104 (*Preliminary Plan*) of the Platting Ordinance. An Affidavit of Publication confirmed publication of the public hearing notice in the Brooklyn Center *Sun Post* on January 3, 2019. Mail notices were also sent to neighboring property owners.

On January 17, 2019, the Planning Commission held a public hearing regarding the request for plat approval of TopGolf 2ND Addition. No comments were received prior to or during the public hearing; however, a representative of the Applicant was available to answer any questions. No questions were presented by the Planning Commission.

Following close of the public hearing, the Planning Commission elected to unanimously (6-0) recommend City Council approval of the requested preliminary and final plats for TopGolf 2nd Addition and dedication of certain right-of-way (ROW) for the Subject Property located in vicinity of 6420 Camden Avenue North, subject to the Applicant complying with the conditions as outlined in the Planning Commission Report dated January 17, 2019, and associated resolution.

A copy of the Planning Commission Report for Planning Commission Application No. 2019-001, dated

January 17, 2019, and the City Council resolution is included with this memorandum.

Budget Issues:

There are no budget issues to consider at this time.

Strategic Priorities and Values:

Targeted Redevelopment

Member introduced the following resolution and moved its adoption:

RESOLUTION NO.

RESOLUTION REGARDING RECOMMENDED DISPOSITION OF PLANNING COMMISSION APPLICATION NO. 2019-001 SUBMITTED BY MAX L. STANISLOWSKI OF LOUCKS, INC, REQUESTING APPROVAL OF THE PRELIMINARY AND FINAL PLAT FOR TOPGOLF 2ND ADDITION AND DEDICATION OF CERTAIN RIGHT-OF-WAY (LOCATED IN VICINITY OF 6420 CAMDEN AVENUE NORTH)

WHEREAS, Planning Commission Application No. 2019-001 was submitted by Max L. Stanislowski of Loucks, Inc, on behalf of VEREIT Real Estate, L.P. requesting preliminary and final plat approval to re-plat TOPGOLF ADDITION to TOPGOLF 2ND ADDITION, and the dedication of certain right-of-way; and

WHEREAS, the proposed re-plat would incorporate approximately 581,097 square feet of Lot 1, Block 1, TOPGOLF ADDITION, as well as 4,495-square feet of TRACT A, and 407-square feet of TRACT B into TOPGOLF 2ND ADDITION; and

WHEREAS, these requests arose from the original acquisition of a remnant MnDOT parcel by the City of Brooklyn Center, which was then conveyed to provide the space necessary to extend Camden Avenue North and install a new cul-de-sac as part of the TopGolf development project located at 6420 Camden Avenue North; and

WHEREAS, the cul-de-sac was to be constructed to City standards and turned back to the City, and the Subject Property re-platted to reflect the acquisition of additional land, dedication of certain right-of-way, and revisions to drainage and utility easements; and

WHEREAS, on January 17, 2019, the Planning Commission of Brooklyn Center, Minnesota held a duly called public hearing, whereby this item was given due consideration, a staff report was presented, and a public hearing was opened to allow for public testimony regarding the TOPGOLF 2ND ADDITION plat and right-of-way dedication requests, which were received and noted for the record; and

WHEREAS, the Planning Commission has determined during its review of the plat, dedication of certain right-of-way, and materials submitted with Planning Commission Application No. 2019-001, that said plat and right-of-way dedication are in general conformance with the City of Brooklyn Center's City Code of Ordinances, and specifically Chapter 15 – Platting.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Brooklyn Center, Minnesota does hereby recommend that Planning Commission Application No. 2019-001, as submitted by Max L. Stanislowski of Loucks, Inc, and requesting preliminary and final plat approval for TOPGOLF 2ND ADDITION and the dedication of certain right-of-way, may

RESOLUTION NO.

be approved based upon the following conditions:

1. **Plat Approval:** Approval of the preliminary and final plats are contingent upon the addressing of comments by Assistant City Engineer Hogg in his memorandum dated January 7, 2019, outstanding comments identified in the site plan memorandum dated June 8, 2017, Chapter 15 of the City Code of Ordinances (*Platting*), any comments provided by Hennepin County, and the successful recording of said plat with Hennepin County.

    a. The proposed re-plat of TOPGOLF ADDITION to TOPGOLF 2ND ADDITION will incorporate the following:
        Lot 1, Block 1, TOPGOLF ADDITION (581,097 square feet or 13.34 acres)
        Tract A (4,495 square feet or 0.10 acres)
        Tract B (407 square feet or 0.01 acres)

    b. As part of final plat approval, mylar copies shall be in substantial conformance with the referenced plans, unless modified by any staff recommended conditions. As part of this process, the Applicant shall:
        a. Provide two mylar copies as part of final plat approval; and
        b. Provide an updated certified abstract of title or registered property report to the City Attorney and City staff.

2. **Engineering Review:** The Applicant agrees to comply with all conditions or provisions noted in the City Engineer's Review memorandum, dated January 7, 2019, and any outstanding comments remaining from the previous memorandum dated June 8, 2017.

January 28, 2019
Date

_____
Mayor

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.

Planning Commission Report

Meeting Date: January 17, 2019

- Application Filed: 12/18/2018
- Review Period (60-day) Deadline: 02/16/2019
- Extension Declared: N/A
- Extended Review Period Deadline: N/A

Application No.	2019-001
Applicant:	Max L. Stanislowski (Loucks, Inc.)
Location:	6420 Camden Avenue North
Request:	Preliminary/Final Plat of TopGolf Second Addition and Right-of-Way (ROW) Dedication

INTRODUCTION

Max Stanislowski of Loucks, Inc, ("the Applicant") on behalf of VEREIT Real Estate L.P. is requesting review and consideration of preliminary and final plat approval for a re-plat of the existing TOPGOLF ADDITION located in the vicinity of 6420 Camden Avenue North ("the Subject Property"). Approval the requested re-plat would allow for the incorporation of a parcel to the south (PID: 36-119-21-42-0023), and dedicate certain right-of-way (ROW) to the City of Brooklyn Center.

These requests are associated with additional requests to revise existing drainage and utility easements on the Subject Property. As easement vacations are handled through the Public Works Department, a separate application has since been submitted for review and consideration of the aforementioned requests. Assuming Planning Commission Application No. 2019-001 is recommended by the Planning Commission for approval by City Council, the applications for the re-plat and ROW dedication, as well as revisions to drainage and utility easements, would go before the City Council meeting scheduled for January 28, 2019.

Requests for approval of the plat require that a public hearing be scheduled in accordance with Section 15-104 (*Preliminary Plan*) of the Platting Ordinance. An Affidavit of Publication confirmed publication of the public hearing notice in the Brooklyn Center *Sun Post* on January 3, 2019 (Exhibit A). Mail notices were also sent to neighboring property owners.

REQUESTS

Preliminary/Final Plat Approval and Dedication of Certain Right-of-Way (ROW)

As part of the City Platting Ordinance requirements, preliminary and final plat approval is required to formally re-plat the existing TOPGOLF ADDITION to TOPGOLF 2ND ADDITION (Exhibit B). The request for a re-plat arose from the acquisition of a remnant MnDOT (Minnesota Department of Transportation) parcel by the City of Brooklyn Center. MnDOT turned back this parcel to the City as it was not needed and as MnDOT only sells to municipalities (not private entities).

In turn, the City conducted a quitclaim deed and transferred ownership to TopGolf in order to allow for the space necessary to extend Camden Avenue North further to the south and create a new cul-de-sac. As part of the agreement, the cul-de-sac was to be constructed to City standards, turned back to the City, and the Subject Property re-platted to reflect the additional land acquisition, right-of-way (ROW), and revisions to the drainage and utility easements.

The re-plat would incorporate the following:

Lot 1, Block 1, TOPGOLF ADDITION (581,097 square feet or 13.34 acres)
Tract A (4,495 square feet or 0.10 acres)
Tract B (407 square feet or 0.01 acres)



Map 1. *Location Map of Subject Property (Note: Imagery dated 2015).*

Per Assistant City Engineer Andrew Hogg, in his memorandum dated January 16, 2019 (Exhibit C), the Applicant will need to provide additional information as part of the platting and right-of-way (ROW) dedication process. The requested items include, but are not limited to the completion and recording at the County of the associated right-of-way turn back prior to the City taking over control and maintenance of the affected City right-of-way.

Additionally, a 10-foot drainage and utility easement must be dedicated on the plat around the entire perimeter of the site, and private site appurtenances (e.g., light poles, signs) must not encroach within any public easement areas. Any encroachments will require completion of an Encroachment Agreement.

Based on a review of a prior memorandum for the Subject Property (dated June 8, 2017), agreements are still needed for TopGolf's netting poles, which are located within the utility easement and any other appurtenances within the easement areas.

Based on staff findings, staff recommends Planning Commission recommendation of the preliminary/final plat (TopGolf 2nd Addition) and associated right-of-way (ROW) dedication; subject to the Applicant complying with the comments outlined in the Assistant City Engineer's memorandum

dated January 16, 2019 (Exhibit C), any outstanding comments remaining from previous memorandums (e.g., June 8, 2017 site plan review memorandum), any comments received from Hennepin County, and any conditions as outlined in the Approval Conditions section of this Staff Report.

APPROVAL CONDITIONS

Staff recommends the following conditions be attached to any positive recommendation on the approval of Planning Commission Application No. 2019-001 for the Subject Property located in the vicinity of 6420 Camden Avenue North:

1. **Plat Approval:** Approval of the preliminary and final plats are contingent upon the addressing of comments by Assistant City Engineer Hogg in his memorandum dated January 16, 2019, outstanding comments identified in the site plan memorandum dated June 8, 2017, Chapter 15 of the City Code of Ordinances (*Platting*), any comments provided by Hennepin County, and the successful recording of said plat with Hennepin County.

    a. The proposed re-plat of TOPGOLF ADDITION to TOPGOLF 2ND ADDITION will incorporate the following:

        Lot 1, Block 1, TOPGOLF ADDITION (581,097 square feet or 13.34 acres)
        Tract A (4,495 square feet or 0.10 acres)
        Tract B (407 square feet or 0.01 acres)

2. **Engineering Review:** The Applicant agrees to comply with all conditions or provisions noted in the City Engineer's Review memorandum, dated January 16, 2019 (Exhibit C), and any outstanding comments remaining from the previous memorandum dated June 8, 2017.

RECOMMENDATION

Based on the above-noted findings, staff recommends the Planning Commission recommends:

<u>The Planning Commission recommends</u> City Council approval of the requested preliminary and final plat for TOPGOLF 2ND ADDITION, as well as the requested dedication of certain right-of-way, subject to the Property Owner/Applicant complying with the comments outlined in the Assistant City Engineer's memorandum dated January 16, 2019 (Exhibit C), any outstanding comments remaining in the memorandum dated June 8, 2017, any comments received by Hennepin County, and any conditions as outlined in the Approval Conditions section of this Staff Report.

Attachments

Exhibit A- Affidavit of Publication, published in the Brooklyn Center *Sun Post* on January 3, 2019.
Exhibit B- Preliminary and Final Plat for TopGolf 2nd Addition, and Right-of-Way Exhibits, prepared by Loucks, Inc, and dated December 3 and 17, 2018, and January 3, 2019.
Exhibit C-Memorandum, prepared by Assistant City Engineer Andrew Hogg, dated January 16, 2019.

Exhibit A

CITY OF BROOKLYN CENTER NOTICE OF PUBLIC HEARING

TO WHOM IT MAY CONCERN:

Please take notice that the Planning Commission of the City of Brooklyn Center will hold a public hearing on Thursday, January 17, 2019, at approximately 7:00 p.m., at Brooklyn Center City Hall, located at 6301 Shingle Creek Parkway, Brooklyn Center, Minnesota. A definite time for this application to be considered cannot be given as it will depend on the progression of the agenda items.

TYPE OF REQUEST: Preliminary and Final Plat of TopGolf 2nd Addition

PETITIONER: Max L. Stanislowski (Loucks, Inc.)

PROPERTY OWNER: VEREIT Real Estate, L.P. PROPERTY NAMED IN THE PETITION: 6420 Camden Avenue North, Brooklyn Center, MN

PROPERTY ID:
36-119-21-42-0022

LEGAL DESCRIPTION: Lot 1, Block 1, TopGolf Addition, Hennepin County, Minnesota

BRIEF STATEMENT OF CONTENTS OF PETITION:

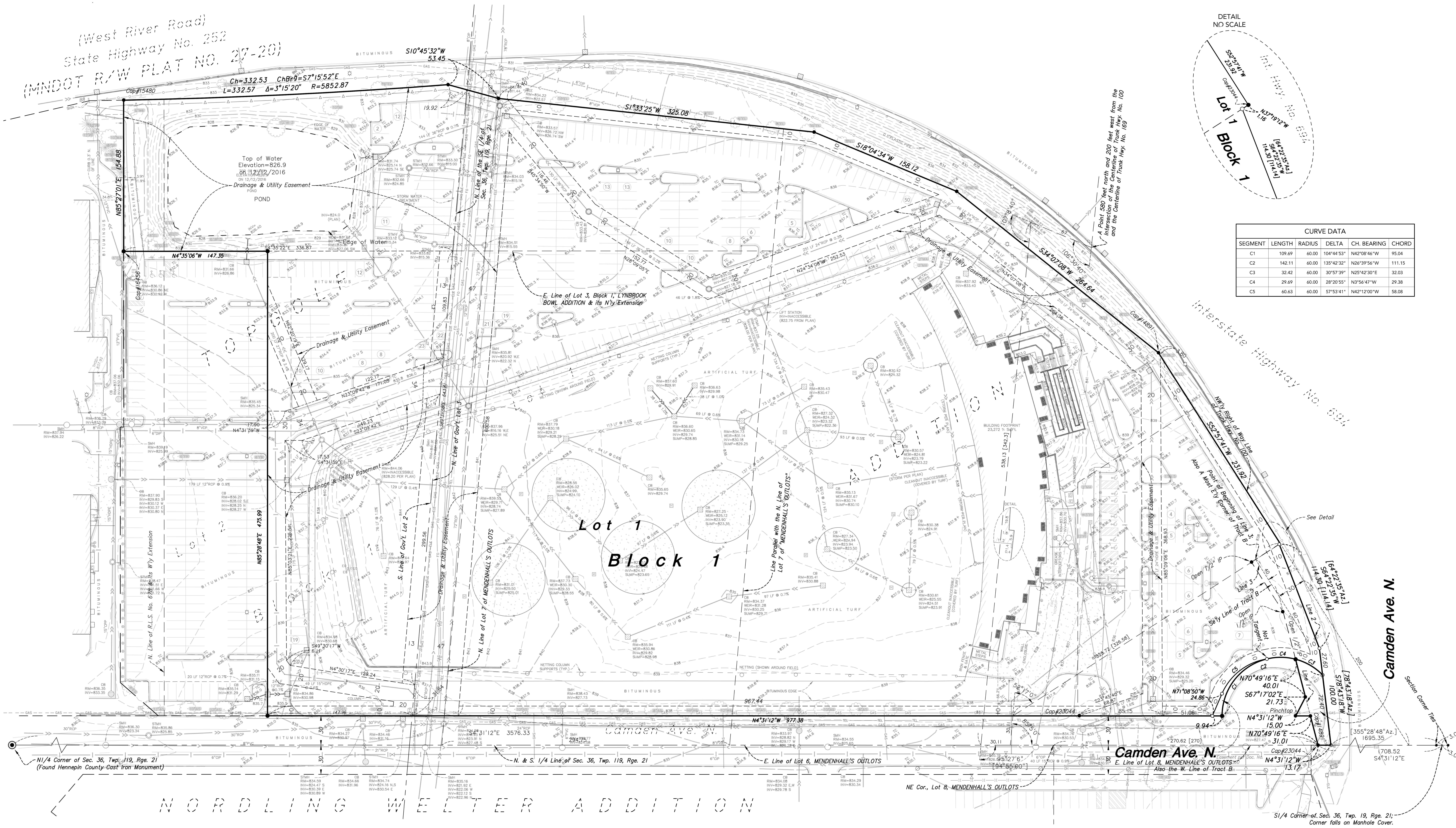
The Applicant is requesting a re-plat of TopGolf Addition to incorporate a parcel to the south. Additional requests as part of the re-plat include the dedication of right-of-way, and a revision to drainage and utility easements.

Questions, comments, statements of support or objections should be directed to City Planner / Zoning Administrator Ginny McIntosh at (763) 569-3319 or email to gmcintosh@ci.brooklyn-center.mn.us.

Auxiliary aids for persons with disabilities are available upon request at least 96 hours in advance. Please contact the City Clerk at (763) 569-3300 to make arrangements.

Respectfully,
Ginny McIntosh
City Planner / Zoning Administrator

Published in the
Sun Post
January 3, 2019
893368



CURVE DATA					
SEGMENT	LENGTH	RADIUS	DELTA	CH. BEARING	CHORD
C1	109.69	60.00	104°44'53"	N42°08'46"W	95.04
C2	142.11	60.00	135°42'32"	N26°39'56"W	111.15
C3	32.42	60.00	30°57'39"	N25°42'30"E	32.03
C4	29.69	60.00	28°20'55"	N3°56'47"W	29.38
C5	60.63	60.00	57°53'41"	N42°12'00"W	58.08

DESCRIPTION OF PROPERTY SURVEYED

Lot 1, Block 1, TOPGOLF ADDITION.

The Registered portion being:

That part of Lot 1, Block 1, TOPGOLF ADDITION, embraced within that part of Lot 3, Block 1, REGAL ROAD DEVELOPMENT 2ND ADDITION, lying between the North line of REGISTERED LAND SURVEY NO. 678 and its westerly extension and the South line of Government Lot 2, Section 36, Township 119, Range 21; and that part of Lot 3, Block 1, REGAL ROAD DEVELOPMENT 2ND ADDITION, lying between the North line of Government Lot 3, Section 36, Township 119, Range 21 and a line drawn parallel with and distant 294.75 feet South of the North line of Lot 7, MENDENHALL'S OUTLOTS as measured along the West line of said Lot 7 and its southerly extension, except that part thereof lying easterly of the East line of Lot 3, Block 1, LYNNBROOK BOWL ADDITION and its northerly extension.

And

Tract A
That part of Government Lot 3 of Section 36, Township 119 North, Range 21 West, described as follows:

Commencing at a point 580 feet north and 200 feet west from the intersection of the centerline of Trunk Highway No. 100 and the centerline of Trunk Highway No. 169 as both were located prior to January 1, 1962; thence at an angle to the right 106 degrees 30 minutes 40 seconds a distance of 67 feet; thence at an angle to the left of 107 degrees 08 minutes 40 seconds a distance of 542.3 feet; thence at an angle to the left of 94 degrees 55 minutes 00 seconds a distance of 30.11 feet to the point of beginning of Tract A to be described; thence at an angle to the left of 85 degrees 05 minutes 00 seconds a distance of 30.11 feet; thence at an angle to the right of 52 degrees 17 minutes 00 seconds a distance of 326.58 feet to the northwesterly right of way line of said Trunk Highway No. 100; thence southwesterly along said highway right of way line to the east line of Lot 8, MENDENHALL'S OUTLOTS; thence north along the east line of Lots 8 and 6, said MENDENHALL'S OUTLOTS to the point of beginning;

which lies southeasterly of Line 1 described below and northwesterly of Line 2 described below:

Line 1:
Beginning at a point on the north and south quarter line of said Section 36, distant 270 feet south of the northeast corner of Lot 8, MENDENHALL'S OUTLOTS; thence northeasterly to a point which is 30 feet northwesterly (measured at right angles) from a point on the northwesterly right of way line of said Trunk Highway No. 100, distant 200 feet northeasterly of its intersection with said north and south quarter line and there terminating;

Line 2:
Commencing at the south quarter corner of said Section 36; thence northerly on an azimuth of 355 degrees 28 minutes 48 seconds along the north and south quarter line thereof for 1695.35 feet to the point of beginning of Line 2 to be described; thence on an azimuth of 78 degrees 43 minutes 18 seconds for 100.00 feet; thence on an azimuth of 64 degrees 22 minutes 35 seconds for 114.14 feet and there terminating;

together with:

Tract B
That part of Government Lot 3 of Section 36, Township 119 North, Range 21 West, described as follows:

Commencing at a point 580 feet north and 200 feet west from the intersection of the centerline of Trunk Highway No. 100 and the centerline of Trunk Highway No. 169 as both were located prior to January 1, 1962; thence at an angle to the right 106 degrees 30 minutes 40 seconds a distance of 67 feet; thence at an angle to the left of 107 degrees 08 minutes 40 seconds a distance of 542.3 feet; thence at an angle to the left of 94 degrees 55 minutes 00 seconds a distance of 30.11 feet to the point of beginning; thence at an angle to the left of 85 degrees 05 minutes 00 seconds a distance of 30.11 feet; thence at an angle to the right of 52 degrees 17 minutes 00 seconds a distance of 326.58 feet to the northwesterly right of way line of said Trunk Highway No. 100; thence southwesterly along said highway right of way line to the east line of Lot 8, MENDENHALL's OUTLOTS; thence north along the east line of Lots 8 and 6, said MENDENHALL'S OUTLOTS to the point of beginning; excepting therefrom the right of way of Camden Avenue and the right of way of Trunk Highway No. 94 as both were located and established prior to January 1, 1979; also excepting therefrom that part acquired for street right of way lying northeasterly of the northerly right of way line of said Trunk Highway No. 94 as located and established prior to January 1, 1979 and southeasterly of line run parallel with and distant 30 feet northwesterly of the northwesterly right of way line of said Trunk Highway No. 100;

which lies southeasterly of a line run parallel with the distant 5 feet northwesterly of Line 3 described below:

Line 3:
Beginning at the intersection of the northeasterly line of Tract A hereinbefore described and a line run parallel with and distant 30 feet northwesterly of the southeasterly line thereof, being the most easterly corner of Tract B hereinbefore described; thence southwesterly on the southeasterly line of said Tract B for 40 feet, thence continue southwesterly on the last described course for 60 feet and there terminating;

also together with that part of Tract B hereinbefore described, which lies southwesterly of the following described line:

Beginning at a point on the west line of said Tract B, distant 15 feet north of the southwest corner thereof; thence southeasterly to a point on the southeasterly line of said Tract B, distant 20 feet northeasterly of said southwest corner and there terminating.

GENERAL NOTES

SURVEYOR:
LOUCKS
7200 HEMLOCK LANE, SUITE 300
MAPLE GROVE, MN 55330
763-424-5505

OWNER:
TOPGOLF, INC.
8750 N. CENTRAL EXPRESSWAY, SUITE 1200
DALLAS, TX 75231
MARK FOSTER

1. PREPARED DECEMBER 3, 2018.
2. BEARINGS ARE BASED ON THE WEST LINE OF THE SE1/4, SEC. 36, TWP. 119, RGE. 21 HAVING A BEARING OF N04°31'12"W.
3. BENCHMARK: IN BROOKLYN CENTER, 0.3 MILES NORTH ALONG TRUNK HIGHWAY 252 FROM THE JUNCTION OF TRUNK HIGHWAY 252 AND INTERSTATE HIGHWAY 694, AT TRUNK HIGHWAY 252 MILE POINT 50, 40.3 FEET WEST OF SOUTHBOUND TRUNK HIGHWAY 252, IN THE NORTHEAST CORNER OF THE WEST BASE OF AN OVERHEAD SIGN OVER SOUTHBOUND TRUNK HIGHWAY 252. ELEVATION = 834.24 (NGVD29)

   SITE BENCHMARK: TOP NUT HYDRANT LOCATED SOUTHEAST OF THE BUILDING. ELEVATION = 842.41 (NGVD29).
4. THE GROSS LAND AREA IS 585,999 +/- SQUARE FEET OR 13.45 +/- ACRES. LOT 1, BLOCK 1 (NET) AREA IS 584,019 +/- SQUARE FEET OR 13.41 +/- ACRES. CAMDEN AVE. N TO BE DEDICATED IS 1,980 +/- SQUARE FEET OR 0.04 +/- ACRES.
5. THE ADDRESS, IF DISCLOSED IN DOCUMENTS PROVIDED TO OR OBTAINED BY THE SURVEYOR, OR OBSERVED WHILE CONDUCTING THE FIELDWORK IS 6420 CAMDEN AVE. N, BROOKLYN CENTER, MN 55430.
6. THIS PROPERTY IS CONTAINED IN ZONE X (AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN) PER FLOOD INSURANCE RATE MAP NO. 27053C0208F, COMMUNITY PANEL NO. 270151 0208 F, EFFECTIVE DATE OF NOVEMBER 4, 2016.
7. ZONING: PUD/C2 (PLANNED UNIT DEVELOPMENT/COMMERCE)

LEGEND

- DENOTES 1/2 INCH X 14 INCH IRON MONUMENT SET, MARKED "LS 48988"
- FOUND 1/2 INCH IRON MONUMENT, MARKED "LS 48988", UNLESS OTHERWISE SHOWN
- DENOTES 5/8 INCH PINS
- [ ] DENOTES DEED DISTANCE
- Az. DENOTES AZIMUTH
- B7 MNDOT PLAT/COMMISSIONER'S MAP MONUMENT
- CATCH BASIN
- STORM MANHOLE
- SANITARY MANHOLE
- HYDRANT
- GATE VALVE
- LIGHT POLE
- POWER POLE
- GUY WIRE
- POST INDICATOR VALVE
- SANITARY SERVICE
- OVERFLOW CONTROL STRUCTURE
- CABLE TV PEDESTAL
- ELECTRIC METER
- ELECTRIC OUTLET
- ELECTRIC TRANSFORMER
- GAS METER
- HAND HOLE
- TELEPHONE PEDESTAL
- GUARD POST
- SIGN
- UTILITY VALVE
- DISABLED PARKING STALL
- STORM SEWER
- SANITARY SEWER
- WATERMAIN
- ABANDONED STORM SEWER
- ABANDONED SANITARY SEWER
- ABANDONED WATERMAIN
- SANITARY SEWER SERVICE
- WATER SERVICE
- UNDERGROUND ELECTRIC
- UNDERGROUND FIBER OPTIC
- UNDERGROUND GAS
- ABANDONED UNDERGROUND GAS
- UNDERGROUND TELEPHONE
- OVERHEAD UTILITY
- CHAIN LINK FENCE
- CONCRETE CURB
- RESTRICTED ACCESS
- RETAINING WALL
- CONCRETE
- NO PARKING
- EXISTING BUILDING
- WATER LINE
- GUARDRAIL
- HANDRAIL
- CONTOUR
- SPOT ELEVATION
- PARKING STALL COUNT
- CONIFEROUS TREE
- PI PINE
- SP SPRUCE
- DECIDUOUS TREE
- AS ASH
- BO BOXELDER
- EL ELM
- FR MISC FRUIT
- LI LILAC
- MA MAPLE
- TR TREE (GENERAL)
- W WILLOW

SCALE IN FEET 0 40 80

TOPGOLF USA BROOKLYN CENTER, LLC
6420 CAMDEN AVE. N.
BROOKLYN CENTER, MN

ARCO MURRAY DESIGN BUILD
3110 WOODCREEK DRIVE
DOWNERS GROVE, IL 60515

LOUCKS
PLANNING
CIVIL ENGINEERING
LAND SURVEYING
LANDSCAPE ARCHITECTURE
ENVIRONMENTAL
7200 Hemlock Lane, Suite 300
Maple Grove, MN 55369
763.424.5505
www.loucksinc.com

CADD QUALIFICATION

CADD files prepared by the Consultant for this project are instruments of the Consultant professional services for use solely with respect to this project. These CADD files shall not be used on other projects, for additions to this project, or for completion of this project by others without written approval by the Consultant. With the Consultant's approval, others may be permitted to obtain copies of the CADD drawing files for information and reference only. All intentional or unintentional revisions, additions, or deletions to these CADD files shall be made at the full risk of that party making such revisions, additions or deletions and that party shall hold harmless and indemnify the Consultant from any & all responsibilities, claims, and liabilities.

SUBMITTAL/REVISIONS

11/14/18 SURVEY ISSUED
12/03/18 REVISED PER COMMENTS

PROFESSIONAL SIGNATURE

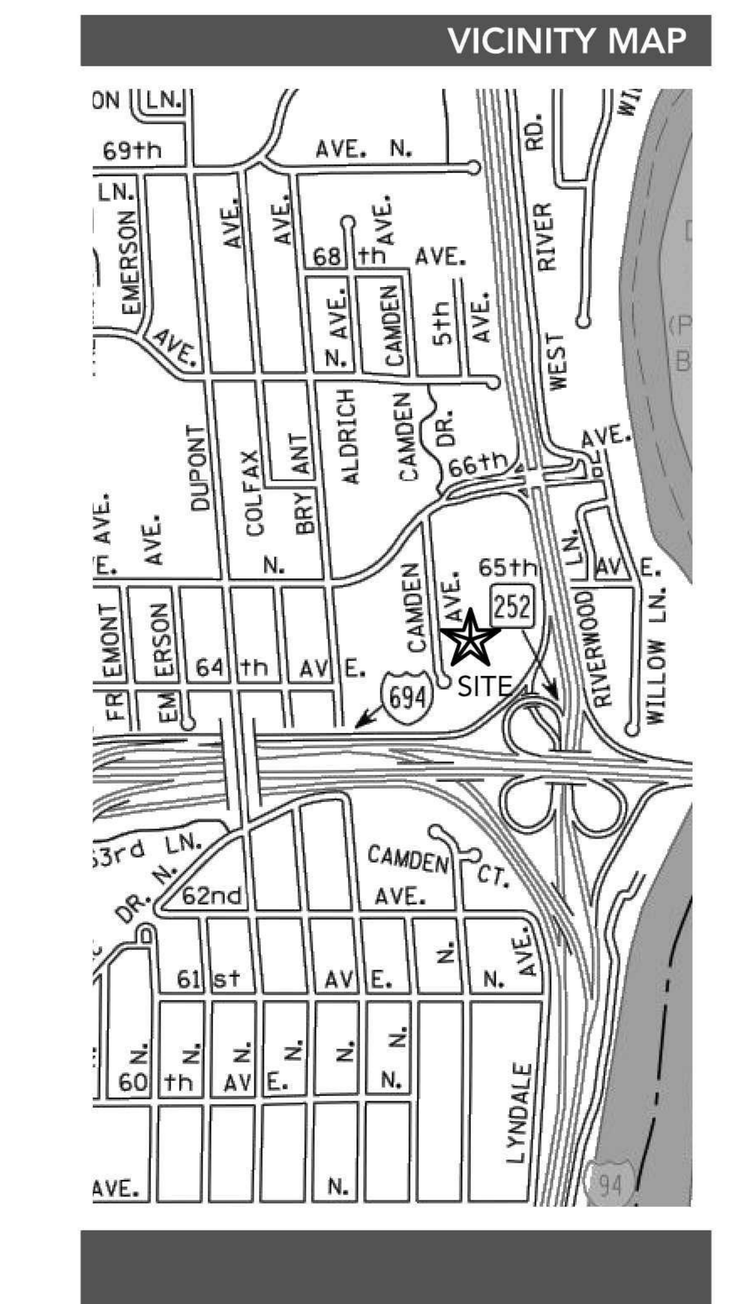
I hereby certify that this survey, plan or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.

Max L. Stanislowski - PLS
License No. 48988
Date 11/14/18

QUALITY CONTROL

Loucks Project No. 16366E
Project Lead MLS
Drawn By KMM
Checked By MLS
Field Crew DJP, BRS, BEP, CMS

VICINITY MAP



PRELIMINARY PLAT

1 OF 1

TOPGOLF 2ND ADDITION

R.T. DOC. NO. _____

C.R. DOC. NO. _____

KNOW ALL PERSONS BY THESE PRESENTS: That VEREIT Real Estate L.P., a Delaware limited partnership, fee owner of the following described property situated in the County of Hennepin, State of Minnesota, to wit:

Lot 1, Block 1, TOPGOLF ADDITION.

The Registered portion being:

That part of Lot 1, Block 1, TOPGOLF ADDITION, embraced within that part of Lot 3, Block 1, REGAL ROAD DEVELOPMENT 2ND ADDITION, lying between the North line of REGISTERED LAND SURVEY NO. 678 and its westerly extension and the South line of Government Lot 2, Section 36, Township 119, Range 21; and that part of Lot 3, Block 1, REGAL ROAD DEVELOPMENT 2ND ADDITION, lying between the North line of Government Lot 3, Section 36, Township 119, Range 21 and a line drawn parallel with and distant 294.75 feet South of the North line of Lot 7, MENDENHALL'S OUTLOTS as measured along the West line of said Lot 7 and its southerly extension, except that part thereof lying easterly of the East line of Lot 3, Block 1, LYNNBROOK BOWL ADDITION and its northerly extension.

And

Tract A
That part of Government Lot 3 of Section 36, Township 119 North, Range 21 West, described as follows:

Commencing at a point 580 feet north and 200 feet west from the intersection of the centerline of Trunk Highway No. 100 and the centerline of Trunk Highway No. 169 as both were located prior to January 1, 1962; thence at an angle to the right 106 degrees 30 minutes 40 seconds a distance of 67 feet; thence at an angle to the left of 107 degrees 08 minutes 40 seconds a distance of 542.3 feet; thence at an angle to the left of 94 degrees 55 minutes 00 seconds a distance of 30.11 feet to the point of beginning of Tract A to be described; thence at an angle to the left of 85 degrees 05 minutes 00 seconds a distance of 30.11 feet; thence at an angle to the right of 52 degrees 17 minutes 00 seconds a distance of 326.58 feet to the northwesterly right of way line of said Trunk Highway No. 100; thence southwesterly along said highway right of way line to the east line of Lot 8, MENDENHALL'S OUTLOTS; thence north along the east line of Lots 8 and 6, said MENDENHALL'S OUTLOTS to the point of beginning;

which lies southeasterly of Line 1 described below and northwesterly of Line 2 described below:

Line 1:
Beginning at a point on the north and south quarter line of said Section 36, distant 270 feet south of the northeast corner of Lot 8, MENDENHALL'S OUTLOTS; thence northeasterly to a point which is 30 feet northwesterly (measured at right angles) from a point on the northwesterly right of way line of said Trunk Highway No. 100, distant 200 feet northeasterly of its intersection with said north and south quarter line and there terminating;

Line 2:
Commencing at the south quarter corner of said Section 36; thence northerly on an azimuth of 355 degrees 28 minutes 48 seconds along the north and south quarter line thereof for 1695.35 feet to the point of beginning of Line 2 to be described; thence on an azimuth of 78 degrees 43 minutes 18 seconds for 100.00 feet; thence on an azimuth of 64 degrees 22 minutes 35 seconds for 114.14 feet and there terminating;

together with:

Tract B
That part of Government Lot 3 of Section 36, Township 119 North, Range 21 West, described as follows:

Commencing at a point 580 feet north and 200 feet west from the intersection of the centerline of Trunk Highway No. 100 and the centerline of Trunk Highway No. 169 as both were located prior to January 1, 1962; thence at an angle to the right 106 degrees 30 minutes 40 seconds a distance of 67 feet; thence at an angle to the left of 107 degrees 08 minutes 40 seconds a distance of 542.3 feet; thence at an angle to the left of 94 degrees 55 minutes 00 seconds a distance of 30.11 feet to the point of beginning; thence at an angle to the left of 85 degrees 05 minutes 00 seconds a distance of 30.11 feet; thence at an angle to the right of 52 degrees 17 minutes 00 seconds a distance of 326.58 feet to the northwesterly right of way line of said Trunk Highway No. 100; thence southwesterly along said highway right of way line to the east line of Lot 8, MENDENHALL'S OUTLOTS; thence north along the east line of Lots 8 and 6, said MENDENHALL'S OUTLOTS to the point of beginning; excepting therefrom the right of way of Camden Avenue and the right of way of Trunk Highway No. 94 as both were located and established prior to January 1, 1979; also excepting therefrom that part acquired for street right of way lying northeasterly of the northerly right of way line of said Trunk Highway No. 94 as located and established prior to January 1, 1979 and southeasterly of line run parallel with and distant 30 feet northwesterly of the northwesterly right of way line of said Trunk Highway No. 100;

which lies southeasterly of a line run parallel with the distant 5 feet northwesterly of Line 3 described below:

Line 3:
Beginning at the intersection of the northeasterly line of Tract A hereinbefore described and a line run parallel with and distant 30 feet northwesterly of the southeasterly line thereof, being the most easterly corner of Tract B hereinbefore described; thence southwesterly on the southeasterly line of said Tract B for 40 feet, thence continue southwesterly on the last described course for 60 feet and there terminating;

also together with that part of Tract B hereinbefore described, which lies southwesterly of the following described line:

Beginning at a point on the west line of said Tract B, distant 15 feet north of the southwest corner thereof; thence southeasterly to a point on the southeasterly line of said Tract B, distant 20 feet northeasterly of said southwest corner and there terminating.

Has caused the same to be surveyed and platted as TOPGOLF 2ND ADDITION and does hereby dedicate to the public for public use forever the public ways, and the easements for drainage and for utility purposes as shown on this plat.

In Witness whereof said VEREIT Real Estate L.P., a Delaware limited partnership, has caused these presents to be signed by its General Partner this _____ day of _____, 20____.

VEREIT Real Estate L.P.
By: VEREIT Real Estate GP, LLC, its General Partner

By: _____
Todd J. Weiss, General Counsel, Real Estate

State of _____
County of _____

This instrument was acknowledged before me this day of _____, 20_____by Todd J. Weiss, General Counsel, Real Estate, of VEREIT Real Estate GP, LLC, a Delaware limited liability company, General Partner of VEREIT Real Estate L.P., a Delaware limited partnership, on behalf of the partnership.

_____
(Signature)

_____
(Printed Name)
Notary Public, _____ County, _____
My Commission Expires _____

SURVEYORS CERTIFICATION

I Max L. Stanislowski do hereby certify that this plat was prepared by me or under my direct supervision; that I am a duly Licensed Land Surveyor in the State of Minnesota; that this plat is a correct representation of the boundary survey; that all mathematical data and labels are correctly designated on this plat; that all monuments depicted on this plat have been, or will be correctly set within one year; that all water boundaries and wet lands, as defined in Minnesota Statutes, Section 505.01, Subd. 3, as of the date of this certificate are shown and labeled on this plat; and all public ways are shown and labeled on this plat.

Dated this _____ day of _____, 20____

_____
Max L. Stanislowski, Licensed Land Surveyor
Minnesota License No. 48988

State of Minnesota
County of Hennepin

This instrument was acknowledged before me this _____ day of _____, 20_____ by Max L. Stanislowski, a Licensed Land Surveyor.

_____
(Signature)

_____
(Printed Name)
Notary Public Hennepin County, Minnesota
My Commission Expires January 31, 2020

BROOKLYN CENTER, MINNESOTA

This plat of TOPGOLF 2ND ADDITION was approved and accepted by the City Council of Brooklyn Center, Minnesota, at a regular meeting thereof held this _____ day of _____, 20_____. If applicable, the written comments and recommendations of the Commissioner of Transportation and the County Highway Engineer have been received by the City or the prescribed 30 day period has elapsed without receipt of such comments and recommendations, as provided by Minn. Statutes, Section 505.03, Subd. 2.

CITY COUNCIL OF BROOKLYN CENTER, MINNESOTA

By _____, Mayor By _____, Manager

RESIDENT AND REAL ESTATE SERVICES, Hennepin County, Minnesota

I hereby certify that taxes payable in 20_____ and prior years have been paid for land described on this plat, dated this _____ day of _____, 20_____.

Mark V. Chapin, Hennepin County Auditor

By _____, Deputy

SURVEY DIVISION, Hennepin County, Minnesota

Pursuant to MN. STAT. Sec. 383B.565 (1969) this plat has been approved this _____ day of _____, 20_____.

Chris F. Mavis, Hennepin County Surveyor

By _____

REGISTRAR OF TITLES, Hennepin County, Minnesota

I hereby certify that the within plat of TOPGOLF 2ND ADDITION was filed in this office this _____ day of _____, 20_____, at _____o'clock __M.

Martin McCormick, Registrar of Titles

By _____ Deputy

COUNTY RECORDER, Hennepin County, Minnesota

I hereby certify that the within plat of TOPGOLF 2ND ADDITION was recorded in this office this _____ day of _____, 20_____, at _____o'clock __M.

Martin McCormick, County Recorder

By _____ Deputy

LOUCKS

TOPGOLF 2ND ADDITION

R.T. DOC. NO. _____

C.R. DOC. NO. _____

(MNDOT COMM. ORDER MAP NO. 27-89863)

(West River Road)
State Highway No. 252
(MNDOT R/W PLAT NO. 27-20)

Cap#15480

Ch=332.53 ChBrg=S7°15'52"E
L=332.57 Δ=3°15'20" R=5852.87

S10°45'32"W 53.45

19.92

9.40

S1°33'25"W 325.08

S18°04'34"W 158.12

S34°07'08"W 264.64

A Point 580 feet north and 200 feet west from the Intersection of the Centerline of Trunk Hwy. No. 100 and the Centerline of Trunk Hwy. No. 169

07°16'40"

67

106°30'40"

Cap#16891

3.80

Int'rstate Highway No. 694

NW'ly Right of Way Line of Trunk Hwy. No. 100
S52°57'41"W 231.92

Also A Most E'ly Corner of Tract B

Point of Beginning of Line 3;

See Detail

Open 1/2" IP

Line 3

S'ely Line of Tract B

Open 1/2" IP

Not Tangent

Line 2

[64°22'35"Az.]
S64°22'35"W
114.30 [114.14]

Line 1

[78°43'18"Az.]
S78°43'18"W
100.00

Camden Ave. N.

Section Corner Tie

Cap#14891

Pinchtop

Cap#23044

Open 1/2" IP

Top of Water
Elevation=826.9
on 12/12/2016

Drainage & Utility Easement

POND

Edge of Water

N85°27'01"E 154.88

N4°35'06"W 147.35

Cap#16456

S4°35'22"E 336.87

N. Line of the SE 1/4 of Sec. 36, Twp. 119, Rge. 21

E. Line of Lot 3, Block 1, LYNBROOK BOWL ADDITION & its N'ly Extension

116.46
S45°34'50"W

122.77
N28°09'05"E

N24°34'08"W 252.53

Drainage & Utility Easement

N34°07'08"E 264.38

538.13 [342.3]

Drainage & Utility Easement

N85°09'06"E 368.93

325.72 [326.66]

52°17'0"

S23°45'40"E 68.87

85°50"

30.11

51.06

85.15

9.94

N71°08'50"W 24.86

N70°49'16"E 40.01

S67°17'02"E 21.73

N4°31'12"W 15.00

N70°49'16"E 31.01

N4°31'12"W 13.17

Cap#23044

270.62 [270]

[355°28'48"Az.]
695.35

1708.52
S4°31'12"E

95°27'6"
[94°55'00"]

NE Cor., Lot 8, MENDENHALL'S OUTLOTS

E. Line of Lot 8, MENDENHALL'S OUTLOTS
Also the W. Line of Tract B

S1/4 Corner of Sec. 36, Twp. 19, Rge. 21;
Corner falls on Manhole Cover.

N1/4 Corner of Sec. 36, Twp. 119, Rge. 21
(Found Hennepin County Cast Iron Monument)

N. & S. 1/4 Line of Sec. 36, Twp. 119, Rge. 21

E. Line of Lot 6, MENDENHALL'S OUTLOTS

S4°31'12"E 3576.33

294.75

Camden Ave. N.

N4°31'12"W 977.38

967.44

147.96

N. Line of R.L.S. No. 678 & its W'ly Extension

N85°28'48"E 475.99

N85°03'21"E 225.51

N02°20'19"E 109.17

109.83

N23°09'42"W 171.05

149.23
S23°09'42"E

17.90
N4°31'39"W

17.53
S4°31'39"E

S49°30'17"W 6.11

N4°30'17"E 129.24

31.54

S. Line of Gov't. Lot 2

239.56

Drainage & Utility Easement

N. Line of Gov't. Lot 3

S89°31'58"E 643.81

600.58

N. Line of Lot 7 of MENDENHALL'S OUTLOTS

Line Parallel with the N. Line of Lot 7 of "MENDENHALL'S OUTLOTS"

Lot 1
Block 1

LYNBROOK ADDITION

LOT 2

LOT 1

TOPGOLF

NORDLING WELTER ADDITION

DETAIL
NO SCALE

Int. Hwy. No. 694

S52°57'41"W 231.92

Cap#23044

N37°19'12"W 1.16

Lot 1
Block 1

[64°22'35"Az.]
S64°22'35"W
114.30 [114.14]

CURVE DATA					
SEGMENT	LENGTH	RADIUS	DELTA	CH. BEARING	CHORD
C1	109.69	60.00	104°44'53"	N42°08'46"W	95.04
C2	142.11	60.00	135°42'32"	N26°39'56"W	111.15
C3	32.42	60.00	30°57'39"	N25°42'30"E	32.03
C4	29.69	60.00	28°20'55"	N3°56'47"W	29.38
C5	60.63	60.00	57°53'41"	N42°12'00"W	58.08

BEARINGS ARE BASED ON THE WEST LINE OF THE SE1/4, SEC. 36, TWP. 119, RGE. 21 HAVING A BEARING OF N04°31'12"W.

BENCHMARK: TOP NUT OF HYDRANT LOCATED AT THE NORTHWEST CORNER OF CAMDEN AVENUE AND INTERSTATE HIGHWAY NO. 694
ELEVATION = 839.38 (NGVD 29)

O DENOTES 1/2 INCH X 14 INCH IRON MONUMENT SET, MARKED "LS 48988"

● DENOTES IRON MONUMENT FOUND, MARKED "LS 48988" UNLESS OTHERWISE SHOWN

• DENOTES 5/8 INCH PINS

[ ] DENOTES DEED DISTANCE

Az. DENOTES AZIMUTH

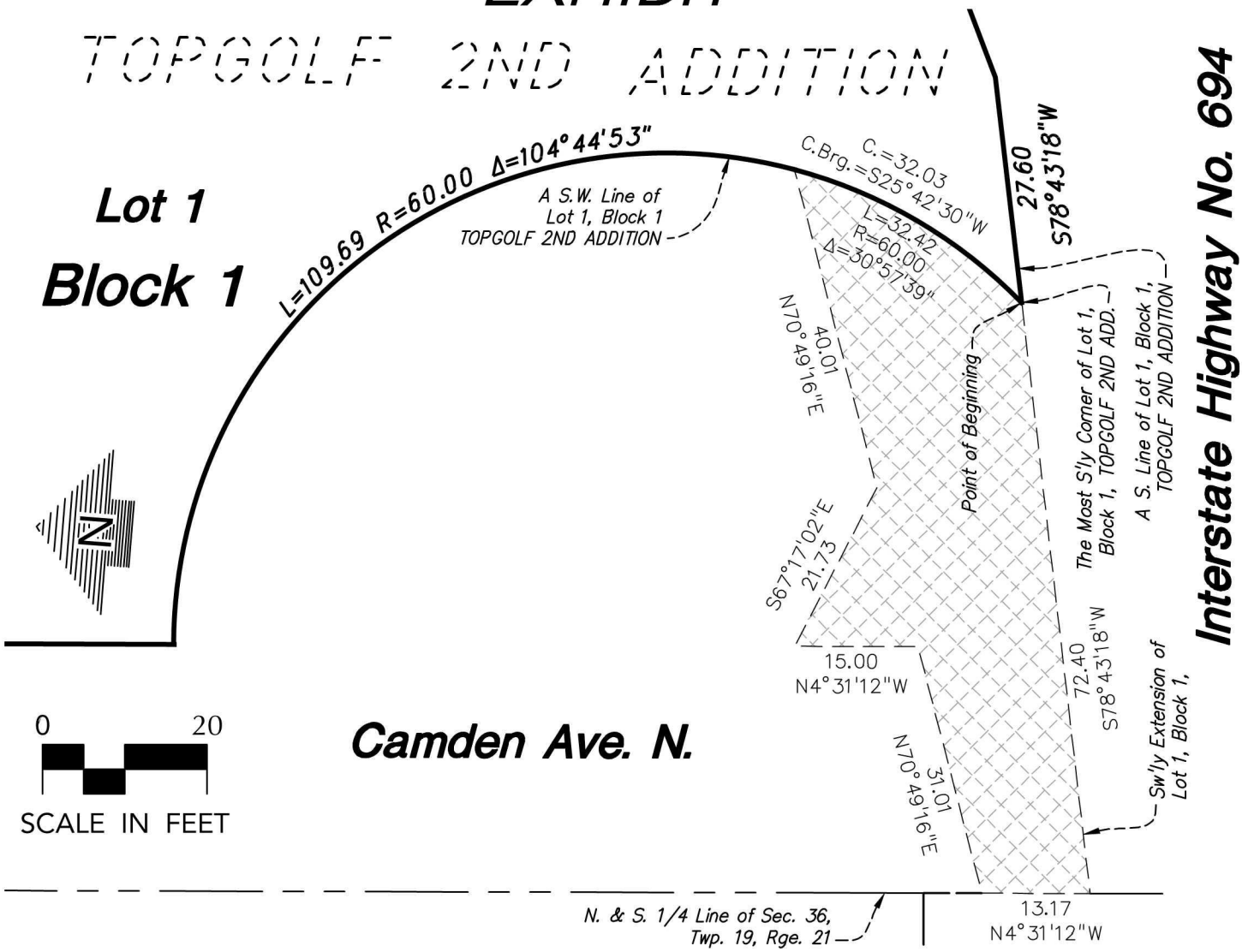
N

0 50 100
SCALE IN FEET

LOUCKS

EXHIBIT

TOPGOLF 2ND ADDITION



DESCRIPTION

That part of Camden Avenue North, TOPGOLF 2ND ADDITION, Hennepin County, Minnesota, described as follows:

Beginning at the most southerly corner of Lot 1, Block 1, said TOPGOLF 2ND ADDITION; thence on an assumed bearing of South 78 degrees 43 minutes 18 seconds West along the southwesterly extension of a south line of said Lot 1, a distance of 72.40 feet to the north and south quarter line of Section 36, Township 19, Range 21; thence North 04 degrees 31 minutes 12 seconds West 13.17 feet; thence North 70 degrees 49 minutes 16 seconds East 31.01 feet; thence North 04 degrees 31 minutes 12 seconds West 15.00 feet; thence South 67 degrees 17 minutes 02 seconds East 21.73 feet; thence North 70 degrees 49 minutes 16 seconds East 40.01 feet more or less to a southwesterly line of said Lot 1; thence southwesterly 32.42 feet along said southwesterly line of Lot 1 and a nontangential curve, concave to the northwest, having a radius of 60.00 feet, a central angle of 30 degrees 57 minutes 39 seconds and a chord bearing of South 25 degrees 42 minutes 30 seconds West to said most southerly corner of Lot 1 and the point of beginning.

Note: TOPGOLF 2ND ADDITION has not been recorded as of the date of this exhibit.

PROJECT NUMBER: 16366 DRAWN BY: SFH SHEET NUMBER 1 OF 1

LOUCKS

7200 Hemlock Lane, Suite 300
Maple Grove, MN 55369
763.424.5505
www.loucksinc.com

PLANNING
CIVIL ENGINEERING
LAND SURVEYING
LANDSCAPE ARCHITECTURE
ENVIRONMENTAL

© 2019

I hereby certify that this survey, plan or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.

Max L. Stanislowski - PLS

License No. 48988

Date 01/03/19

W:\2016\16366E\CADD DATA\SURVEY_dwg Sheet Files\S16366E-EXH-ROW-2

REVISED M E M O R A N D U M

DATE: January 16, 2019

TO: Ginny McIntosh, City Planner/Zoning Administrator

FROM: Andrew Hogg, Assistant City Engineer

SUBJECT: Preliminary/Final Plat Site Plan Review - Top Golf

Public Works staff reviewed the following documents submitted for review for the proposed Top Golf plat:

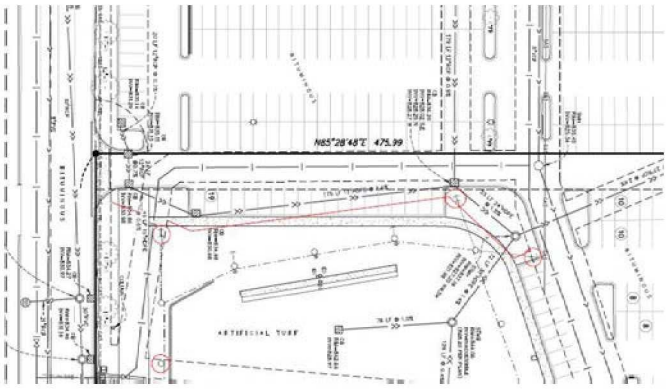
- Preliminary Plans dated December 3, 2018

Subject to final staff final plat approval, the referenced plans must be revised in accordance with the following comments/revisions.

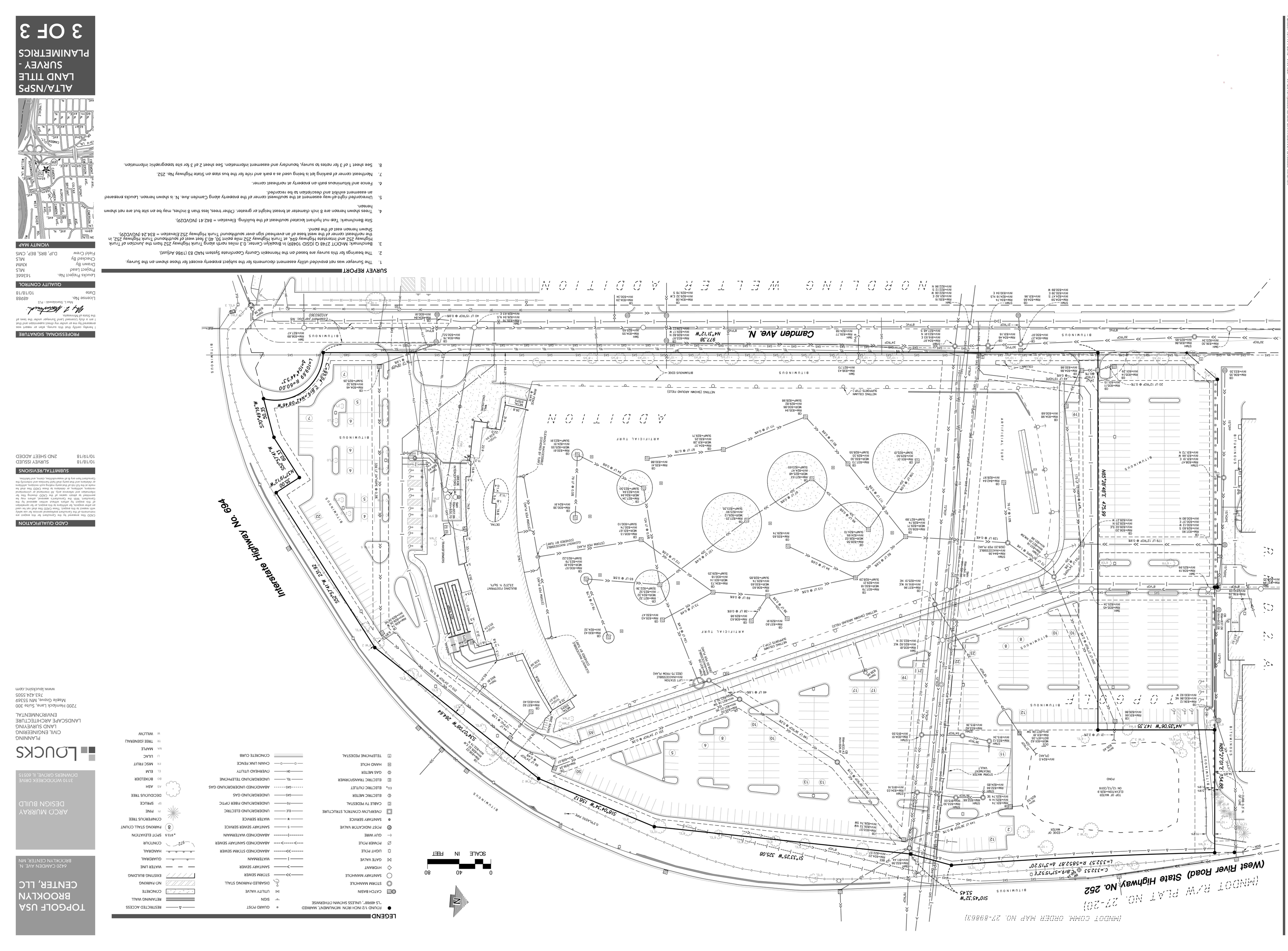
Preliminary Plat/Final

1. Need working copy of the preliminary plat to show all vacated easements, proposed easements, existing and proposed utilities and provide all easement documents for the City for review.
2. Legal descriptions and easement vacation documents must be obtained for all existing easements. Existing public easements as determined by the City must be vacated, and proposed easements must be dedicated as part of the preliminary and final platting process. The formal vacation document must contain an easement vacation description and depiction exhibit signed by a professional surveyor.
3. An updated certified abstract of title or registered property report must be provided to the City Engineer and City Attorney for review at the time of the preliminary plat application (within 30 days of preliminary plat application). Additionally, this will need to stay current and be updated through the approval process as required to maintain and be current within 30 days of the release of final plat.
4. A 10-ft drainage and utility easement must be dedicated on the plat around the entire perimeter of the site.
5. Right of Way turn back must be completed and recorded with Hennepin County prior to City taking over control and maintenance of public right of way.
6. Private site appurtenances (e.g. light poles, signs, etc.) must not encroach on public easement areas. For appurtenances that provide adequate setback and will not have any direct impact on the public elements, within the easement area as allowed and approved by the City, will require an Encroachment Agreement. Encroachment Agreement shall have very specific details and plans pertaining to the encroachment. Per the June 8, 2018 Site Plan review Memo, agreements are still needed for the site netting poles within the utility easement and any other appurtenances within the easement areas.

7. Add drainage and utility easement as shown and per conversation with Loucks on January 16, 2019.



The aforementioned comments are provided based on the information submitted by the applicant at the time of this review. Other guarantees and site development conditions may be further prescribed throughout the project as warranted and determined by the City.



SURVEY REPORT

1. The Surveyor was not provided utility easement documents for the subject property except for those shown on the Survey.
2. The bearings for this survey are based on the Hennepin County Coordinate System NAD 83 (1986 Adjust).
3. Benchmark: MnDOT 27A8 Q (GSID 10482) In Brooklyn Center, 0.3 miles north along Trunk Highway 252 from the Junction of Trunk Highway 252 and Interstate Highway 694, at Trunk Highway 252 mile point 50, 40.3 feet west of southbound Trunk Highway 252. In the northeast corner of the west base of an overhead sign over southbound Trunk Highway 252.Elevation = 834.24 (NGVD29). Shown hereon east of the pond.
4. Site Benchmark: Top nut hydrant located southeast of the building. Elevation = 842.41 (NGVD29).
5. Trees shown hereon are 8 inch diameter at breast height or greater. Other trees, less than 8 inches, may be on site but are not shown hereon.
6. Unrecorded right-of-way easement at the southwest corner of the property along Camden Ave. N. Is shown hereon. Locks prepared an easement exhibit and description to be recorded.
7. Fence and bituminous path on property at northeast corner.
8. Northeast corner of parking lot is being used as a park and ride for the bus stop on State Highway No. 252.
9. See sheet 1 of 3 for notes to survey, boundary and easement information. See sheet 2 of 3 for site topographic information.

LEGEND

- FOUND 1/2 INCH IRON MONUMENT, MARKED "LS 48988", UNLESS SHOWN OTHERWISE
- GUARD POST
- SIGN
- UTILITY VALVE
- DISABLED PARKING STALL
- STORM SEWER
- SANITARY SEWER
- WATERMAIN
- ABANDONED STORM SEWER
- ABANDONED SANITARY SEWER
- ABANDONED WATERMAIN
- SANITARY SEWER SERVICE
- WATER SERVICE
- UNDERGROUND FIBER OPTIC
- UNDERGROUND ELECTRIC
- UNDERGROUND TELEPHONE
- UNDERGROUND GAS
- ABANDONED UNDERGROUND GAS
- CHAIN LINK FENCE
- OVERHEAD UTILITY
- CONCRETE CURB
- STORM MANHOLE
- SANITARY MANHOLE
- HYDRANT
- GATE VALVE
- LIGHT POLE
- POWER POLE
- GUY WIRE
- POST INDICATOR VALVE
- SANITARY SERVICE
- OVERHEAD CONTROL STRUCTURE
- CABLE TV PEDESTAL
- ELECTRIC METER
- ELECTRIC OUTLET
- ELECTRIC TRANSFORMER
- GAS METER
- HAND HOLE
- TELEPHONE PEDESTAL
- CATCH BASIN
- RESTRICTED ACCESS
- RETAINING WALL
- CONCRETE
- NO PARKING
- EXISTING BUILDING
- WATER LINE
- GUARDRAIL
- HANDRAIL
- CONTOUR
- SPOT ELEVATION
- PARKING STALL COUNT
- CONIFEROUS TREE
- PINE
- SPRUCE
- DECIDUOUS TREE
- ASH
- BOXELDER
- ELM
- MISC FRUIT
- LILAC
- MAPLE
- TREE (GENERAL)
- WILLOW

PLANNING
CIVIL ENGINEERING
LAND SURVEYING
LANDSCAPE ARCHITECTURE
ENVIRONMENTAL
7200 Hemlock Lane, Suite 300
Maple Grove, MN 55369
763.424.5505
www.loucksinc.com

TOPGOLF USA
BROOKLYN CENTER, LLC
6420 CAMDEN AVE. N
BROOKLYN CENTER, MN

ARCO MURRAY
DESIGN BUILD
3110 WOODCREEK DRIVE
DOWNERS GROVE, IL 60515

CADD QUALIFICATION

CADD Data prepared by the Consultant for this project are compatible with the Consultant's CADD system. These CADD data shall not be used by others without verification by the Consultant. With the Consultant's approval, errors may be corrected by others without liability to the Consultant. Data provided by the Consultant may be altered or corrupted by the recipient or by anyone who subsequently receives the data from the recipient. Any alteration to these CADD data shall be made at the full risk of third party who makes such alterations. Alterations of the original CADD data shall be documented by the party making the alterations and shall not be attributed to the Consultant. Any reproduction or unauthorized use of these CADD data by the recipient or by anyone who subsequently receives the data from the recipient, without the written consent of the Consultant, shall be at the recipient's sole risk and without liability to the Consultant. The recipient agrees to indemnify and hold harmless the Consultant against all damages, liabilities or costs, including reasonable attorney's fees and defense costs, arising out of or resulting from the unauthorized use of these CADD data. Any transfer of these CADD data to other parties shall include this CADD Qualification.

SUBMITTAL/REVISIONS

10/18/18	SURVEY ISSUED
10/19/18	2ND SHEET ADDED

ALTA/NSPS
LAND TITLE
SURVEY -
PLANIMETRICS

3 OF 3

Locks Project No.	16366
Project Lead	MLS
Drawn By	KMM
Checked By	MLS
Field Crew	DJP, BRS, EEP, CMS

QUALITY CONTROL

License No.	48988
Date	10/18/18

Mark L. Sonnenberg - PLS

PROFESSIONAL SIGNATURE

I hereby certify that this survey, plan or report was prepared by me or under my direct supervision and that I am a duly licensed Land Surveyor under the laws of the State of Minnesota.

Plotted: 10/19/2018 9:49 AM W:\2016\16366\CADD_DATA\SURVEY\S16366.MASTER

COUNCIL ITEM MEMORANDUM

DATE: 1/28/2019

TO: Curt Boganey, City Manager

THROUGH: Meg Beekman, Community Development Director

FROM: Ginny McIntosh, City Planner / Zoning Administrator

SUBJECT: Resolution Approving Planning Commission Application No. 2019-002 for a Special Use Permit (2800 Freeway Boulevard)

Requested Council Action:

- Motion to approve a resolution regarding the recommended disposition of Planning Commission Application 2019-002 for approval and issuance of a Special Use Permit to operate an autism therapy center with ancillary outdoor playground in the C1 (Service/Office) District (located at 2800 Freeway Boulevard)

Background:

Jane Sharkey of Helena Autism Therapy Center, Inc, ("the Applicant") is requesting review and consideration of an application that would allow for the issuance of a Special Use Permit to operate an autism therapy center and ancillary outdoor playground at the property located at 2800 Freeway Boulevard ("the Subject Property"). This property recently held a grand opening event for the Brooklyn Innovation Group; however, it now appears the property is for sale. The Subject Property consists of a two-story, multi-tenant building that was constructed in 1988 on approximately 1.22 acres.

Helena Autism Therapy Center provides therapy services to children aged approximately 30 months (2 ½ years) to seven (7) years in age who have a medical diagnosis of Autism Spectrum Disorder (ASD) or other diagnoses. Services are also provided to family members of children on the Autism Spectrum Disorder, which would occur either at the Center or within their homes. Children receiving services from the Helena Autism Therapy Center typically spend 20 hours per week at the clinic.

As Helena Autism Therapy Center possesses CTSS (Children's Therapeutic Services and Supports) certification from the Minnesota Department of Human Services (DHS), services are provided to "help children and families develop skills in areas such as anger, aggression, following directions and rules, relating to peers, anxiety, depression, family conflicts, and offer a spectrum of services, including: individual, family, and group psychotherapy and skills training, children's day treatment, crisis assistance, behavioral health management, and mental health behavioral aides."

In reviewing the request, City staff determined that the use classification is similar in nature to that of a "group daycare facility," which is allowed by Special Use only in the C1 (Service/Office) District. Requests for issuance of a Special Use Permit require that a public hearing be scheduled. An Affidavit of Publication was received, confirming publication of a public hearing notice in the Brooklyn Center *Sun Post* on January 3, 2019. Mail notices were also sent out to property owners in accordance with Section 35-220 (*Special Use Permits*) of the Brooklyn Center Zoning Ordinance.

On January 17, 2019, the Planning Commission held a public hearing regarding the request for issuance of a

Special Use Permit to allow for an autism therapy center with ancillary outdoor playground in the C1 (Service/Office) District. No comments were received prior to or during the public hearing; however, the Applicant, as well as the current property owner, were available to answer questions of the Planning Commission, which primarily related to the continued leasing of some space to current tenants located within the building, the location of the outdoor playground, and fencing.

Following close of the public hearing, the Planning Commission elected to unanimously (6-0) recommend City Council approval of the requested issuance of a Special Use Permit for an autism therapy center with ancillary outdoor playground for the Subject Property located at 2800 Freeway Boulevard with the condition that the resolution presented be amended to reflect that the proposed cedar fencing for the outdoor playground area either be double sided, or faced outward towards the adjacent roadway (Xerxes Avenue North). This recommendation was also subject to the Applicant complying with the conditions as outlined in the Planning Commission Report dated January 17, 2019 and associated resolution.

A copy of the Planning Commission Report for Planning Commission Application No. 2019-002, dated January 17, 2019, and the City Council resolution regarding the approval and issuance of a Special Use Permit for an autism therapy center and ancillary outdoor playground is included with this memorandum.

Budget Issues:

There are no budget issues to consider at this time.

Strategic Priorities and Values:

Safe, Secure, Stable Community

Member introduced the following resolution and moved its adoption:

RESOLUTION NO.

RESOLUTION REGARDING THE RECOMMENDED DISPOSITION OF PLANNING COMMISSION APPLICATION NO. 2019-002 SUBMITTED BY JANE SHARKEY OF HELENA AUTISM THERAPY CENTER FOR APPROVAL AND ISSUANCE OF A SPECIAL USE PERMIT TO OPERATE AN AUTISM THERAPY CENTER WITH ANCILLARY OUTDOOR PLAYGROUND IN THE C1 (SERVICE/OFFICE) DISTRICT (LOCATED AT 2800 FREEWAY BOULEVARD)

WHEREAS, Planning Commission Application No. 2019-002, submitted by Jane Sharkey of Helena Autism Therapy Center ("the Applicant") requests review and consideration for the issuance of a Special Use Permit to operate an autism therapy center with ancillary outdoor playground within an existing two-story building located at 2800 Freeway Boulevard ("the Subject Property"); and

WHEREAS, the Subject Property is situated in the C1 (Service/Office) District and pursuant to a determination by City staff, the closest type use given the day-to-day operation, age of clientele, and requests is that of a "Group Day Care Facility"; and

WHEREAS, per City Code Section 35-320; Subpart 3, Group Day Care Facilities are only allowed by means of Special Use Permit in all C1 (Service/Office) Districts, and the Applicant has submitted such an application to the City of Brooklyn Center for official consideration under Planning Commission Application No. 2019-002; and

WHEREAS, the Planning Commission of the City of Brooklyn Center, Minnesota held a duly noticed and called public hearing on January 17, 2019, whereby a planning staff report was presented and public testimony regarding the Special Use Permit were received; and

WHEREAS, the Planning Commission of the City of Brooklyn Center, Minnesota considered the Special Use Permit request in light of all testimony received, the guidelines and standards for evaluating this Special Use Permit contained in Section 35-220 (*Special Use Permit*) of the City's Zoning Ordinance, and the request complies with the general goals and objectives of the City's 2030 Comprehensive Plan.

NOW, THEREFORE, BE IT RESOLVED by the City Council of Brooklyn Center, Minnesota to recommend that Planning Commission Application No. 2019-002, submitted by Jane Sharkey of Helena Autism Therapy Center, be approved based upon the following considerations:

a) The establishment, maintenance, or operation of the special use will promote and enhance the general public welfare and will not be detrimental to or endanger the public health, safety, morals, or comfort.

b) The special use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.

c) The establishment of the special use will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district.

d) Adequate measures have been or will be taken to provide ingress, egress and parking so designed as to minimize traffic congestion in the public streets.

e) The special use shall, in all other respects, conform to the applicable regulations of the district in which it is located.

BE IT FURTHER RESOLVED by the City Council of the City of Brooklyn Center, Minnesota to recommend that Planning Commission Application No. 2019-002 be approved subject to the following conditions and considerations:

1. **Building and Site Plan Review:**
    a. Any major changes or modifications made to the Subject Property can only be made either through the City's Building Permit process or through formal Site and Building Plan review by the City.
    b. The installation of the as-proposed eight (8) foot cedar fence and any alterations to the parking lot will require issuance of a City building permit and/or zoning approval.

2. **Agreements:**
    a. The Applicant shall adhere to the maximum occupancies outlined by City staff and in accordance with any licensing or certification requirements (e.g., DHS) for the autism therapy center, office, and church uses.
    b. Issuance of a Special Use Permit for the autism therapy center and ancillary outdoor playground is conditioned upon the Applicant obtaining any necessary certification or re-certification from the Minnesota Department of Human Services (DHS) or other licensing authorities for the use or services provided. This information shall be provided to the City Planner for confirmation.
    c. The Special Use Permit for the autism therapy center and ancillary outdoor playground is subject to all applicable building codes, ordinances, and regulations. Any violation thereof may be grounds for revocation.
    d. The Applicant shall comply with the review comments identified in Building Official Dan Grinsteinner's memorandum dated January 10, 2019. The Applicant shall provide plans for any remodeling and submit building permit applications for any work to be conducted in the space.

e. The Applicant shall comply with all comments outlined in the memorandum prepared by Assistant City Engineer Andrew Hogg on January 7, 2019, and the parking/site plan identified under Planning Commission Application No. 88015.
f. Children being dropped off or utilizing the autism therapy center/outdoor playground shall always be escorted by a parent or designated adults/guardians when entering or exiting the building or outdoor playground. Children are not to be left unattended in the outdoor playground area.

3. Facilities and Equipment:

a. The outdoor playground fencing panels are either to face outward (away from the building) or be of double-sided construction.
b. The Subject Property parking lot is to be re-striped to meet City code and site plan approval requirements, and provide sufficient ADA parking in proximity to main entrances. Plans are to be submitted detailing the re-striping and alterations to accommodate the proposed outdoor playground.
c. The Applicant shall conduct an inventory of existing landscaping to determine whether the existing landscaping is in conformance with the approved landscape plan under Planning Commission Application No. 88015. Should any deficiencies or removals be identified, the Applicant shall propose like replacements. All new landscaping is to meet the minimum standards noted under the City's Landscape Point System Policy (e.g., caliper sizing).
d. The Applicant shall obtain approval from the Hennepin County Health Department for any proposed kitchen facilities.
e. The Applicant/Property Owner shall ensure the fire sprinkler system is maintained and monitored.
f. No outdoor music or loud speakers will be allowed in and around the outdoor playground area; the playground shall be monitored by the required number of adult leaders per any certification or licensure requirements; and the playground must be well maintained and secured during off hours of operations.
g. The Applicant must ensure that the playground area drains properly or provide measures or drainage devices that ensure positive drainage.
h. Any playground curbing materials, play structures, fencing and/or concrete curb barricades damaged or destroyed due to accidents or natural events shall be replaced immediately.

RESOLUTION NO.

January 28, 2019
Date

Mayor

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.

Planning Commission Report

Meeting Date: January 17, 2019

- Application Filed: 12/18/2018
- Review Period (60-day) Deadline: 02/16/2019
- Extension Declared: N/A
- Extended Review Period Deadline: N/A

Application No. 2019-002
Applicant: Jane Sharkey (Helena Autism Therapy Center, Inc.)
Location: 2800 Freeway Boulevard
Request: Special Use Permit for Autism Center and Outdoor Playground

INTRODUCTION

Jane Sharkey of Helena Autism Therapy Center, Inc, ("the Applicant") is requesting review and consideration of an application that would allow for the issuance of a Special Use Permit to operate an autism therapy center and ancillary outdoor playground at the property located at 2800 Freeway Boulevard ("the Subject Property"). This property recently held a grand opening event for the Brooklyn Innovation Group; however, it now appears the property is for sale. The Subject Property consists of a two-story, multi-tenant building that was constructed in 1988 on approximately 1.22 acres.

The Subject Property originally received site and building plan approval in 1988 under Planning Commission Application No. 88015 for construction of an approximately 14,000-square foot, two story office building, with its intended primary use as an insurance company. Approval of the site and building plan also included approvals for a landscape plan, installation of an underground irrigation system and automatic fire extinguishing system.

Map 1. Subject Property Location (2800 Freeway Boulevard).



Image 1. Exterior Images of Subject Property (2800 Freeway Boulevard).





Photo Source: Loopnet and Ginny McIntosh.

COMPREHENSIVE PLAN AND ZONING STANDARDS

2030 Land Use Plan: OS– Office/Service Business

Neighborhood: Shingle Creek

Current Zoning: C1 (Service/Office) District

Surrounding Zoning:
North: C1 (Service/Office) District
East: I1 (Industrial Park) District
South: R3 (Multiple Family Residence) District
West: C1 (Service/Office) District

Site Area: Approximately 1.22 Acres

SPECIAL USE PERMIT REVIEW

Background on Autism Therapy Center

The Applicant initially met with City staff to discuss their intent to purchase the property located at 2800 Freeway Boulevard and plans to construct an outdoor playground immediately adjacent to the building. The Applicant has leased space in Fridley since 2012 for the Helena Autism Therapy Center, but has been unable to obtain permission to construct an outdoor playground. As many of her clients are young children, it was felt that outdoor play should be provided in order "to address large motor deficiencies and enjoy fresh air and a fun setting."

Given discussions with the Applicant, the request for an outdoor playground, and the intended focus of the autism therapy center on serving clients primarily two and a half to seven years in age, it was determined that the use classification would be similar in nature to that of a "group daycare facility," which is allowed by Special Use only in the C1 (Service/Office) District. Requests for issuance of a Special Use Permit require that a public hearing be scheduled. An Affidavit of Publication was received, confirming publication of a public hearing notice in the Brooklyn Center *Sun Post* on January 3, 2019 (Exhibit A). Mail notices were also sent out to property owners in accordance with Section 35-220 (*Special Use Permits*) of the Brooklyn Center Zoning Ordinance.

The Applicant has provided supplemental information on the certification of the autism therapy center through the Minnesota Department of Human Services (DHS) as well as the Center's mission and operations, attached hereto as Exhibit B. Helena Autism Therapy Center provides therapy services to children aged approximately 30 months (2 ½ years) to seven (7) years in age who have a medical diagnosis of Autism Spectrum Disorder (ASD) or other diagnoses. Services are also provided to family members of children on the Autism Spectrum Disorder, which would occur either at the Center or within their homes.

Children receiving services from the Helena Autism Therapy Center spend 20 hours per week at the clinic where group treatment modalities, including art and music classes, are provided to model typical academic settings. The Center also provides speech and occupational therapy.

Helena Autism Therapy Center possesses CTSS (Children's Therapeutic Services and Supports) certification which requires adherence to certain Minnesota State Statute guidelines, including those relating to state and local coordination, day treatment services, and emotional disturbance. The Minnesota Department of Human Services (DHS) notes that CTSS are a "flexible package of rehabilitative mental health services to meet the needs of each individual child" and "provide varying degrees of care for children and youth who require more than psychotherapy alone to return lost capabilities and restore them to normal development."

CTSS is intended to "help children and families develop skills in areas such as anger, aggression, following directions and rules, relating to peers, anxiety, depression, family conflicts, and offer a spectrum of services, including: individual, family, and group psychotherapy and skills training, children's day treatment, crisis assistance, behavioral health management, and mental health behavioral aides."

The Center would employ approximately 29 on-site employees. An additional 10 staff and a manager are employed under a DBA ("Doing Business As") called Helena Family Support. While the manager would maintain an office at the Subject Property, the other 10 staff would provide services off-site with the exception of regular once per week meetings and other scheduled meetings as needed at the Subject Property. The Center typically hosts 20 children during the morning program, and another 20 children

during the afternoon program, with proposed operating hours of 8 a.m. to 5:15 p.m., Monday through Friday. Children are either dropped off by their parents or guardians, or transported by Medical Assistance carriers. No transportation vehicles would be stored on site of the Subject Property.

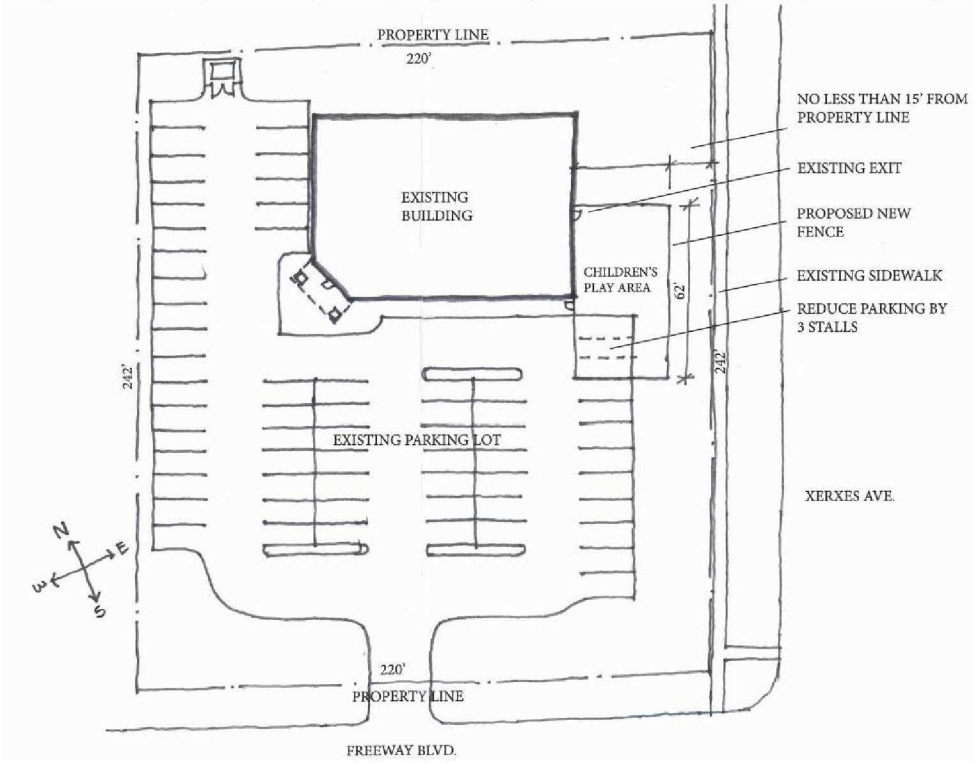
The C1 (Service/Office) District does not specifically outline "autism center" type uses as a permitted or Special Use, although "medical, dental, osteopathic, chiropractic, and optometric offices" are a permitted use under this zoning designation. In consideration of the day-to-day operations, age of clientele, and request for construction of an outdoor playground, City staff determined that the "group day care facilities" use, allowable only through issuance of a Special Use Permit, would be the closest type use designation and requested that the Applicant submit an application for consideration by the Planning Commission and City Council.

Outdoor Playground Request

The Applicant has indicated that the primary reason in relocating from Fridley to Brooklyn Center would be to offer an outdoor playground for their young clients to utilize. The Applicant identified an area just outside a side door on the east side of the Subject Property, parallel to Xerxes Avenue North. The approximate dimensions of the playground, as proposed, would be 33 feet wide by 62 feet long. The playground would be fully enclosed with a cedar fence.

The distance from the eastern edge of the building to the edge of the existing sidewalk along Xerxes Avenue North is approximately 51 feet; therefore, the proposed playground would maintain an 18 foot separation. The distance between the edge of the playground (fence) to the edge of curb along Xerxes Avenue North is approximately 41 feet. The Applicant intends to incorporate equipment per the Minnesota Department of Human Services (DHS) recommendations and as indicated in treatment plans from Primary Care Physicians, physical therapists, and mental health providers.

Image 2. Site Plan Layout of Subject Property with Proposed Outdoor Playground (2800 Freeway Boulevard).



In most cases, group daycare or child care centers are required to provide an outdoor play area for children. In the C1 District, outdoor recreational facilities (e.g., playgrounds) are regulated by certain special requirement standards under the City's Zoning Code. Per Section 35-411 (*Special Requirements in C1 and C1A Districts*),

> "In the case of group day care facilities, outside recreational facilities shall be appropriately separated from the parking and driving areas by a wood fence not less than four feet in height; or a Council approved substitute; shall be located contiguous to the day care facility, shall not be located in any yard abutting a major thoroughfare unless buffered by a device set forth in Section 35-400; Footnote 10; shall not have an impervious surface for more than half the playground area; and shall extend at least 60 feet from the wall of the building or to an adjacent property line, whichever is less, or shall be bounded on not more than two sides by parking and driving areas."

Per Section 35-400 (*Table of Minimum District Requirements*), Footnote 10,

> "Setbacks along major thoroughfares as designated in Section 35-900 shall in all cases be at least 50 feet, measured from the street right-of-way line, except for commercial buildings located in commercial zoning districts (**C1** and C2) or accessory structures or where the property abuts a marginal access street or where the property abuts a noise wall or noise berm constructed by Mn/DOT, or where the City Council finds that excess right-of-way mitigates the effects of traffic noise, dust, and fumes. In such cases, the setback requirements shall be as contained in the Table of Minimum District Requirements."

Based on the information provided by the Applicant, the Applicant intends to install an eight (8) foot high cedar fence around the perimeter of the outdoor playground, not only as a safety mechanism, but to buffer noise, dust, and fumes that may come from Xerxes Avenue North. The playground area would be located just outside an egress door and feature an exit within the fence at the southwest corner of the proposed playground.

As the proposed playground would result in the loss of three (3) parking spaces, Assistant City Engineer Andrew Hogg noted that the Applicant would need to provide sufficient spacing between the playground and parking lot curb. Per his memorandum dated January 7, 2019 (Exhibit C), the proposed playground fencing shall be located a minimum of four (4) feet from parking lot curbing. Additionally, all perimeters of driving and parking areas are to be bounded by cast-in-place concrete curb and gutter which conforms to Minnesota Highway Type "B6-12." Sufficient ADA accessibility is also to be provided.

The Applicant will also want to ensure the Subject Property remains in compliance with the original site and building plan approvals, as noted under PC Application No. 88015. For instance, as a landscape plan was approved, the Applicant would need to verify by inventory that the existing landscaping is still in compliance. If trees or shrubs are to be removed to make way for the proposed playground, the Applicant will need to propose replacement landscaping to make up for the deficiency that is in compliance with the City's Landscape Point System Policy standards (e.g., caliper sizing).

Existing Tenants and Parking Needs

The Subject Property is currently home to the Brooklyn Innovation Group, although it is the intent of the current property owner to sell. The Applicant has indicated that there are a few tenants who would like to remain at this location if so allowed. This includes Mountain of Fire and Miracles church (lease expiration in April 2020), Kesma Flame Lily, LLC (lease expiration in March 2021), Direct Hire Staffing

(lease expiration in September 2019) and Business Associates (lease expiration in November 2020).

Based on information provided on their website, Mountain of Fire and Miracles church, located on the second floor, holds services on Sunday mornings and Wednesday evenings (from 7 p.m. to 9 p.m.), which would be on an opposite schedule from the other tenants, including the autism therapy center. According to the Applicant, the existing tenants have the following spaces leased to them:

Mountain of Fire and Miracles Church – Approximately 2,000 square feet
Kesma Flame Lily, LLC – Approximately 1,000 square feet
Direct Hire Staffing – Approximately 680 square feet
Business Associates – Approximately 500 square feet

Total Square Feet of Use by Other Tenants: Approximately 4,180 square feet
Total Square Feet of Use by Proposed Autism Center: 9,820 square feet

Assuming approximately 12,000-square feet of the building is utilized for "office use," Section 35-704 (*Minimum Parking Spaces Required*) would require a minimum of 60 parking spaces to serve this use during the week. Churches and other places of assembly would require that a minimum of one (1) parking space for every three seats be provided. As the Applicant was unable to obtain information on the Mountain of Fire and Miracles church membership (due to the due diligence process currently underway), additional information will need to be provided in order to determine whether sufficient parking is available. This assumes the church will meet at off-hours from the office tenants and autism therapy center.

The Applicant has indicated that 64 off-street parking spaces are available on site. Assuming four (4) parking spaces are lost to accommodate the playground (3 spaces for playground use and 1 space for separation between the parking and playground areas), the Applicant would be providing the bare minimum necessary for the uses proposed. Per Planning Commission Application No. 88015, the original site and building plan noted a provision for 70 parking spaces.

Upon a visit to the site, City staff noted that some spaces had been removed to accommodate for a new drive aisle. In order to conform to the original site and building plan provisions, the parking lot would need to be re-striped to address the deficiency. The Applicant will also need to address non-conforming and potentially insufficient ADA parking. As the Applicant had indicated in their memo (Exhibit B) that children would be dropped off at the south entrance by making a circle turn, the Applicant may need to revise this drop off plan, as parking spaces would need to be added back in this current drive aisle.

Building Official Review
Building Official Dan Grinsteinner provided comments regarding the occupancy classification, floor locations of occupants depending on the presence of an automatic fire sprinkler and/or fire alarm system, the minimum egress requirements given the types of uses within the building, and fire separation requirements given the presence of a church (assembly type occupancy) with adjacent office occupancies. Please refer to his attached comments for more information (Exhibit D).

Special Use Permit Request
The Applicant is requesting approval of a Special Use Permit to allow for the establishment of an autism therapy center and construction of an outdoor playground in an existing two-story building located at 2800 Freeway Boulevard. According to Section 35-220 (*Special Use Permits*) of the City's Zoning

Ordinance,

> *"Special uses are those which may be required for the public welfare in a given district but which are, in some respects, incompatible with the permitted uses in the district. Before a building or premises is devoted to any use classified as a special use by this ordinance, a special use permit must be granted by the City Council."*

As "group day care facilities" have been identified as the most closely related use, Section 35-320 (*C1 Service/Office District)*, Subsection 3 (*Special Uses*), notes that:

b. Group day care facilities provided that such developments, in each specific case, are demonstrated to be:

1) Compatible with existing adjacent land uses as well as with those uses permitted in the C1 district generally.
2) Complementary to existing adjacent land uses as well as those uses permitted in the C1 district generally.
3) Of comparable intensity to permitted C1 district land uses with respect to activity levels.
4) Planned and designed to assure that generated traffic will be within the capacity of available public facilities and will not have an adverse impact upon those facilities, the immediate neighborhood, or the community.
5) Traffic generated by other uses on the site will not pose a danger to children served by the daycare use.

And further provided that the special requirements set forth in Section 35-411 (*Special Requirements in C1 and C1A Districts*) are adhered to.

As indicated in the language above, the "group daycare facilities" use is typically geared towards the more traditionally seen child daycare model. However, as an example, Planning Commission Application No. 2018-019, which granted a Special Use Permit to an adult daycare facility, was recently reviewed utilizing the "group daycare facilities" determination as a guideline.

Per the *Standards of Special Use Permits*, a Special Use Permit may be granted by the City Council after demonstration by evidence that all of the following are met:

1. ***The establishment, maintenance, or operation of the special use will promote and enhance the general public welfare and will not be detrimental to or endanger the public health, safety, morals, or comfort.***

   The Applicant has noted that it is not their intent to endanger the public health, safety, morals, or comfort of their clients, existing tenants, or the general public. As the autism therapy center currently possesses CTSS certification through the Minnesota Department of Human Services (DHS), the Applicant would need to provide updated documentation noting the relocation or potential re-certification of the autism therapy center at the Subject Property and ensure all outstanding comments identified by City staff, including the City Building Official, Fire Inspector, and Assistant City Engineer, are addressed.

   The Applicant did sit down to meet with City staff prior to submitting an application to the City. As part of the meeting, certain concerns were identified. Specifically, the Building Official noted that if the church is to remain a tenant, fire proofing will be required to separate the assembly

use from the adjacent office uses. Given the age of the youngest clients, it was also stressed that, should any clients be younger than 30 months (2 ½ years), additional egress provisions would be required for any therapy or use that might take place on the second floor of the building.

Regarding the proposed outdoor playground, the Applicant intends to install an eight (8) foot high cedar fence to not only address safety concerns, but to buffer out any noise, dust, or fumes from the adjacent roadway (Xerxes Avenue North). An egress from within the playground area would be provided at the southwest corner of the area that would not only provide a continued path of egress from within the building, but also ensure young clients remain within the playground area. Considering the separation requirements between the playground fence and parking lot curbing, the Applicant will want to work with City staff to ensure sufficient safety measures are in place (e.g., overall separation, installation of barricades or bumpers).

2. ***The special use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.***

The special use is not intended to be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, not substantially diminish and impair the property values within the neighborhood. The building is currently occupied by some tenants who would like to stay in place if so allowed. Assuming parking is sufficient and all comments and concerns noted by City staff are addressed, City staff sees no reason why the existing tenants could not remain.

Other than the installation of a playground area on the east side of the Subject Property and corrections to parking and landscaping, etc. the Applicant has no plans to substantially alter the existing building's exterior. The intent is to operate the autism therapy center during normal, weekday business hours, with use by the church in the evening one day per week and on Sundays.

The Subject Property is bordered to the south by existing townhomes known as Earle Brown Estates, to the west by Spiritual Life Church and God's Little Treasures Childcare (6865 Shingle Creek Parkway), to the north by Showdown Displays (6850 Shingle Creek Parkway), and to the east by a multi-tenant industrial office building known as the Shingle Creek Corporate Center (2700 Freeway Boulevard).

3. ***The establishment of the special use will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district.***

The establishment of the special use should not impede the normal and orderly development and improvement of surrounding properties for uses permitted in the district. The Subject Property is currently surrounded by another like-zoned C1 (Service/Office) District property, R3-zoned townhomes, and I1 (Industrial Park) zoned properties. Given that the area is fully developed, it is hoped that acquisition of the Subject Property by the Applicant would ensure the Subject Property remains in use.

Given that the adjacent, like-zoned property to the west received a Special Use Permit for a

Group Day Care Facility within an existing church with an outdoor playground (under Planning Commission Application No. 2014-012), City staff reviewed the staff report for comparison considering the similar request.

4. ***Adequate measurements have been or will be taken to provide ingress, egress, and parking so designed as to minimize traffic congestion in the public streets.***

   The Applicant met with City staff on a few occasions to discuss her proposal and identify potential issues as outlined by the Assistant City Engineer, City Planner, and Building Official. The Building Official visited the site in the past few months during its remodel for the Brooklyn Innovation Group and is therefore familiar with the building. His comments have been provided in a memorandum dated January 10, 2019 (Exhibit D). The Assistant City Engineer noted his comments in his memorandum dated January 7, 2019 (Exhibit C).

   The Applicant is aware of the potential ingress and egress needs for the proposed autism therapy center, and fire code requirements given the presence of a church in an office building. Additionally, the City Planner notified the Applicant of the existing deviations from the original site and building plan approvals relating to parking. The Applicant will need to ultimately work with City staff to ensure all ingress, egress, and parking concerns are addressed as to minimize traffic congestion in the public streets.

5. ***The special use shall, in all other respects, conform to the applicable regulations of the district in which it is located.***

   Per the submitted plans, the Applicant has no plans to alter the exterior of the building in such a way to render the building or site non-conforming. The only anticipated alterations include the incorporation of an outdoor playground with fencing, and addressing of the existing parking lot and landscaping.

   With regard to the minimum parking requirements, and based on the intended operation of the autism therapy center, other office uses, and church, staff is not overly concerned about parking provided the lot is re-striped to reflect the originally approved site and building plan, and sufficient ADA parking/emergency routing is provided.

Based on staff findings, staff recommends the Planning Commission recommend City Council approval of the requested Special Use Permit for an autism therapy center with ancillary outdoor playground for the property located at 2800 Freeway Boulevard (Subject Property); subject to the Applicant complying with the comments outlined in the Approval Conditions noted below.

APPROVAL CONDITIONS:
Staff recommends the following conditions be attached to any positive recommendation on the approval of Application No. 2019-002 for 2800 Freeway Boulevard (Subject Property):

1. **Building and Site Plan Review:**
   a. Any major changes or modifications made to the Subject Property can only be made either through the City's Building Permit process or through formal Site and Building Plan review by the City.
   b. The installation of the as-proposed eight (8) foot cedar fence and any alterations to the

parking lot will require issuance of a City building permit and/or zoning approval.

2. **Agreements:**
    a. The Applicant shall adhere to the maximum occupancies outlined by City staff and in accordance with any licensing or certification requirements (e.g., DHS) for the autism therapy center, office, and church uses.
    b. Issuance of a Special Use Permit for the autism therapy center and ancillary outdoor playground is conditioned upon the Applicant obtaining any necessary certification or re-certification from the Minnesota Department of Human Services (DHS) or other licensing authorities for the use or services provided. This information shall be provided to the City Planner for confirmation.
    c. The Special Use Permit for the autism therapy center and ancillary outdoor playground is subject to all applicable building codes, ordinances and regulations. Any violation thereof may be grounds for revocation.
    d. The Applicant shall comply with the review comments identified in Building Official Dan Grinsteinner's memorandum dated January 10, 2019 (Exhibit D). The Applicant shall provide plans for any remodeling and submit building permit applications for any work to be conducted in the space.
    e. The Applicant shall comply with all comments outlined in the memorandum prepared by Assistant City Engineer Andrew Hogg on January 7, 2019, and the parking/site plan identified under Planning Commission Application No. 88015.
    f. Children being dropped off or utilizing the autism therapy center/outdoor playground shall always be escorted by a parent or designated adults/guardians when entering or exiting the building or outdoor playground. Children are not to be left unattended in the outdoor playground area.

3. **Facilities and Equipment:**
    a. The Subject Property parking lot is to be re-striped to meet City code and site plan approval requirements, and provide sufficient ADA parking in proximity to main entrances. Plans are to be submitted detailing the re-striping and alterations to accommodate the proposed outdoor playground.
    b. The Applicant shall conduct an inventory of existing landscaping to determine whether the existing landscaping is in conformance with the approved landscape plan under Planning Commission No. 88015. Should any deficiencies or removals be identified, the Applicant shall propose like replacements. All new landscaping is to meet the minimum standards noted under the City's Landscape Point System Policy (e.g., caliper sizing).
    c. The Applicant shall obtain approval from the Hennepin County Health Department for any proposed kitchen facilities.
    d. The Applicant/Property Owner shall ensure the fire sprinkler system is maintained and monitored.
    e. No outdoor music or loud speakers will be allowed in and around the outdoor playground area; the playground shall be monitored by the required number of adult leaders per any certification or licensure requirements; and the playground must be well maintained and secured during off hours of operations.
    f. The Applicant must ensure that the playground area drains properly or provide measures or drainage devices that ensure positive drainage.

g. Any playground curbing materials, play structures, fencing and/or concrete curb barricades damaged or destroyed due to accidents or natural events shall be replaced immediately.

RECOMMENDATION

Based on the above-noted findings, Planning Staff recommends the Planning Commission recommends City Council approval of Planning Commission Application No. 2019-002, Special Use Permit for an autism therapy center with ancillary outdoor playground for the Subject Property located at 2800 Freeway Boulevard, subject to the Applicant complying with the Approval Conditions.

Should the Planning Commission accept this recommendation, the Commission may elect to adopt the resolution to be provided at the Planning Commission meeting on January 17, 2019, which memorializes the findings in issuing a Special Use Permit approval, subject to the Applicant complying with the above-mentioned conditions of approval.

Attachments

Exhibit A- Affidavit of Publication for Notice of Hearing (2800 Freeway Boulevard), published January 3, 2019, in Brooklyn Center *Sun Post*.

Exhibit B- Application, Memo, and Exhibits for Special Use Permit Request, prepared by Jane Sharkey (Helena Autism Therapy Center, Inc.), and dated December 14, 2018.

Exhibit C- Memorandum, prepared by Assistant City Engineer Andrew Hogg, and dated January 7, 2019.

Exhibit D- Memorandum, prepared by Building Official Dan Grinsteinner, and dated January 10, 2019.

CITY OF BROOKLYN CENTER NOTICE OF PUBLIC HEARING

TO WHOM IT MAY CONCERN:

Please take notice that the Planning Commission of the City of Brooklyn Center will hold a public hearing on Thursday, January 17, 2019, at approximately 7:00 p.m., at Brooklyn Center City Hall, located at 6301 Shingle Creek Parkway, Brooklyn Center, Minnesota. A definite time for this application to be considered cannot be given as it will depend on the progression of the agenda items.

TYPE OF REQUEST: Special Use Permit for an Autism Therapy Center with an Outdoor Playground

PETITIONER: Jane Sharkey (Helena Autism Therapy Center)

PROPERTY OWNER: Brooklyn Group, LLC

PROPERTY NAMED IN THE PETITION: 2800 Freeway Boulevard, Brooklyn Center, MN

PROPERTY ID:
35-119-21-22-0052

LEGAL DESCRIPTION: Earle Brown Farm Estates Sixth Addition

BRIEF STATEMENT OF CONTENTS OF PETITION:

The Applicant is requesting approval of a Special Use Permit to allow for the establishment of an autism therapy center and ancillary outdoor playground within an existing two-story building.

Questions, comments, statements of support or objections should be directed to City Planner/Zoning Administrator Ginny McIntosh at (763) 569-3319 or email to gmcintosh@ci.brooklyn-center.mn.us.

Auxiliary aids for persons with disabilities are available upon request at least 96 hours in advance. Please contact the City Clerk at (763) 569-3300 to make arrangements.

Respectfully,
Ginny McIntosh
City Planner/Zoning Administrator

Published in the
Sun Post
January 3, 2019
893369

Exhibit B

BROOKLYN CENTER
AT THE CENTER

City Use	
Date Received:	12/18/2018
Date Application Complete:	
Letter of Completeness:	
Application No.	2019-002

Planning Application

A preliminary meeting with the Planning and/or Engineering Staff is required prior to the submission of a Planning Application. No application will be accepted prior to such meeting. City Staff shall have five (5) business days to review applications for completeness. The 60-day statutory review period does not begin until staff determines the application is complete.

Application Request
(Mark all that Apply)

	Site & Building Plan ($750)		Planned Unit Development ($1800)		Subdivision Approval ($300)
	Rezoning ($1050)		PUD Amendment ($700)		Appeal ($200)
	Variance ($200)		Special Use Permit ($200)		Determination ($200)

Applicant Information:

Name: JANE SHARKEY **Signature** [signature]

Address: 13537 WINDY HILL RD MINNETONKA, MN 55305

Office Phone: _____ **Cell:** 952. 484. 4885

Email: Jane.Sharkey@YAHOO.COM **FAX:** 763. 432. 3926

Owner Information* *(if different from Applicant)*:

Name: JEFFREY MAAS, PRESIDENT BROOKLYN GROUP, LLC **Signature** [signature]

Address: 2800 FREEWAY BLVD, BROOKLYN CENTER, MN 55430

Office Phone: 763-549-2215 **Cell:** 612-867-2215

Email: insuranceresearch100@gmail.com **FAX:** _____

The fee title owner of the property must sign this Application to make it official

Please provide a general description of your Application Request: REQUESTING PERMISSION TO BUILD OUTDOOR PLAY GROUND AT 2800 FREEWAY BLVD, BROOKLYN CENTER

HELENA
AUTISM THERAPY CENTER
The missing piece to the puzzle®

5301 East River Road, Suite 110
Fridley, MN 55421
P (763) 432.3926 F (763) 951.2132
www.hfsatc.com

HELENA AUTISM THERAPY CENTER, INC

Proposal for Outdoor Playground

City of Brooklyn Center
Business and Development

6301 Shingle Creek Parkway,
Brooklyn Center, MN 55430-2199
Phone 763.569.3300
TTY/Voice 711 Fax 763.569.3494
www.cityofbrooklyncenter.org

Special Use Permit Application and Review Process

Special uses are those which may be required for the public welfare in a given district but which are, in some respects, incompatible with the permitted uses in the district. Before a building or premises is devoted to any use classified as a special use by this ordinance, a special use permit must be granted by the City Council. A special use permit may be granted after demonstration that all of the following are met:

- ☒ Application, fee ($200) and supporting documentation are submitted 30 days prior to a scheduled Planning Commission meeting.
- ☒ The establishment, maintenance or operation of the special use will promote and enhance the general public welfare and will not be detrimental to or endanger the public health, safety, morals or comfort.
- ☒ The special use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
- ☒ The establishment of the special use will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district.
- ☒ Adequate measures have been or will be taken to provide ingress, egress and parking so designed as to minimize traffic congestion in the public streets.
- ☒ The special use shall, in all other respects, conform to the applicable regulations of the district in which it is located.

Conditions and Restrictions: The Planning Commission may recommend and the City Council may impose such conditions and restrictions upon the establishment, location, construction, maintenance and operation of the special use as deemed necessary for the protection of the public interest and to secure compliance with requirements specified in this ordinance. In all cases in which special use permits are granted, the City Council may require such evidence and guarantees as it may deem necessary as part of the conditions stipulated in connection therewith.

Resubmission: No application for a special use permit which has been denied by the City Council shall be resubmitted for a period of twelve (12) months from the date of the final determination by the City Council; except that the applicant may set forth in writing newly discovered evidence of change of condition upon which he relies to gain the consent of the City Council for resubmission at an earlier time.

Revocation and Extension of Special Use Permits: When a special use permit has been issued pursuant to the provisions of this ordinance, such permit shall expire without further action by the Planning Commission or the City Council unless the applicant or his assignee or successor commences work upon the subject property within one year of the date the special use permit is granted, or unless before the expiration of the one year period the applicant shall apply for an extension thereof by filling out and submitting to the Secretary of the Planning Commission a "Special Use Permit" application requesting such extension and paying an additional fee in an amount as set forth by the City Council resolution.

Special use permits granted pursuant to the provisions of a prior ordinance of Brooklyn Center shall expire within one year of the effective date of this ordinance if construction upon the subject property pursuant to such special use permit has not commenced within that time. In any instance where an existing and established special use is abandoned for a period of one year, the special use permit related thereto shall expire one year following the date of abandonment.

The City holds a public hearing for review of a Special Use Permit application. Notices are published in the city's official newspaper and letters are sent to surrounding property owners regarding the date and time of the meeting. The Planning Commission makes their recommendation to the City Council who holds a public hearing as well.

Address_____	Plans Received By: _____
Project Description:_____	Date: _____

TABLE OF CONTENTS

1 ..... Cover letter

2 ..... DHS Certification Information

3 ..... Mission Statement

4. ..... Services provided

4 ..... Economic Development

5 ..... Client transportation

6. ..... Outdoor Playground Information

Enclosures

HELENA
AUTISM THERAPY CENTER
The missing piece to the puzzle®

5301 East River Road, Suite 110
Fridley, MN 55421
P (763) 432.3926 F (763) 951.2132
www.hfsatc.com

December 14, 2018

Ms. Ginny McIntosh
City Planner / Zoning Administrator
6301 Shingle Creek Parkway
Brooklyn Center, MN 55430

RE: 2800 Freeway Boulevard, Brooklyn Center, MN 55443

Ginny,

I have a signed Purchase Agreement for property located at 2800 Freeway Boulevard, Brooklyn Center with a projected closing date of March 5, 2019. I am wanting to add an outdoor playground on this property. Please find the following information with regards to Helena Autism Therapy Center and the proposed playground.

1. History of Helena Autism Therapy Center; DBA Helena Family Support:

Website: www.hfsatc.com

I am a licensed Marriage and Family therapist, who established Helena Family Support, Inc., Minnetonka, MN. in 2002, an agency providing mental health services to troubled youth and families in the metro area at home, at school or in the community.

In 2012 I expanded our services to include, specifically, serving children diagnosed with Autism Spectrum Disorder (ASD). With the experience of providing in-home services to assist families, whose children were struggling with mental illness, with more intense support to families affected by Autism, I established an in-clinic service in Fridley. Helena Autism Therapy Center's trademark is "The Missing Piece to the Puzzle" due to the fact that the services offered are detailed individual services for each child – no child's service are alike.

I have leased a 14,000 square facility since 2012 in Fridley and have not been able to obtain permission from the neighbors to install an outdoor playground. At Helena Autism Therapy Center, we believe that in order to provide the most complete services, the children should have the option of outdoor play to address large motor deficiencies and enjoy fresh air and a fun setting.

I have chosen to purchase the Freeway Blvd property so an outside playground could be added to our services and enhance each's child's experience and success with their individual and family treatment plan goals.

2. Certification with MN Department of Minnesota:

Helena Autism Therapy Center has a CTSS (Children's Support and Services) certification effective through September 30, 2021. If requested, I can provide the Certification Documentation provided MN DHS.

The MN Statute guidelines for CTSS are:

Section 245.4873;

Subdivision 1.State and local coordination.

Coordination of the development and delivery of mental health services for children shall occur on the state and local levels to assure the availability of services to meet the mental health needs of children in a cost-effective manner.

Subd. 10.Day treatment services.

"Day treatment," "day treatment services," or "day treatment program" means a structured program of treatment and care provided to a child in:

(1) an outpatient hospital accredited by the Joint Commission on Accreditation of Health Organizations and licensed under sections 144.50 to 144.55;

(2) a community mental health center under section 245.62;

(3) an entity that is under contract with the county board to operate a program that meets the requirements of section 245.4884, subdivision 2, and Minnesota Rules, parts 9505.0170 to 9505.0475; or

(4) an entity that operates a program that meets the requirements of section 245.4884, subdivision 2, and Minnesota Rules, parts 9505.0170 to 9505.0475, that is under contract with an entity that is under contract with a county board.

Day treatment consists of group psychotherapy and other intensive therapeutic services that are provided for a minimum two-hour time block by a multidisciplinary staff under the clinical supervision of a mental health professional. Day treatment may include education and consultation provided to families and other individuals as an extension of the treatment process. The services are aimed at stabilizing the child's mental health status, and developing and improving the child's daily independent living and socialization skills. Day treatment services are distinguished from day care by their structured therapeutic program of psychotherapy services. Day treatment services are not a part of inpatient hospital or residential treatment services.

Subd. 15.Emotional disturbance.

"Emotional disturbance" means an organic disorder of the brain or a clinically significant disorder of thought, mood, perception, orientation, memory, or behavior that:

(1) is detailed in a diagnostic codes list published by the commissioner; and

(2) seriously limits a child's capacity to function in primary aspects of daily living such as personal relations, living arrangements, work, school, and recreation.

"Emotional disturbance" is a generic term and is intended to reflect all categories of disorder described in the clinical code list published by the commissioner as "usually first evident in childhood or adolescence."

Please review the highlighted area as that area best describes Helena Autism Therapy Center services according to DHS. We are contracted with most major insurance companies namely BCBS, UHC, Health Partners, Hennepin Health, among others. These companies contract services (how the contract terminology for the type of service provided) is written in a variety of ways. For example, the contract names our services as Day Treatment, or in-clinic mental health services, or Children's Mental Health and Developmental disability.

3. Mission Statement of Helena Autism Therapy Center

Helena Autism Therapy Center is a humble and courageous ally for our learners and their families. Employing a design to share expertise with a focus on results, we are passionate about creating a truly individualized, collaborative and transformative experience for our clients.

Helena Autism Therapy Center Philosophy:

Helena Autism Therapy Center provides therapy for children, approximately ages thirty months through age seven, who have a medical diagnosis of Autism Spectrum Disorder (ASD) or other diagnoses. Family members of children on the ASD will also receive services at the Center and at their home. With the diagnosis of ASD on the rise (2014 statistics from the United States Center for Disease Control and Prevention identified around 1 in 58 American children as on the Autism Spectrum, which is a 600% increase in prevalence over the past two decades), the need for Autism-specific mental health services is critical, in addition to other mental health diagnoses.

Helena Autism Therapy Center ensures staff members are trained to provide mental health psychotherapy and/or skills training services to children with a diagnosis of Autism Spectrum Disorder or other diagnoses. There is a strong focus on the individual needs of the child and family as well as best practices from a variety of effective treatment modalities.

Children with an ASD diagnosis often struggle with communication, social interaction, play skills, emotional regulation, and other challenges such as sensory processing and digestive problems. Also prevalent may have restricted, repetitive and stereotypical patterns of negative behaviors and interests. The above challenges often impede ability to interact with others and master developmental milestones. Our staff strive to provide a warm and welcoming atmosphere.

We are committed to coordinating with the helping professionals involved in the child's life. We recognize the unique challenges families of children with an ASD diagnosis may face and we are dedicated to teaching, encouraging, empowering, engaging in play, and improving the lives of their clients. Success of the strategies used will be measured through achieved outcomes in consideration of the child's identified goals.

4. What services provided by Helena Autism Therapy Center entail

At Helena Autism Therapy Center, families and children with ASD diagnosis and other diagnoses receive high quality, unique, individualized treatment strategies specifically identified for the child's needs. We are dedicated to the child's success and believe families should see positive changes as well as long-term results in the overall satisfaction and healthy functioning of their child which should markedly affect the family.

Helena Autism Therapy Center staff is trained to provide psychotherapy and skills training services to children with an ASD diagnosis. Helena staff will focus on the child and family's individual needs with effective treatment approaches which can include relational, behavioral, client-centered play, and child development approaches based on theorists such as, Rogers and Dawson, Gutstein, Greenspan, Skinner, Piaget, Erikson, and Vygotsky.

The child with an ASD diagnosis will attend 20 hours per week at the clinic on the second floor. Morning schedule is 8:00 am to 12:00 noon and 1:00 pm to 5:00 pm. There are four teams providing services with each team room being approximately 800 square feet. The team room will serve approximately ten children, with services provided by 8 to 9 floor staff and supervised by a Lead. The children will have their personal items in a "cubbie", including food provided by family members. The children will have snack time and lunch within the treatment room. Also, within the 800 square feet will be staff workstations and a Lead office.

Group treatment modality is also part of services provide. The modalities include art classes, music, modeling academic settings and other types of group interaction. Additional services the child and family members receive will be family skills training and family psychotherapy. The majority of the time, these services are provided in the child's residence. Some families choose to participate in these services at the facility. There will be several treatment rooms located on the first floor.

A twenty hour per week Speech Therapist will be located on the first floor of the facility. The 2019 business plan includes adding a second twenty hour Speech Therapist and full time Occupational Therapist – also located on the first floor.

In addition to the Speech Therapist(s) and Occupational Therapists located on the first, other administrative and management employees will be located on the first floor. These employees will included, receptionist, Director of Operations, Manager of Helena Family Support, and billing.

5. What does Helena Autism Therapy Center bring to the Economic Development of the city of Brooklyn Center:

Historically, floor staff number approximately 25 with the management of these staff called Leads. Currently there are four Leads providing direction, supervision and direct one-on-one contact with the clients in the Center setting and their families via in-home services. In addition to the 29 employees, there is a Director of Operations, an office manager and billing specialist.

Helena Family Support is the "DBA" for Helena Autism Therapy Center and primarily provides services to clients at home, at school or in the community. This company employs approximately 10 staff and has a manager located in the Helena Autism Therapy Center facility. The 10

employees meet at the facility one time per week as a group and other times throughout the week for individual supervision.

Helena Autism Therapy Center's client population is approximately 20 children (ages 30 months to seven) in the AM program and 20 children in the afternoon program. Families will be driving from their homes in to the city of Brooklyn Center.

The building located at 2800 Freeway Blvd, Brooklyn Center, has 51 parking spaces. Currently the Seller provided information that there are four tenants with lease agreements with the Seller. One tenant is a church, Mountain of Fire (lease expires April 2020), the second tenant is Kesma (lease expires March 2021), the third tenant is Direct Hire Staffing (lease expires September 2019) and the fourth tenant is Business Associates (lease expires November 2020). The number of parking spaces required by the tenants is unknown as the Seller has requested I not contact the tenants until Due Diligence is completed. I believe the tenant with the highest number of parking space requirements would be the church and I've been told their service is on Saturdays.

Currently Mountain of Fire is located on the second floor primarily occupying the north half of the second floor. There are no plans to move Mountain of Fire to another location in the building. Kesma is located in the southeast corner of the second floor. I will be recommending they occupy the northwest corner of the first floor as that location will be quieter due to the children's tendency to cry and/or experience emotional outbursts.

The other two tenants occupy 216 square feet and 110 square feet on the first floor. There will be no recommendation to have these tenants move

6. How are Helena Autism Therapy Center clients transported to receive treatment at the facility:

Most children are transported by Medical Assistance carriers and these companies generally transport one child per vehicle. Parents and other guardians deliver and pickup children by the family vehicle. The parking lot on the south side of 2800 Freeway Blvd has adequate space for the transportation vehicles to enter the parking lot at the south entrance, travel east and then north within the parking lot (making a circle turn) and lining up at the curb facing west which would allow for the children to enter or exit vehicles safely – similar to a school.

The morning schedule for drop off is Monday through Friday 8:00 am to 8:15 am and pick up at 12:00 noon to 12:15. The afternoon schedule is drop off is Monday through Friday at 1:00 pm to 1:15 pm to pick up at 5:00 pm to 5:15 pm.

In consideration of the size of the parking lot with 51 spaces west of the building and south of the building and with the "turn around" system to drop off and pick up clients for the morning and afternoon schedule, the employees and tenants will have adequate parking on the south side and west side of the building entrance from 8 am to 5 pm.

7. Playground plan

When I met with the initial City Planning Group, I reviewed a plan of the playground area which I had drawn. HTG architects is working on a CAD plan which I will submit on December 18, 2018.

The projected plan for the outdoor playground would be located on the east and southeast corner of the building. There is an egress door on the east side of the building with a sidewalk.

I'm including a sample pricing from Home Depot for am eight foot section of fencing. The fencing material I'm proposing is cedar posts and cedar vertical and horizontal boards. The estimate for an eight foot section with a height of eight feet is approximately $426.00. The size of the playground would be 33 feet by 62 feet, which would be 20 eight foot sections for a total of $8,520. The pricing includes foundation cement, corner posts, vertical and horizontal cedar board, nails and metal corner caps and wax.

Playground equipment will include a trampoline, a swingset, a climbing wall, stepping and crawling type and other large motor activities specific to children's needs with an Autism diagnosis. Treatment plans developed with the child's Primary Care Physician, physical therapist and mental health providers would be according to MN Department Human Services recommendations to best address the child's needs.

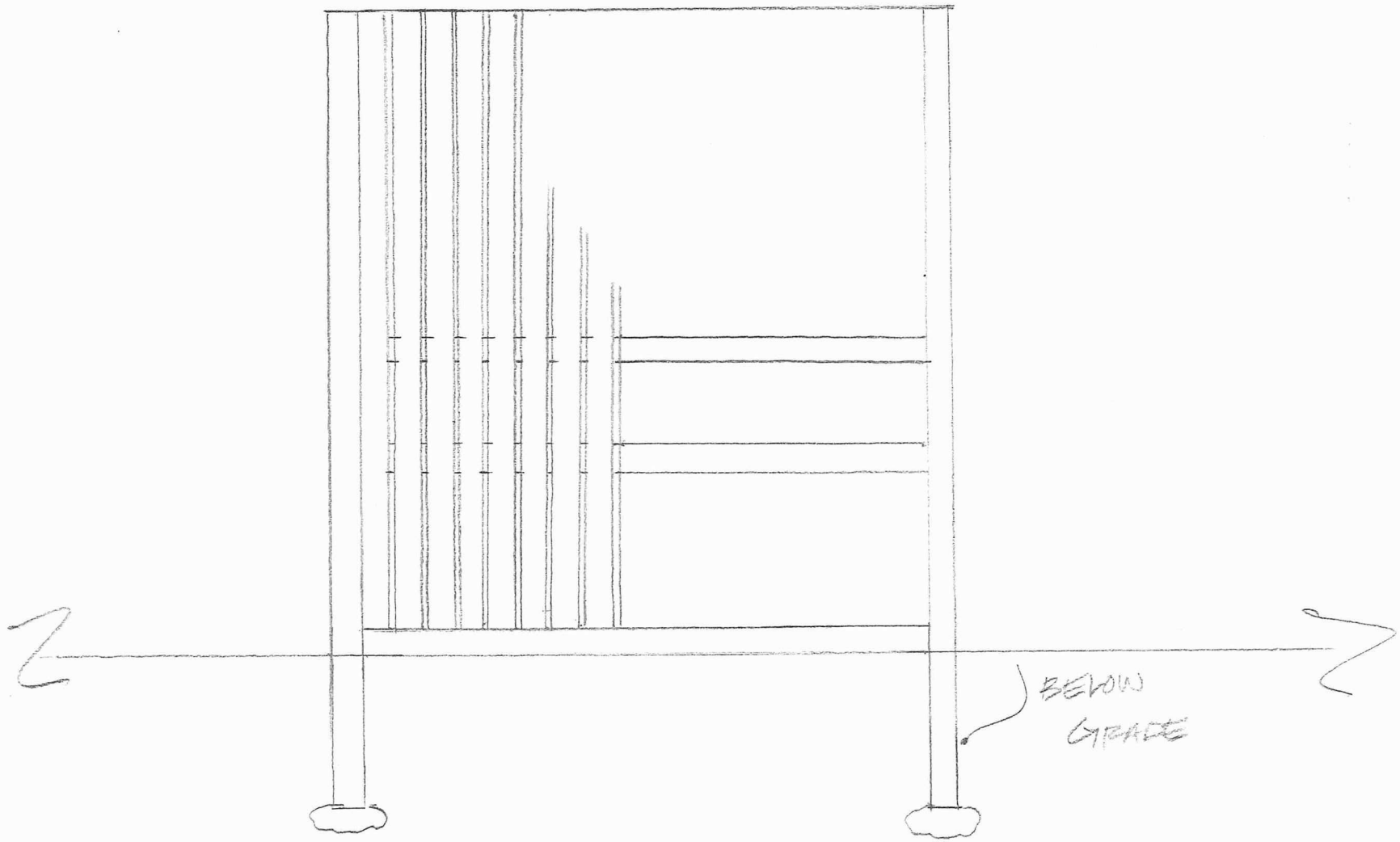
Examples of playground equipment is included. Helena currently has a trampoline, a climbing wall and other small equipment that has been used inside the facility located in Fridley.

If you need any additional information, please call 952-484-4885 or
email janesharkey@yahoo.com

Sincerely,

Jane Sharkey
Owner, Helena Autism Therapy Center

ENCLOSURES



HELENA AUTISM THERAPY

FENCE ELEVATION

1/2" = 1'-0"

FREE shipping with $50 purchase. details **FREE** store pickup today **TAKE AN EXTRA** 30%, 20% or 15% off when you use a Kohl's Charge. details & exclusions

KOHL'S What are you looking for today? Account $0.00 Check Out

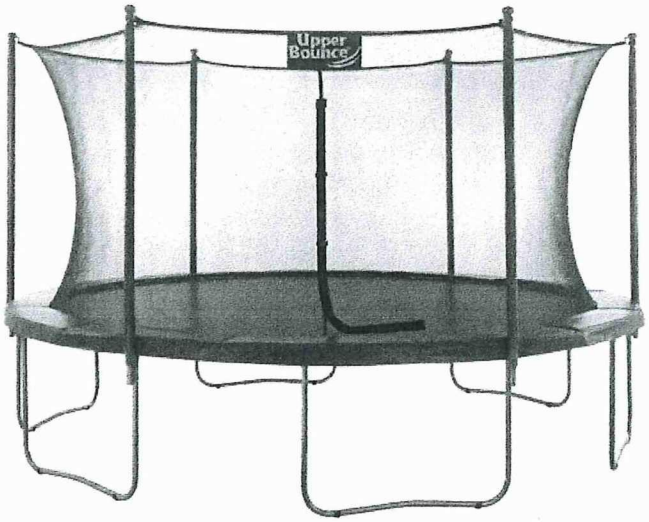
Shop by Department My Store: Rosedale Kohl's Coupons Help

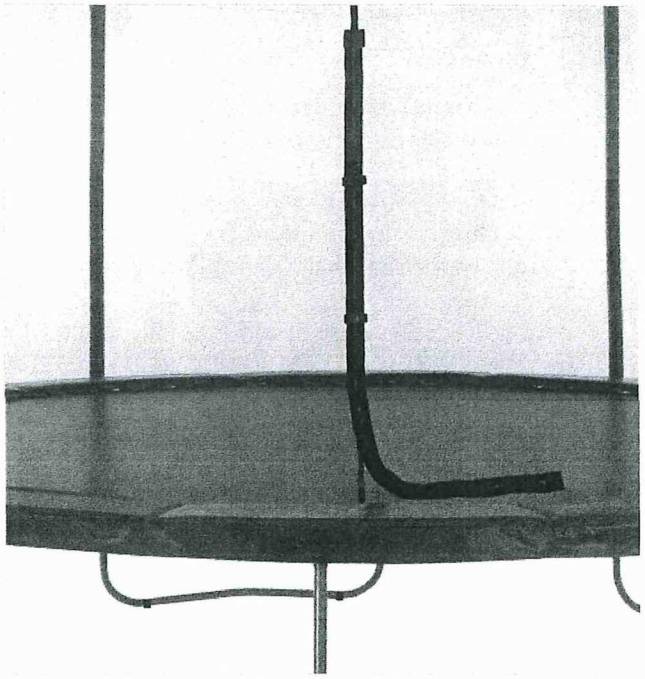
Upper Bounce 14-ft. Trampoline & Enclosure Set











View Larger

Add To Registry Add To List

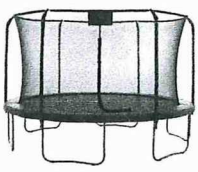
People Who Viewed This Also Viewed



Regular **$394.99**

Upper Bounce 12-ft. Trampoline & Enclosur...

(1)



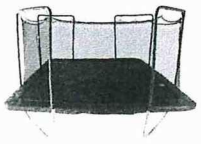
Regular **$442.99**

Upper Bounce SKYTRIC 13-ft. Trampoline

(1)

Inspired By Your Recently Viewed





PRODUCT DETAILS

Jump for joy. This Upper Bounce trampoline set delivers instant fun in one package.

Gift Givers: This item ships in its original packaging. If intended as a gift, the packaging may reveal the contents.

Product Features

- Netting with reinforced edges for strength and a longer lasting life span
- Easy set up and take down feature requires no hardware

Product Details

- Includes: 14-ft. trampoline & enclosure
- Trampoline height with enclosure: 108 inches
- Maximum weight capacity: 330-lbs.
- Ages 8 & up
- Assembly required
- Manufacturer's 1-year limited warranty
- For warranty information please click here
- Model no. UBSF01-14

Promotional offers available online at Kohls.com may vary from those offered in Kohl's stores.

iBuy

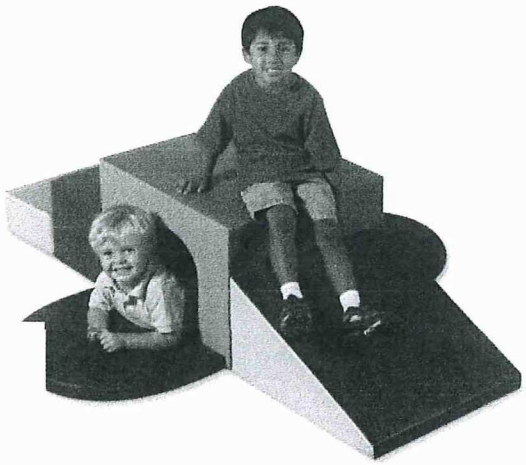
Children's Factory Soft Tunnel Climber CFI 321049

$420.49 / EA

THIS PRODUCT IS CURRENTLY OUT OF STOCK.

+ Add to Favorites + Compare + Request a Quote

Product Number: **CFI321049**



Estimated Delivery 1-3 days

re Views



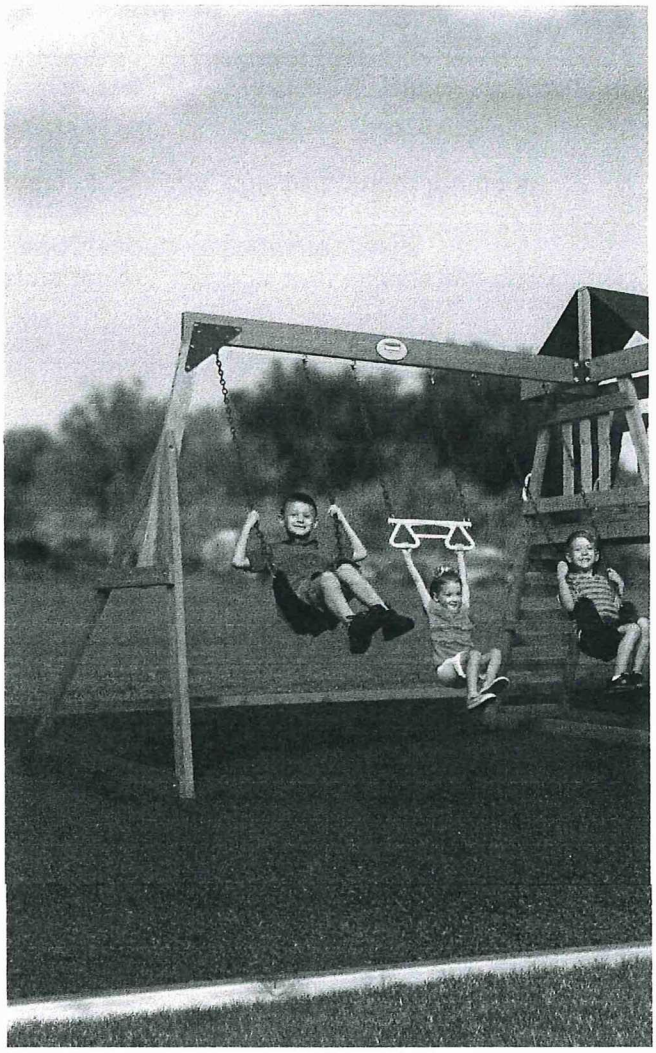
Description
Product Details
Reviews

Description

Soft tunnel climber provides a safe way for young children to play indoors. Bright colors highlight this motor perceptual soft climber. Climber is designed for children ages 9 months to 3 years.

Product Details

SKU	CFI321049-EA
BRAND	No
NO CANCELLATIONS OR REFUNDS	N/A
MANUFACTURER	Children's Factory
MANUFACTURER PART NUMBER	321049



1 of 4

(No Subject)

From: Jane Sharkey (janesharkey@yahoo.com)

To: janesharkey@yahoo.com

Date: Monday, December 3, 2018, 5:30 PM CST



Sent from Yahoo Mail on Android

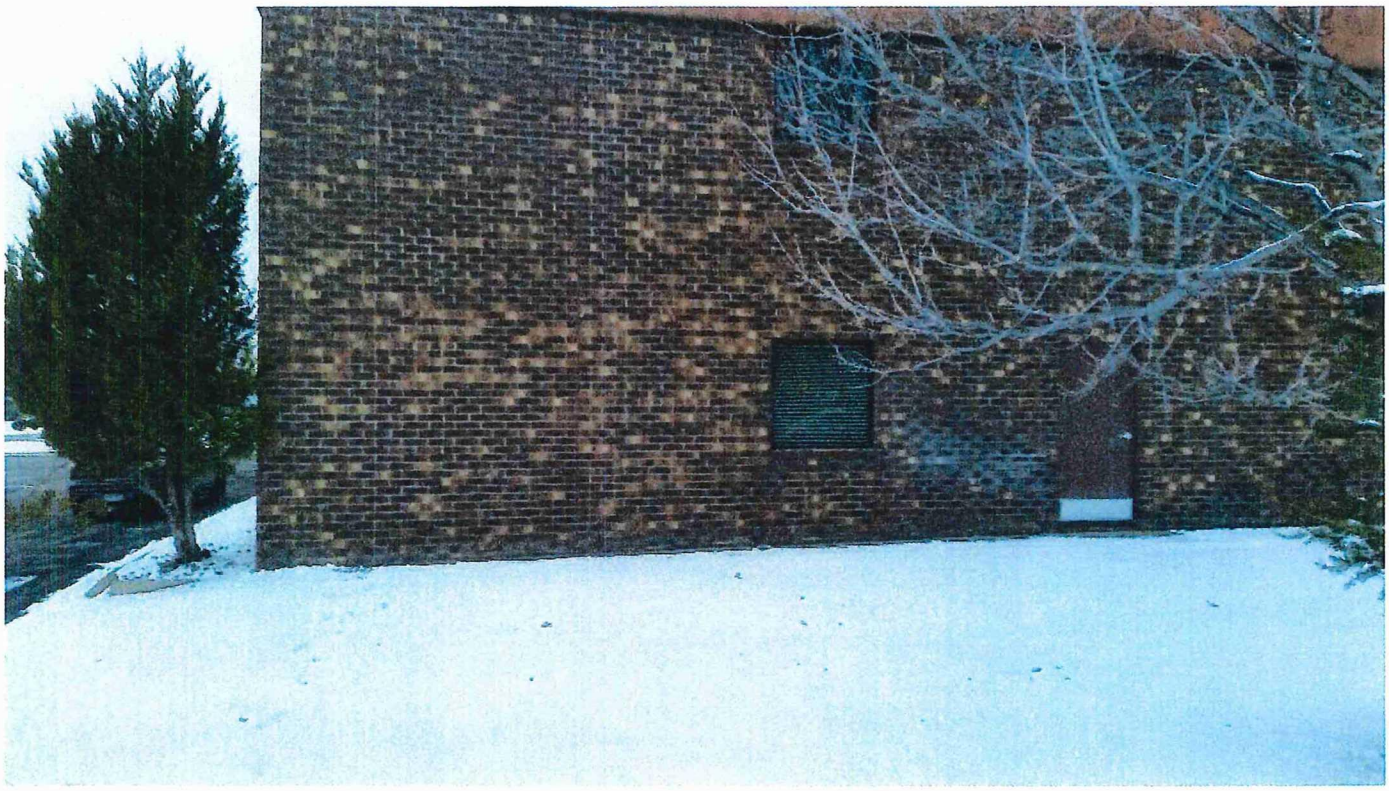
SOUTHEAST CORNER
EAST EGRESS DOOR
W/ LANDSCAPING

(No Subject)

From: Jane Sharkey (janesharkey@yahoo.com)

To: janesharkey@yahoo.com

Date: Monday, December 3, 2018, 5:31 PM CST



EAST EGRESS DOOR

Sent from Yahoo Mail on Android

(No Subject)

From: Jane Sharkey (janesharkey@yahoo.com)

To: janesharkey@yahoo.com

Date: Monday, December 3, 2018, 5:31 PM CST



EAST SIDE OF BLDG VIEW W/ TREES AND SIDEWALK

Sent from Yahoo Mail on Android

(No Subject)

From: Jane Sharkey (janesharkey@yahoo.com)

To: janesharkey@yahoo.com

Date: Monday, December 3, 2018, 5:32 PM CST



EAST SIDE OF BLDG

EAST EGRESS

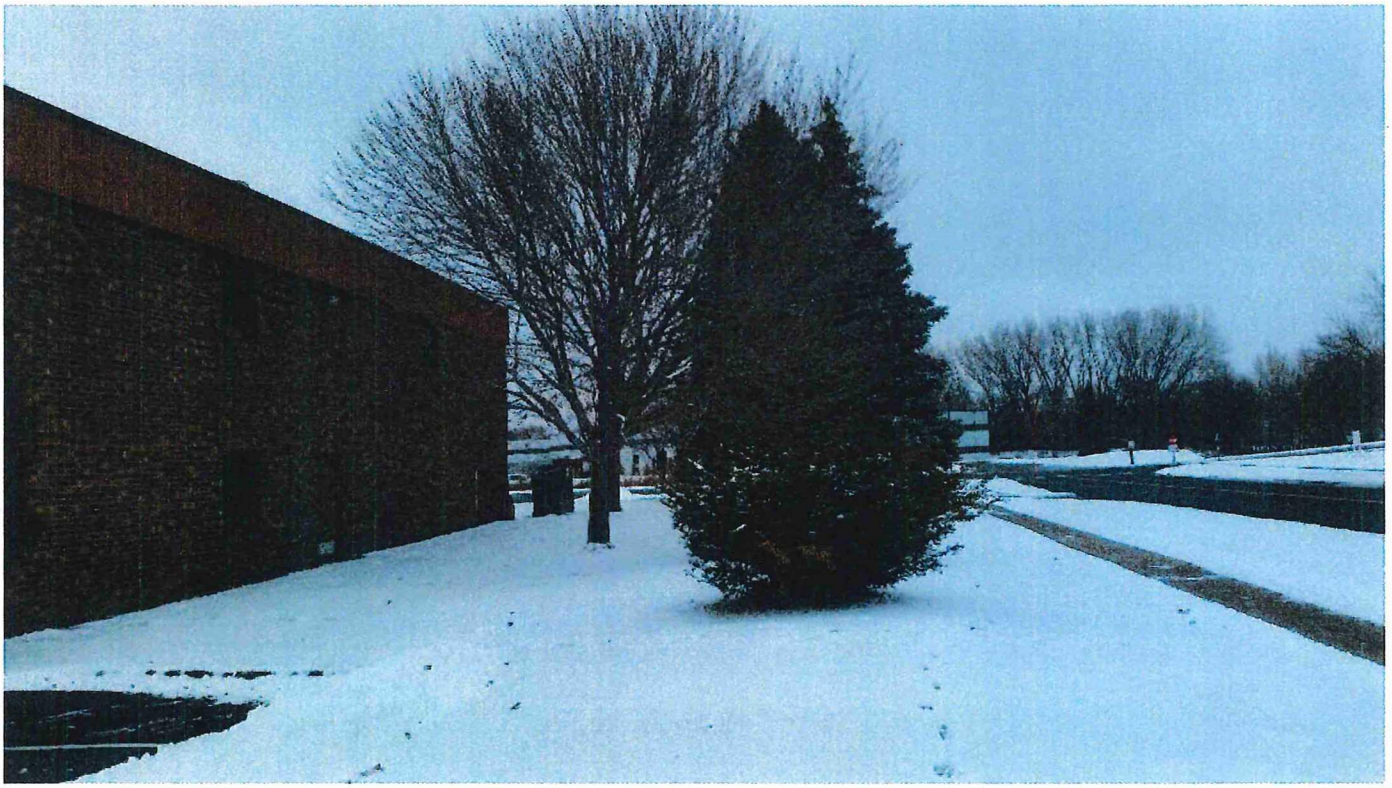
Sent from Yahoo Mail on Android

(No Subject)

From: Jane Sharkey (janesharkey@yahoo.com)

To: janesharkey@yahoo.com

Date: Monday, December 3, 2018, 5:32 PM CST



Sent from Yahoo Mail on Android

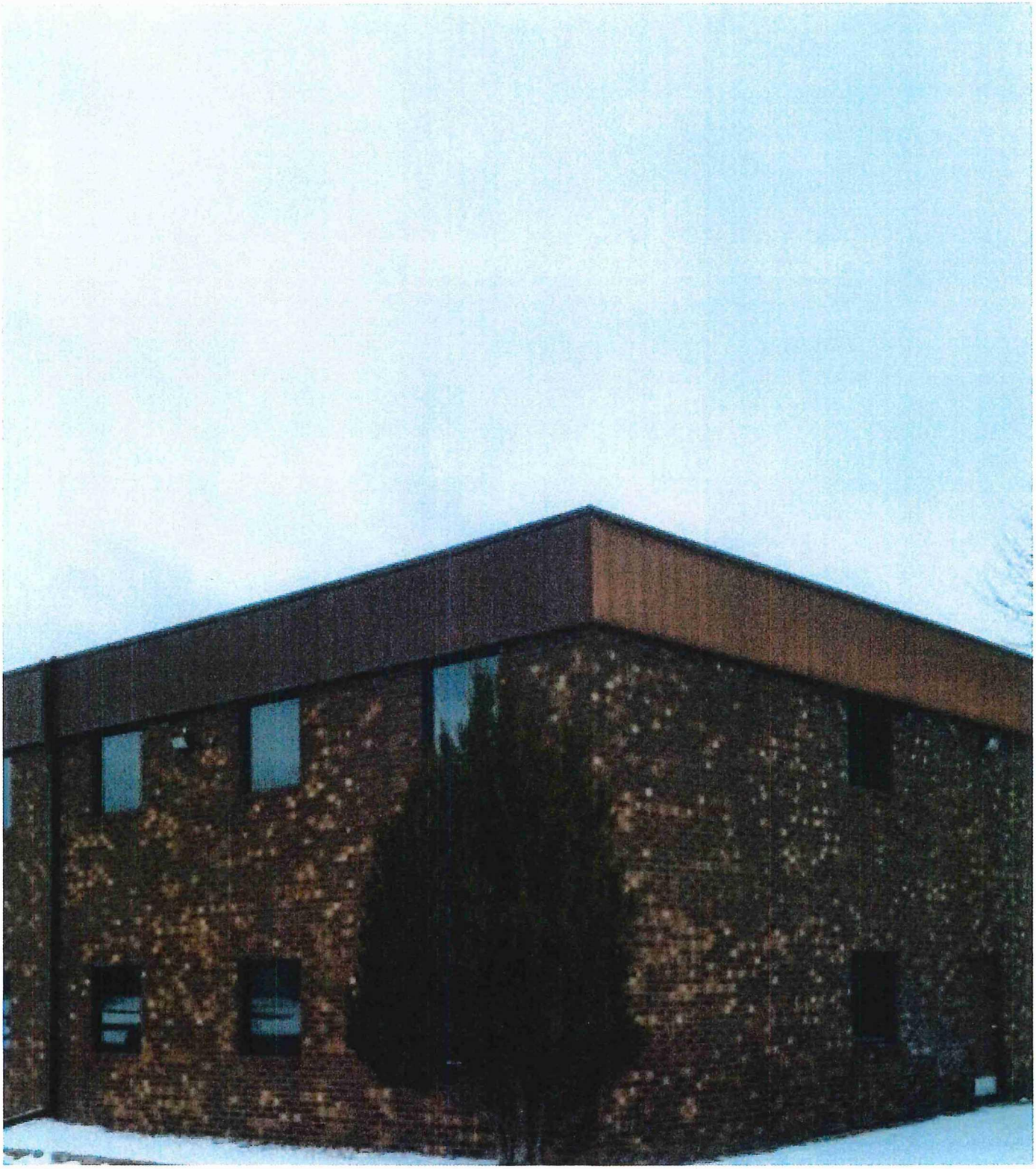
NORTHEAST CORNER

(No Subject)

From: Jane Sharkey (janesharkey@yahoo.com)

To: janesharkey@yahoo.com

Date: Monday, December 3, 2018, 5:32 PM CST

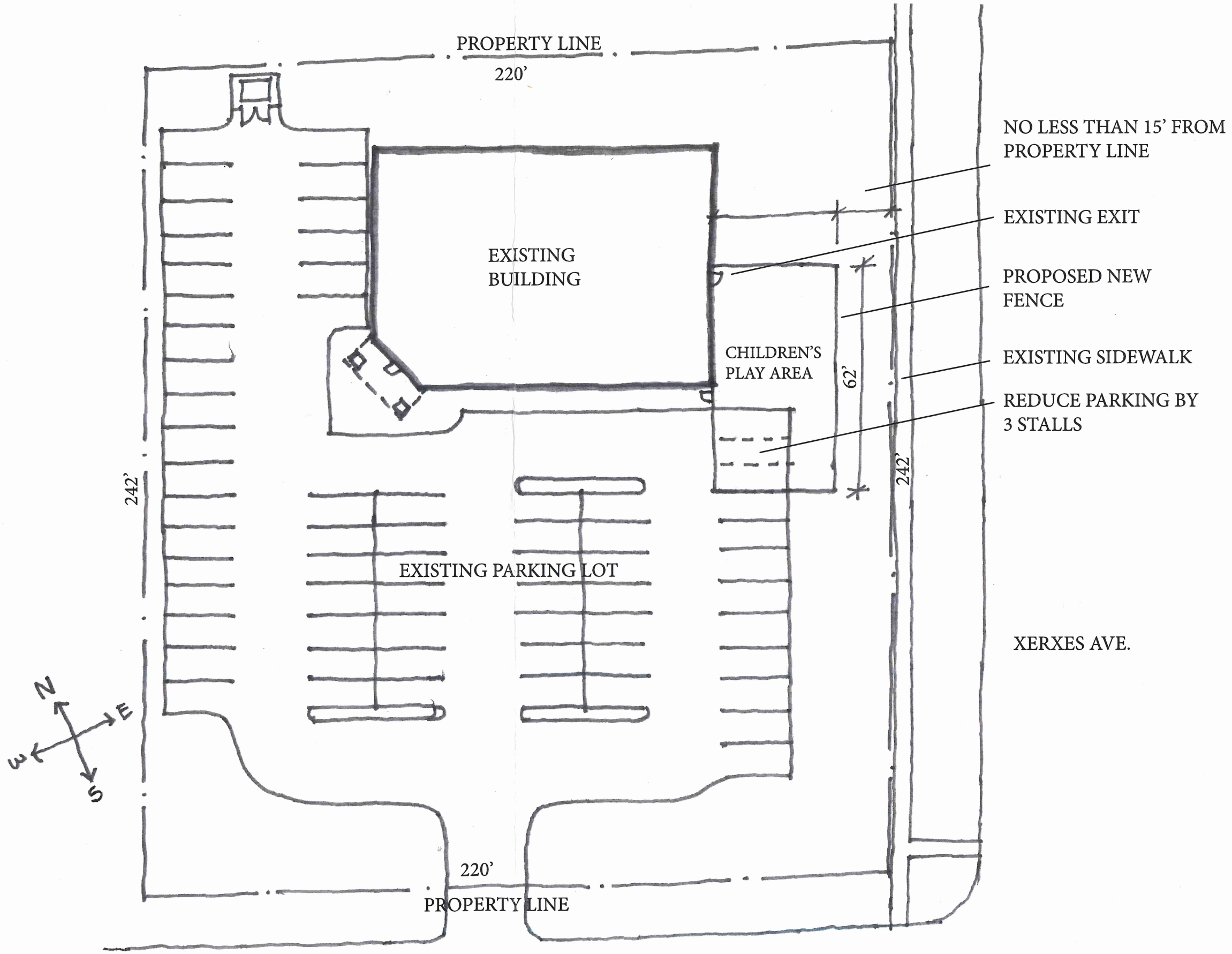


SOUTHEAST CORNER



Sent from Yahoo Mail on Android

THREE PARKING SPACES
AT SOUTHEST CORNER
OF BLDG -
ASPHALT SECTION OF PLAYGROUND



A1

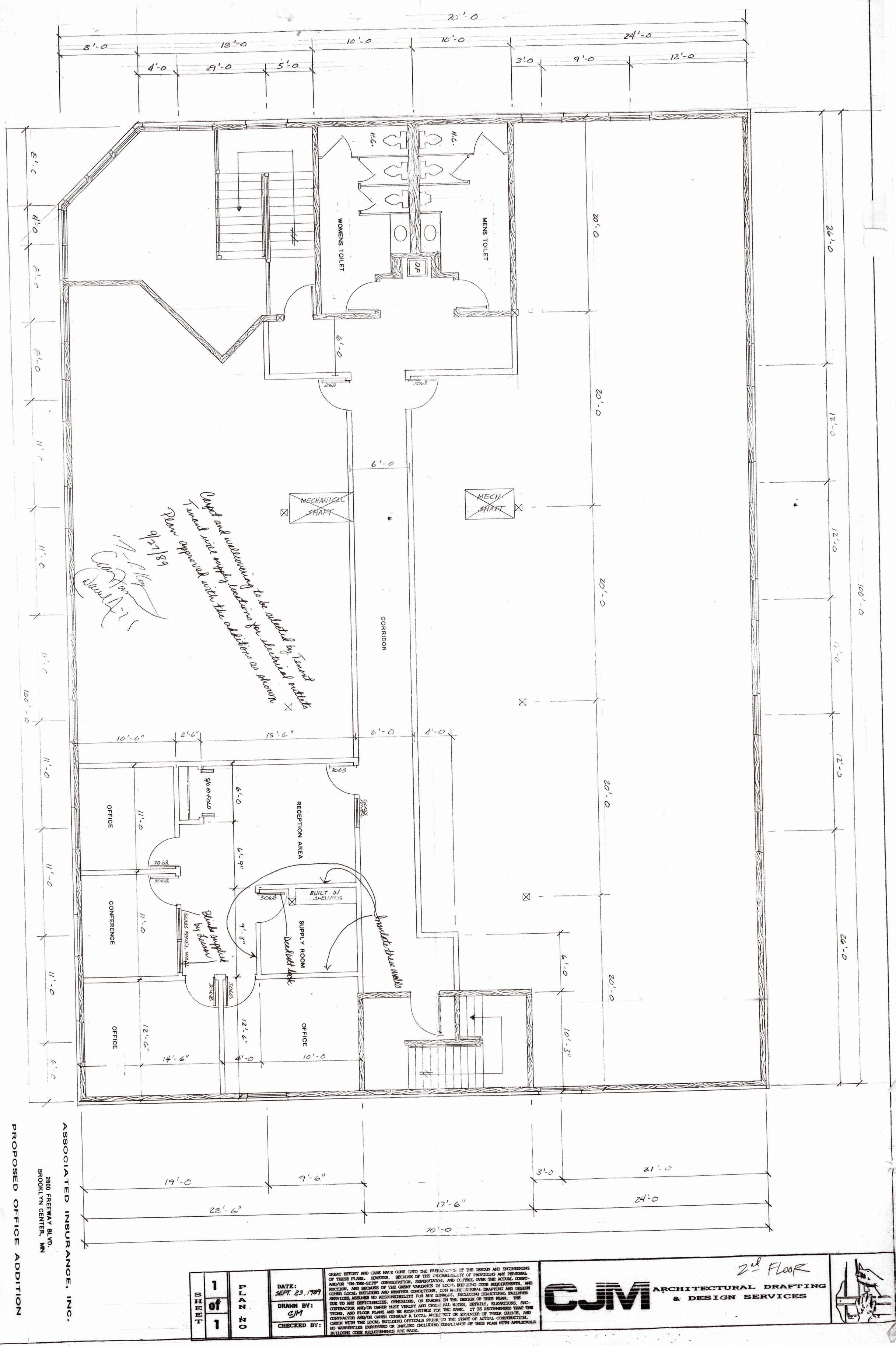
HELENA AUTISM CENTER SITE PLAN

1/30" = 1'-0"

PROPOSED EXTERIOR FENCE ADDITION
2800 FREEWAY BLVD., BROOKLYN CENTER, MN 55430
DECEMBER 17, 2018

HTG architects

2nd Floor - Original Interior Layout Plan for 2800 Freeway Boulevard



PROPOSED OFFICE ADDITION

ASSOCIATED INSURANCE, INC.

2800 FREEWAY BLVD.
BROOKLYN CENTER, MN

SHEET	PLAN NO	DATE:	DRAWN BY:	CHECKED BY:
1 of 1		SEPT. 23, 1989	CJM	

GREAT EFFORT AND CARE HAVE GONE INTO THE PREPARATION OF THE DESIGN AND ENGINEERING OF THESE PLANS. HOWEVER, BECAUSE OF THE IMPOSSIBILITY OF PROVIDING ANY PERSONAL AND/OR "ON-THE-SITE" CONSULTATION, SUPERVISION, AND CONTROL OVER THE ACTUAL CONSTRUCTION, AND BECAUSE OF THE GREAT VARIANCE IN LOCAL BUILDING CODE REQUIREMENTS, AND OTHER LOCAL BUILDING AND WEATHER CONDITIONS, CJM ARCHITECTURAL DRAFTING AND DESIGN SERVICES, ASSUMES NO RESPONSIBILITY FOR ANY DAMAGES, INCLUDING STRUCTURAL FAILURES DUE TO ANY DEFICIENCIES, OMMISIONS, OR ERRORS IN THE DESIGN OF THIS PLAN. THE CONTRACTOR AND/OR OWNER MUST VERIFY AND CHECK ALL NOTES, DETAILS, ELEVATIONS, SECTIONS, AND FLOOR PLANS AND BE RESPONSIBLE FOR THE SAME. IT IS RECOMMENDED THAT THE CONTRACTOR AND/OR OWNER CONSULT A LOCAL ARCHITECT OR ENGINEER OF THEIR CHOICE, AND CHECK WITH THE LOCAL BUILDING OFFICALS PRIOR TO THE START OF ACTUAL CONSTRUCTION. NO WARRENTIES EXPRESSED OR IMPLIED INCLUDING COMPLIANCE OF THIS PLAN WITH APPLICABLE BUILDING CODE REQUIREMENTS ARE MADE.

CJM ARCHITECTURAL DRAFTING & DESIGN SERVICES

2nd FLOOR

Exhibit C

M E M O R A N D U M

DATE: January 7, 2019

TO: Ginny McIntosh, City Planner/Zoning Administrator

FROM: Andrew Hogg, Assistant City Engineer

SUBJECT: Site Plan Review –Freeway Autism Center

Public Works Department staff reviewed the following documents submitted for review on December 27, 2018, for the Freeway Autism Center improvements:

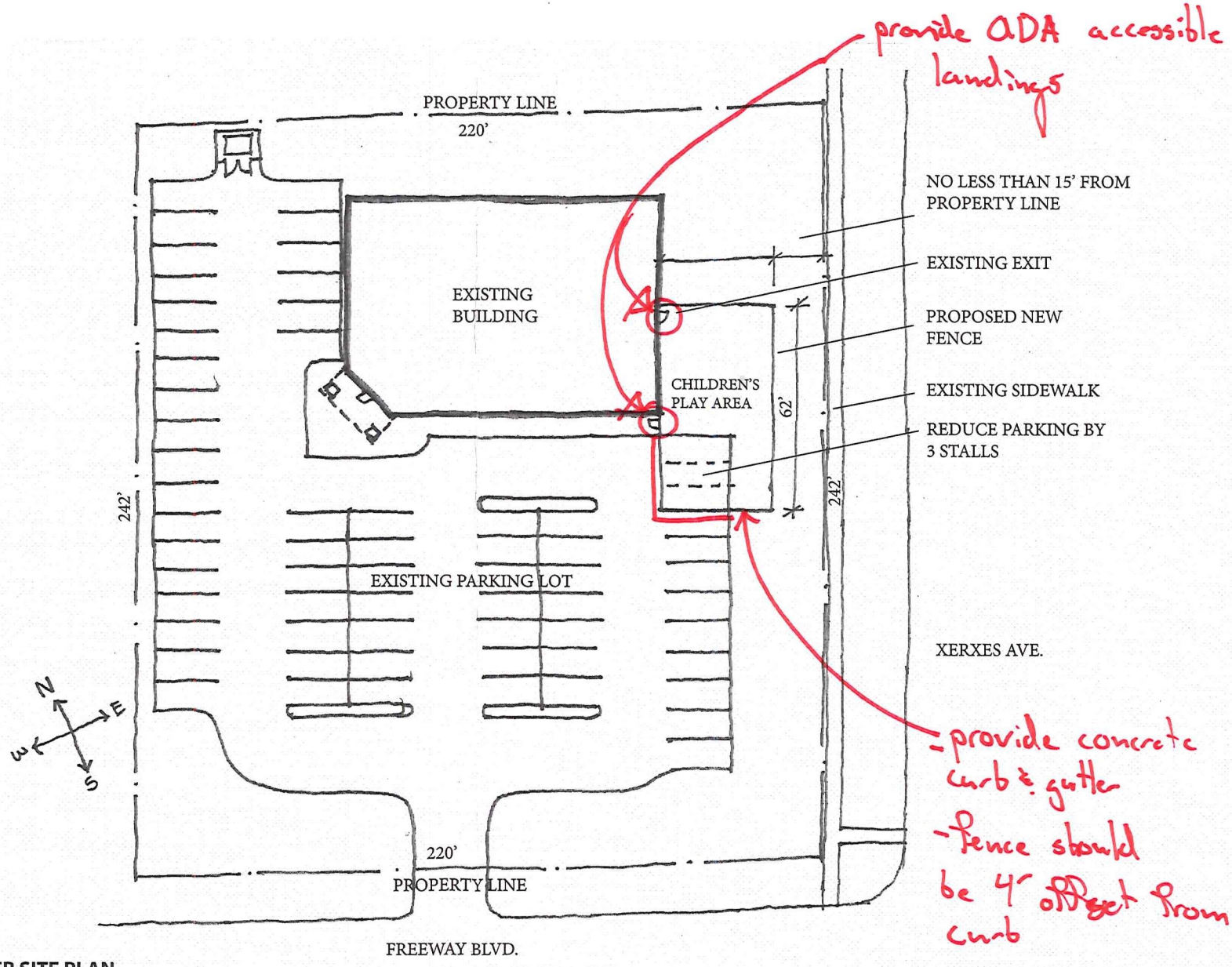
- Site Plan dated December 17, 2018

Subject to final staff Site Plan approval, the referenced plans must be revised in accordance with the following comments/revisions and approved prior to issuance of Special Use Permit:

C1.01 – Site Plan

1. Accessibility shall comply with ADA standards.
2. The perimeters of all driving and parking areas shall be bounded by cast-in-place concrete curb and gutter which confirms with the Minnesota Highway Type "B6-12".
3. Proposed fences shall be minimum of 4' offset from curb.
4. See attach redlines for additional comments

The aforementioned comments are provided based on the information submitted by the applicant at the time of this review. Other guarantees and site development conditions may be further prescribed throughout the project as warranted and determined by the City.



A1

HELENA AUTISM CENTER SITE PLAN
1/30" = 1'-0"
PROPOSED EXTERIOR FENCE ADDITION
2800 FREEWAY BLVD., BROOKLYN CENTER, MN 55430
DECEMBER 17, 2018

HTG architects

Exhibit D

MEMORANDUM

Date: January 10, 2019

To: Ginny McIntosh, City Planner/Zoning Administrator

From: Dan Grinsteinner, Building Official

Subject: Preliminary Review –2800 Freeway Boulevard (Special Use Permit)

1) **Occupancy classification will be determined pending information submitted on age of occupants.**

- MN State Fire Marshal Division: Child care centers will be classified as Group E occupancies with the exception of those providing care for more than five children 2 ½ years of age or less. Such facilities shall be classified as Group I-4.

  Classification as a Group E occupancies are a child day care facility that provides care for more than five but no more than 100 children 2 ½ years or less of age, where the rooms in which the children are cared for are located on a level of exit discharge serving such rooms and each of these child care rooms has an exit door directly to the exterior.

2) **Floor locations of occupants depends on a Automatic Fire Sprinkler system or Fire Alarm system or Both**.

   Child care rooms and areas may be located on any floor level below the fourth story if meeting the following conditions:

   - The building is protected throughout with an approved automatic fire sprinkler system and;
   - The building is protected throughout with an approved automatic fire alarm system having automatic smoke detection devices installed throughout the exiting system and within every room or area used for any purposes other than a classroom or office.

Other provisions if met, will allow occupants to be located on floor levels other than the level of exit discharge if an automatic fire sprinkler or fire alarm system is installed.

3) **Minimum Egress requirement of 2 exits from rooms, areas, floor levels for Group E & Group I-4 differ.**

   Group E : Exceeds 50 occupants; 1750 Square ft/35 occupant factor

   Group I-4: Exceeds 10 occupants; 350 Square ft/35 occupant factor

   All travel distances to an exit for sprinkler or non-sprinkler building shall be met.

4) **Fire resistive construction for separation of occupancies shall be as follows as there is a Church tenant (A3 occupancy) existing and any Office tenant (B occupancy) existing.**

   Group E From: A occupancy (No Separation) B occupancy (2 hours)

   Group I From: A occupancy (1 hour) B occupancy (1hour)

   Group E occupancies having an occupant load of 50 or more shall be provided with an approved fire alarm per MNFC 1103.7.2. Manual fire alarm pull boxes are only required at the min office and in a custodial area when the building is equipped throughout by an approved supervised fire sprinkler system.

5) **A SAC Determination from Met Council will need to be provided for the new occupancy use.**

COUNCIL ITEM MEMORANDUM

DATE: 1/28/2019

TO: Curt Boganey, City Manager

THROUGH: Meg Beekman, Community Development Director

FROM: Ginny McIntosh, City Planner / Zoning Administrator

SUBJECT: Resolution Approving Planning Commission Application No. 2019-003 for a PUD Amendment (Northwesterly of the Intersection of Shingle Creek Parkway and Freeway Boulevard)

Requested Council Action:

- Motion to approve a resolution regarding the recommended disposition of Planning Commission Application No. 2019-003, for amendments to the 1995 Planned Unit Development for certain parcels located northwesterly of the intersection of Shingle Creek Parkway and Freeway Boulevard and allowances for an indoor showroom and outdoor storage for the property located at 6601 Shingle Creek Parkway

Background:

City staff first conversed with Mike Harrer of CBRE ("the Applicant"), who serves as leasing agent for the Subject Property located at 6601 Shingle Creek Parkway and manages the private loop road and central parking areas within the above-noted Planned Unit Development, via phone and email. These initial conversations were regarding percentage use allowances for certain buildings located northwesterly of the intersection of Shingle Creek Parkway and Freeway Boulevard. City staff eventually met with the Applicant on November 30, 2018, to discuss the underlying Planned Unit Development (PUD).

Through the course of conversing with the Applicant, it was determined that the Applicant was close to leasing approximately 36,000-square feet of the approximately 70,000-square building located at 6601 Shingle Creek Parkway to an adjacent business located at 6601 Parkway Circle (Hamilton-Hajoca Company); however, the Applicant had concerns regarding the overall building percentage use allowances for each building within the underlying PUD. The Applicant also identified a desire by the prospective tenant to incorporate an approximately 8,148-square foot indoor showroom and approximately 12-foot by 20-foot outdoor storage area behind the building located at 6601 Shingle Creek Parkway.

Given these concerns and requests, the Applicant is requesting review and consideration of an amendment to the 1995 Planned Unit Development (PUD) plans and documents relating to parking allocations among a shared parking agreement and building percentage use allowances, as well as certain allowances that would result in the construction of a small outdoor storage area and incorporation of an indoor showroom within an approximately 36,000-square foot space at 6601 Shingle Creek Parkway.

As amendments to Planned Unit Developments require a public hearing to be scheduled, an Affidavit of Publication was received, confirming publication of a public hearing notice in the Brooklyn Center *Sun Post* on January 3, 2019. Mail notices were also sent out to property owners in accordance with Section 35-355 (*Planned Unit Development*) of the City Zoning Ordinance.

On January 17, 2019, the Planning Commission held a public hearing regarding the request to amend the

existing 1995 Planned Unit Development plans and documents that would remove the existing percentage use allowance language for each building located within the Planned Unit Development and allow for an approximately 8,148-square foot office/indoor showroom and approximately 12-foot by 20-foot outdoor storage area.

City staff was contacted prior to the meeting by an adjacent business within the underlying PUD with general questions relating to the underlying PUD, as well as concerns as to whether the removal of the percentage use allowance language would have an effect on their negotiated allocation of parking in the central parking area. The same representative from this business was in attendance at the meeting and asked for additional clarification as to how it would affect their parking allocation. No other comments were received prior to or during the public hearing; however, the Applicant was in attendance at the meeting to answer any questions of the Planning Commission.

Following close of the public hearing, the Planning Commission elected to unanimously (6-0) recommend City Council approval of the request to amend the 1995 Planned Unit Development plans and documents and allow for the incorporation of an approximately 8,148-square foot office/indoor showroom and approximately 12-foot by 20-foot outdoor storage area for the property located at 6601 Shingle Creek Parkway, subject to the Applicant complying with the conditions as outlined in the Planning Commission Report dated January 17, 2019 and associated resolution.

A copy of the Planning Commission Report for Planning Commission Application No. 2019-003, dated January 17, 2019, and the City Council resolution regarding the PUD amendment and associated office/indoor showroom and outdoor storage area requests is included with this memorandum.

Budget Issues:

There are no budget issues to consider at this time.

Strategic Priorities and Values:

Safe, Secure, Stable Community

Member introduced the following resolution and moved its adoption:

RESOLUTION NO.

RESOLUTION REGARDING THE RECOMMENDED DISPOSITION OF PLANNING COMMISSION APPLICATION NO. 2019-003 SUBMITTED BY MIKE HARRER OF CBRE FOR AN AMENDMENT TO THE 1995 PLANNED UNIT DEVELOPMENT FOR CERTAIN PUD/I1 (PLANNED UNIT DEVELOPMENT/INDUSTRIAL PARK) DISTRICT PARCELS LOCATED NORTHWESTERLY OF THE INTERSECTION OF SHINGLE CREEK PARKWAY AND FREEWAY BOULEVARD AND ALLOWANCES FOR AN INDOOR SHOWROOM AND OUTDOOR STORAGE FOR THE PROPERTY LOCATED AT 6601 SHINGLE CREEK PARKWAY

WHEREAS, on June 11, 1984, the City Council of Brooklyn Center, Minnesota approved Planning Commission Application Nos. 84009 and 84010, which granted approval for construction of an approximately 70,000-square foot office-industrial building at 6601 Shingle Creek Parkway and allowed for office tenants and off-site parking through the issuance of a Special Use Permit; and

WHEREAS, on July 23, 1984, the City Council of Brooklyn Center, Minnesota adopted City Council Resolution No. 84-112, which approved and authorized the execution of a Declaration of Covenants for the construction of a parking facility on Tract C, R.L.S. 1564 and just to the west of 6601 Shingle Creek Parkway; and

WHEREAS, on July 10, 1995, the City Council of Brooklyn Center, Minnesota, adopted City Council Resolution No. 95-157, which approved the rezoning of certain properties from I1 (Industrial Park) and C2 (Commerce) to PUD/I1 (Planned Unit Development/Industrial Park) and the establishment of a Planned Unit Development to accommodate common parking areas for the properties located northwesterly of the intersection of Shingle Creek Parkway and Freeway Boulevard; and

WHEREAS, the approval also contemplated agreements for the purpose of creating certain parking, driveway, and access rights for the above-noted properties located northwesterly of the intersection of Shingle Creek Parkway and Freeway Boulevard; and

WHEREAS, the approval of the aforementioned resolution outlined conditions and considerations, of which included the execution of the Sixth Amendment to an existing Easement Agreement and Modification of Declaration of Parking that was to be filed with titles to the property with the Registrar of Titles at Hennepin County, and acknowledged specific percentage use allowances for each building located within the Planned Unit Development; and

WHEREAS, said Sixth Amendment to the Easement Agreement eliminated the previous requirement for a ramp, as outlined in the adoption of City Council Resolution No. 84-112; and

RESOLUTION NO.

WHEREAS, Mike Harrer of CBRE ("the Applicant") has submitted Planning Commission Application No. 2019-003 for an amendment to the 1995 Planned Unit Development plans and documents that would remove the existing percentage use allowance language for each building located within the Planned Unit Development and as identified within City Council Resolution 95-157 to minimize occurrences where amendments to the Planned Unit Development plans and documents would be necessary, and create less hurdles in filling vacancies within these buildings; and

WHEREAS, the existing Easement Agreement and Declaration of Parking would remain in effect and serve as the responsible document for regulating parking allocations within the Planned Unit Development; and

WHEREAS, as part of Planning Commission Application No. 2019-003, the Applicant also made additional requests to allow for an approximately 12 foot by 20 foot outdoor storage area to store PVC piping supplies and an approximately 8,148-square foot indoor retail office/showroom to display plumbing fixtures and supplies as part of the intended leasing of approximately 36,000-square feet of the building located at 6601 Shingle Creek Parkway by the adjacent Hamilton-Hajoca Company, who seeks to expand into the aforementioned space at 6601 Shingle Creek Parkway; and

WHEREAS, on January 17, 2019, the Planning Commission of Brooklyn Center, Minnesota held a duly called public hearing, whereby a staff report and public testimony regarding the Amendment to this Planned Unit Development were received and considered by the Planning Commission; the Planning Commission considered the Planned Unit Development Amendment request in light of all testimony received, including the guidelines for evaluating such amendments as contained in Section 35-355 (*Planned Unit Development*) of the City's Zoning Ordinance and the City's 2030 Comprehensive Plan; and

WHEREAS, in light of all testimony received, the Planning Commission of the City of Brooklyn Center, Minnesota did determine that Planning Application No. 2019-003, submitted by Mike Harrer of CBRE, may be approved based upon the following considerations:

1. The request to amend the 1995 Planned Unit Development plans and documents is compatible with the standards, purposes, and intent of the Planned Unit Development section of the City's Zoning Ordinance.

2. The amendment to the 1995 Planned Unit Development plans and documents will allow for the continued utilization of the land in question in a manner that is considered compatible with, complementary to, and of comparable intensity to adjacent land uses, as well as those permitted on surrounding land so long as the existing Easement Agreement and Declaration of Parking are maintained and the allowable uses within buildings located in the Planned Unit Development complement the parking allocations provided for each property.

   The requests to allow for an approximately 12 foot by 20 foot outdoor storage area and

indoor retail showroom should have no negative impacts on the adjacent land uses as the intended space has a current allocation of 177 parking stalls and a projected new employment of four to five full-time employees between the intended tenant space at 6601 Shingle Creek Parkway and the existing Hamilton-Hajoca Company located at 6601 Parkway Circle. The outdoor storage area would be located within an existing mechanical area by the loading docks and would result in no loss to existing parking.

3. The Amendment to the Planned Unit Development proposes no changes to the existing accessibility and circulation to properties located within the underlying Planned Unit Development.

4. The request to remove certain percentage use allowance language from the Planned Unit Development plans and documents appear to be a reasonable and effective means of minimizing amendments to the Planned Unit Development and removing barriers to filling vacancies so long as the uses permitted within the development follow those allowances outlined within the Planned Unit Development and as addressed in the City Zoning Ordinance.

5. The City will require a revised/restated PUD agreement with the City of Brooklyn Center to reflect these and any future approvals, and the Applicant shall work with City staff and the City Attorney to determine whether the existing Easement Agreement and Declaration of Parking (last revised March 27, 1996) requires further amendment to reflect changes to parking allocations, ownership, etc. These documents are to be amended as necessary to keep up-to-date with future changes within the designated central parking area, driveway areas, etc.

AND WHEREAS, the Planning Commission of the City of Brooklyn Center, Minnesota did determine that Planning Application No. 2019-003, submitted by Mike Harrer of CBRE, may be approved based on the belief that the guidelines for evaluating Planned Unit Development Amendments as contained in Section 35-355 (*Planned Unit Development*) of the City's Zoning Ordinance have been met, and the proposal is, therefore, in the best interest of the community.

NOW, THEREFORE, BE IT RESOLVED by the City Council of Brooklyn Center, Minnesota, that Planning Commission Application No. 2019-003, submitted by Mike Harrer of CBRE and requesting approval of an amendment to the 1995 Planned Unit Development plans and documents to reflect the removal of certain percentage use allowance language, the incorporation of an indoor retail showroom, and outside storage area, may be approved subject to the following conditions:

1. **PUD Amendment Review:**
   All requested alterations will need to be approved by City staff with respect to applicable codes prior to the issuance of permits, and fire related building code items shall be reviewed and approved by the Fire Chief/Fire Inspector.

a. Any major changes or modifications made to this request can only be made by an amendment to the approved Planned Unit Development plans and documents as approved by the City Council.

b. The Applicant/Tenant shall provide sufficient detailing on the proposed outdoor storage enclosure and obtain any necessary building/electrical permits prior to removal of the above ground fuel tank and generator, and construction of the storage area.

   i. The Applicant/Tenant shall verify with City staff whether additional approvals are needed from the Minnesota Pollution Control Agency for the above ground fuel tank.

c. The Applicant shall provide trash enclosures in compliance with City Code requirements as they relate to screening for the trash enclosures located within the loading dock area. Plans detailing proposed construction materials, dimensions, and location shall be provided to City staff.

d. The approved amendment to the PUD would supersede and replace the special use permit previously issued for the property.

2. **Agreements:**

   a. A revised/restated PUD agreement with the City of Brooklyn Center shall be prepared to reflect these and any future approvals. This agreement is to be reviewed and approved by the City Attorney prior to the issuance of building permits.

   b. The Applicant shall work with City staff and the City Attorney to determine whether the existing Easement Agreement and Declaration of Parking (last revised March 27, 1996) requires further amendment to reflect changes to parking allocations, ownership, etc. These documents are to be amended as necessary to address the current revisions and to keep up-to-date with future changes within the designated central parking area, driveway areas, etc.

3. **City Staff Reviews:** The Applicant agrees to comply with all conditions or provisions noted in the Assistant City Engineer's review memorandum, dated January 7, 2019, and Building Official's review memorandum, dated January 10, 2019.

RESOLUTION NO.

January 28, 2019 _____
Date

_____
Mayor

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.

Planning Commission Report

Meeting Date: January 17, 2019

- Application Filed: 12/18/2018
- Review Period (60-day) Deadline: 02/16/2019
- Extension Declared: N/A
- Extended Review Period Deadline: N/A

Application No.	2019-003
Applicant:	Mike Harrer (CBRE)
Location:	6601 Shingle Creek Parkway (and parcels associated with the underlying PUD)
Request:	Amendment to 1995 Planned Unit Development Plans and Documents Regarding Percentage of Use Types within Buildings Related to Parking Allocation amongst a Shared Parking Agreement, and Certain Allowances for the Incorporation of an Indoor Showroom and Outdoor Storage

INTRODUCTION

Mike Harrer of CBRE ("the Applicant") is requesting review and consideration of an amendment to the 1995 Planned Unit Development (PUD) plans and documents relating to parking allocations amongst a shared parking agreement, as well as certain allowances that would result in the construction of a small outdoor storage area and incorporation of an indoor showroom within an approximately 36,000-square foot space at 6601 Shingle Creek Parkway ("the Subject Property").

As amendments to Planned Unit Developments require a public hearing to be scheduled, an Affidavit of Publication was received, confirming publication of a public hearing notice in the Brooklyn Center *Sun Post* on January 3, 2019 (Exhibit A). Mail notices were also sent out to property owners in accordance with Section 35-355 (*Planned Unit Development*) of the City Zoning Ordinance.

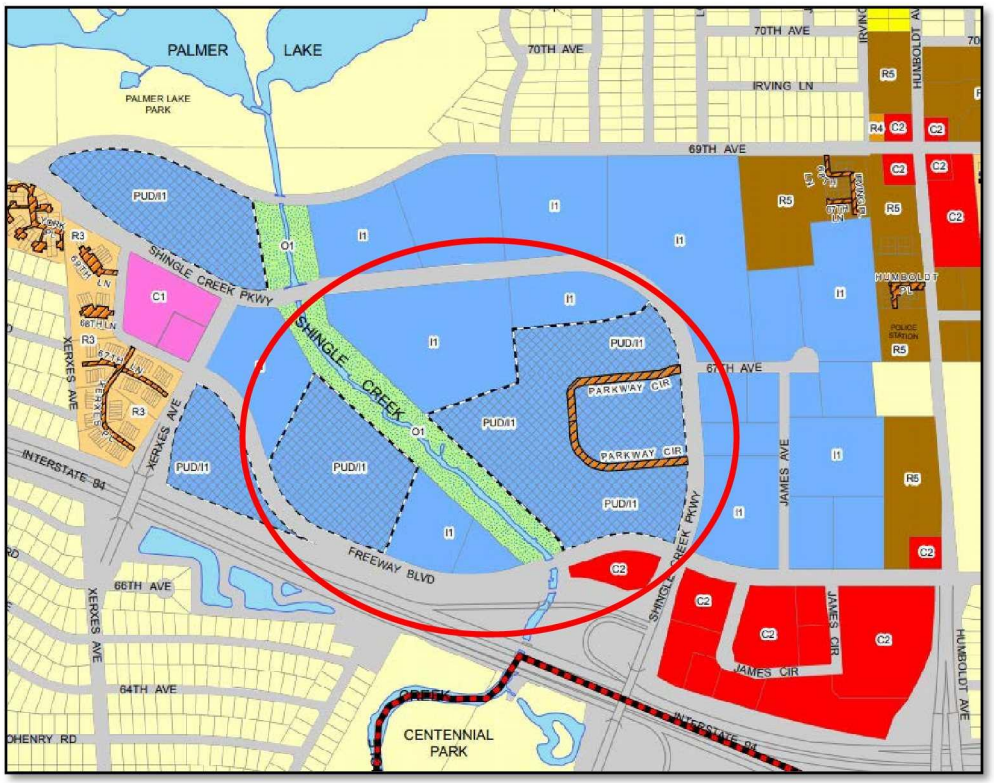
COMPREHENSIVE PLAN AND ZONING STANDARDS

2030 Land Use Plan:	I-Industrial
Neighborhood:	Shingle Creek
Current Zoning:	PUD-I1 (Planned Unit Development/Industrial Park) District
Surrounding Zoning:	**North:** PUD/I1 (Planned Unit Development/Industrial Park) District **East:** I1 (Industrial Park) District **South:** PUD/I1 (Planned Unit Development/Industrial Park) District **West:** PUD/I1 (Planned Unit Development/Industrial Park) District
Site Area:	Approximately 4.59 acres

Map 1. Subject Property Location (6601 Shingle Creek Parkway).



Map 2. Subject Property Location (6601 Shingle Creek Parkway) and Surrounding PUD/I1 Properties.



BACKGROUND

City staff first conversed with the Applicant, who serves as leasing agent for the Subject Property, via phone and email regarding usage allowances in late October 2018. City staff eventually met with the Applicant on November 30, 2018, to discuss the Subject Property and underlying Planned Unit Development (PUD). Through the course of conversing with the Applicant, it was determined that the Applicant was close to leasing approximately 36,000-square feet of the approximately 70,000-square building located at 6601 Shingle Creek Parkway (Subject Property) to an adjacent business located at 6601 Parkway Circle (Roberts-Hamilton/Hajoca Company); however, the Applicant had concerns regarding overall usage allowances and expressed concerns regarding overall usage within the building located at 6701 Parkway Circle, which is almost exclusively used for office space at this time.

The Subject Property is comprised of approximately 4.59 acres and consists of an existing one-story, multi-tenant industrial/office building, loading dock area, and off-street parking. Constructed in 1985, the building located on the Subject Property was originally approved under Planning Commission Application No. 84009 for site and building approval, as well as issuance of a Special Use Permit. The issuance of the Special Use Permit, at that time, was to allow for office tenants in the proposed industrial-office buildings. Additional focus was paid to the parking plans for the Subject Property as well as the other surrounding properties (Exhibit B).

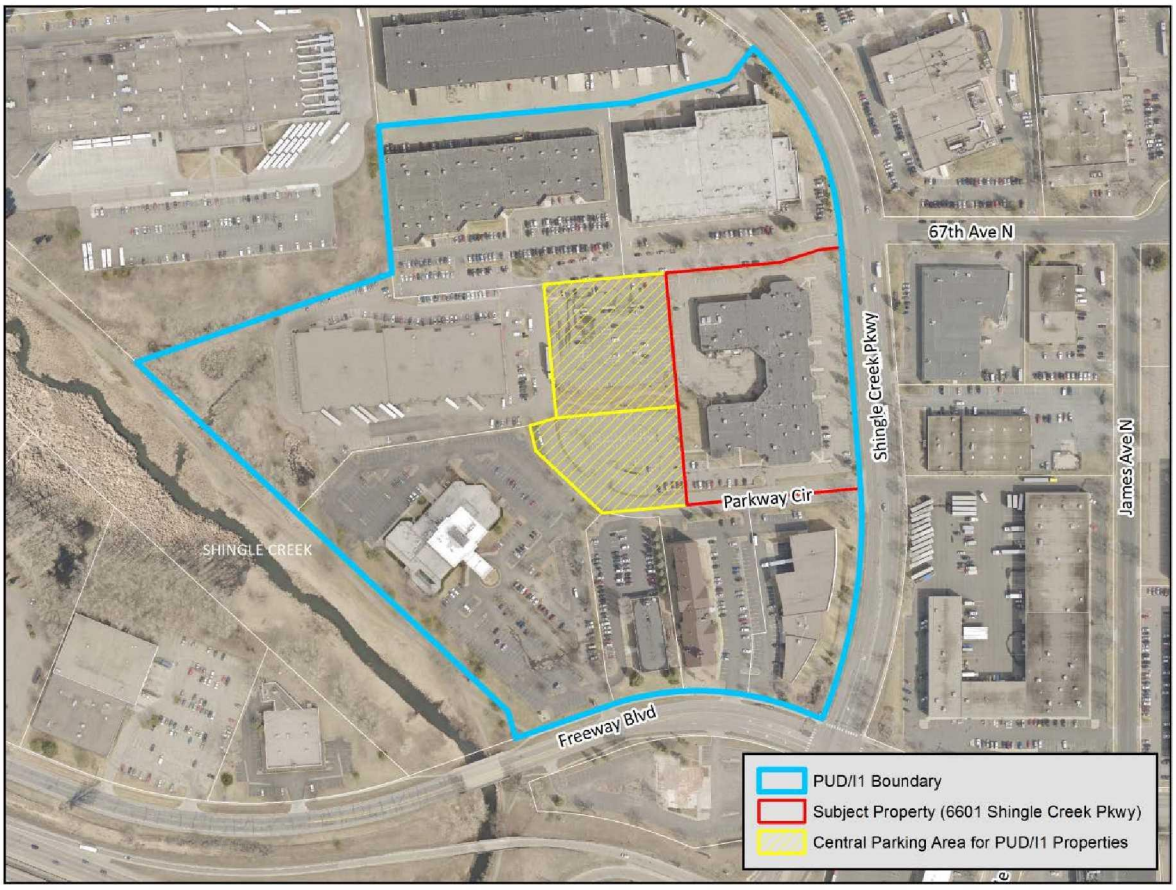
At the time the Subject Property was developed, a central parking lot and potential parking ramp was contemplated to address minimum parking needs. As part of the approval, City Council Resolution No. 1984-112 approved and authorized the execution of a declaration of covenants for the construction of a parking facility on Tract C, Registered Land Survey No. 1564, between the City of Brooklyn Center and Shingle Creek Land Company.

In 1995, the City, along with various property owners, sought a rezoning from I1 (Industrial Park) and C2 (Commerce) to PUD/I1 (Planned Unit Development/Industrial Park) and approval for a Planned Unit Development to accommodate and acknowledge appropriate "common area parking" for various developments located in the area northwesterly of Shingle Creek Parkway and Freeway Boulevard (refer to Map 2 above). The properties included in this request were: 6601 and 6706 Shingle Creek Parkway; 6601 and 6701 Parkway Circle; 2000, 2100, and 2200 Freeway Boulevard; and the north and south portions of the central parking lot, located on Tract C of Registered Land Survey No. 1564 and Tract C of Registered Land Survey No. 1572, respectively.

As mentioned, this area had operated under a Special Use Permit for the approved off-site parking allocations, as the City did not have provisions in its ordinances for a Planned Unit Development back in the 1980s when many of the buildings located in the PUD were approved. The Special Use Permit therefore outlined provisions for off-site accessory parking in a central parking lot to "allow flexibility in developing various office/industrial sites in this area." The plan had also provided for a private, non-public access road (Parkway Circle) to offer access to various development parcels that were otherwise landlocked around the central lot (refer to Map 3 below).

The staff report provided with Planning Commission Application No. 95009 notes a history of easement agreements that outlined certain parking, driveway, and access rights over the properties in this area. It was acknowledged at this time that the easement agreement was a complex document that had been amended numerous times over the years with the last amendment (5th amendment) occurring in 1988. These amendments reflected changing parking allocations from the central parking lot to various properties as well as other elements relating to the central parking area and access road.

Map 3. PUD/I1 Boundary, Subject Property (6601 Shingle Creek Parkway), and Common Parking Areas.



The 6th Amendment to the Easement Agreement (March 1996), reflected new ownership of the central parking lot as well as new and existing ownerships of the various properties in the area. Additional revisions reflected modifications to the parking agreement to lift a restriction that would have prevented the construction of an approved site and building plan for 6701 Parkway Circle. The 6th Amendment, based on a new allocation of parking, eliminated a previous requirement for a ramp (CC Resolution No. 1984-112); offered a provision to construct an additional 25 parking spaces in a landscape area, if necessary; remove a required allocation of 65 parking spaces in the central parking area for the hotel located at 2200 Freeway Boulevard; provide additional parking along the outer perimeter of Parkway Circle (private road access); and eliminate no longer necessary traffic control signal agreements along Shingle Creek Parkway.

Approval of the rezoning and establishment of the Planned Unit Development is reflected within City Council Resolution No. 1995-157 (*Resolution Regarding Disposition of Planning Commission Application No. 95009 Submitted by the City of Brooklyn Center*).

AMENDMENT TO THE PLANNED UNIT DEVELOPMENT

Percentages of Use Types within Buildings

The Applicant approached City staff initially to discuss concerns relating to restrictions on use for the Subject Property located at 6601 Shingle Creek Parkway. City staff reviewed prior City approvals and noted that a set of conditions and considerations under City Council Resolution No. 1995-157 required that the "Sixth Amendment to the Easement Agreement and Modification of Declaration for Parking

shall be executed by all parties and filed with the titles to the property with the Registrar of Titles at Hennepin County," and that the "approval of this Planned Unit Development acknowledges the following uses within the district":

a. *a 20 percent office/SO percent industrial occupancy of the Shingle Creek 11 building located at 6707 Shingle Creek Parkway;*

b. *a 100 percent office occupancy of the RCM Plaza building located at 6707 Parkway Circle;*

c. *the development of an 80,000 sq. ft. office industrial building for General Litho approved under Planning Commission Application No. 95004 at 6601 Parkway Circle;*

d. ***a 60 percent office/10 percent clinic/30 percent industrial occupancy of the building known at Parkway Place, 6601 Shingle Creek Parkway;***

e. *a hotel, restaurant, nightclub, meeting room and ballroom use of the Holiday Inn, 2200 Freeway Boulevard;*

f. *a 100 percent office occupancy use for the Minnesota State High School League office building, 2100 Freeway Boulevard;*

g. *a restaurant use as proposed by Country Harvest Buffet approved under Planning Commission Application No. 94014 at2000 Freeway Boulevard;*

h. *and a parking lot use of Tract C, RLS 1564and Tract C, RLS 1572.*

Staff discussed the outlined percentage use allowance provisions and forwarded the approvals on to the City Attorney for review to determine whether the building-by-building percentage use allowances could be removed. Based on conversations held, it was determined that there did not appear to be a recorded PUD agreement or re-zoning allowance on file re-stating the allowance percentages and therefore it made sense to remove the use allowance provisions to offer flexibility while ensuring the limits of each individual property and the central parking provisions were kept intact. The intent in removing the percentage use allowance provisions from the PUD is to not only to keep the City and any applicants from constantly filing PUD amendments, but to lessen the hurdles in filling vacancies within these buildings.

Removal of the percentage use allowances outlined under the PUD *would not* remove the existing Easement Agreement and Declaration of Parking in place. The Applicant has noted that they (CBRE) are the current overseer of the parking and maintenance for the area within Parkway Circle and would therefore be in charge of any potential future amendments to said Easement and Declaration of Parking. By removing the percentage use allowance breakdown, the regulation of and alterations to address parking through approved allocations would be handled through the Easement Agreement and Declaration of Parking.

The Applicant has provided additional information relating to current parking allocations around Parkway Circle and for the Subject Property located at 6601 Shingle Creek Parkway (Exhibit C). As part of any approval, City staff would need to work with the Applicant and City Attorney to determine whether an amendment to the existing Easement Agreement and Declaration of Parking would be deemed

appropriate. The Applicant will also need to provide additional parking allocation information for all properties subject to the Planned Unit Development, Easement, and Declaration of Parking.

Indoor Retail Showroom

The Applicant is requesting approval for approximately 8,148-square feet of office/indoor showroom space within the approximately 36,000-square foot space (refer to Image 1 below) that would be leased by the adjacent Hamilton-Hajoca Company. Roberts-Hamilton Company (also known as Hamilton-Hajoca Company) is currently located within an adjacent building to the west of the Subject Property, at 6601 Parkway Circle. Roberts-Hamilton Company is a full line residential and industrial plumbing wholesale distributor in Minnesota with items such as fixtures, faucets, boilers, and water heaters in its inventory. The Roberts-Hamilton Company is part of Hajoca Corporation, which is a nationwide wholesale distributor of pipes, valves, fittings, plumbing, heating, and industrial supplies.

As part of their proposed expansion into approximately 36,000-square feet of the Subject Property, they would be seeking to incorporate showroom space (refer to Image 2 below), particularly given the building's access and visibility for customers from Shingle Creek Parkway.

Image 1. Exterior of Subject Property and Proposed Tenant Space (*Photo Source:* Ginny McIntosh)



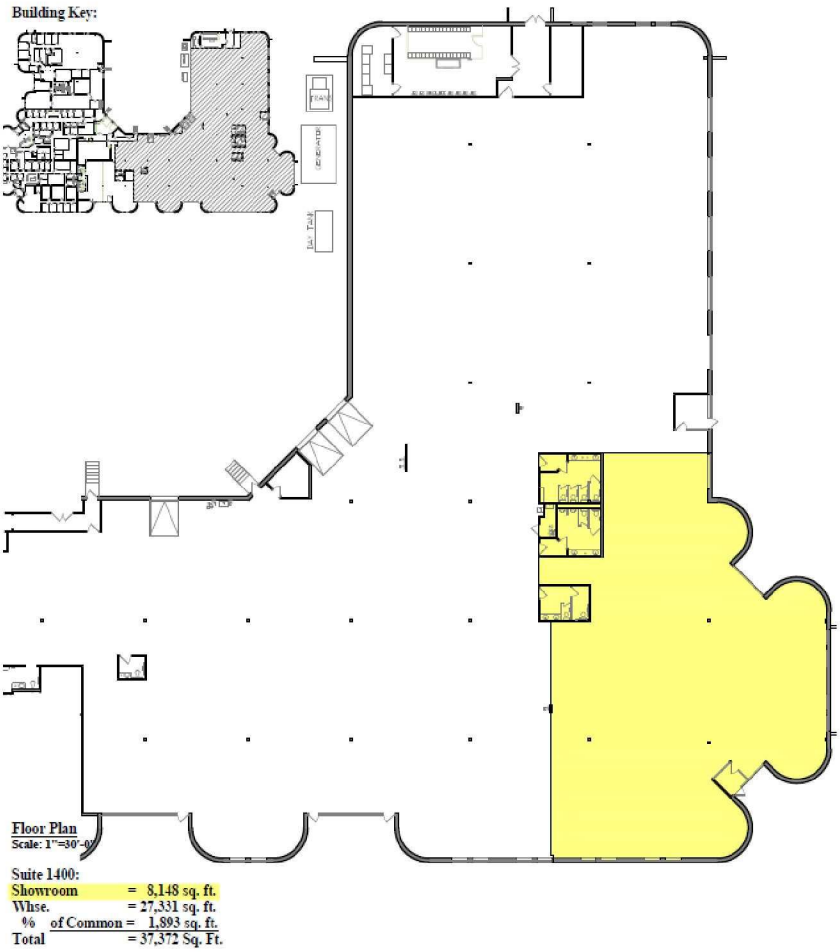
Image 2. Example of Proposed Showroom Area (*Photo Source:www.robertshamilton.com*)





The proposed showroom would be located along the northeast corner of the Subject Property. The remainder of the approximately 36,000-square foot space would be dedicated to approximately 27,331-square feet of additional warehousing space (refer to Image 3 below).

Image 3. Proposed Interior Layout of Approximately 36,000-Square Foot Space and Showroom (*Source:* Genesis Architecture)



Per Section 35-330 (*Industrial Park*), subsection 3.c of the City Zoning Ordinance, "retail sales of products manufactured, processed, warehoused, or wholesaled on the use site," are allowable only through issuance of a Special Use Permit; however, given that the Subject Property is located within an existing Planned Unit Development (PUD), the PUD approval essentially supersedes any "Special Use" approval. Therefore, the Applicant is required to amend the existing PUD to allow for the indoor showroom.

Outdoor Storage
The Applicant has also requested the re-use of an existing concrete pad area located to the rear of the Subject Property and behind the loading docks. This area is currently the location of a generator and above ground fuel tank. The intended tenant, Roberts-Hajoca Company, would construct an approximately 12 foot by 20 foot outdoor storage area to house PVC piping supplies as part of their plumbing supply business.

As was the case with the indoor retail showroom request, outdoor storage and any display of materials, equipment or products accessory and necessary to a principal or permitted use requires issuance of a Special Use Permit, or in this particular case, an amendment to the existing Planned Unit Development (PUD) plans and documents.

Although detailing was not provided on the fencing material, outdoor storage in the I1 (Industrial Park) District is only permitted subject to the following standards:

1. The items in the area designated on the site plan for outdoor storage or sales display area shall be effectively screened from view from adjacent public rights-of-way or adjacent properties by a solid wall or fence constructed of wood, masonry or other durable materials, or a combination of fence, berm and landscaping approved by the City Council.

2. Allowable areas used for outdoor storage or display areas on an individual site shall not exceed fifteen percent (15%) of the gross floor area of the principal building.

3. Outdoor storage or sales display area shall not be located within any front yard or corner side yard abutting a public right-of-way, or within the buffer setback areas as defined under Section 35,413, Subsection 1.a, b, c, and d.

4. Height of stacked or stored materials or equipment in the storage area shall not exceed the height of the screening fence or height levels approved by City Council.

5. Outdoor areas shall not be used for the storage of junk or inoperable vehicles, trash, debris, or any nuisance items as defined by City Code.

6. The storage of hazardous liquids, solids, gases, or wastes is strictly prohibited, unless authorized by the City's Building Official and Fire Chief, and approved by the City Council.

7. The outdoor storage area shall not be within or interfere with designated parking or drive aisles required by City Code Section 35-700 (*Off-Street Parking Requirements*).

8. Any new or additional lighting installed to illuminate the storage area must be down-cast, cut-off style light fixtures, with a photometric plan approved by City Council.

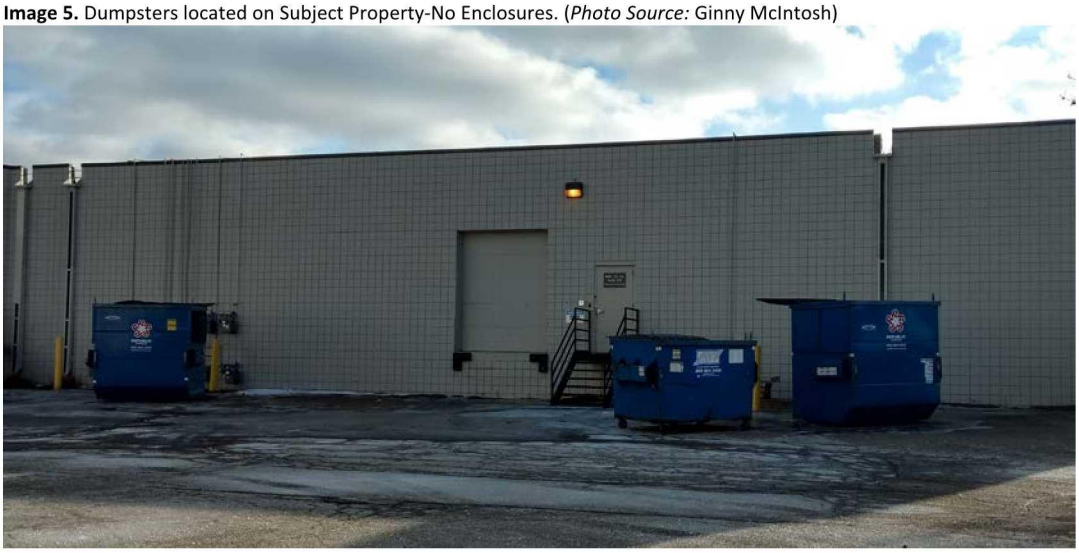
The Applicant will want to verify with the Minnesota Pollution Control Agency (MPCA) that no additional requirements are needed to remove the above ground fuel tank (refer to Image 4 below). The Applicant would also need to provide sufficient detailing on the intended fencing or wall material for the outdoor storage area to the City Planner and Building Official for review to determine whether the standards for outdoor stage within the I1 District have been met.

Image 4. Existing Generator and Fuel Tank Location on Subject Property (*Photo Source:* Ginny McIntosh)



Upon a visit by City staff to the Subject Property, it was noted that there did not appear to be any enclosures on site for the trash dumpsters located within the loading dock area (refer to Image 5 below). It should be noted that all ground mounted equipment (e.g., transformers, mechanical), trash enclosures, and roof-mounted equipment are to be effectively screened from adjacent public rights-of-way and properties. Ground mounted equipment and trash enclosures are to utilize a solid wall or fence constructed of wood, masonry, or other durable materials that are complementary to the materials used on the primary building. Per Chapter 12 (*Building Maintenance and Occupancy*), of the City Code, roof-mounted equipment shall also be screened from view through the use of parapets, wall/fencing materials, or paint to match surrounding colors when visible from the public right-of-way.

Image 5. Dumpsters located on Subject Property-No Enclosures. (*Photo Source:* Ginny McIntosh)



ENGINEERING REVIEW

Per Assistant City Engineer Andrew Hogg's memorandum dated January 7, 2019, the Applicant will need

to comply with ADA standards relating to building access, parking, etc. (Exhibit D).

BUILDING OFFICIAL REVIEW

The Applicant shall work to ensure all building and fire code requirements have been met as part any PUD amendment approval and/or interior renovations and as outlined Building Official Dan Grinsteinner's memorandum dated January 10, 2019 (Exhibit E). As a church (assembly use) currently exists within the building located on the Subject Property the Applicant will need to ensure proper fire separation is provided between the office/warehouse use of the anticipated tenant, Roberts-Hajoca Company, and the church (Recreation Fire & Miracles Ministries).

Should any storage be kept on racks, a separate permit will be required unless the racking is outlined in the main tenant remodel package. Storage detailing shall indicate height, racking details, commodity, aisle widths and types of existing heads in the storage area. Finally, due to the new occupancy, a SAC (Sewer Availability Charge) determination from Met Council will be required.

Based on staff findings, staff recommends Planning Commission recommendation of the amendment to the 1995 Planned Unit Development plans and documents and approval of the proposed removal of language relating to percentages of use types within buildings for all properties located within the identified Planned Unit Development, as well as approval of the requested approximately 8,148-square foot office/indoor retail showroom, and approximately 12 foot by 20 foot outdoor storage area for the Subject Property located at 6601 Shingle Creek Parkway, subject to the Applicant complying with the Approval Conditions as noted below.

APPROVAL CONDITIONS

Staff recommends the following conditions be attached to any positive recommendation on the approval of an amendment to the 1995 Planned Unit Development plans and documents and aforementioned removal of language relating to percentages of use types within buildings for all properties located within the identified Planned Unit Development, as well as the approval of the requested office/indoor retail showroom and outdoor storage area for the property located at 6601 Shingle Creek Parkway:

1. **PUD Amendment Review:**
   All requested alterations will need to be approved by City staff with respect to applicable codes prior to the issuance of permits, and fire related building code items shall be reviewed and approved by the Fire Chief/Fire Inspector.
   a. Any major changes or modifications made to this request can only be made by an amendment to the approved Planned Unit Development plans and documents as approved by the City Council.
   b. Sufficient detailing on the proposed outdoor storage enclosure shall be provided and any necessary building/electrical permits obtained prior to removal of the above ground fuel tank and generator, and construction of the storage area.
      i. The Applicant/Tenant shall verify with City staff whether additional approvals are needed from the Minnesota Pollution Control Agency (MPCA) for the above ground fuel tank.
   c. The Applicant shall provide trash enclosures in compliance with City Code requirements as they relate to screening for the trash enclosures located within the loading dock area. Plans detailing proposed construction materials, dimensions, and location shall be provided to

City staff.

2. **Agreements:**
   a. A revised/restated PUD agreement with the City of Brooklyn Center shall be prepared to reflect these and any future approvals. This agreement is to be reviewed and approved by the City Attorney prior to the issuance of building permits.
   b. The Applicant shall work with City staff and the City Attorney to determine whether the existing Easement Agreement and Declaration of Parking (last revised March 27, 1996) requires further amendment to reflect changes to parking allocations, ownership, etc. These documents are to be amended as necessary to keep up-to-date with future changes within the designated central parking area, driveway areas, etc.

3. **City Staff Reviews:** The Applicant agrees to comply with all conditions or provisions noted in the Assistant City Engineer's review memorandum, dated January 7, 2019 (Exhibit D) and Building Official's review memorandum, dated January 10, 2019 (Exhibit E).

RECOMMENDATION

Based on the above-noted findings, staff recommends:

The Planning Commission recommends City Council approval of the amendment to the 1995 Planned Unit Development plans and documents and approval of the proposed removal of language relating to percentages of use types within buildings for all properties located within the identified Planned Unit Development, as well as approval of the requested approximately 8,148-square foot office/indoor retail showroom, and approximately 12 foot by 20 foot outdoor storage area for the Subject Property located at 6601 Shingle Creek Parkway, subject to the Applicant complying with the Approval Conditions as noted above.

Should the Planning Commission accept these recommendations, the Commission may elect to adopt the resolution to be provided prior to the scheduled Planning Commission meeting on January 17, 2019.

Attachments

Exhibit A- Public Hearing Notice for 6601 Shingle Creek Parkway and Adjacent Parcels Located in the Underlying PUD, published by the Brooklyn Center *Sun Post* on January 3, 2019.
Exhibit B- Select Information Relating to Planning Commission Application Nos. 84009 and 95009.
Exhibit C- City Submittal by Applicant for Planning Commission Application No. 2019-003, submitted by Mike Harrer of CBRE, and dated December 18, 2018.
Exhibit D- Review Memorandum, prepared by Assistant City Engineer Andrew Hogg, dated January 7, 2019.
Exhibit E- Review Memorandum, prepared by Building Official Dan Grinsteinner, dated January 10, 2019.

Exhibit A

CITY OF BROOKLYN CENTER NOTICE OF PUBLIC HEARING

TO WHOM IT MAY CONCERN:

Please take notice that the Planning Commission of the City of Brooklyn Center will hold a public hearing on Thursday, January 17, 2019, at approximately 7:00 p.m., at Brooklyn Center City Hall, located at 6301 Shingle Creek Parkway, Brooklyn Center, Minnesota. A definite time for this application to be considered cannot be given as it will depend on the progression of the agenda items.

TYPE OF REQUEST: Amendment to existing 1995 Planned Unit Development plans and documents regarding percentages of use types within buildings related to parking allocation amongst a shared parking agreement, and certain allowances for the incorporation of an indoor showroom and outdoor storage.

PETITIONER: Michael Harrer (CBRE)

PROPERTY OWNER: JTS Capital Realty, LLC

PROPERTY NAMED IN THE PETITION: 6601 Shingle Creek Parkway, Brooklyn Center,

MN, and parcels associated with the underlying PUD

PROPERTY ID:

35-119-21-13-0017

LEGAL DESCRIPTION: Tract G, Registered Land Survey No. 1572, Hennepin County, MN

BRIEF STATEMENT OF CONTENTS OF PETITION:

The Applicant is requesting an amendment to the existing 1996 Planned Unit Development (PUD) plans and documents that would allow for greater flexibility relating to percentages of use types within the buildings located in the aforementioned PUD as related to the parking allocation amongst a shared parking agreement.

This request also outlines additional requests for an existing, adjacent business to expand into an approximately 36,000-square foot portion of the building located at 6601 Shingle Creek Parkway and associated requests for an indoor showroom and outdoor storage.

Questions, comments, statements of support or objections should be directed to City Planner/Zoning Administrator Ginny McIntosh at (763) 569-3319 or email to gmcintosh@ci.brooklyn-center.mn.us.

Auxiliary aids for persons with disabilities are available upon request at least 96 hours in advance. Please contact the City Clerk at (763) 569-3300 to make arrangements.

Respectfully,
Ginny McIntosh
City Planner/Zoning Administrator

Published in the
Sun Post
January 3, 2019
893371

Exhibit B

Planning Commission Information Sheet

Application Nos. 84009, 84010
Applicant: Lombard Properties
Location: 6601 Shingle Creek Parkway
Request: Site and Building Plan/Special Use Permit
Special Use Permit for Off-site Parking

The applicant requests site and building plan and special use permit approval to construct a 75,251 sq. ft. office-industrial building at 6601 Shingle Creek Parkway. This application was reviewed by the Planning Commission at its May 10, 1984 meeting. It was tabled with direction to the applicant to bring back a parking plan reflecting 50% office occupancy and submission of a special use permit to allow office tenants in the proposed building. The applicant has complied with these requests.

The applicant has submitted a new parking plan providing a ramp over the northerly portion of the central parking lot with 185 parking stalls on the upper level. The installation of the parking ramp would reduce parking on ground level by 28 stalls. The net addition brought about by the ramp would, therefore, be 157 stalls. The Spec. 14 building, at 50% office occupancy, requires 227 parking stalls. The site plan calls for 145 parking spaces to be provided on site, with the 82 remaining spaces to be provided in the central parking lot and ramp. Commissioner Nelson asked at the last meeting what the parking shortfall for the overall development area would be. If Spec. 10, 12 and 14 are all 50/50, low-rise buildings, the following parking could come about:

Building	Total Required	Parking Spaces On-site	Off-site
Spec. 14	227	145	82
Spec. 10	280	78	202
Spec. 11	152	50	102
Spec. 12	252	202*	50
Ramada	489	428	61
Total	1,400	903	497

*Not yet established in site design

These numbers indicate that Spec. 12 will only have 50 available stalls from the central lot, 45 on the southerly Tract C and 5 from the upper level of the ramp. It would seem appropriate that Spec. 14 take 20 stalls from the northerly Tract C, as proposed, and 62 stalls from the upper level of the potential parking ramp. In addition to the 112 spaces presently allocated to Spec. 10 from the central parking lot, 118 are needed from the upper level if Spec. 10 is to be a low-rise building and to make up for the loss of 28 stalls which would occur with the construction of the ramp.

The landscape plan has also been revised to provide shade trees (4 Hackberry) along the Shingle Creek Parkway greenstrip and to provide sod in most landscaped areas immediately adjacent to the building.

Based on the new plans submitted by the applicant, it is felt that the plans are generally in order and approval is recommended, subject to at least the following conditions:

1. Building plans are subject to review and approval by the Building Official with respect to applicable codes prior to the issuance of permits.

2. Grading, drainage, utility and berming plans are subject to review and approval by the City Engineer, prior to the issuance of permits.

3. A site performance agreement and supporting financial guarantee (in an amount to be determined by the City Manager) shall be submitted prior to the issuance of permits to assure completion of approved site improvements.

4. Any outside trash disposal facilities and rooftop mechanical equipment shall be appropriately screened from view.

5. The building is to be equipped with an automatic fire extinguishing system to meet NFPA standards and shall be connected to a central monitoring device in accordance with Chapter 5 of the City Ordinances.

6. An underground irrigation system shall be installed in all landscaped areas to facilitate site maintenance.

7. Plan approval is exclusive of all signery which is subject to Chapter 34 of the City Ordinances.

8. B612 curb and gutter shall be provided around all parking and driving areas.

9. Plan approval acknowledges proof-of-parking for 82 off-site parking stalls, at least 20 of which are to be located in the at-grade central parking lot and up to 62 of which may be located in a potential parking ramp. The applicant shall enter into a written agreement with the City to install this parking ramp at the request of the City and this agreement shall be filed with the property at Hennepin County.

10. The Special Use Permit is subject to all applicable codes, ordinances and regulations and any violation thereof shall be grounds for revocation.

11. Special Use Permit approval acknowledges that up to 50% of the occupancy of the building may be devoted to office use whether related to an industrial use or not. Office occupancy of more than 50% of the gross floor area subject to amendment of the Special Use Permit herein granted and to the appropriate parking formulas of the City Zoning Ordinance.

12. Issuance of building permits is subject to the filing of the R. L. S. approved under Application No. 83046 being filed at the County.

13. The applicant shall submit a site performance agreement and supporting financial guarantee (in an amount to be determined by the City Manager) prior to the issuance of building permits to assure the completion of the central parking lot.

Application No. 84010

1. Special Use Permit approval acknowledges up to 82 off-site accessory parking stalls on the central parking lot to the west of the site.

Member Gene Lhotka introduced the following resolution and moved its adoption:

RESOLUTION NO. 84-112

RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF DECLARATION OF COVENANTS FOR THE CONSTRUCTION OF A PARKING FACILITY ON TRACT C, R.L.S. 1564

BE IT RESOLVED by the City Council of the City of Brooklyn Center, Minnesota, that the declaration of covenants for the construction of a parking facility on Tract C, R.L.S. 1564 between the City of Brooklyn Center and Shingle Creek Land Company is hereby approved. The Mayor and the City Manager are hereby authorized to execute said agreement on behalf of the City of Brooklyn Center.

July 23, 1984
Date

Dean G. Nyquist
Mayor

ATTEST: [signature]
Clerk

The motion for the adoption of the foregoing resolution was duly seconded by member Bill Hawes, and upon vote being taken thereon, the following voted in favor thereof: Dean Nyquist, Gene Lhotka, Bill Hawes, and Rich Theis;

and the following voted against the same: none,
whereupon said resolution was declared duly passed and adopted.

Planning Commission Information Sheet
Application No. 95009
Applicant: City of Brooklyn Center
Location: Northwest Quadrant of Shingle Creek Parkway and Freeway Boulevard
Request: Rezoning and Planned Unit Development Approval

The City, along with various property owners, is seeking rezoning from I-1 (Industrial Park) and C-2 (Commerce) to PUD/I-1 and approval for a Planned Unit Development to accommodate and acknowledge appropriate common area parking for various developments in the area located northwesterly of Shingle Creek Parkway and Freeway Boulevard. The properties in question include 6601 and 6707 Shingle Creek Parkway (Parkway Place-Tract G, RLS 1572 and Shingle Creek 11-Tract A, RLS 1564 respectively); 6601 and 6701 Parkway Circle (General Litho site - Tract A, RLS 1572 and RCM Plaza-Tract B, RLS 1564 respectively); 2000, 2100 and 2200 Freeway Boulevard (vacant land-Tract B, RLS 1619, Minnesota State High School League Office-Tract A, RLS 1619 and the Holiday Inn, formerly Ramada Hotel-Tract B, RLS 1572 respectively); and the north and south portions of the central parking lot-Tract C, RLS 1564 and Tract C, RLS 1572 respectively.

The area under consideration has operated under a Special Use Permit granted by the City Council, which comprehended off-site accessory parking in a central parking lot to allow flexibility in developing various office/industrial sites in this area. The plan also provided for a private, non-public access road to be created to provide access to various development parcels that were otherwise landlocked around the central parking lot . The first easement agreement was executed and filed with the Register of Titles on February 5, 1982 creating certain parking, driveway and access rights over the properties in this area. The easement agreement is a complex document that has been amended numerous times over the years with the most recent amendment being the 5th Amendment to Easement Agreement and Declaration dated December 1, 1988. These amendments have reflected changing parking allocations from the central parking lot to various properties as well as other elements related to the central parking and access road.

The 6th Amendment will reflect new ownership of the central parking lot as well as new and existing ownerships of the various properties in the area. Currently the site designated in the agreement as proposed building No. 12 (Tract A, RLS 1572) has an incumbrance on it to provide up to 153 parking spaces in a "proof of parking" for the sole use of the RCM Plaza property (Tract B, RLS 1564). This incumbrance makes it impossible for the General Litho development to go forward. General Litho was granted approval for an industrial building under Planning Commission Application No. 95004 subject to a modification of the parking agreement to lift that restriction. Their plan still calls for 20 parking stalls to be retained on the General Litho site for the sole use of the RCM Plaza building.

At the time the Special Use Permit was originally granted for off-site parking allocations, the City did not have provisions in its ordinances for a Planned Unit Development. The use of a Planned Unit Development would have been the best way to acknowledge a development

The new proposed agreement, in addition to making new central parking allocations, would also have First Industrial, L. P. take over ownership of and the responsibility to administer, operate, maintain and regulate the central parking area. First Industrial has also acquired the ownership of: RCM Plaza, or proposed building No. 10 (Tract B, RLS 1564); Shingle Creek 11, proposed building No. 11 (Tract A, RLS 1564); and Parkway Place proposed building No. 14 (Tract G, RLS 1572). The agreement would, based on experience and a new allocation of parking, eliminate the requirement for a ramp agreement; would allow, if necessary, the construction of at least 25 parking spaces in the landscape area; would acknowledge that the Holiday Inn Property, Tract B RLS 1572, no longer needs an allocation of 65 parking stalls in the central parking lot; would provide an additional 47 parking spaces on the outer perimeter of Parkway Circle; and would eliminate traffic control signal agreements on Shingle Creek Parkway because they are no longer needed.

Attached for the Commission's review are an area map, an old area plan showing the affected properties in the central parking lots, Exhibit B from previous easement agreements and declarations showing the existing parking allocation, a drawing showing proposed parking for 47 cars on the perimeter of Parkway Circle adding to the number of parking spaces to be allocated and also showing 20 parking spaces on the General Litho site for RCM Plaza's use. Also a copy of the 6th Amendment to Easement Agreement and Modification of the Declaration for Parking. Particular attention should be made of that agreement's Exhibit B showing new ownership and allocations to the central parking lot.

The new ownership listed in Exhibit B are as follows: RCM Plaza or proposed building No. 10 (Tract B, RLS 1564) - First Industrial; Shingle Creek 11 or proposed building No. 11 (Tract A, RLS 1564) - First Industrial; the General Litho site or proposed building No. 12 (Tract A, RLS 1572) - currently Shingle Creek Land Company; Parkway Place or proposed building No. 14 (Tract G, RLS 1572) - First Industrial; The Holiday Inn, formerly Ramada Hotel (Tract B, RLS 1572) - Plaza Real Estate Partners; and the central parking lot (Tract C, RLS 1564 and Tract C, RLS 1572) - First Industrial.

It is believed that the elimination of the ramp agreement, the credit for proof of parking for 25 stalls over the landscaped area, the perimeter parking on Parkway Circle and the relinquishment of 65 parking spaces allocated to the hotel are justified based on the experience up to this time. The hotel's parking formula does not acknowledge some double counting of parking. For instance, part of the formula is based on dining and drinking seats and employees for these operations. Some 20 seats are breakfast room seats, which are never used while the restaurant and night club are in use. Also, a number of guests in rooms utilize dining and nightclub facilities. Parking for guests are counted in the 172 parking spaces for rooms (one space per room). The ballroom and meeting rooms also will, to a great extent, be utilized by guests already there. Finally, the hotel has never had to utilize any of the 65 parking spaces from the central parking lot allocation.

The 47 spaces on the perimeter of the road should not create problems as there is enough room to accommodate parallel parking on the outer perimeter. The drive lane is 40 ft. wide,

while parallel parking requirements are 8 ft. wide with a 24 ft. wide drive lane.

Planned Unit Developments are Rezoning Applications. Attached is a copy of Section 35-208 of the city ordinances relating to the Rezoning Evaluation Policy and Review guidelines. It is the policy of the city that zoning classifications must be consistent with the Comprehensive Plan and rezoning proposals shall not constitute "spot zoning" defined as a zoning decision which discriminates in favor of a particular land owner, and does not relate to the Comprehensive Plan or to accepted planning principles. Rezoning proposals should be considered on their merits and measured against the above policy and various guidelines listed should be weighed collectively or individually as deemed appropriate by the city.

The first guideline questions if there is a clear public need or benefit. It is believed that there is a public need or benefit with the approval of the PUD designation and the revised development agreement. It simplifies to a great extent a very complex set of agreements and understandings. It also will free up a 153 car parking lot incumbrance on the General Litho site, which will allow this development to go ahead consistent with the zoning ordinance regulations.

The proposed zoning is consistent and compatible with surrounding land use classification. In fact, a parcel of land at the very northwest corner of Freeway Boulevard and Shingle Creek Parkway was rezoned to PUD/I-1 for development of a County Harvest Buffet. That proposal has not gone forward, however, the PUD/I-1 Zoning designation has been established. Also, the existing developments which include office/industrial buildings, straight office buildings and a hotel are all consistent with and compatible with surrounding land use classifications.

It appears that all permitted uses in the new proposed PUD/I-1 zoning classification can be contemplated for development of the subject properties. These buildings have been in existence for a number of years and the new development agreement will adequately reflect the needed parking allocations for these uses.

It appears that with this City initiated rezoning proposal, there is a broad public purpose, that being the allowing of the development of a substantial vacant parcel of land consistent with the city zoning regulations. Also, it should be noted that based on previous plan approvals, such as the General Litho approval, we can safely say that the subject property will bare fully the ordinance development restrictions for the proposed zoning districts. With respect to these comments, it is believed that this Planned Unit Development proposal is consistent with Section 35-208. the Rezoning Evaluation Policy and Review Guideline.

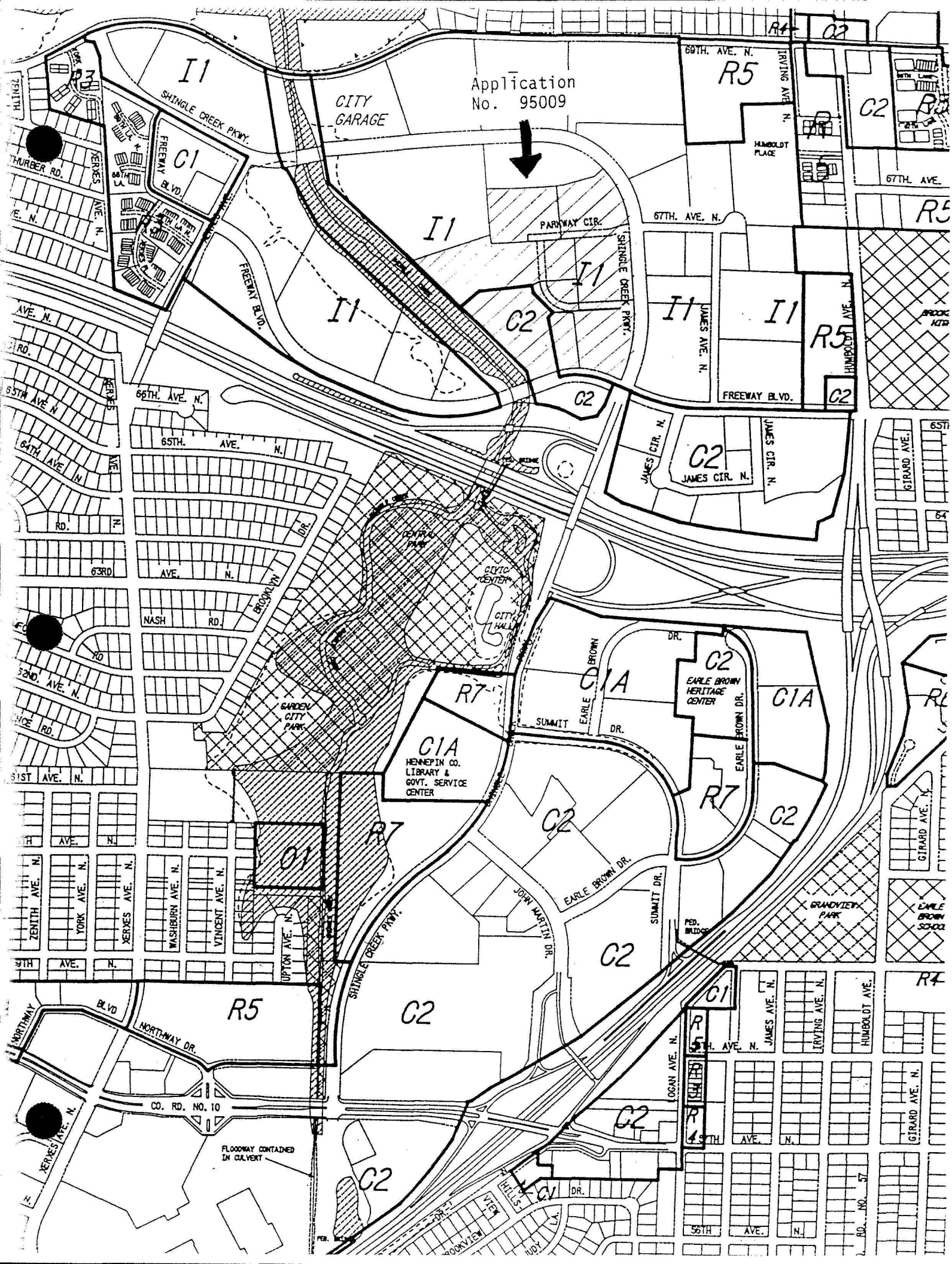
Also attached for the Commission's review is a copy of Section 35-355 regarding Planned Unit Development. It is believed that this proposed Planned Unit Development is consistent with the development standards contained in Subdivision 3. Particular notice should be taken of Subdivision 3d relating to parking. Parking is to be consistent with the parking requirements contained in Section 35-704 unless it can be demonstrated that a lesser standard

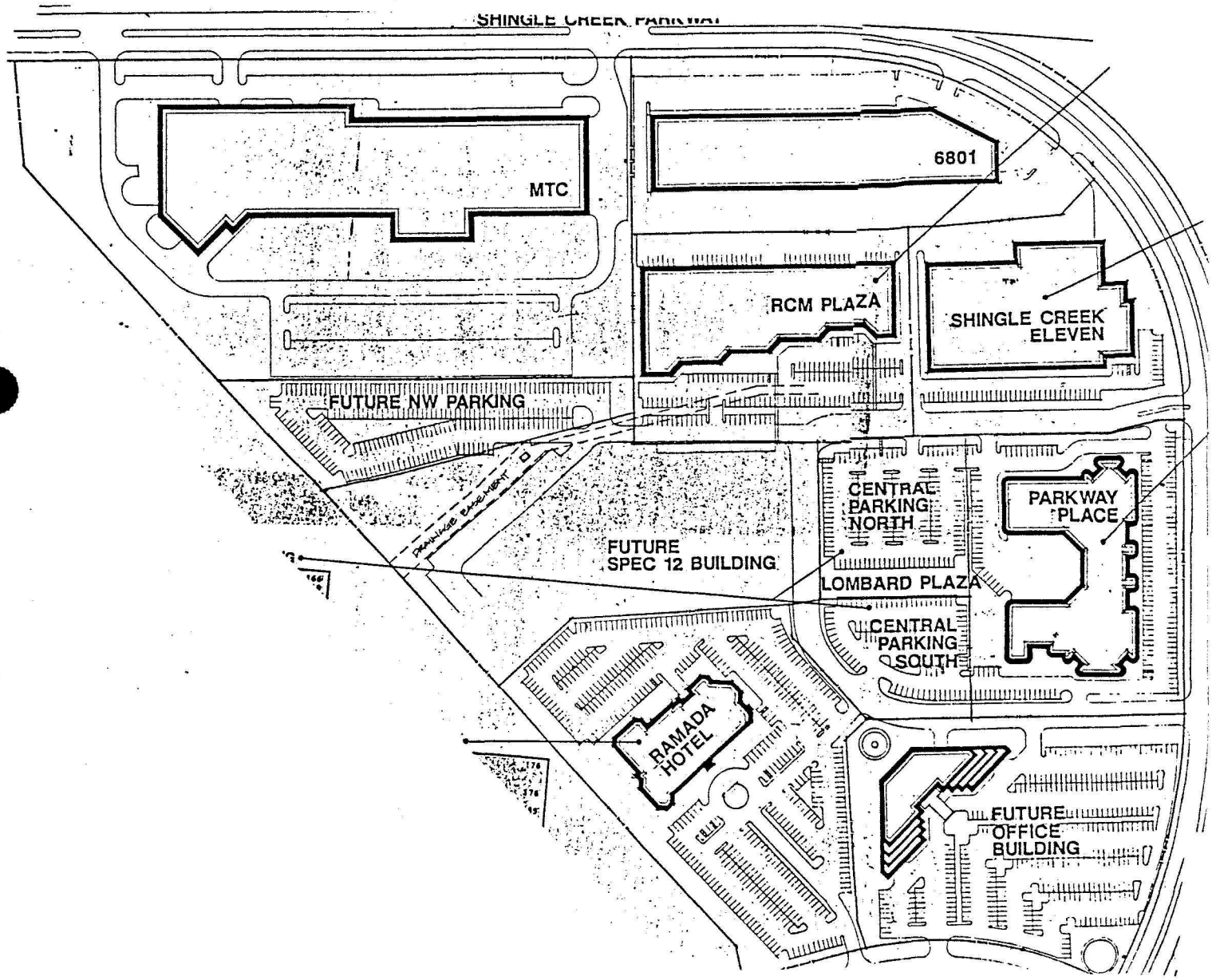
should be permitted on the grounds of complimentary peak parking demands by the uses within the PUD. The agreement would relieve the hotel of its requirement for an allocation of 65 parking spaces in the central parking lot. As indicated previously, it can be stated that there is some double counting of parking spaces already calculated in the parking requirement and experience has shown that there has been no need for the hotel to utilize off-site parking in the central parking lot. Existing uses of the land under their current categories are all that is acknowledged by the approval of this Planned Unit Development. Any changes to previously approved plans or new development such as on the Country Harvest site will require an amendment to the Planned Unit Development prior to the development or redevelopment of these properties.

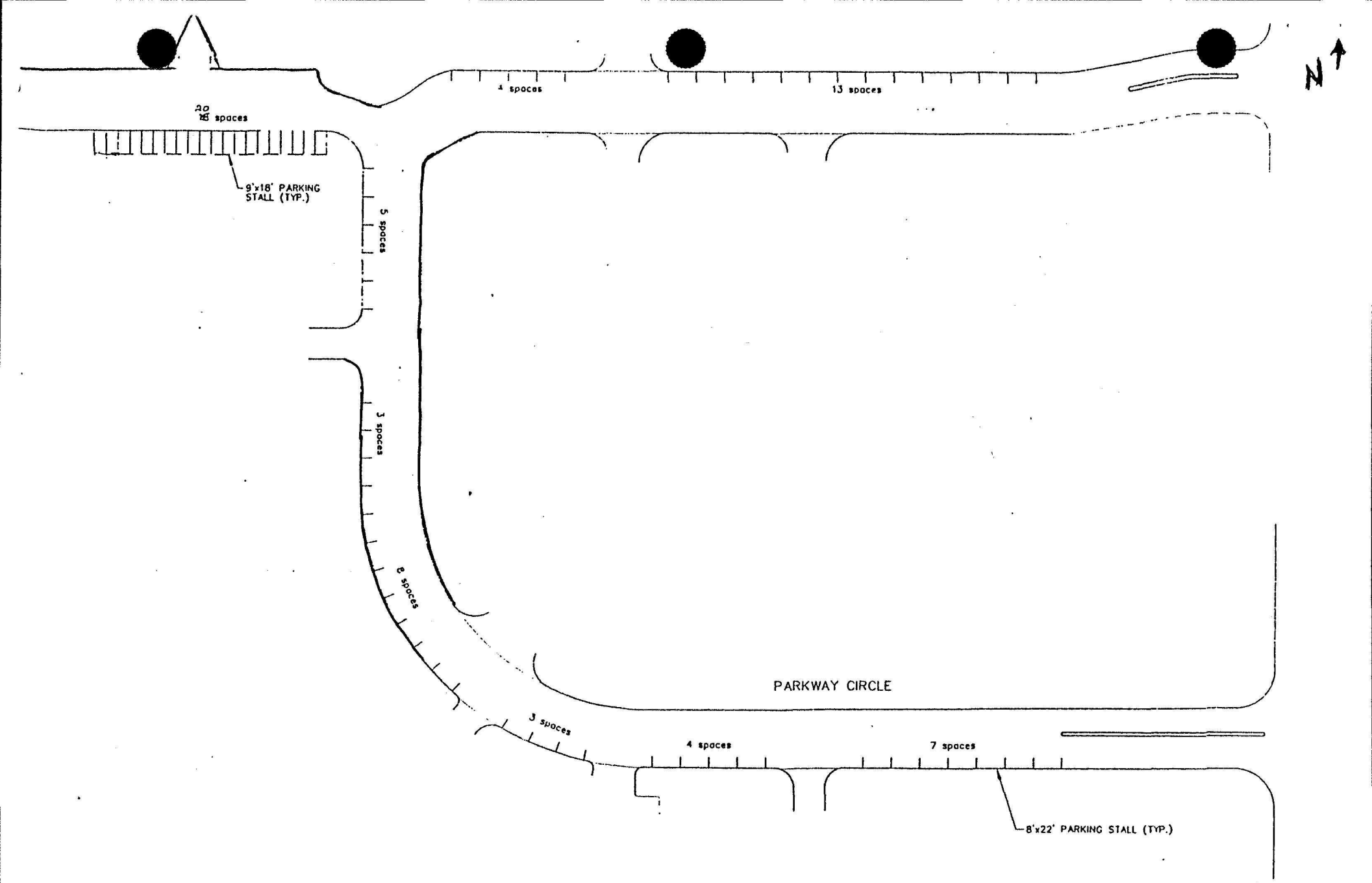
As previously mentioned, this PUD/I-1 proposal is a rezoning with a specific development agreement in hand. As such, it must go through the normal rezoning process. Generally, rezonings are referred to neighborhood advisory groups. In this case, the Planning Commission is the advisory group for this industrial park area. A public hearing has been scheduled and notices have been sent. The Planning Commission should determine whether or not they are prepared to make recommendations with respect to this Planned Unit Development proposal at this meeting or if additional time and consideration is needed.

All in all, we believe the development agreement to be in order and I will prepare a draft Planning Commission Resolution for the Commission's consideration at Thursday evening's meeting. This resolution will outline the Commissions consideration of this matter and also site recommended considerations for recommending approval of this PUD rezoning.

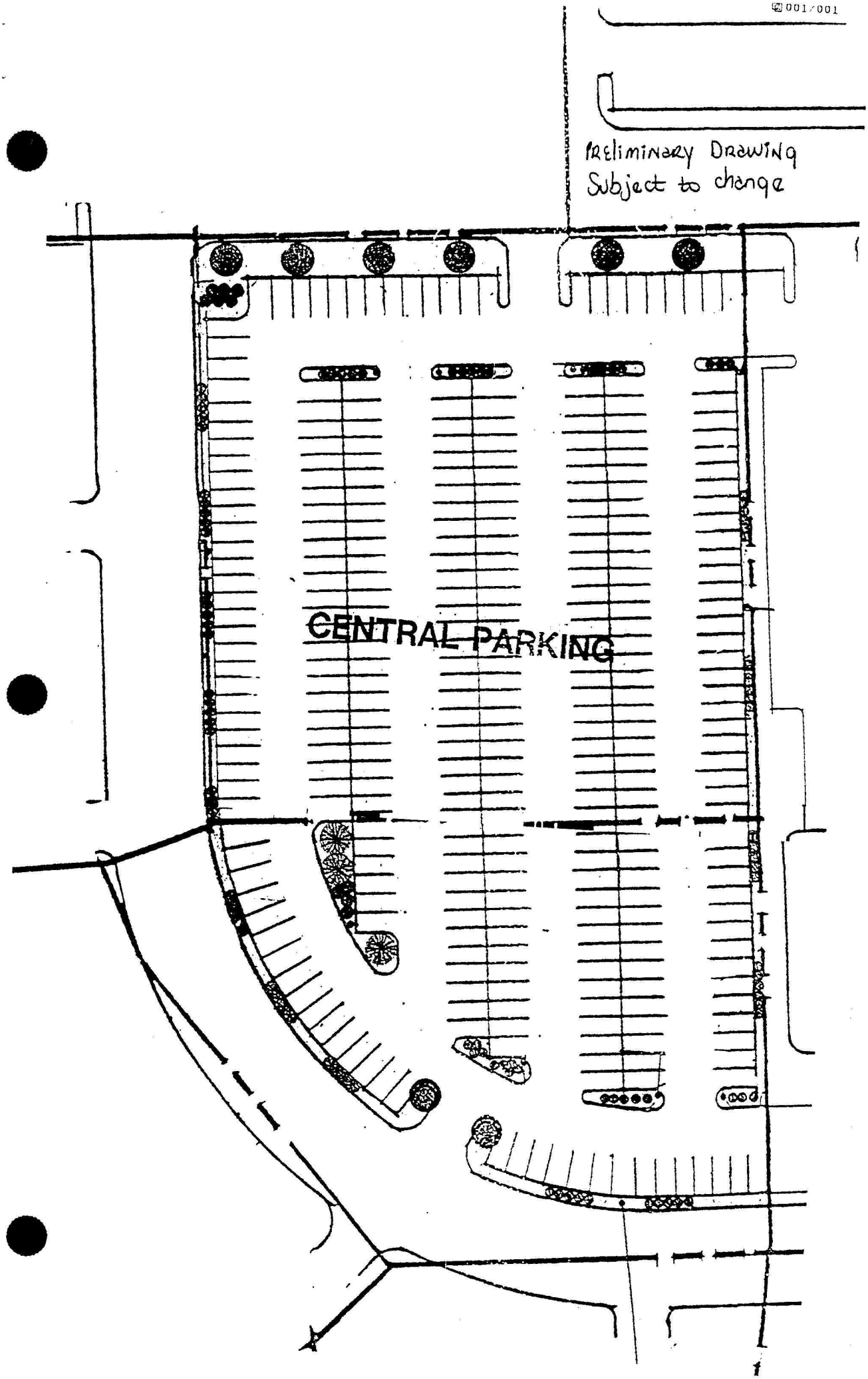
A public hearing has been scheduled and a notice of this consideration has appeared in the Brooklyn Center Sun/Post. Notice was mailed to affected properties and neighboring properties within 350 ft.


Application
No. 95009
CITY
GARAGE
I1
SHINGLE CREEK PKWY.
FREEWAY BLVD.
C1
R3
R4
R5
C2
69TH. AVE. N.
IRVING AVE. N.
HUMBOLDT PLACE
67TH. AVE.
67TH. AVE. N.
PARKWAY CIR.
JAMES AVE. N.
HUMBOLDT AVE. N.
JAMES CIR. N.
66TH. AVE. N.
65TH. AVE. N.
64TH AVE. N.
63RD AVE. N.
NASH RD.
BROOKLYN DR.
CENTRAL PARK
CIVIC CENTER
CITY HALL
GARDEN CITY PARK
C1A
EARLE BROWN HERITAGE CENTER
EARLE BROWN DR.
SUMMIT DR.
R7
HENNEPIN CO. LIBRARY & GOVT. SERVICE CENTER
O1
ZENITH AVE. N.
YORK AVE. N.
XERXES AVE. N.
WASHBURN AVE. N.
VINCENT AVE. N.
UPTON AVE. N.
JOHN MARTIN DR.
PED. BRIDGE
GRANDVIEW PARK
GIRARD AVE. N.
NORTHWAY BLVD
NORTHWAY DR.
CO. RD. NO. 10
FLOODWAY CONTAINED IN CULVERT
LOGAN AVE. N.
56TH AVE. N.
RD. NO. 57


SHINGLE CREEK PARKWAY
MTC
6801
RCM PLAZA
SHINGLE CREEK ELEVEN
FUTURE NW PARKING
DRAINAGE EASEMENT
CENTRAL PARKING NORTH
PARKWAY PLACE
FUTURE SPEC 12 BUILDING
LOMBARD PLAZA
CENTRAL PARKING SOUTH
RAMADA HOTEL
FUTURE OFFICE BUILDING


4 spaces
13 spaces
20 spaces
9'x18' PARKING STALL (TYP.)
5 spaces
3 spaces
8 spaces
PARKWAY CIRCLE
3 spaces
4 spaces
7 spaces
8'x22' PARKING STALL (TYP.)
N

Preliminary Drawing
Subject to change



350

EXHIBIT B

Pursuant to III of Exhibit B, attached to and made a part of the instrument entitled, "Second Amendment to Easement Agreement and Declaration," dated August 13, 1984, filed as Document No. 1597790, Files of the Registrar of Titles ("Second Amendment"), said Exhibit B of the Second Amendment is hereby amended to read as follows:

(Name of Building) Owner	Proposed Building No.	Parcel of Land	Location & Amount: Off-Site Parking Other than C.P.A.	Current Central Parking Area Allocation Made Hereby	Total On-Site Parking	Present City Parking Requirement	Total On-Site & C.P.A. - or Other Off-Site	Total Building Proposed Square Feet	Central Parking Area: Pro-Rata Share of Costs & Expenses
(RCM Plaza) Shingle Creek Plaza II, a Minnesota general partnership	10	Tract B RLS 1564	Part of Tract A RLS 1572 - 153	0	176	329	329	74,699	0
(Shingle Creek II) Shingle Creek Eleven, a Minnesota general partnership	11	Tract A RLS 1564	0	102	50	152	152	70,246	35%
(N/A) Shingle Creek Land Company, a Minnesota general partnership	12	Tract A RLS 1572	0	0	0	0	0	0	0
(Parkway Place) Shingle Creek Plaza II, a Minnesota general partnership	14	Tract G RLS 1572	0	121	156	277	277	70,000	42%
(Ramada Hotel) Plaza Real Estate Partners, a Minnesota general partnership	Hotel Site	Tract B RLS 1572	0	65	428	493	493	-	23%
TOTALS			153	288	810	1,251	1,251	-	100%

(Tract C, RLS 1564 and Tract C, RLS 1572 - owner is: Shingle Creek Land Company, a Minnesota general partnership).

7742h/KU:jc/10.19.87

6/9/95

SIXTH AMENDMENT TO EASEMENT AGREEMENT AND MODIFICATION OF DECLARATIONS FOR PARKING

THIS SIXTH AMENDMENT TO EASEMENT AGREEMENT AND MODIFICATION OF DECLARATIONS FOR PARKING (sometimes hereinafter called the "Sixth Amendment to Easement Agreement") entered into this ___ day of _____. 1995, by and among the City of Brooklyn Center, a municipal corporation under the laws of Minnesota (hereinafter called the "City"); Shingle Creek Land Company, a Minnesota general partnership (hereinafter called "Land Company"); First Industrial, L.P., a Delaware limited partnership (hereinafter called "First"); Plaza Real Estate Partners, A Limited Partnership, a Minnesota limited partnership (hereinafter called "PREP"); and Minnesota State High School League, a Minnesota nonprofit corporation (hereinafter called "League").

R E C I T A L S :

A. Land Company, First, PREP, and League (hereinafter collectively sometimes referred to as the "Owners" and individually as an "Owner") or their predecessors in interest in ownership or control of the land legally described in Exhibit A attached hereto and made a part hereof have heretofore entered into that certain Easement Agreement dated February 5, 1981, filed as Document No. 1414568, Files of the Registrar of Titles, that certain Amendment to Easement Agreement and Declaration, dated March 9, 1984, filed as Document No. 1572021, Files of the Registrar of Titles, that certain Second Amendment to Easement Agreement and Declaration (herein sometimes referred to as the "Second Amendment"), dated August 13, 1984, filed as Document No. 1597790, Files of the Registrar of Titles, that certain Third Amendment to Easement Agreement (herein sometimes referred to as the "Third Amendment"), dated July 21, 1986, filed as Document No. 1748866, Files of the Registrar of Titles, that certain Fourth Amendment to Easement Agreement and Declaration (herein sometimes referred to as the "Fourth Amendment"), dated May 1, 1987, filed as Document No. 1830199, Files of the Registrar of Titles, and that certain Fifth Amendment to Easement Agreement and Declaration (herein sometimes referred to as the "Fifth Amendment"), dated December 1, 1988, filed as Document No. 2036563, Files of the Registrar of Titles (all of said documents being hereinafter collectively referred to as the "Easement Agreement"), all for the purpose of creating certain parking, driveway and access rights upon certain lands situated in the County of Hennepin and State of Minnesota, more fully described therein.

B. Pursuant to the Easement Agreement, there was created a Central Parking Area consisting of Tract C, Registered Land Survey No. 1564 and Tract C, Registered Land Survey No. 1572, all in Hennepin County (herein and in the Easement Agreement referred to as the "Central Parking Area"), allocated and assessed to Tracts A and B, Registered Land Survey No. 1564, and Tracts A, B and G, Registered Land Survey No. 1572, all in Hennepin County. As set forth on Exhibit B to the Fifth Amendment, currently the Central Parking Area is allocated to Tract A, Registered Land Survey No. 1564, and Tracts B and G, Registered Land Survey No. 1572, all in Hennepin County, with 65 parking spaces in the Central Parking Area allocated to Tract B, Registered Land Survey No. 1572. Also, currently under the Easement Agreement, Land Company, which, as set

forth on Exhibit A to the Fifth Amendment previously owned the real property upon which the Central Parking Area is located, has the responsibility for administering and operating and maintaining the Central Parking Area and assessing to the benefitted parties the costs and expenses of the Central Parking Area.

C. The Fourth Amendment, as amended by the Fifth Amendment, created a landscape easement (herein and in the Fourth Amendment referred as the "Landscape Easement") over, under, and across a portion of the Central Parking Area in favor of the City for landscaping purposes.

D. The Third Amendment created a driveway easement (herein and in the Third Amendment referred to as the "New Driveway" and also known as "Parkway Circle") over and across portions of Tracts A, B, C, D, F, and G, Registered Land Survey No. 1572, and Tract C, Registered Land Survey No. 1564, Registered Land Survey, Hennepin County, as set forth more fully in the Third Amendment, for the use and the benefit of the owners of all or portions of what are now Tracts A, B, C, and G, Registered Land Survey No. 1572, Tracts A, B, and C, Registered Land Survey No. 1564, and Tracts A and B, Registered Land Survey No. 1619, Registered Land Survey, Hennepin County. Currently under the Easement Agreement, Land Company has the responsibility for administering and maintaining the New Driveway and assessing to the benefitted parties the costs and expenses of the New Driveway. Currently, the Fire Department of the City has posted "No Parking" signs on the New Driveway.

E. Land Company and the City have made and entered into that certain Declaration and Contract for the Construction of a Parking Facility (herein and in the Easement Agreement referred to as the "Ramp Agreement"), dated August 6, 1984, filed as Document No. 1597791, Files of the Registrar of Titles, Hennepin County, Minnesota. The Ramp Agreement permits the City to require Land Company to construct 185 additional parking spaces (a net of 157 spaces after loss of stalls used in construction) in a parking ramp facility on the Central Parking Area.

F. Land Company, the City, and First, or their predecessors in interest in ownership or control, have made and entered into that certain Declaration of Covenants, Restrictions and Easement for Parking Purposes (herein referred to as the "Parking Declaration"), dated December 16, 1987, filed as Document No. 1896176, Files of the Registrar of Titles, Hennepin County, Minnesota. The Parking Declaration permits the City to require Land Company to construct 153 parking spaces on a portion of Tract A, Registered Land Survey No. 1572, Hennepin County, owned by Land Company, for the benefit of Tract B, Registered Land Survey No. 1564, now owned by First.

G. Tract B, Registered Land Survey No. 1572, Hennepin County, owned by PREP, is no longer in need of any of the 65 parking spaces allocated to it under the Central Parking Area pursuant to Exhibit B to the Fifth Amendment.

H. Upon PREP relinquishing its rights to use the Central Parking Area, First will be the owner of all property benefitted and sharing the cost of the parking located on the Central Parking Area. In addition, Land Company has no further interest in the parking located

on the Central Parking Area. Therefore, Land Company desires to relinquish administration of the Central Parking Area and convey the Central Parking Area to First and First is willing to assume administration of the Central Parking Area and accept conveyance of the Central Parking Area. In connection therewith, separately Land Company shall conveyΛ the Central Parking Area to First.

I. In view of the relinquishment of the 65 parking spaces referred to above and the additional approximately 47 street parking spaces to be located on the New Driveway as set forth below, the City is willing to release (i) the obligation to construct a parking ramp on the Central Parking Area under the Ramp Agreement and (ii) the obligation to construct additional parking on a portion of Tract A, Registered Land Survey No. 1572, Hennepin County, under the Easement Declaration, provided that (a) Land Company grants a perpetual, exclusive, parking easement for 20 parking spaces over a portion of Tract A, Registered Land Survey No. 1572 in favor of Tract B, Registered Land Survey No. 1564, now owned by First, and (b) First provides proof of parking for approximately 25 parking spaces in the area now set aside as the Landscape Easement. In view of the combination of the Central Parking Area, the 20 space parking easement, and the new substitute proof of parking, upon First providing the 25 parking spaces in the area now set aside as the Landscape Easement, the City will release the Landscape Easement.

J. In view of the above, First desires to provide for a new allocation of the parking spaces and the costs associated with the Central Parking Area which will be set forth on a new Exhibit B attached hereto.

K. In view of the conveyance by Land Company to First of the Central Parking Area, Land Company desires to relinquish administration of the New Driveway and First is willing to assume administration of the New Driveway. In view of the revisions to the proof of parking, the City is willing to allow parking on the outer portion of the New Driveway, also known as Parkway Circle, which will permit parking for approximately 47 vehicles.

L. League is willing to join in this instrument with respect to the changes to the administration of the New Driveway.

M. The City has determined that a certain traffic control signalΛ is not necessary or convenient and is willing to release that certain hereinafter specified declarationΛ regarding a traffic control signalΛ affecting a portionΛ of the property described on Exhibit A attached hereto.

NOW, THEREFORE, in consideration of the foregoing premises, the mutual covenants and agreements herein contained and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by each of the parties hereto, the parties agree, covenant and declare as follows:

Central Parking Area

1. Administration of Central Parking Area. From and after the Effective Date (as hereinafter defined), First assumes and agrees to perform all obligations and undertakings and shall exercise all the rights of Land Company which it had prior to the Effective Date under the Easement Agreement to administer, operate, maintain, and regulate the Central Parking Area (subject to the reimbursement of costs and expenses provided therein) and Land Company shall have no further obligations and undertakings and rights with respect to the Central Parking Area.

2. New Allocation of Parking. The parties agree that as of the Effective Date the allocation of parking and pro rata share of costs and expenses upon the Central Parking Area shall be as set forth in Exhibit B which is attached hereto and made a part hereof by reference. From and after the Effective Date, neither Land Company nor any future owners of Tracts A or B, Registered Land Survey No. 1572, Hennepin County, shall have any rights to allocation of any of the parking upon the Central Parking Area. Any future alteration or change to the allocation of parking in the Central Parking Area from that set forth on Exhibit B attached hereto or any other change to the Easement Agreement regarding the Central Parking Area may be effectuated by an instrument executed solely by First, its successors and assigns, owner(s) of Tracts A, B, and C, Registered Land Survey No. 1564 and Tracts C and G, Registered Land Survey No. 1572, Hennepin County and the City and the joinder of any other owner of real property described on Exhibit A attached hereto shall not be required. The Central Parking Area shall be expanded or modified as provided in Paragraph A7 of this Sixth Amendment and any additional parking spaces added thereby shall be allocated as provided in this Paragraph and Exhibit B attached hereto or by further amendment to the Easement Agreement as provided in this paragraph.

New Driveway

3. Administration of New Driveway. From and after the Effective Date, First assumes and agrees to perform all obligations and undertakings and shall exercise all rights of Land Company under the Easement Agreement to administer, operate, maintain, and regulate the New Driveway (subject to the reimbursement of costs and expenses provided therein) and Land Company shall have no further obligations and undertakings and rights with respect to the New Driveway Area (except as an Owner of a Benefitted Parcel (as defined in the Third Amendment)).

4. City Permission for Parking in the New Driveway. The City hereby acknowledges and agrees that it will permit parking on the outer portion of the New Driveway (also known as Parkway Circle), subject to the limitations contained in the ordinances of the City generally regarding on-street parking (but in no event shall there be less than 47 allowed parking spaces), and will cause the Fire Department to remove the "No Parking" signs on the outer portion of the New Driveway.

5. Termination of Parking Declarations.

(a) The City and Land Company hereby release and terminate the Ramp Agreement and neither Land Company nor any future owner of the Central Parking Area (including First) shall have any further obligation under the Ramp Agreement to construct a parking ramp on the Central Parking Area.

(b) The City, Land Company, and First hereby release and terminate the Parking Declaration and neither Land Company nor any future owner of Tract A, Registered Land Survey No. 1572, Hennepin County, shall have any obligation under the Parking Declaration to construct parking for the benefit of Tract B, Registered Land Survey No. 1564, Hennepin County.

6. Parking Facility on Tract A, Registered Land Survey No. 1572. Land Company, as owner of Tract A, Registered Land Survey No. 1572, Hennepin County, Minnesota, hereby grants and conveys unto First, as owner of Tract B, Registered Land Survey No. 1564, Hennepin County, Minnesota, for the benefit of said owner, its tenants, and invitees, an exclusive, perpetual easement for parking purposes over and across that portion of Tract A, Registered Land Survey No. 1572, Hennepin County, Minnesota, legally described on Exhibit C attached hereto. On or prior to June 1, 1996, the City, at its expense, shall construct 20 parking spaces on said easement parcel (First hereby granting a temporary easement to the City for said construction). First, as owner of Tract B, Registered Land Survey No. 1564, shall maintain said 20 parking spaces. At any time hereinafter, upon the request and at the sole expense of First, Land Company shall execute and deliver to First a quitclaim deed to the real property described on Exhibit C attached hereto. Nothing contained herein shall deemed to constitute a consent or approval of the City to such conveyance.

7. Construction of Parking on Landscape Easement. First, as owner of the Central Parking Area, including the Landscape Easement, at any time may remove the landscape furniture, plantings, and appurtenances located in the Landscape Easement and construct 25 parking spaces upon the Landscape Easement. In addition, First shall do so within three (3) months of notice of certification by the City that the then-current parking spaces available to parcels benefitted by the Central Parking Area are inadequate to accommodate parking of motor vehicles of all persons using the facilities which are constructed upon Tracts A and B, Registered Land Survey No. 1564 and Tract G, Registered Land Survey No. 1572, Hennepin County. Said parking shall be constructed in accordance with all applicable ordinances and regulations of the City. First shall bear all costs and expenses for removal of the landscape furniture, plantings, and appurtenances and for construction of said parking spaces. Upon completion of construction of said parking spaces, said parking spaces upon the Landscape Easement shall be deemed part of the Central Parking Area for all purposes and the City and the First shall execute a further amendment to the Easement Agreement terminating and releasing the Landscape Easement.

Miscellaneous

8. **Effective Date**. The Effective Date of this Sixth Amendment shall be _____, 1995.

9. **League**. League, as owner of Tract A, Registered Land Survey No. 1619, Hennepin County, hereby consents to and joins in this Sixth Amendment with respect to Paragraph 3 hereof only.

10. **Consent of City**. The City hereby consents and agrees to the terms of this Sixth Amendment to Easement Agreement.

11. **Stripping of Parkway Circle**. First, at its expense, shall cause the stripping of the parking spaces on Parkway Circle and a cross-walk on the North side of Parkway Circle.

12. **Release and Indemnification of the First**. Land Company hereby releases and shall indemnify First and Travelers Insurance Company ("Travelers") from any claims or causes of action of Land Company against First's predecessor in interest, ΛTravelersΛ, for or relating to costs or expenses of the Central Parking Area or the New Driveway for the period prior to First acquiring an interest in the properties benefitted by the Central Parking Area or the New Driveway; provided, however, that in the event that Travelers commences litigation or other legal proceedings against Land Company, Land Company reserves the right to defend and raise any counterclaims against Travelers.

13. **Termination of Declaration of Covenants Regarding Traffic Control Signals**. The City hereby releases and terminates the Declaration of Covenant, and Construction Agreement for a Traffic Control Signal, dated October 3, 1983, filed April 12, 1984, as Document No. 1572022Λ.

14. **No Merger**. This Sixth Amendment to Easement Agreement shall not merge with any deed or instrument of conveyance and shall survive the same.

15. **Incorporation of Recitals**. The recitals contained in this Sixth Amendment to Easement Agreement are hereby incorporated by reference herein as if fully set forth.

16. **Conveyance of Central Parking Area**. Simultaneously with the execution and delivery of this Sixth Amendment to Easement Agreement, Land Company shall execute and deliver a warranty deed to First conveying marketable title to the Central Parking Area.

17. **Acknowledgement by City**. The City hereby acknowledges and states that there are no outstanding obligations to the City in the form of payment of monies or the construction of improvements by First or Land Company by or because of ownership of any real property described on Exhibit A attached hereto or the Central Parking Area, except as specifically set forth in this Sixth Amendment to Easement Agreement and except for taxes and special assessments now or hereinafter due. In addition, the City hereby acknowledges that the properties owned by First described on Exhibit A attached hereto

are as of the Effective Date in compliance with the zoning and parking laws and ordinances of the City.

18. Consent of Mortgagee. The First National Bank of Chicago, holder of a mortgage on the properties described on Exhibit A attached hereto owned by First, hereby joins in this Sixth Amendment to Easement Agreement and agrees to be bound by all of the terms, covenants, conditions and easements contained in this Sixth Amendment to Easement Agreement, and consents thereto.

19. Payment by Land Company to First. Upon execution of this Sixth Amendment to Easement Agreement, Land Company shall pay to First the sum of $47,000.00.

20. No Other Changes. Except as specifically provided in this Sixth Amendment to Easement Agreement, the Easement Agreement shall remain unchanged and in full force and effect.

21. Representation of Ownership. The parties hereto, except the City, hereby covenant and represent to each of the parties hereto that they are the record owners of the real property as set forth and described in Exhibit A attached hereto and made a part hereof by reference, and that said real property is not subject to any mortgages, deeds of trust, or contracts for deed, except as set forth in Exhibit A.

22. Covenants Run With the Land. This Sixth Amendment to Easement Agreement shall run with the land as described in Exhibit A, which is attached hereto and made a part hereof by reference, and shall be for the benefit of and binding upon the parties hereto, their respective successors and assigns, including mortgagees of the property subject hereto upon foreclosure, deed in lieu or foreclosure or other acquisition of ownership of any such property, but the parties hereto, their respective successors or assigns, shall accrue and bear personal liability for the performance of the obligations and covenants set forth herein or in the Easement Agreement only during such times that they hold title to the respective tracts of land described in Exhibit A attached hereto, and all such liabilities and obligations incurred after any transfers thereof shall accrue solely to the transferee.

23. Notices. Any notice, demand request or other communication which may or shall be given or served by any party hereto to or on another party hereto shall be deemed to have been given or served on the date the same is deposited with a nationally recognized overnight courier or in the United States mail, registered or certified, postage prepaid, in either case addressed as follows:

If to City:

City of Brooklyn Center
6301 Shingle Creek Parkway
Brooklyn Center, MN 55429

With a Copy to:

Charles L. LeFevere, City Attorney
Holmes & Graven, Chartered
470 Pillsbury Center
200 South Sixth Street
Minneapolis, MN 55402

If to Land Company:

Shingle Creek Land Company
c/o Brookstone Real Estate Services, Inc.
3300 Edinborough Way, Suite 207
Edina, MN 55435

With a Copy to:

James Richardson & Sons, Ltd.
Richardson Building
One Lombard Place
Winnipeg, Manitoba R3B0Y1
Canada
Attention: David Fraser

If to First:

First Industrial, L. P.
c/o First Industrial Realty Trust, Inc.
7615 Golden Triangle Drive, Suite N
Eden Prairie, MN 55344
Attention: General Manager

With a Copy to:

Barack, Ferrazzano, Kirschbaum & Perlman
333 West Wacker Drive, Suite 2700
Chicago, Ill. 60606
Attn: Howard A. Nagelberg and Suzanne Bessette-Smith

If to PREP:

Plaza Real Estate Partners
c/o Brookstone Real Estate Services, Inc.
3300 Edinborough Way, Suite 207
Edina, MN 55435

With a Copy to:

James Richardson & Sons, Ltd.
Richardson Building
One Lombard Place
Winnipeg, Manitoba R3B0Y1
Canada
Attention: David Fraser

or to such other address as the respective parties may from time to time designate by notice given ten (10) days prior to the effective date of such change of address, in the manner above provided.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be duly executed as of the date first written above.

SHINGLE CREEK LAND COMPANY, a Minnesota general partnership

By _____
Its General Partner

FIRST INDUSTRIAL, L.P., a Delaware limited partnership

By: First Industrial Realty Trust, Inc.,
a Maryland corporation and
its sole general partner

By _____

Its _____

CITY OF BROOKLYN CENTER

By _____
Its Mayor

By _____
Its City Manager

PLAZA REAL ESTATE PARTNERS, A LIMITED PARTNERSHIP, a Minnesota limited partnership

By _____

Its _____

MINNESOTA STATE HIGH SCHOOL LEAGUE, a Minnesota non-profit corporation

By _____

Its _____

THE FIRST NATIONAL BANK OF CHICAGO

By _____

Its _____

STATE OF _____)
) SS.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this __ day of _____ 1995, by _____, the general partner of Shingle Creek Land Company, a general partnership under the laws of Minnesota, by and on behalf of said partnership.

Notary Public _____

STATE OF _____)
) SS.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ___ day of _____ 1995, by _____, the _____ of First Industrial Realty Trust, Inc., a Maryland corporation, the sole general partner of First Industrial, L. P., a limited partnership under the laws of Delaware, by and on behalf of said partnership.

Notary Public _____

STATE OF MINNESOTA)
) SS.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this ____ day of _____ 1995, by _____ and _____, the Mayor and City Manager, respectively, of The City of Brooklyn Center, a municipal corporation under the laws of Minnesota, by and on behalf of said corporation.

Notary Public _____

STATE OF _____)
) SS.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ___ day of _____ 1995, by _____, the general partner of Plaza Real Estate Partners, a limited partnership under the laws of Minnesota, by and on behalf of said partnership.

Notary Public _____

STATE OF MINNESOTA)
) SS.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this ____ day of _____ 1995, by _____, the _____ of Minnesota State High School League, a non-profit corporation under the laws of Minnesota, by and on behalf of said corporation.

Notary Public _____

STATE OF _____)
) SS.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____ 1995, by _____, the _____ of The First National Bank of Chicago, a corporation under the laws of the United States, by and on behalf of said corporation.

Notary Public _____

This document drafted by:

HOLMES & GRAVEN, CHARTERED
470 Pillsbury Center
Minneapolis, MN 55402 (LMW)
BR305-46

LMW6L74E
BR305-46

EXHIBIT A

LANDS IN REGISTERED LAND SURVEY NO. 1564, REGISTERED LAND SURVEY NO. 1572, AND REGISTERED LAND SURVEY NO. 1619 OWNED BY THE PARTIES AS OF THE DATE OF THIS SIXTH AMENDMENT TO EASEMENT AGREEMENT AND MODIFICATION OF DECLARATIONS OF PARKING

FIRST INDUSTRIAL, L.P.	Tracts A, B, and C, Registered Land Survey No. 1564; Tracts C and G, Registered Land Survey No. 1572
SHINGLE CREEK LAND COMPANY	Tract A, Registered Land Survey No. 1572; Tract B, Registered Land Survey No. 1619
PLAZA REAL ESTATE PARTNERS, A LIMITED PARTNERSHIP	Tract B, Registered Land Survey No. 1572
MINNESOTA STATE HIGH SCHOOL LEAGUE	Tract A, Registered Land Survey No. 1619

MORTGAGEES

CITICORP REAL ESTATE, INC.	Tract B, Registered Land Survey No. 1572
COMMERCIAL STATE BANK IN ST. PAUL	Tract A, Registered Land Survey No. 1619
THE FIRST NATIONAL BANK OF CHICAGO	Tracts A, B, and C, Registered Land Survey No. 1564; Tracts C and G, Registered Land Survey No. 1572

EXHIBIT B

Pursuant to III of Exhibit B, attached to and made a part of the instrument entitled, "Second Amendment to Easement Agreement and Declaration," dated August 13, 1984, filed as Document No. 1597790. Files of the Registrar of Titles ("Second Amendment"), said Exhibit B of the Second Amendment is hereby amended to read as follows:

Name of Building Owner	Proposed Building No.	Parcel of Land	Current Central Parking Area Allocation Made Hereby	Total Building Proposed Square Feet	Central Parking Area: Pro-Rata Share of Costs and Expenses
(RCM Plaza) First Industrial, L.P.	10	Tract B RLS 1564	118	74,699	41%
(Shingle Creek II) First Industrial, L.P.	11	Tract A RLS 1564	49	70,246	17%
(N/A) Shingle Creek Land Company, a Minnesota general partnership	12	Tract A RLS 1572	0	0	0%
(Parkway Place) First Industrial, L.P.	14	Tract G RLS 1572	121	70,000	42%
(Ramada Hotel) Plaza Real Estate Partners, a Minnesota general partnership	Hotel Site	Tract B RLS 1572	0	____	0%
TOTALS			288	____	100%
(Tract C, RLS 1564 and Tract C, RLS 1572 - owner is: First Industrial, L.P.					

EXHIBIT C

PARKING EASEMENT OVER A PORTION OF TRACT A,
REGISTERED LAND SURVEY NO. 1572, HENNEPIN COUNTY, MINNESOTA

CONSENT AND JOINDER

Commercial State Bank in St. Paul, holder of a mortgage on a portion of the property subject to the foregoing instrument, hereby consents and joins in the foregoing instrument so as to subject it interest thereto.

COMMERCIAL STATE BANK IN ST. PAUL

By _____
Its _____

STATE OF MINNESOTA)
) SS.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____ 1995, by _____, the _____ of Commercial State Bank in St. Paul, a banking corporation under the laws of Minnesota, by and on behalf of said corporation.

Notary Public _____

CONSENT AND JOINDER

Citicorp Real Estate, Inc., holder of a mortgage on a portion of the property subject to the foregoing instrument, hereby consents and joins in the foregoing instrument so as to subject it interest thereto.

CITICORP REAL ESTATE, INC.

By _____
Its _____

STATE OF _____)
) SS.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____ 1995. by _____, the _____ of Citicorp Real Estate, Inc., a _____ corporation under the laws of _____, by and on behalf of said corporation.

Notary Public _____

BROOKLYN CENTER
AT THE CENTER

Planning Application

City Use
Date Received: 12/18/2018
Date Application Complete: _____
Letter of Completeness: _____
Application No. 2019-003

A preliminary meeting with the Planning and/or Engineering Staff is required prior to the submission of a Planning Application. No application will be accepted prior to such meeting. City Staff shall have five (5) business days to review applications for completeness. The 60-day statutory review period does not begin until staff determines the application is complete.

Application Request
(Mark all that Apply)

	Site & Building Plan ($750)		Planned Unit Development ($1800)		Subdivision Approval ($300)
	Rezoning ($1050)	✓	PUD Amendment ($700)		Appeal ($200)
	Variance ($200)		Special Use Permit ($200)		Determination ($200)

Applicant Information:
Name: Michael Harrer Signature _____
Address: 800 LaSalle Plaza Mpls, MN. 55402
Office Phone: (952) 924-4829 Cell: (612) 210-2163
Email: mike.harrer@cbre.com FAX: _____

Owner Information* *(if different from Applicant)*:
Name: Jim Moore Signature _____
Address: 3208 Greenleaf Dr. Waco, TX. 76710
Office Phone: (254) 313-1003 Cell: (254) 230-6082
Email: jmoore@jtscap.com FAX: _____

The fee title owner of the property must sign this Application to make it official

Please provide a general description of your Application Request: _____

Address/Location of Property: 6601 Shingle Creek Parkway, Brooklyn Center, MN. 55430

Legal Description of Property: Tract G, Registered land Survey No. 1572 Files of the Registrar of Titles, Hennepin County, MN.

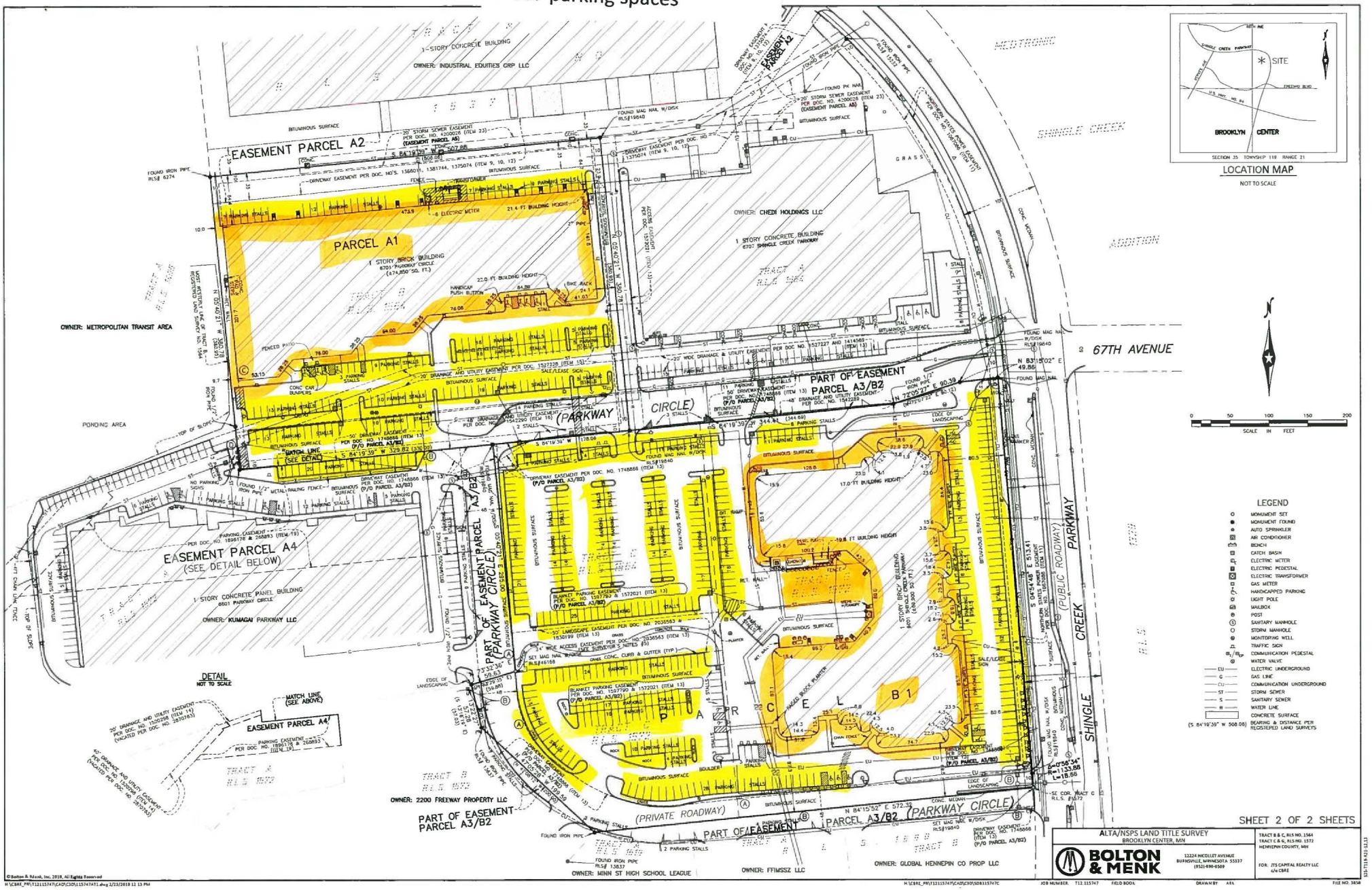
The applicant requests processing of this application and agrees to pay to the City of Brooklyn Center, within fifteen (15) days after mailing or delivery of the billing statement, the actual costs incurred by the City for Engineering, Planning and Legal expenses reasonably and necessarily required by the City for the processing of the application. Such costs will be in addition to the application fee described herein. Withdrawal of the application will not relieve the applicant of the obligation to pay costs incurred prior to withdrawal.

Application Fee $_____ Acct No. 10100-4403 Receipt No. _____

Subject Property Parking:

23 handicap space

667 parking spaces



SHEET 2 OF 2 SHEETS

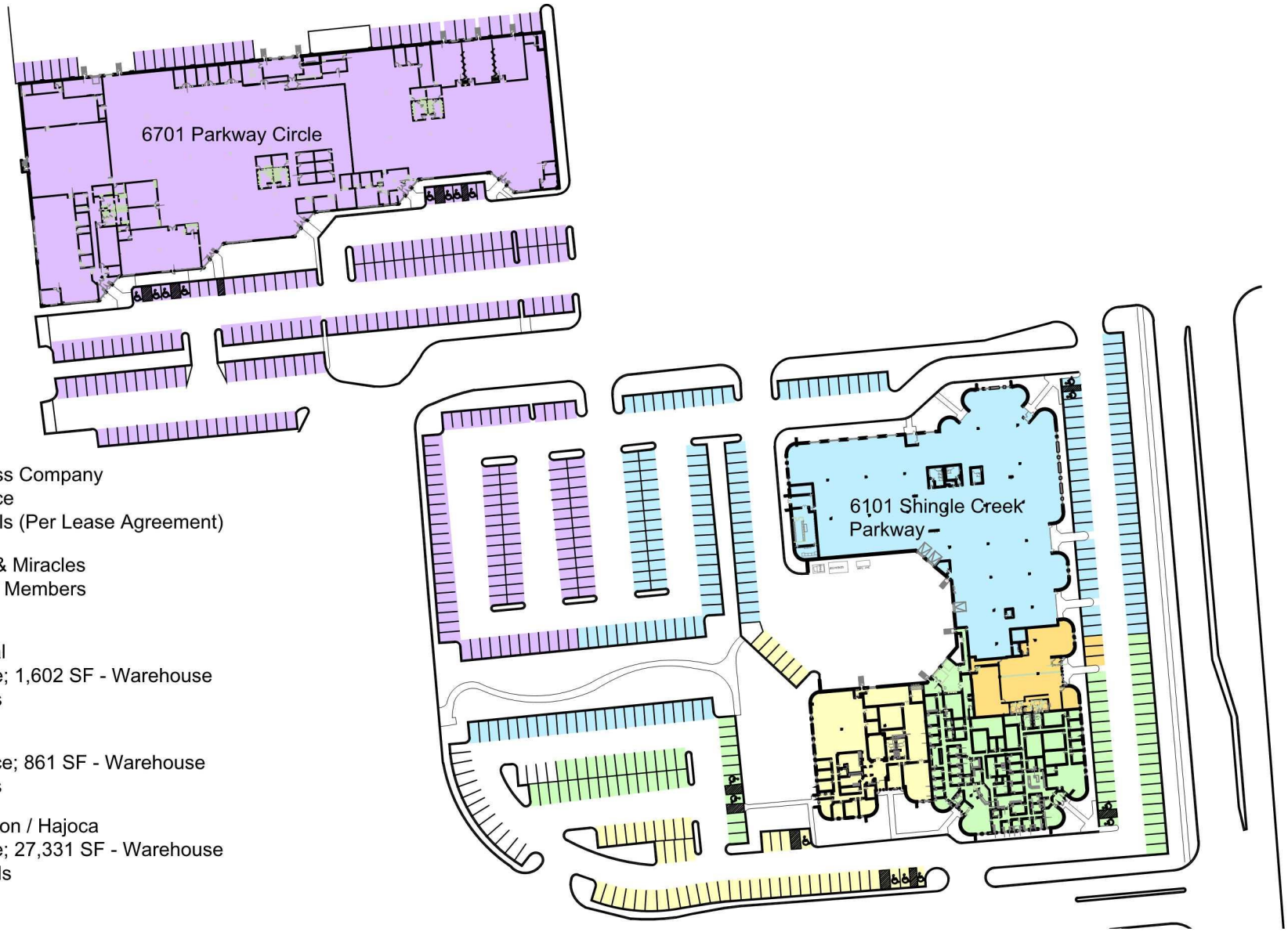
ALTA/NSPS LAND TITLE SURVEY
BROOKLYN CENTER, MN

BOLTON & MENK
12224 NICOLLET AVENUE
BURNSVILLE, MINNESOTA 55337
(952)-890-0509

TRACT B & C, RLS NO. 1564
TRACT C & G, RLS NO. 1572
HENNEPIN COUNTY, MN

FOR: JTS CAPITAL REALTY LLC
c/o CBRE

© Bolton & Menk, Inc. 2018, All Rights Reserved



Travelers Express Company
74,850 SF - Office
287 Parking Stalls (Per Lease Agreement)

Recreation Fire & Miracles
3 Weekday Staff Members
3 Parking Stalls

Mainstay Medical
9,420 SF - Office; 1,602 SF - Warehouse
55 Parking Stalls

Vacancy
14,632 SF - Office; 861 SF - Warehouse
77 Parking Stalls

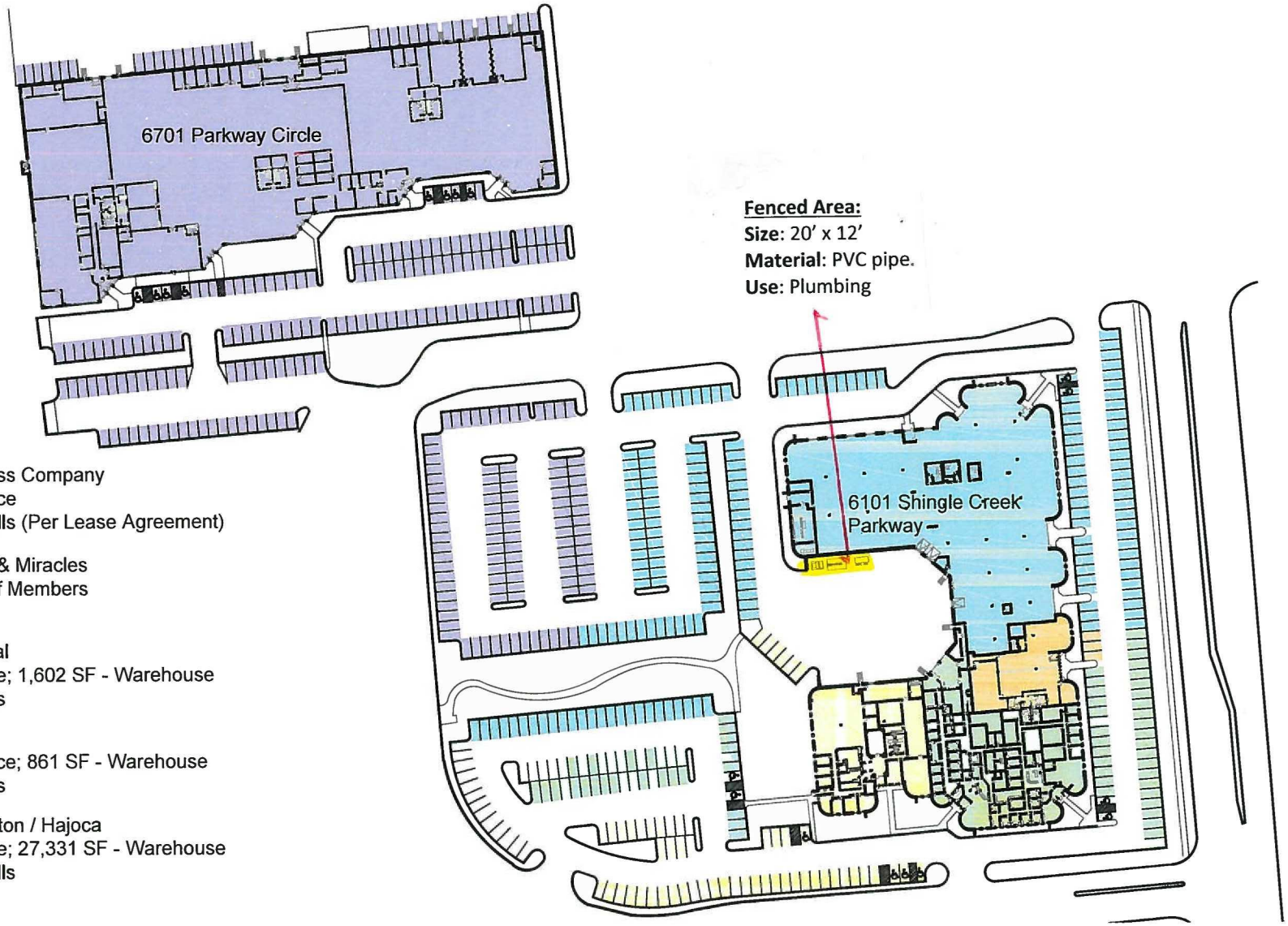
Proposed Hamilton / Hajoca
8,148 SF - Office; 27,331 SF - Warehouse
177 Parking Stalls

GENESIS ARCHITECTURE
4350 Baker Road, Suite 400
Minnetonka, MN 55343
952.897.7874 Fax: 952.897.7740

Freeway Business Center Site Plan

Shingle Creek Parkway & Parkway Circle
Brooklyn Center, MN 55430

Leased and Managed By:
CBRE
800 LaSalle Ave., Suite 1900
Minneapolis, MN 55435
Leasing Contacts:
Mike Harrer (952) 924.4829
Matt Oelschlager (952) 924.4848



Travelers Express Company
74,850 SF - Office
287 Parking Stalls (Per Lease Agreement)

Recreation Fire & Miracles
3 Weekday Staff Members
3 Parking Stalls

Mainstay Medical
9,420 SF - Office; 1,602 SF - Warehouse
55 Parking Stalls

Vacancy
14,632 SF - Office; 861 SF - Warehouse
77 Parking Stalls

Proposed Hamilton / Hajoca
8,148 SF - Office; 27,331 SF - Warehouse
177 Parking Stalls

GENESIS ARCHITECTURE
4350 Baker Road, Suite 400
Minnetonka, MN 55343
952.897.7874 Fax: 952.897.7740

Freeway Business Center Site Plan

Shingle Creek Parkway & Parkway Circle
Brooklyn Center, MN 55430

Leased and Managed By:
CBRE
800 LaSalle Ave., Suite 1900
Minneapolis, MN 55435
Leasing Contacts:
Mike Harrer (952) 924.4829
Matt Oelschlager (952) 924.4848

M E M O R A N D U M

DATE: January 7, 2019

TO: Ginny McIntosh, City Planner/Zoning Administrator

FROM: Andrew Hogg, Assistant City Engineer

SUBJECT: PUD Review –6601 Shingle Creek

Public Works Department staff reviewed the following documents submitted for review on December 27, 2019, for 6601 Shingle Creek PUD review:

Subject to final staff Site Plan approval, the referenced plans must be revised in accordance with the following comments/revisions and approved prior to PUD approval:

Miscellaneous

1. Accessibility shall comply with ADA standards.

The aforementioned comments are provided based on the information submitted by the applicant at the time of this review. Other guarantees and site development conditions may be further prescribed throughout the project as warranted and determined by the City.

Exhibit E

MEMORANDUM

Date: January 10, 2019

To: Ginny McIntosh, City Planner/Zoning Administrator

From: Dan Grinsteinner, Building Official

Subject: Preliminary Review –6601 Shingle Creek Parkway (PUD Amendment)

1) A SAC determination from MET Council will need to be provided for the new occupancy in the existing space.
2) Separation between the S1 storage area and the Existing A3 Church will need to comply per MNBC 508.4
3) Separate permit for Storage racking unless included in the main tenant remodel package is provided. Storage shall indicate height, racking details, commodity, aisle widths and type of existing heads in the storage area.

COUNCIL ITEM MEMORANDUM

DATE: 1/28/2019

TO: Curt Boganey, City Manager

THROUGH: Dr. Reggie Edwards, Deputy City Manager

FROM: Barb Suciu, City Clerk

SUBJECT: Follow Up to Jammin Wings Public Hearing Concerns

Requested Council Action:

- Consider the responses from City Staff and City Attorney and Approve a Resolution regarding Jammin Wings Liquor Violation

Background:

On October 9, 2018 Jamming Wings ("Business") failed a liquor license compliance check by serving alcohol to an underage person after that person presented a driver's license indicating the person was not at least 21 years old ("Current Violation").

The City Council held a public hearing on the Current Violation at its January 14, 2019 meeting, the Business owner spoke to the Previous Violation and admitted the Current Violation, and the matter is now before the City Council for a final determination of what, if any, penalty it will impose for the Current Violation.

The City Council directed staff and the City Attorney to provide information on the penalties the City has previously imposed for liquor license violations and asked that two resolutions be prepared for its consideration – one imposing a civil penalty and the other not imposing any penalty.

The requested historic penalty information and comparative information and resolutions are attached for the City Council's consideration.

It is recommended after all the information is presented, the City Council approve a resolution regarding the October 9, 2018 liquor violation.

Budget Issues:

N/A

Strategic Priorities and Values:

Inclusive Community Engagement, Safe, Secure, Stable Community

of which are located adjacent to Lilac Drive North. The subject area for vacation was formerly used for a section of roadway that is being removed as part of the Brooklyn Boulevard Corridor Project Phase 1. This vacated area would be used to mitigate the loss of parking on the Brookdale Covenant Church property due to the installation of a new signal at Highway 100 south ramp and the extension of Lilac Drive North.

Mr. Cote described the land exchange agreement and explained the property owner will be required to dedicate a drainage and utility easement over the vacated portion of the right-of-way to maintain access to the existing utilities within the vacated area. He noted this item was first read on December 11, 2017, published in the official newspaper on December 21, 2017, and offered this evening for Public Hearing and adoption of the ordinance.

Councilmember Ryan moved and Councilmember Butler seconded to open the Public Hearing.

Motion passed unanimously.

No one appeared to address this item.

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

Motion passed unanimously.

Councilmember Graves moved and Councilmember Ryan seconded to adopt ORDINANCE NO. 2018-01 Vacating a Portion of Right-of-Way: Lilac Drive North.

Motion passed unanimously.

8b. CONSIDERATION OF LIQUOR LICENSE ENFORCEMENT ACTION AT JAMMIN WINGS, 2590 FREEWAY BOULEVARD

City Clerk Sharon Knutson introduced the item and stated the purpose of this agenda item to consider liquor license enforcement action at Jammin Wings, 2590 Freeway Boulevard. She presented history of this consideration, explaining that on November 27, 2017, Mr. Brown, owner of Jammin Wings, submitted a renewal application and fee for a State and City intoxicating liquor license and Sunday liquor license, as well as the City application for an optional 2 a.m. liquor license. On December 11, 2017, the City Council approved the issuance of these liquor licenses. On or about December 19, 2017, while preparing the licenses for issuance, she checked with the State of Minnesota Department of Alcohol and Gambling Enforcement Division website to make sure the 2 a.m. permit was active and discovered it had expired on August 1, 2017. Ms. Knutson stated she then contacted the Alcohol and Gambling Enforcement Division to confirm and they affirmed it had not been submitted as of that date.

Ms. Knutson stated she informed the City Manager and then Mr. Brown that the permit had lapsed so the City could not issue a liquor license until that permit had been approved by the State. Mr. Brown informed her that he had not received that application from the State and was

unaware it was not active at the time. Mr. Brown then took immediate action to renew the 2 a.m. permit with the State, which she confirmed with the State, and then issued that license.

Ms. Knutson stated on January 8, 2018, she received an email notification from the State AGED and learned the check submitted by Mr. Brown was NSF for a closed account so, therefore, the permit was not valid. In consulting with the City Manager and City Attorney, it was agreed a violation of Minnesota Statutes, Section 340A.504, subdivision 7, had occurred. Ms. Knutson noted the City Attorney has drafted a memorandum, which was provided in the meeting packet, to outline the enforcement action options that can be considered by the City Council following the Public Hearing.

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

Motion passed unanimously.

Mr. Brown explained that in the past, he got a package from the City to pay for the license and did not realize the State permit for optional 2 a.m. was due on August 1st. However, as the City Clerk stated, his account was closed. He said it was tampered with so the bank closed the account. He paid for the State permit, but the State took longer to go forward with the check and the account was closed by the bank on January 2, 2018. He stated he thought the State's check had cleared but it did not. Mr. Brown stated he paid the check to the State as well as the bounced check fee.

Mayor Willson explained that any time there is a violation, the City has to address it and it does not matter when it occurred, but that a violation did occur. So tonight, the City will hold the public hearing and obtain advice from staff as well as the City Attorney.

Mr. Brown stated he would like a 4 a.m. license during the upcoming Super Bowl. Mayor Willson referenced the memorandum that contained the request for the 4 a.m. license, which is a different issue than what is under consideration at this time.

Mr. Boganey asked questions of Mr. Brown to determine the dates the checks were written and when the account was closed. He recounted that the check was written on December 19, 2017, the State contacted the City on January 8, 2018, and the account closed on January 2, 2018. He asked if on December 19, 2017, when the check was written to the State there were sufficient funds on that date. Mr. Brown answered in the affirmative.

Councilmember Graves moved and Councilmember Butler seconded to close the Public Hearing.

Motion passed unanimously.

City Attorney Troy Gilchrist clarified that on Page 1 of his memorandum, last sentence, it should indicate: "This violation does not rise to that level." He described the range of options before the City Council for a liquor license violation, noting this does not trigger mandatory revocation but ranges from no penalty at all, a civil penalty up to $2,000, and/or suspension of the liquor license

for no greater than 60 days. He noted with each option, there is flexibility including a limited suspension or imposition of a penalty with suspension of a portion conditioned on not having another violation. Mr. Gilchrist stated the civil penalty can be in addition to suspension or revocation. He noted the violation was focused on serving after 1 a.m. without the appropriate permit.

Mayor Willson pointed out if the 2 a.m. permit is suspended, then the 4 a.m. permit cannot go forward. He asked about imposing an administration fee to cover staff time and expenses, such as is imposed with rental licenses, as well as a civil penalty so the violation is documented. Mayor Willson stated the City does not want to see any more violations but if one should occur, this will provide documentation to take stronger action. Mr. Gilchrist advised if the City Council is inclined to consider a suspension or revocation, he would recommend directing staff to prepare a resolution for consideration at the next meeting.

Councilmember Graves stated the City has been working with this business on other issues and the City Council has considered its liquor licenses, seating, and other requirements as well. She stated she enjoys going to Jammin Wings and likes that it is open until 2 a.m., noting it is one of the only Black-owned businesses in the City. But that being said, Councilmember Graves wanted to assure the rules are followed so Jammin Wings can stay there. She stated she supports imposing a civil penalty of up to $2,000 and suspending it conditioned on there being no further violations.

Mr. Brown pointed out that in the four and a half years he has been in business, there has been only one violation, which not many bars or restaurants can say.

Mayor Willson stated the City needs to be consistent with enforcing its ordinances across the board. He offered the option to consider a $1,000 civil penalty plus $300 administrative fee to cover staff time and suspend the civil penalty. He noted this would be similar to a rental ordinance violation where an administration fee is charged. Mr. Boganey stated it would probably need to be a $1,300 civil penalty and suspending $1,000. He indicated the notion of $300 being the amount to account for staff time may not be an unreasonable assessment of cost when considering his time, and the City Attorney's and City Clerk's time in dealing with this issue over the past several weeks.

Mayor Willson stated he would like to consider an administrative fee. Mr. Boganey asked whether the ordinance provides for an administrative fee penalty. Mr. Gilchrist agreed with Mr. Boganey that the penalty would need to be cast as a civil penalty, noting the City's cost at $300 is modest but would be partial reimbursement.

Councilmember Lawrence-Anderson stated that is less than she was thinking to impose but is willing to consider that level. She suggested the resolution cite that no further violations shall occur, noting the City wants to make sure the new liquor establishments it is trying to attract know they are required to follow the rules.

Mayor Willson clarified the discussion was to suspend $1,000 of the civil penalty unless another violation were to occur. In that case, the $1,000 civil penalty would be imposed.

Councilmember Ryan noted that testimony from Mr. Brown indicates there was no intentional negligence. He asked how it operates with the State when there is a glitch in the payment and whether there is no communication from the State to the license holder of the need to cure the situation. Ms. Knutson described the permitting and licensing procedure, explaining that with the 2 a.m. license, the State of Minnesota Alcohol and Enforcement Division authorizes the City to issue the liquor license. The State issues a permit for one year from whenever the applicant applies and the City issues its license the calendar year from January 1 to December 31. Ms. Knutson explained the State does not notify the City that someone did not renew their permit and from August 1 to December 19, Jammin Wings did not have permission from the Commissioner of Public Safety to operate until 2 a.m. She stated this is the first time this situation has occurred, and Mr. Brown indicated he did not get anything from the State to say he needed to renew his permit.

Mr. Boganey explained the State timeframe is based on when the business owner makes application for their first permit. Up to this year, Jammin Wings always renewed the State permit but there was a change in the management structure of the business and that did not happen.

Councilmember Ryan stated while it is the owner's responsibility, it is an example of a mistake and they need to be held responsible but not in a punitive manner. He stated his support to consider a civil penalty with the greater part suspended unless subsequent violations occur.

Mr. Gilchrist asked for a sense of duration for the subsequent violations. Mayor Willson stated the license will be renewed December 31 so the suspension could be through the license period. The City Council agreed with the logic to tie the violation term to the license term.

Councilmember Ryan moved and Councilmember Graves seconded to direct staff to prepare a resolution to impose a $1,300 civil penalty, suspending $1,000, contingent upon no further liquor license violations.

Motion passed unanimously.

Councilmember Graves stated support to consider Jammin Wings' request for a 4 a.m. liquor license.

Mayor Willson asked staff if there is an underlying issue to not consider that request. Mr. Boganey stated he has no new information but in a previous memo discussing the optional 2 a.m. liquor license elimination, it was indicated that a significant number of violations and police calls occur after 1 a.m.

Mayor Willson pointed out that another violation would go against the license.

Mr. Brown noted it is only for a short period of time, during the Super Bowl, and they will increase security during that time.

Police Chief Tim Gannon stated there are a select number of days and at this time, he would not oppose this request.

Mr. Boganey indicated under the City's ordinance, staff has the authority to issue this permit if it is not opposed by the City Council.

The consensus of the City Council was to support the administrative issuance of a 4 a.m. liquor license to Jammin Wings during the Super Bowl.

9. PLANNING COMMISSION ITEMS

- None.

10. COUNCIL CONSIDERATION ITEMS

10a. CONSIDERATION OF TYPE IV 6-MONTH PROVISIONAL RENTAL LICENSES

Mayor Willson explained the streamlined process that will now be used to consider Type IV 6-Month Provisional Rental Licenses.

Mayor Willson polled the audience and asked whether anyone was in attendance to provide testimony on any of the rental licenses as listed on tonight's meeting agenda. Seeing no one coming forward, Mayor Willson called for a motion on Agenda Items 10a1 through 10a6.

10a1. 4200 JOYCE LANE
10a2. 6325 KYLE AVENUE N.
10a3. 6424 SCOTT AVENUE N.
10a4. RESOLUTION NO. 2018-26 APPROVING A TYPE IV 6-MONTH PROVISIONAL RENTAL LICENSE FOR 4450 58TH AVENUE N.
10a5. RESOLUTION NO. 2018-27 APPROVING A TYPE IV 6-MONTH PROVISIONAL RENTAL LICENSE FOR 6015 ALDRICH AVENUE N.
10a6. RESOLUTION NO. 2018-28 APPROVING A TYPE IV 6-MONTH PROVISIONAL RENTAL LICENSE FOR 6718 COLFAX AVENUE N.

Councilmember Ryan moved and Councilmember Graves seconded to approve the issuance of a Type IV six-month provisional rental license and mitigation plan for the following: 4200 Joyce Lane, 6325 Kyle Avenue N., 6424 Scott Avenue N., and, adopt Resolution No. 2018-26 Approving a Type IV 6-Month Provisional Rental License for 4450 58th Avenue N.; Resolution No. 2018-27 Approving a Type IV 6-Month Provisional Rental License for 6015 Aldrich Avenue N.; and, Resolution No. 2018-28 Approving a Type IV 6-Month Provisional Rental License for 6718 Colfax Avenue N., with the requirement that the mitigation plans and all applicable ordinances must be strictly adhered to before renewal licenses would be considered.

Motion passed unanimously.

August 13, 2018

_____

Re: Consumption and Display of Liquor after Sales Hours

Dear Business Owner:

The City of Brooklyn Center has received reports of a substantial amount of intoxicating liquor being displayed and consumed on your business premises after the allowed sales hours. As you are aware, the sale of intoxicating liquor after 1:00 a.m. is no longer allowed within the City. Once the allowed hours for the sale of intoxicating liquor come to an end, it is incumbent upon you to end the consumption and display of liquor as part of wrapping up operations for the day. Failure to do so is a violation of Brooklyn Center City Code, Section 11-118(6) prohibiting an on-sale liquor establishment from displaying liquor to the public during hours when the sale is prohibited. Such activities are also contrary to Minn. Stat. § 340A.504, subd. 5, which prohibits a person from consuming or displaying intoxicating liquor between 1:00 a.m. and 12:00 noon on Sundays, and between 1:00 a.m. and 8:00 a.m. on Monday through Saturday.

This letter is to inform you the City's police department will conduct inspections starting next week and will issue citations if it finds violations. The City urges you to take what additional steps are necessary to ensure the sale and the consumption of intoxicating liquor on the premises ends at closing instead of allowing liquor to be displayed and consumed after allowed sales hours.

Please feel free to contact the City if you have any questions.

Kennedy
&
Graven
CHARTERED

Troy J. Gilchrist
470 US Bank Plaza
200 South Sixth Street
Minneapolis MN 55402
(612) 337-9214 telephone
(612) 337-9310 fax
tgilchrist@kennedy-graven.com
http://www.kennedy-graven.com

Also: St. Cloud Office
501 W. Germain Street, Suite 304
St. Cloud, MN 56301
(320) 240-8200 telephone

MEMORANDUM

To: Brooklyn Center City Council

From: Troy Gilchrist, City Attorney

Date: January 23, 2019 (January 28, 2019 Meeting)

Re: Jammin Wings Liquor License Violation

Background

As the City Council is aware, Jamming Wings ("Business") failed a liquor license compliance check on October 9, 2018 by serving alcohol to an underage person after that person presented a driver's license indicating the person was not at least 21 years old ("Current Violation"). The employee has since pled guilty to serving to an underage person. The Business also had a previous liquor license violation for serving after 1 a.m. without the proper licenses ("Previous Violation").

The City Council acted at its February 12, 2018 meeting to impose a $1,300 civil penalty for the Previous Violation, but it suspended $1,000 of the penalty on the condition that no other liquor license violations occur during the remainder of the year. Because the Current Violation occurred before the end of 2018, the requirement to pay the remainder of the civil penalty was triggered and has since been paid. The City Council held a hearing on the Current Violation at its January 14, 2019 meeting, the Business owner spoke to the Previous Violation and admitted the Current Violation, and the matter is now before the City Council for a final determination of what, if any, penalty it will impose for the Current Violation.

The City Council asked, as part of its discussion during the January 14, 2019 meeting, for information on the penalties the City has previously imposed for liquor license violations and asked that two resolutions be prepared for its consideration – one imposing a civil penalty and the other not imposing any penalty. The requested resolutions are enclosed for the City Council's consideration. The following sets out the historic penalty information and

comparative information the staff complied in response to the City Council's request for additional information.

Historic Penalty Information

City staff conducted a review of past violations and was able to compile the following information on the penalties imposed by the City in the past for liquor license violations, primarily serving alcohol to an underage person.

Occurrence	Violation	Licensee	Penalty Imposed	Resolution No.
August 2014	Reporting Error	Earle Brown Lanes	$1,000	2014-173
October 2012	Underage	Sun Foods	$1,000	2012-133
October 2012	Underage	Global Kitchen	$1,000	2012-132
July 2011	Underage	Scoreboard Pizza	$500 / 30 day suspension	2011-100
January 2010	Underage	SuperAmerica	$1,000	2010-11
December 2009	Underage	American Legion	$1,000	2009-159

Comparison Information

The following reflects information collected from other communities on the penalties they impose for liquor license violations:

Liquor License Compliance Failure Penalties – Brooklyn Center Comparable Cities					
Fine Based Penalties					
Sale of alcoholic beverage to a person under the age of 21	**1st Violation**	**2nd Violation**	**3rd Violation**	**4th Violation**	**Comments**
Golden Valley	$500 (plus 1 day suspension)	$1,000 (plus 3 day suspension)	$2,000 (plus 10 suspension)	Revocation	36 month reporting period
Roseville	$1000	$2000	$2000	Revocation	36 month reporting period
Fridley	$250	$500	$750		12 month reporting period
New Hope	$250 (plus 3 day suspension)	$750 (plus 15 day suspension)	$1500 (plus 30 day suspension)	Revocation	24 month reporting period

Fee Schedule Based Penalties					
Liquor license renewal	Class A	Class B			
White Bear	175.00	275.00			Class B is viewed as a higher risk or has had previous violations

Member introduced the following resolution and moved its adoption:

RESOLUTION NO. _____

RESOLUTION DETERMINING NOT TO IMPOSE ANY ADDITIONAL CIVIL PENALTY FOR A LIQUOR LICENSE VIOLATION AT JAMMIN WINGS IN THE CITY OF BROOKLYN CENTER

WHEREAS, Jammin Wings ("Business") is a restaurant within the City of Brooklyn Center that holds an intoxicating liquor on-sale license;

WHEREAS, the Brooklyn Center Police Department conducted an alcohol compliance check at the Business on October 9, 2018 that resulted in a person under the age of 21 being served alcohol after producing a driver's license indicating that the person was not at least 21 ("Current Violation");

WHEREAS, the bartender that served the alcohol was cited for the violation and pled guilty to the criminal violation;

WHEREAS, the Business had a previous liquor license violation for serving liquor after 1 a.m. after the Business was notified that their 2 a.m. license had expired ("Previous Violation");

WHEREAS, the City Council considered the Previous Violation at its January 22, 2018 meeting and at its February 12, 2018 meeting the City Council adopted Resolution No. 2018-32 imposing a $1,300 civil penalty, but suspended payment of $1,000 of the penalty on the condition that another liquor violation not occur through December 31, 2018;

WHEREAS, the October 9, 2018 liquor violation resulted in the remaining $1,000 portion of the original penalty becoming immediately due and payable to the City, which the Business paid on December 20, 2018;

WHEREAS, Section 11-125 of the Brooklyn Center City Code indicates the "City Council may suspend or revoke any Liquor license or permit and may impose a civil penalty not to exceed $ 2,000 pursuant to Minnesota Statutes, Section 340A.415, for the violation of any provision or condition of this Chapter or of any State law or rule or federal law regulating the sale of Liquor";

WHEREAS, the City Council conducted a public hearing, after providing the Business at least 10 days' written notice, on the Current Violation at its January 14, 2019 meeting at which the owner of the Business spoke about both the Current Violation and the Previous Violation;

WHEREAS, the City Council has considered this matter and hereby finds and determines as follows:

(a) At the hearing, the Business owner admitted the Current Violation, stating he was not certain why his employee served the person after seeing the driver's license that indicated he was not at least 21 years of age;

(b) The Business owner questioned a validity of the Previous Violation based on a telephone call he reported having with someone at the state who indicated the City should not have taken a license action because the Business did not have a state-issued 2 a.m. license;

(c) While the only matter before the City Council is the Current Violation, it is important to note that:

(1) The City is authorized under Section 11-125 of the City Code to take action on a liquor license if the licensee violates state or local liquor laws;

(2) The Previous Violation for serving alcohol after 1 a.m. without the required 2 a.m. license was a violation of both state law and the City Code, and the City Council was authorized to take action on the violation as it did in Resolution No. 2018-32; and

(3) The Brooklyn Center Police Department presented information to the City Council at its January 28, 2019 meeting indicating the factual inaccuracies of the claims made against the City related the alleged actions or inactions of the Police Department;

(d) The City Council determines, based on the circumstances, the Current Violation is not a willful violation on the part of the Business and that it is not appropriate to revoke or suspend the license;

(e) Because other communities in the area impose a civil penalty of $500 or $1,000 for a first liquor license violation, it is appropriate for the City Council to consider the $1,300 civil penalty ($300.00 administrative costs plus $1,000 civil penalty) it imposed for the Previous Violation, which the Business has paid in full, and to not impose any additional civil penalty for the Current Violation; and

(f) The City Council determines the $1,000 civil penalty the Business paid to the City as the result of the Current Violation constitutes a sufficient penalty for the Current Violation without the imposition of any additional civil penalties.

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

1. The $1,300 civil penalty the Business paid for the Previous Violation constitutes a sufficient penalty for the two violations that occurred at the Business in 2018 and no civil penalty or offset administrative costs shall be imposed or collected by the City for the Current Violation.

2. This decision is based on the unique facts of this particular situation and does not establish precedence, or otherwise bind the City Council, regarding the civil penalties it may impose, or other license actions it may take, with respect to other liquor license violations in the future including, but not limited to, any other violations that may occur at this Business.

January 28, 2019
Date

Mayor

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.

Member introduced the following resolution and moved its adoption:

RESOLUTION NO. _____

RESOLUTION IMPOSING A CIVIL PENALTY FOR A LIQUOR LICENSE VIOLATION AT JAMMIN WINGS IN THE CITY OF BROOKLYN CENTER

WHEREAS, Jammin Wings ("Business") is a restaurant within the City of Brooklyn Center that holds an intoxicating liquor on-sale license;

WHEREAS, the Brooklyn Center Police Department conducted an alcohol compliance check at the Business on October 9, 2018 that resulted in a person under the age of 21 being served alcohol after producing a driver's license indicating that the person was not at least 21 ("Current Violation");

WHEREAS, the bartender that served the alcohol was cited for the violation and pled guilty to the criminal violation;

WHEREAS, the Business had a previous liquor license violation for serving liquor after 1 a.m. after the Business was notified that their 2 a.m. license had expired ("Previous Violation");

WHEREAS, the City Council considered the Previous Violation at its January 22, 2018 meeting and at its February 12, 2018 meeting the City Council adopted Resolution No. 2018-32 imposing a $1,300 civil penalty, but suspended payment of $1,000 of the penalty on the condition that another liquor violation not occur through December 31, 2018;

WHEREAS, the October 9, 2018 liquor violation resulted in the remaining $1,000 portion of the original penalty becoming immediately due and payable to the City, which the Business paid on December 20, 2018;

WHEREAS, Section 11-125 of the Brooklyn Center City Code indicates the "City Council may suspend or revoke any Liquor license or permit and may impose a civil penalty not to exceed $ 2,000 pursuant to Minnesota Statutes, Section 340A.415, for the violation of any provision or condition of this Chapter or of any State law or rule or federal law regulating the sale of Liquor";

WHEREAS, the City Council conducted a public hearing, after providing the Business at least 10 days' written notice, on the Current Violation at its January 14, 2019 meeting at which the owner of the Business spoke about both the Current Violation and the Previous Violation;

WHEREAS, the City Council has considered this matter and hereby finds and determines as follows:

(a) At the hearing, the Business owner admitted the Current Violation, stating he was

not certain why his employee served the person after seeing the driver's license that indicated he was not at least 21 years of age;

(b) The Business owner questioned a validity of the Previous Violation based on a telephone call he reported having with someone at the state who indicated the City should not have taken a license action because the Business did not have a state-issued 2 a.m. license;

(c) The Business owner also raised various concerns and complaints regarding how the City and its police department have interacted with the Business since it started in the City;

(d) While the only matter before the City Council is the Current Violation, it is important to note that:

(1) The City is authorized under Section 11-125 of the City Code to take action on a liquor license if the licensee violates state or local liquor laws;

(2) The Previous Violation for serving alcohol after 1 a.m. without the required 2 a.m. license was a violation of both state law and the City Code, and the City Council was authorized to take action on the violation as it did in Resolution No. 2018-32; and

(3) The Brooklyn Center Police Department presented information to the City Council at its January 28, 2019 meeting indicating the factual inaccuracies of the claims made against the City related the alleged actions or inactions of the Police Department;

(e) In the period of 2009 to 2016, the City has typically issued a civil penalty in the amount of $1,000 for serving to an underage person, with one instance of a $500 civil penalty and a 30 day suspension;

(f) In 2016, the City issued an employee of the Business a criminal citation for serving to an underage person and that person pled guilty to the violation;

(g) The payment by the Business of the remainder of the penalty imposed for the Previous Violation was triggered by the Current Violation, but does not constitute a penalty for the Current Violation. The Current Violation is a separate liquor license violation and is to be acted on separately by the City Council with the imposition of a civil penalty of up to $2,000 and/or the revocation or suspension of the license for up to 60 days;

(h) The City Council determines, based on the circumstances, the Current Violation is not a willful violation on the part of the Business and that it is not appropriate to revoke or suspend the license;

(i) The City has incurred administrative and legal costs to process the Current Violation, which are appropriate to recover from the Business as part of the civil penalty;

(j) The City may also impose an additional amount as part of the civil penalty in recognition of the admitted violation of the Business serving to an underage person;

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

1. The City Council hereby imposes a civil penalty on the licensee, Jammin Wings, in the amount of $_____ as a result of the violation of state law and the City's Code that occurred at the Business on October 9, 2018 by serving intoxicating liquor to someone under the age of 21.

2. The Business shall pay $_____ of the civil penalty to the City to offset the administrative costs it incurred to process this liquor license action and the city council hereby suspends imposition of the remaining $_____ portion of the civil penalty on the condition no other liquor license violation occurs at the Business through December 31, 2019. If another liquor license violation occurs during that period, the remaining $_____ shall immediately be imposed and become due and payable to the city.

January 28, 2019
Date

_____
Mayor

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.

COUNCIL ITEM MEMORANDUM

DATE: 1/28/2019

TO: Curt Boganey, City Manager

THROUGH: N/A

FROM: Nathan Reinhardt, Finance Director

SUBJECT: Resolution Approving and Authorizing the Execution of a Letter of Intent to Purchase 1350 Shingle Creek Crossing

Requested Council Action:

- *Motion to approve the Resolution Approving and Authorizing the Execution of a Letter of Intent to Purchase 1350 Shingle Creek Crossing*

Background:

At the January 14, 2019 City Council work session staff presented on the potential relocation of BC Liquor Store #1 from 5625 Xerxes Avenues to 1350 Shingle Creek Crossing. This site would offer high visibility and is near grocery (Cub Foods & Walmart). The site would include previously completed parking lot and site improvements and a more secure loading area. We are also hopeful that a municipal liquor store would provide additional economic development momentum to this side of the Shingle Creek Crossing.

Staff has negotiated with Gatlin Development and reached a mutual understanding through a draft letter of intent to purchase the property at a sale price of $680,000, which represents a ten percent premium on the 2018 assessed value of $617,200. Upon execution of the letter of intent the City would have exclusive negotiating rights for a period of 30 days. The terms would include a shared parking agreement, use of loading dock area and the right to use panels on existing pylon signs.

As part of this agreement, Gatlin Development will provide the City with a $90,000 contribution to complete the remaining parking lot, utility connects for water, sewer and storm water, and final grades for the building and adjacent sidewalk areas. These improvements will service the proposed Liquor Store and the three remaining pad sites in the area.

Additional proposed terms include the transfer of 15 sewer availability charges (SAC) credits to the City to provide for the development of a municipal liquor store and any future use of additional building space on the pad site. The City would enter into separate contract for Common Area Maintenance (CAM) charges which are proposed to be assessed at a fixed rate of $3 per square foot of constructed building. The CAM charges would increase on an annual rate by actual costs, but never to exceed an annual rate of 3% without express written approval by the City.

The 1.42 acre site has space to accommodate a building up to 13,600 square feet. The preliminary floor plan for the liquor store is 9,582 square feet, leaving 3,727 square feet available that would be owned by the City of Brooklyn Center. This additional square footage could be used for future expansion, lease or sale.

The Letter of Intent is only an expression of the status of negotiations between the parties and is not, and is not intended to be, contractually binding on either party. The parties will otherwise be contractually bound only

upon full execution and delivery of a written Purchase Agreement by each party. The Purchaser and the Seller agree to proceed in good faith to negotiate and execute a Purchase Agreement embodying the terms hereof as soon as possible. The Purchase Agreement is subject to the review and approval of the Brooklyn Center City Council.

Budget Issues:

The purchase price of $680,000 would be funded through available cash balance from the BC Liquor Fund. The fund currently has a cash balance of $2.03 million in cash.

Strategic Priorities and Values:

Safe, Secure, Stable Community

Member introduced the following resolution and moved its adoption:

RESOLUTION NO. _____

RESOLUTION APPROVING AND AUTHORIZING THE EXECUTION OF A LETTER OF INTENT TO PURCHASE 1350 SHINGLE CREEK CROSSING

WHEREAS, the City intends to acquire one parcel of land located at 1350 Shingle Creek Crossing, in the City of Brooklyn Center, legally described as: Lot 5, Block 1, Shingle Creek Crossing 5th Addition, County of Hennepin, State of Minnesota ("Property") for the purposes of constructing a municipal liquor store; and

WHEREAS, the City is proposing to enter into a Letter of Intent ("LOI"), with Shingle Creek, LLC (the "Seller") which is incorporated herein by reference, with the City proposing to purchase the Property on the terns that include the following:

1. Purchase price of $680,000, which the City has exclusive negotiating rights for a period of 30 days upon execution of the LOI to negotiate and finalize a purchase agreement;

2. A credit of $90,000 to be given to the City at closing to compensate the City for installing connections for water, sanitary sewer, and storm water to the Property, completing final grading for the building on the Property and the adjacent sidewalk area, and completing the parking lot in the area. Because some of the parking lot is located on the Seller's adjacent property, the Seller agrees to execute a temporary easement over its property at closing to allow the City to complete the work.

3. All appurtenant easement rights (i.e. parking access, loading dock area, etc.) and right to use the panels of all existing pylon signs;

4. The number of Metropolitan Council sewer availability charge (SAC) credits necessary for the City's development of the Property; and

WHEREAS, the City and Seller both acknowledge and agree the terms of the LOI are not binding, that the parties will instead proceed in good faith to negotiate the terms of a binding purchase agreement for the sale of the Property.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Center, Minnesota, as follows:

1. The City Council hereby approves the LOI with the Seller regarding the purchase of the Property.

RESOLUTION NO. _____

2. The Mayor and City Manager are authorized to execute the LOI on behalf of the City.

3. City staff and officials are authorized to negotiate the terms of a purchase agreement with the Seller regarding the purchase of the Property and the proposed purchase price for review and approval by the City Council.

January 28, 2019
Date

_____
Mayor

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.

LETTER OF INTENT TO PURCHASE

Franklin C. Gatlin, III, Chief Manager
Shingle Creek, LLC
1301 Riverplace Boulevard, Suite 1900
Jacksonville, FL 32207

This Letter of Intent is intended to outline the general terms upon which the City of Brooklyn Center (the "Purchaser") would propose to purchase the property described below from Shingle Creek, LLC (the "Seller"):

1. Property – The Purchaser intends to purchase the following from the Seller:

   A. One parcel of land located at: 1350 Shingle Creek Crossing, in the City of Brooklyn Center, legally described as: Lot 5, Block 1, Shingle Creek Crossing 5th Addition, County of Hennepin, State of Minnesota;

   B. A portion of the existing parking lot and a portion of the undeveloped parking lot located in Shingle Creek Crossing 5th Addition to provide sufficient parking for a retail space of 13,500 square feet;

   C. All appurtenant easement rights (i.e. parking access, driveways, loading dock area, etc.), and right to use the panels of all existing pylon signs on Lot 5, Block 1, Shingle Creek Crossing 5th Addition; and

   D. Fifteen Metropolitan Council sewer availability charge (SAC) credits (three for the proposed liquor store and 12 for the additional space on the Property to be used as a food and drink establishment), with the understanding that if the end users (including the liquor store) do not require the full 15 SAC credits, the credits will be returned by the Purchaser to the Seller at no cost to the Seller;

   (the "Property").

2. Purchase Price – The purchase price for the Property is $680,000, less a $90,000 credit to be given to the Purchaser at closing to compensate the Purchaser for the Purchaser installing connections for water, sanitary sewer, and storm water to the Property, completing final grading for the building on the Property and the adjacent sidewalk area, and completing the parking lot in the area shown on the attached Exhibit A. Because some of the parking lot is located on the Seller's adjacent property, the Seller agrees to execute a temporary easement over its property at closing to allow the Purchaser to complete the work.

3. Terms of Payment – The purchase price shall be paid by wire transfer or certified check at closing.

4. Purchaser's Due Diligence – For a maximum of 60 days after the mutual execution of the Purchase Agreement (the "Due Diligence Period"), the Purchaser shall have the right, but not the obligation to conduct an investigation of the Property. Such investigation may include, but shall not be limited to, inspection of the Property, an environmental analysis, review of title work, surveying the Property, and the testing of the Property to determine its environmental condition and suitability for the Purchaser's needs. The costs of any investigation or inspection conducted by or at the request of the Purchaser shall be paid by the Purchaser.

5. Seller's Documentation – The Seller shall provide all surveys, reports, and environmental materials in its possession that it has for the Property within 10 days of execution of the Purchase Agreement. The Purchaser shall be responsible to obtain all inspections that it deems necessary.

6. Closing – Closing shall occur 30 days after the expiration of the Purchaser's Due Diligence Period.

7. Closing and Other Costs - Property taxes shall be prorated between the Purchaser and the Seller as of the date of closing. The Seller shall be responsible for paying any special assessments levied in the year 2019 or prior years. The Purchaser shall be responsible for paying any special assessments pending or levied in the year 2020 or future years. The Seller shall be responsible for paying the state deed tax, any recording fees in order to make title to the Property marketable, the cost of any survey needed, the title commitment fee and any title search and examination fees, and one-half of any closing fee or escrow fees. The Purchaser shall be responsible for paying the cost to record the deed to the Property, the title insurance premium and the cost of any endorsements, and one-half of any closing fee or escrow fees.

8. Assessments - It is understood that the Property may be subject to certain assessments by a private association for property maintenance, including, but not limited to, snow removal, trash removal, recycling, landscape maintenance, security services, porter services, etc. The Purchaser is willing to agree to pay its prorated share of these assessments. The parties are to determine the amount of the assessments that will be the responsibility of the Purchaser prior to closing on the Property. The CAM "Common Area Maintenance" charges will be assessed at a fixed rate of $3 per square foot of the building constructed on this parcel increasing per actual costs but never to exceed an annual rate of 3% without express written approval by the Purchaser.

9. Title – At closing, the Seller shall deliver to the Purchaser its fee simple interest in the Property, subject to only such permitted exceptions as the Purchaser's counsel shall approve or which are specified in the Purchase Agreement. The Purchaser will obtain an owner's title insurance policy. There shall be no restriction on the title to the Property that will prevent the Purchaser from being able to construct a building or improvements on the additional portion of the Property that will not be improved or that will restrict the Purchaser from being able to lease this additional space to a tenant.

10. Documentation – Within 10 days of signing the Purchase Agreement, the Seller will give the Purchaser copies of any relevant materials in its possession relating to the Property, including, but not limited to, title reports, soil reports, environmental studies, engineering studies, and agreements with governmental entities.

11. Right of Entry – Upon execution of the Purchase Agreement, with 24 hours' prior notice, the Purchaser at its own expense and with no liability to the Seller shall have the right of entry onto the Property to conduct inspections and other tests, surveys, and studies. The Purchaser shall restore the Property to its previous condition at the conclusion of any test. The Purchaser agrees to indemnify the Seller against any liens, claims, losses, or damage occasioned by the Purchaser's exercise of its right to enter and work upon the Property. The Purchaser agrees to provide the Seller with a copy of any report prepared as a result of such examination or test, upon request by the Seller.

12. Brokerage Commissions – The Seller shall be responsible for paying the commission of any real estate broker that it has retained. The Purchaser has not retained a real estate broker and does not intend to retain a real estate broker.

13. Exclusive Negotiating Period – Upon execution of this Letter of Intent by both parties, the Seller grants to the Purchaser an exclusive negotiating period of 30 days to negotiate and finalize a Purchase Agreement with the Seller for purchase of the Property. The Seller and its real estate agents shall refrain from and discontinue any marketing or negotiations with others concerning the sale of the Property during that time period unless otherwise approved by the Purchaser in writing.

14. Purchase Agreement – The major provisions of the Purchase Agreement are contained within this Letter of Intent. The Purchaser and the Seller agree that they will endeavor to negotiate and execute a detailed Purchase Agreement within 30 days of signing this Letter of Intent. After execution of the Purchase Agreement, $10,000 in refundable earnest money is due to the Seller to be held in escrow by the title company. If the Purchaser does not exercise any of its contingencies under the Purchase Agreement within the Due Diligence Period, the earnest money shall become non-refundable, and an additional $15,000 in non-refundable earnest money will be due to Seller to be held in escrow by the title company until closing. Earnest money will be refunded to the Purchaser after the Due Diligence Period lapses in the event that the Seller breaches the terms of the Purchase Agreement.

15. Contingencies - The parties understand that the sale of the Property is conditioned on approval of the Purchase Agreement by the City Council. The sale of the Property is also contingent on the condition of the Property's title being satisfactory to the Purchaser in its sole discretion, the environmental condition of the Property being satisfactory to the Purchaser in its sole discretion, the Purchaser obtaining financing acceptable to the Purchaser in its sole discretion, and the Purchaser determining that the Property will be satisfactory for the Purchaser's intended use of the Property in its sole discretion. The Purchaser may waive any contingency in writing.

16. Expiration – This Letter of Intent will be withdrawn by the City if not executed by both parties by the close of business on _____, 2019.

This Letter of Intent is intended only as an expression of the status of negotiations between the parties and is not, and is not intended to be, contractually binding on either party. The parties will otherwise be contractually bound only upon full execution and delivery of a written Purchase Agreement by each party. The Purchaser and the Seller agree to proceed in good faith to negotiate and execute a Purchase Agreement embodying the terms hereof as soon as possible. The Purchase Agreement is subject to the review and approval of the Brooklyn Center City Council.

Agreed, understood, and accepted this ____ day of _____, 2019.

SELLER:

Shingle Creek, LLC

By: _____

Its: _____

PURCHASER:

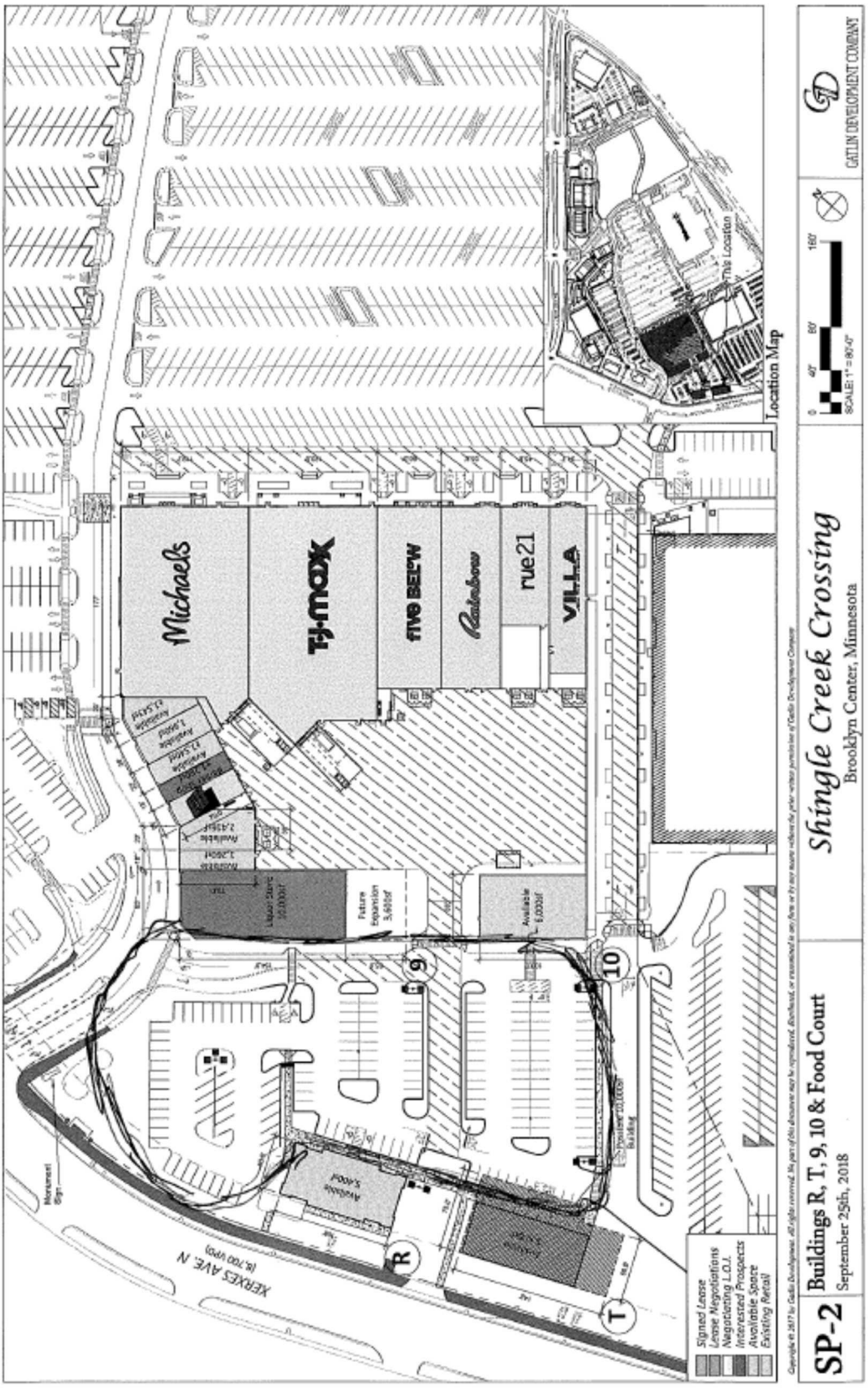
City of Brooklyn Center

By: _____
Michael Elliot
Its: Mayor

By: _____
Cornelius L. Boganey
Its: City Manager

EXHIBIT A

Parking Lot Area to be Improved by the Purchaser


Michaels
TJ-MAXX
FIVE BELOW
Rainbow
rue21
VILLA
Future Expansion 5,400sf
Available 6,000sf
Available 5,400sf
Available 3,100sf
Monument Sign
XERXES AVE. N
(8,700 VPD)
R
T
9
10
Location Map
This Location
Signed Lease
Lease Negotiations
Negotiating L.O.I.
Interested Prospects
Available Space
Existing Retail
SP-2
Buildings R, T, 9, 10 & Food Court
September 25th, 2018
Shingle Creek Crossing
Brooklyn Center, Minnesota
SCALE: 1" = 80'-0"
GATLIN DEVELOPMENT COMPANY

Brooklyn Center Liquor Store #1

Letter of Intent to Purchase 1350 Shingle Creek Crossing

The first Brooklyn Center Municipal Liquor Store (off-sale) was opened in December 1949 at 6445 Lyndale Avenue.





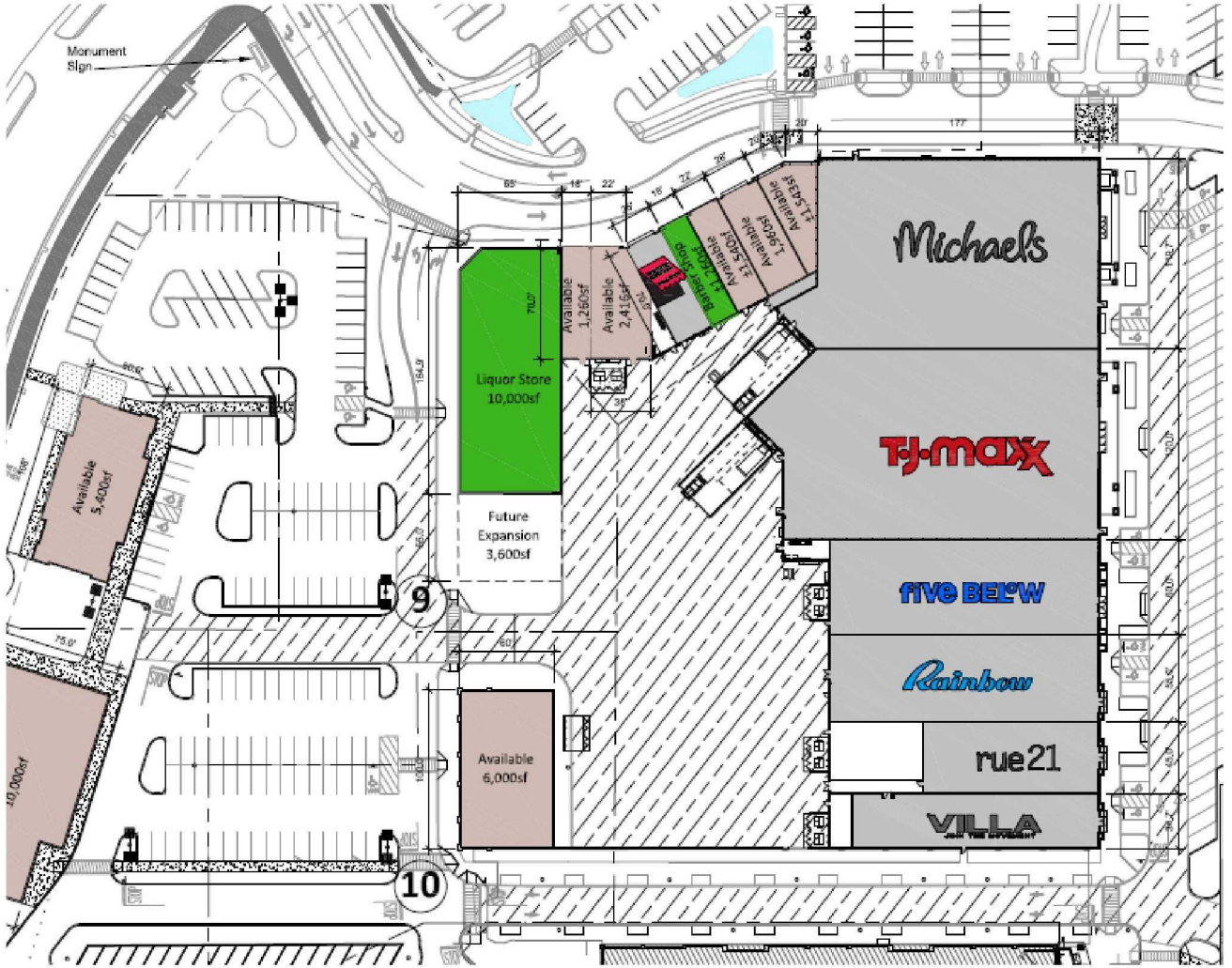
Municipal Liquor Store and Fire Department at 6445 Lyndale Avenue North. Originally, it housed the BC Village offices.

City Council Work Session, January 14, 2019

Nate Reinhardt, Finance Director

Shingle Creek Crossing

- Pad Site of up to 13,600 square feet
- 1.42 acres
- Near Grocery (Cub Foods/Walmart)
- High Visibility Location
- Parking
- Back Loading Area



Terms & Conditions

- Purchase price of $680,000
- 30 days to negotiate a purchase agreement
- Transfer of 15 SAC Credits
- Annual CAM Charges of $3/square foot
- Shared parking lot/loading space/access to pylon signs
- $90,000 contribution for parking lot improvements
- Non-binding for either party



Parcel Outline/Parking Lot Improvements



Next Steps

- Motion to approve the Resolution Approving and Authorizing the Execution of a Letter of Intent to Purchase 1350 Shingle Creek Crossing

Questions?

COUNCIL ITEM MEMORANDUM

DATE: 1/28/2019

TO: Curt Boganey, City Manager

THROUGH: N/A

FROM: Nathan Reinhardt, Finance Director

SUBJECT: Resolution Authorizing the Preparation of Plans and Specifications and Authorizing Advertisement for Bids for the Construction of a Municipal Liquor Store

Requested Council Action:

- *Motion to approve a Resolution Authorizing the Preparation of Plans and Specifications and Authorizing Advertisement for Bids for the Construction of a Municipal Liquor Store*

Background:

Staff has contracted with Architectural Consortium LLC, to provide a preliminary floor plan and preliminary exterior elevations for the proposed Brooklyn Center Liquor Store. The floor plan shows a corner entrance into the store, wider aisles with shorter shelving, a large walk-in beer cave, three office spaces and a small conference/break room.

The 1.42 acre site has space to accommodate a building up to 13,600 square feet. The preliminary floor plan for the liquor store is 9,582 square feet, leaving 3,727 square feet available that would be owned by the City of Brooklyn Center. This additional square footage could be used for future expansion, lease or sale.

The preliminary design was used as the basis for determining the estimated construction cost and budget. The City has contracted with a third party, Design-Build Consulting to provide a cost estimate prior to bidding. Design-Bid Consulting has worked as a consultant on various buildings in Shingle Creek Crossing and is familiar with the construction standards and costs of construction of those previous buildings.

Design-Bid Consulting has estimated the total construction cost, excluding land cost, as follows:

Description	Liquor Store	Additional Bldg.
Construction Cost	$1,910,000	$550,000
Professional Services (Design, civil, owner's rep.)	115,000	
Parking Lot Improvements (Less: Developer $90K contribution)	110,000	
Furnishings (Cooler, shelving, security cameras, etc.)	375,000	
Contingency	150,000	
Total	**$2,660,000**	**$550,000**

The City intends to bid the construction of the liquor store and parking lot improvements, with a bid alternative to complete the shell of the additional building space that could be sold or leased. The furnishings, which include the beer cave, shelving and security camera, will be completed separately from the construction contract.

We anticipate the project will be bid in March 2019. Staff will review bids and make a recommendation to City Council. The award of the contract will require City Council approval.

Budget Issues:

Funding for the project will be provided from available cash balance of BC Liquor operations (approximately $900,000) and the issuance of an EDA lease revenue bond (approximately $2.5 million). If financed over a period of 15 years the annual debt payments are anticipated to be $225,000, which is approximately equal to the current annual lease payments.

Strategic Priorities and Values:

Safe, Secure, Stable Community

Member introduced the following resolution and moved its adoption:

RESOLUTION NO. _____

RESOLUTION AUTHORIZING THE PREPARATION OF PLANS AND SPECIFICATIONS AND AUTHORIZING ADVERTISEMENT FOR BIDS, CONSTRUCTION OF BROOKLYN CENTER LIQUOR STORE #1

WHEREAS, the City intends to acquire one parcel of land located at 1350 Shingle Creek Crossing, in the City of Brooklyn Center, legally described as: Lot 5, Block 1, Shingle Creek Crossing 5th Addition, County of Hennepin, State of Minnesota ("Property") for the purposes of constructing a municipal liquor store; and

WHEREAS, the City has contracted with Architectural Consortium, LLC to provide architectural, mechanical and structural engineering services for a 9,582 square foot liquor store and 3,727 square foot attached retail leasable space addition; and

WHEREAS, the City has contracted with Design-Build, LLC to provide owner's representation services during pre-bid and bid phases of the project to provide preliminary estimates for building construction and assist in preparing an overall project budget.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Center, Minnesota, as follows:

1. Authorizes the plans and specifications for Construction of Brooklyn Center Liquor Store #1 and attached retail leasable space addition be prepared, ordered and filed with the City Clerk.

2. The City Clerk shall prepare and insert in the official newspaper an advertisement for bids for the making of such improvements in accordance with the approved plans and specifications. The advertisement shall be published in accordance with Minnesota Statutes, shall specific the work to be done and shall state the time and location at which bids will be opened by the City Clerk and City Manager or their designees. Any bidder whose responsibility is questioned during consideration of the bid will be given an opportunity to address the City Council on the issue of responsibility.

January 28, 2019
Date

_____
Mayor

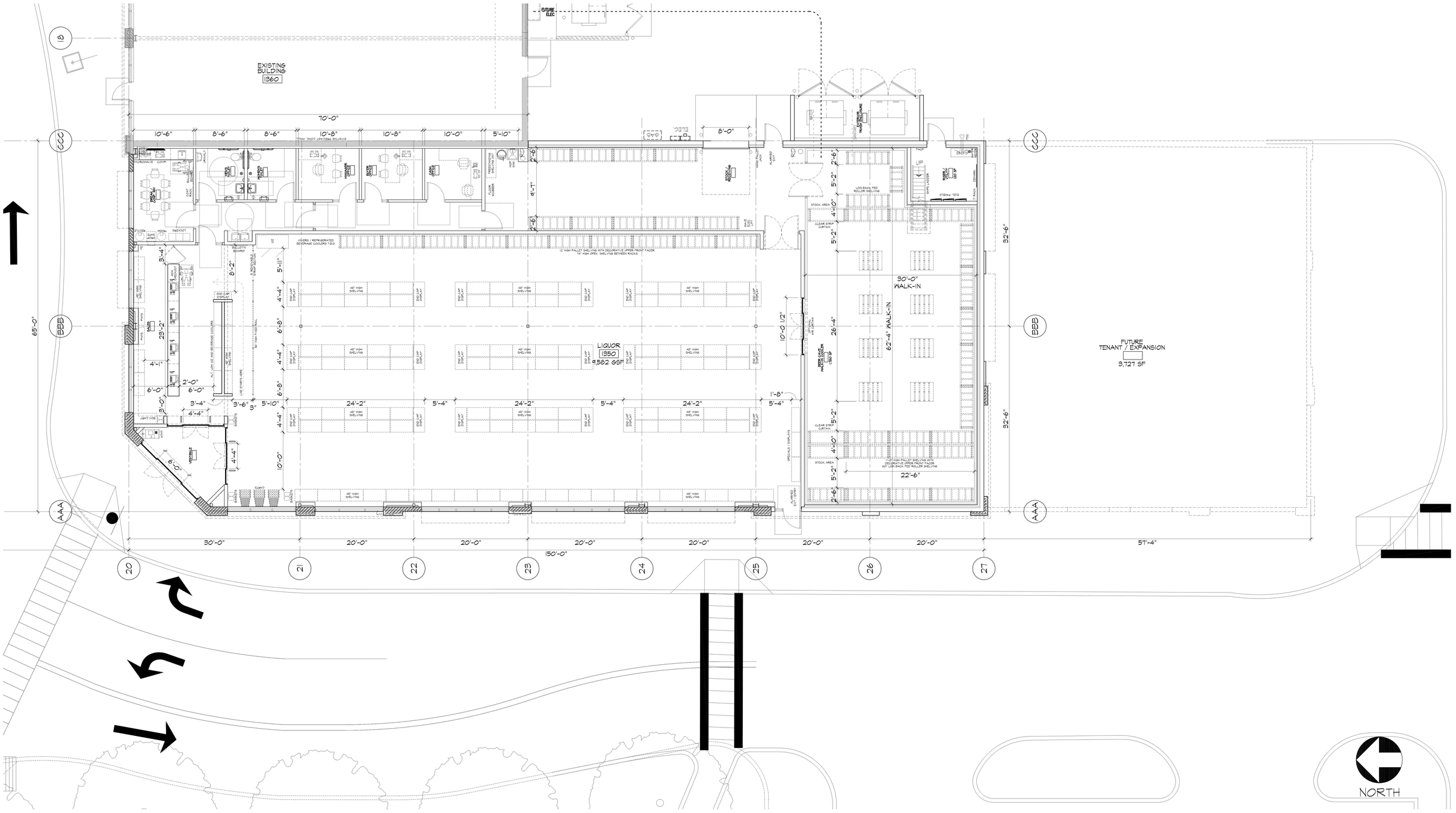
ATTEST: _____
City Clerk

RESOLUTION NO. _____

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.



ARCHITECTURAL CONSORTIUM L.L.C.	PREPARED FOR: BROOKLYN CENTER LIQUOR — Celebrate Responsibly at the Center
901 North 3rd Street, Minneapolis, MN 55401	612-436-4030, Fax 612-692-9960

BROOKLYN CENTER LIQUOR STORE

1350 SHINGLE CREEK CROSSING

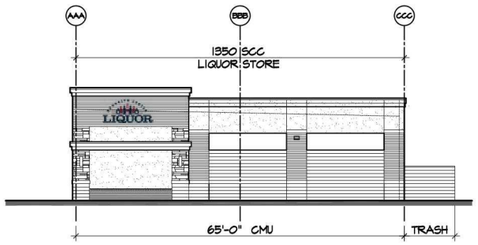
PRELIMINARY FLOOR PLAN

SCALE: 1/8" = 1'-0" @ 34X22
1/16" = 1'-0" @ 17X11

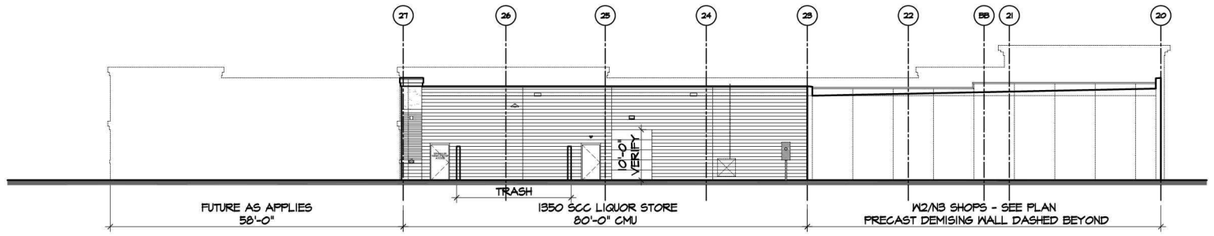
PROJECT NUMBER:	18-1076-01
ISSUED DATE:	12/17/18
DRAWN BY:	ES
CHECKED BY:	KA

A2.1

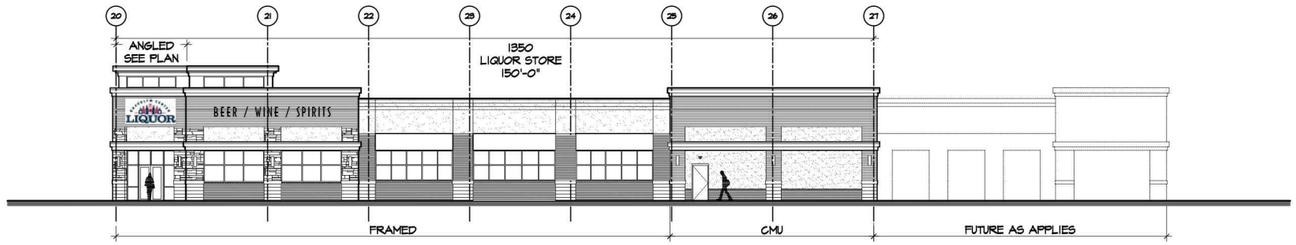
Architectural Consortium, L.L.C. 2018



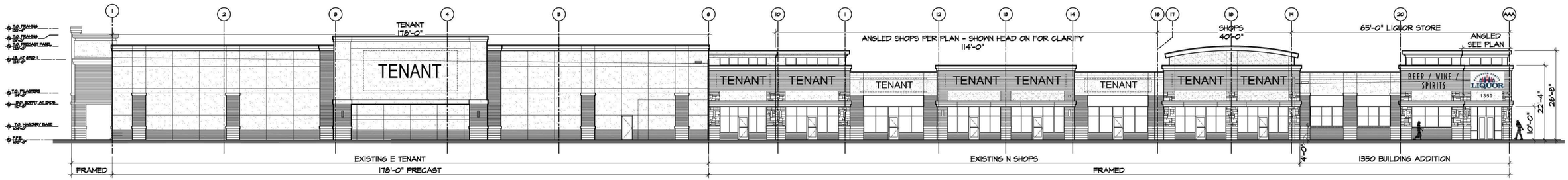
SOUTH ELEVATION



WEST (REAR) ELEVATION



EAST ELEVATION



NORTH ELEVATION

ARCHITECTURAL CONSORTIUM L.L.C.
901 North 3rd Street
Minneapolis, MN 55401
612-436-4030
Fax 612-692-9960

PREPARED FOR: BROOKLYN CENTER LIQUOR — Celebrate Responsibly at the Center

SHINGLE CREEK CROSSING
1350 SCC BROOKLYN CENTER, MN

PRELIMINARY EXTERIOR ELEVATIONS

PROJECT NUMBER:	18-1076-01
ISSUED DATE:	12-17-18
DRAWN BY:	ES
CHECKED BY:	KA

A1

Architectural Consortium, L.L.C. 2018

City of Brooklyn Center Municipal Liquor Store - Shingle Creek Crossing
Development Budget

January 18, 2019

Land Acquisition		
Land Purchase	680,000	from Gatlin
Land Closing Costs	25,000	estimate
TOTAL LAND COSTS	**705,000**	
Professional Services		
Architectural & Structural Design	55,000	from Architectural Consortium
Civil Engineering & Landscape Design	10,000	from Kimley Horn
Special Inspections	6,000	tbd
Owner's Representative	40,000	Design-Build Consulting
Survey	4,000	ALTA survey, as-built survey
TOTAL PROFESSIONAL SERVICES	**115,000**	
Construction & Furnishings		
Parking Lot Construction Costs	110,000	City portion of entire lot constr.
Building Construction Costs	1,910,000	Building portion only, $200/sf
Beer Cave	135,000	walls, refrigeration & doors
Roller Shelving	25,000	25 LF of conveyor shelving
Storage Shelving	25,000	per numbers from Stan Morgan
Display Shelving	25,000	per numbers from Stan Morgan
Product Display Coolers	10,000	5 ea x $2,000 need to confirm
Misc. FF&E Items	20,000	storage rack doors, etc.
Signage	15,000	2 ea illum signs 30" + non-illum ltr
Fiber Optic Line	50,000	Provided by City
Security, IT, Phone systems	70,000	Security cams; POS; added $5k ph
Contingency	150,000	
TOTAL CONSTRUCTION & FURNISHINGS	**2,545,000**	
TOTAL ESTIMATED PROJECT COSTS	**3,365,000**	

Alternate Cost to Expand Building	**550,000**	**Spec space at approx $150/s.f.**

Estimate of Probable Construction Costs - Brooklyn Center Municipal Liquor Store

January 18, 2019

assumes March bidding and a summer/fall 2019 construction period

ITEM NO.	DESCRIPTION OF WORK	BTS Project per Plans		Add on Tenant Space		Coments
		Budget	Cost/SF (9,582	Budget	Cost/SF (3,727	
1	General Conditions (4%)	72,328	7.55	20,827	5.59	Project Management; supt; dumpsters; portable toilets, etc.
1	Building Permit	19,864	2.07	5,720	1.53	per city building dept
1	Surveying	5,000	0.52	500	0.13	layout building & curbs
2	Sitework-Grading	20,000	2.09	7,000	1.88	dig and backfill foundations, finish grade for slab
2	Underground Utilities	25,000	2.61	-	-	Bring in water, sanitary sewer and storm water
3	Concrete Work	120,000	12.52	50,000	13.42	slab on grade, foundations & misc site concrete
4	Masonry Wall	210,000	21.92	95,000	25.49	block walls, thin brick, foundation block
5	Structural Steel/Erection	160,000	16.70	56,000	15.03	steel columns, beams, bar joists and roof deck
6	Carpentry - Rough	5,000	0.52	2,000	0.54	misc. framing at exterior of building
6	Carpentry - Finish	15,000	1.57	1,000	0.27	installing doors, hardware, toilet accessories, etc.
6	Cabinetry	25,000	2.61	-	-	cabinets at POS and in conference room
6	Lumber & Materials	12,000	1.25	5,000	1.34	misc. lumber for framing
6	Misc. Materials	5,000	0.52	2,000	0.54	misc. items not included anywhere else
7	Waterproofing	10,000	1.04	4,000	1.07	waterproof block and sheathing behind EIFS and thin brick
7	EIFS	55,000	5.74	25,000	6.71	stucco type finish
7	Insulation	20,000	2.09	8,000	2.15	insulation at the exterior walls
7	Roofing & Prefinished Metal	120,000	12.52	45,000	12.07	TPO roofing plus metal cap flashing and accent metal trim
7	Sealants & Caulking	9,000	0.94	4,000	1.07	caulk around doors, expansion/control joints, etc.
8	Doors & Hardware	12,000	1.25	2,000	0.54	Hollow metal door frames, wood doors and associated hardware
8	Glass & Glazing	95,000	9.91	20,000	5.37	exterior glass plus three sets of automatic sliding glass doors
9	Drywall Framing	220,000	22.96	65,000	17.44	interior and exterior framing, sheathing, drywall and taping
9	Ceramic Tile	5,000	0.52	-	-	ceramic tile floor and wainscot for walls
9	Carpet/Resiliant Base	4,000	0.42	-	-	carpet for offices, conference room and corridor, vinyl base throughou
9	Polished Concrete Floor	30,000	3.13	-	-	polish concrete in sales area
9	Acoustical Ceilings	10,000	1.04	-	-	Acoustical ceilings in office and above POS area
9	Painting	15,000	1.57	1,000	0.27	paint ceiling in sales area, paint walls throughout
10	Toilet Accessories	1,000	0.10	-	-	toilet accessories for two toilet rooms
10	Misc. Accessories	5,000	0.52	1,000	0.27	fire extinguishers, cabinets, etc.
10	Specialty Doors	10,000	1.04	-	-	two sets of double acting impact doors
12	Awnings	9,000	0.94	3,000	0.80	7 awnings at exterior
15	HVAC	95,000	9.91	15,000	4.02	HVAC system for sales, office and store room areas
15	Plumbing	35,000	3.65	7,000	1.88	Plumbing for toilet rooms, conference room and mop sink
15	Fire Protection Sprinkler	30,000	3.13	6,000	1.61	Fire sprinkler system for entire building
16	Electrical	190,000	19.83	30,000	8.05	main panels, LED lighting, convienence outlets
16	Fire Alarm	5,000	0.52	1,000	0.27	fire alarm system to monitor fire sprinkler system
17	Unassigned/Contingency	129,007	13.46	38,638	10.37	misc. items not included anywhere else
Sub-Total Construction:		**1,808,198**	**188.71**	**520,685**	**139.71**	
	Liability Insurance (0.6%)	10,849	1.13	3,124	0.84	
	Construction Fee (5.0%)	90,952	9.49	26,190	7.03	
Total Construction Contract		**1,910,000**	**199.33**	**550,000**	**147.57**	

Construction Cost Estimate - Brooklyn Center Municipal Liquor Store

January 17, 2019

assumes a 2019 construction period

ITEM NO.	DESCRIPTION OF WORK	BTS Project per Plans		Coments
		Budget	Cost/SF (9,582)	
1	General Conditions (2.5%)	4,779	0.50	Project Management; supt; dumpsters; portable toilets, etc.
1	Building Permit	2,080	0.22	per city building dept
1	Surveying	3,000	0.31	layout curbs
2	Underground Utilities	10,000	1.04	sanitary sewer line for buildings R & T (reimbursed by Gatlin)
2	Curb & Gutter	20,000	2.09	approx. 1,000 l.f.
2	Bitumnous Paving	85,000	8.87	Includes asphalt removal + asphalt & regrading
2	Landscape & Irrigation	35,000	3.65	approx. 20 trees + mulch + fill + irrigation
16	Electrical - Site Lighting	25,000	2.61	includes two parking lot fixtures
17	Unassigned/Contingency	6,302	0.66	misc. items not included anywhere else
Sub-Total Construction:		**191,161**	**19.95**	
	Liability Insurance (0.6%)	1,147	0.12	
	Construction Fee (4.0%)	7,692	0.80	
Total Construction Contract		**200,000**	**20.87**	

Brooklyn Center Liquor Store #1

Preparation of Construction Plans & Specifications

The first Brooklyn Center Municipal Liquor Store (off-sale) was opened in December 1949 at 6445 Lyndale Avenue.



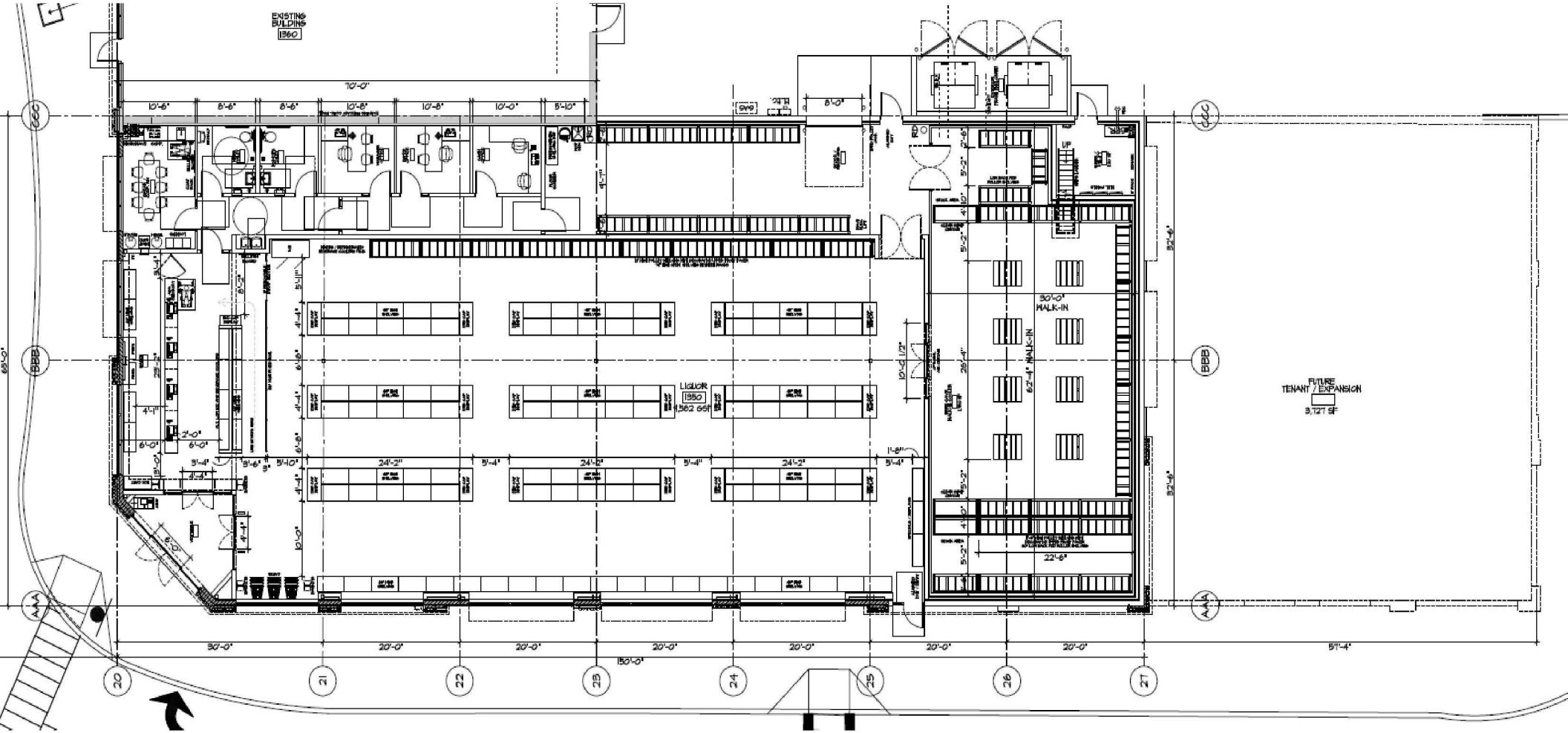


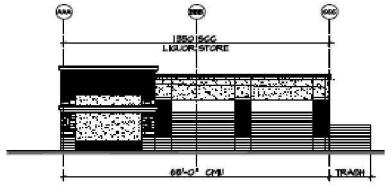
Municipal Liquor Store and Fire Department at 6445 Lyndale Avenue North. Originally, it housed the BC Village offices.

January 28, 2019

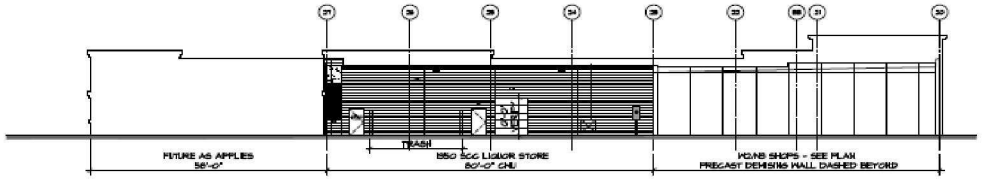
Nate Reinhardt, Finance Director

Preliminary Floor Plan

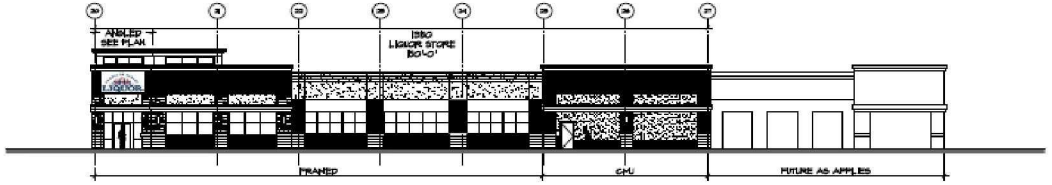




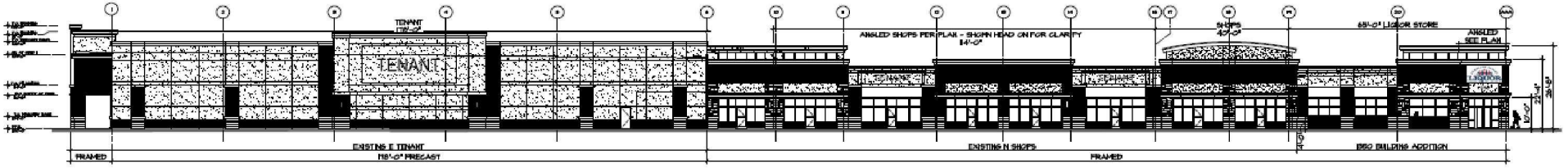
SOUTH ELEVATION



WEST (REAR) ELEVATION



EAST ELEVATION



NORTH ELEVATION

ARCHITECTURAL CONSORTIUM L.L.C.
901 North 3rd Street
Minneapolis, MN 55401
612-436-4030
Fax 612-692-9960

PREPARED FOR:

BROOKLYN CENTER LIQUOR
Celebrate Responsibly at the Center

SHINGLE CREEK CROSSING
1350 SCC BROOKLYN CENTER, MN

PRELIMINARY EXTERIOR ELEVATIONS

PROJECT NUMBER:	18-1076-01
ISSUED DATE:	12-17-18
DRAWN BY:	ES
CHECKED BY:	KA

A1

Architectural Consortium, L.L.C. 2018

Estimated Construction Costs

- David Hunt, Design-Build Consulting

Description	Liquor Store	Additional Building
Construction Cost	$1,910,000	$550,000
Professional Services (Design/Civil/Owner's Rep.)	115,000	
Parking Lot Improvements (Less: Developer $90k Contribution)	110,000	
Furnishings (Beer Cave/Shelving/Security Cameras/etc.)	375,000	
Contingency	150,000	
Total	**$2,660,000**	**$550,000**

Financing

- Total Estimated Cost of $3.365 million = Estimate Land Acquisition ($705k)+ Construction Costs ($2.66 million)
  - BC Liquor Cash - $900,000 (available $2.03 million)
  - EDA Lease Revenue Bonds - $2.5 million
    - 15-years & 3.45%
    - Annual payments of $225,000
    - Equivalent debt payment to annual lease payment

Next Steps

- Motion to approve Resolution Authorizing the Preparation of Plans and Specifications and Authorizing Advertisement for Bids for the Construction of a Municipal Liquor Store

Questions?

Council/EDA Work Session
City Hall Council Chambers
January 28, 2019

AGENDA

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

ACTIVE DISCUSSION ITEMS

1. A Concept Development Proposal for 5801 Xerxes Avenue N. from Real Estate Equities
2. Council Retreat Discussion
3. State Legislative Priorities
4. Request to Provide a City Phone to the Mayor

PENDING LIST FOR FUTURE WORK SESSIONS

1. Pending Items
   - Cities United Membership
   - Livable Wages
   - Affordable Housing Recommendations
   - On-Street Parking Conditions
   - First Saturday Market discussion
   - Future Use of EDA Properties
   - Public Subsidy Policy discussion with Ehlers Consulting - 2/25, 3/11

MEMORANDUM - COUNCIL WORK SESSION

DATE: 1/28/2019

TO: Curt Boganey, City Manager

THROUGH: N/A

FROM: Meg Beekman, Community Development Director

SUBJECT: A Concept Development Proposal for 5801 Xerxes Avenue N. from Real Estate Equities

Recommendation:

- Consider a concept development proposal for 5801 Xerxes Avenue N. from Real Estate Equities and provide feedback

Background:

The concept review process is an opportunity for the City Council to review a development concept prior to a formal proposal from an applicant, and provide comments, ask questions, and indicate whether or not the City would be open to the project. Concept reviews are helpful for projects that would involve EDA-owned land or public subsidy, as it provides insight to staff and the developer as to the City Council's level of interest, and any specific concerns, related to a project.

A concept review is considered advisory and is nonbinding to the City and the applicant. No formal action can be taken at a work session, and the Council is not being asked to vote on the proposal. If the developer chooses to submit a formal application to the City to proceed, it would be subject to the full review process, as with any other development application.

Concept Proposal
Real Estate Equities has a purchase agreement for the former Jerry's Food property at 5801 Xerxes Avenue N. The property is 4.79 acres in size and has been vacant since 1999 when the Jerry's Food store closed. The building was demolished in 2003.

Real Estate Equities has prepared a development plan for the site, which includes 267 units of housing in two buildings; a four-story, 104-unit affordable workforce multi-family building; and a five-story, 163-unit affordable independent senior multi-family building. The development would include 345 parking stalls; a combination of underground and surface.

The workforce units would be a mix of one, two, and three-bedroom units with rents ranging from $1,001 to $1,380 per month. The senior units would be a mix of one and two-bedroom units with rents from $1,001 to $1,197 per month. Real Estate Equities has provided a detailed break down of their unit mix, sizes, and projected rents in a project narrative which is attached.

Real Estate Equities is an established local developer and property management company. They have provided additional information about their company, which is attached. They intend to develop, own, and manage the project long term.

Staff has met with Real Estate Equities to discuss the site lay out and development plan; however, staff has not

done a detailed review of the proposal. Items such as setbacks, stormwater, grading, traffic circulation, etc will all need to be carefully reviewed. Staff has requested a traffic study as part of a formal land use application. Adjustments to the site plan may be necessary as more detailed plans are developed.

Parking
While the zoning code requires a parking ratio of 2 stalls per unit, a recent study by staff found that the average parking ratio that is provided for all apartment buildings in Brooklyn Center is 1.3. Further, an examination of recent multi-family developments in surrounding suburban communities shows that a parking ratio of 1 stall per bedroom is generally considered sufficient. These ratios can be effected by a number of factors however, such as access to transit, demographics of the residents, or the location of the particular development.

At present the overall development plan provides a parking ratio of 1.3 parking stalls per unit and .89 stalls per bedroom. However, 163 of the units on site are reserved as independent senior units, which would likely have a lower overall parking demand than the workforce units. If one assumes 1 car per unit in the senior units, and one stall per bedroom in the workforce units, the onsite parking ratio is 1.05 stalls. Parking demand would be analyzed as part of a formal application for approval, and would be included as part of the traffic study submitted by the developer.

Financing
The developer has submitted a preliminary proforma and financial packet. The primary source of financing for the development would be 4% Low Income Housing Tax Credits (LIHTC) and tax exempt bonds. The total project costs are estimated to be $58,850,074. The project would also include a Tax Increment Financing (TIF) request. At present the developer is anticipating a request of $4,547,750 in TIF, which would be expected to be paid back over 25 years through a Housing TIF District.

The current assessed value of the property is $1.6 million. It is anticipated that after development the Hennepin County Assessed value of the property would be $33.375 million. The developer has calculated that this would create a tax increment of $360,000 annually, which after the City's 10% administrative fee, would produce an increment amount of $322,000 annual to finance a pay-as-you-go note.

It should be noted that any public subsidy request would undergo a thorough review by the City's public finance consultant and would be required to meet the standards set forth in State Statute, which include demonstrating that without the subsidy the project could not go forward on its own.

Process
As part of the 2040 Comprehensive Plan process the City created a Future Land Use Plan. The document is currently in draft form and is out for public comment, which will be ending on February 8th. The Planning Commission and City Council will then be asked to review the draft Plan and public comments and adopt a final 2040 Comprehensive Plan to be submitted to the Metropolitan Council no later than May 1, 2019. It is anticipated that the Plan will go before the Council for final approval at the April 8th Council meeting.

The draft Future Land Use Plan created a new land use category called Transit Oriented Development (TOD), which encompasses properties around the transit hub and on the Opportunity Site. The TOD land use designation allows for a mix of commercial and residential uses at higher densities than has previously been allowed in the City. The intention is to leverage the transit investment in the community and add higher density residential uses that will support existing and future retail and commercial businesses in the City's central business district.

5801 Xerxes Avenue N was identified as TOD on the draft Future Land Use Map, which means that the concept proposed by Real Estate Equities would be allowed under the draft 2040 Comprehensive Plan. That being said, the draft Plan has not yet been finalized and the current zoning is not in compliance with the draft Plan. If this development were to move forward it would require an amendment to the Central Commerce

Overlay District, either to remove this property from the Overlay District or to amend the Overlay to allow residential; and a rezoning of the property or a PUD, depending on which the City Attorney felt was most expedient.

Given the anticipated timing of the 2040 Comprehensive Plan approval it is likely that it would be finalized and the Future Land Use Designation amended ahead of final approval from the City for this development project. Therefore, a Comprehensive Plan Amendment would not be necessary for this project to move forward.

Policy Issues:

The City Council is being asked to consider the concept proposal from Real Estate Equities and provide feedback on the development plan, site layout, and public subsidy request.

Issues for the Council to consider:

- Is the development plan in keeping with the City's 2040 future land use plan and long range vision for the area?
- Are there aspects of the site layout, architecture, or form of the site plan that concerning to the Council?
- Is the use of public subsidy appropriate to catalyze the redevelopment of this site?
- Does the proposed use the the site forward the City's strategic priorities?

Strategic Priorities and Values:

Targeted Redevelopment

Brooklyn Center Project Narrative

Project Type

New Construction: Senior Affordable & Workforce Apartments

Location

5801 Xerxes Ave North, Brooklyn Center, MN

Site Size

4.79 acres

Building Height

Workforce Apartments: Four stories

Senior Apartments: Five stories

Unit Mix

Workforce Apartments

Unit Type	SF	# of Units	Gross Rent	Utility Allowance	Net Rent
1 Bed/ 1 Bath	716	37	$1,062	$61	$1,001
2 Bed/ 2 Bath	994	26	$1,089	$76	$1,013
2 Bed/ 2 Bath	994	6	$1,273	$76	$1,197
3 Bed/ 2 Bath	1,441	35	$1,471	$91	$1,380

Senior Apartments

Unit Type	SF	# of Units	Gross Rent	Utility Allowance	Net Rent
1 Bed/ 1 Bath	716	108	$1,062	$61	$1,001
2 Bed/ 2 Bath	994	55	$1,273	$76	$1,197

Parking

Underground Parking: 204 stalls

Surface Parking: 141 stalls

Real Estate Equities Background

Real Estate Equities is a residential property management and ownership company based in St. Paul currently operating mainly in Minnesota, Indiana, and Wisconsin. REE is a premier property management company with a mission of providing housing, building communities and enhancing lives, all while instilling our values of Ownership, the Right Attitude, Knowledge, and Integrity. REE has developed and managed more than 70 projects in excess of 10,000 housing units with projects spanning from Minnesota, Wisconsin, Ohio, Missouri, South Dakota as well as Indiana. REE has over 700 units currently under development today. REE will develop and operate all aspects of the property and will remain as owners for 20+ years.

Direct/Indirect Financial Benefit Analysis

In addition to the considerable social benefits generated from the two-hundred and sixty-seven senior and workforce housing units there are also significant direct and indirect financial benefits for the city of Brooklyn Center as listed below:

- As part of the development process the city will also be entitled to several fees paid at the closing of the land acquisition and start of construction. We are currently projecting the building permit fee to be approximately $320,400 and issuer fees for the tax-exempt bonds of $119,000 for a total of $439,400.

Based on the average amount of spending per household, that would generate an additional $2,535,739 in consumer spending that would benefit the local businesses within the city.

- The proposed project will also generate more indirect financial benefits to the city. In order to quantify this, REE reached out to Marquette Advisors to gain further insight into how the proposed project would affect consumer spending within the city of Brooklyn Center. After thorough analysis Marquette Advisors concluded that approximately 65% of the tenants residing in the proposed development will come from outside the city of Brooklyn Center. In addition, Marquette Advisors concluded that of the population in Brooklyn Center that makes less than 60% of the Area Median Income (AMI), the average annual spending per household, excluding mortgage/insurance/investments, comes to $14,611/year. Based on this data it could be expected that there would be approximately 174 new households living, working and spending money in Brooklyn Center.

Development Summary

The site is located at the 5801 Xerxes Ave N at the corner of County Road 10 and Xerxes Ave North in Brooklyn Center, MN. The land is currently owned by the ILEX Group Inc. Real Estate Equities plans to acquire the site and develop 267 senior and workforce affordable apartments. For this project to be feasible REE has asked the city to provide Tax Increment Financing throughout the life of the project. When analyzing the project REE understood that there is a gap in financing of $4.4 million, which REE hopes to fill with the help of Tax Increment Financing. REE will be responsible for coordinating the predevelopment efforts including: due diligence, securing financing, design coordination with architects, project bidding and general contractor selection and city entitlements. Once completed REE will continue to own and manage the property and provide compliance and asset management services.

The 267 affordable senior and workforce apartments will be 100% affordable and will consist of one, two, and three bedrooms apartments. The project will have a full-time onsite management team to manage the property and service the tenants to the best of their ability. Some of the amenities of the project will include: clubroom and fitness center, arts and crafts room, dedicated package storage, and underground parking. On top of these amenities each unit will be furnished with in-unit washer & dryer, solid surface countertops, nine-foot ceilings, and stainless-steel appliances.

Real Estate Equities plans to continue its due diligence on the site and hopes to work with the city of Brooklyn Center to provide the city with an investment that the city and its residents can be proud of.





Brooklyn Center also Benefits from Significant Indirect Financial Benefits In Addition to Direct Financial Benefits

# of Apartments/ Families	267
Percent of Tenants Coming from Outside Brooklyn Center	65%
# of New Families for Brooklyn Center	174
Estimated Annual Spending per Household	$14,611
Total Additional Consumer Spending in Brooklyn Center	**$ 2,535,739**

MEMORANDUM - COUNCIL WORK SESSION

DATE: 1/28/2019

TO: Curt Boganey, City Manager

THROUGH: N/A

FROM: Curt Boganey, City Manager

SUBJECT: Council Retreat Discussion

Recommendation:

- It is recommended that the City Council develop options related to the purpose(s) for holding a Council retreat(s).

Background:

Over the past 16 years the Council has conducted a retreat primarily for the purpose of strategic planning and goal setting. In 2002, the Council strategies on how to address "smart growth", while in 2005, the Council set out to create a new Brooklyn Center "Downtown" blueprint.

The subject matter and structure of Council retreats have varied over the years; however, setting aside some time for the Council members to gather and deliberate has been consistently valued.

IN recent years the annual retreat cost has ranged from $7,000 to $10,000.

I have attached samples of agendas, work session items and summary proposals to provide a flavor of past retreat options.

On Monday, December 10, 2018 the Council expressed interest in conducting a council retreat(s) during the year of 2019. The Council directed staff to develop a discussion item for the next Council meeting.

In preparation of the Council's discussion on the issue of a retreat(s), staff developed three essential questions to be asked of the Council during the discussion including:

1. If the Council were to meet for 12 to 16 hours over the year (2019) for purposes outside of the regular duties and tasks of the Council, what would be the "best" and "most" valuable use of the time?
2. When would the Council be willing to meet for a retreat(s)?
3. What are the financial and time constraints that staff should consider in developing retreat(s) options?

The responses to the questions above will inform the development of retreat design options that will be presented to the Council in February.

The first question in particular relates to the issue of "why" would the Council meet in a retreat setting or for "what" purpose. This is perhaps the most important question. It is the most important, because the response will dictate the structure or format for the retreat. Staff has developed a short list of "what's" or "why's" the Council might conduct a retreat(s) including:

- **Professional Development** (i.e. Myers Briggs profile assessment, finding ways that each participant might develop and grow in their role with the City)

- **Leadership Skills** (i.e. the profile of quality leadership individually and collectively or Strengthfinders profile assessment)
- **Team Building** (i.e. understanding team dynamics, exercises to build trust and group cohesion)
- **Strategic Direction Review** (i.e. assessment of the current strategic priorities. Reviewing the new City electronic progress measurement tool and reviewing the status current initiatives)
- **Annual Council Goal Setting** (i.e. developing a concensus on the future direction and outcomes for the community, clarifying expectations, and roles for each stakeholder)
- **Special Topics Discussion** (i.e. poverty/wealth creation, homeless/homeownership, or violence/prevention)
- **Skill Building** (i.e. conflict resolution, diversity & inclusion, public speaking)
- **Others**

The listing of "others" from the list relate to ideas that Council Members may have or want to add to the list. During the worksession the Council will be asked to expand upon the list and then select the top 3 purposes to be considered for the retreat(s).

Design of the retreat may vary in time or length of a session, the number of sessions, the use of an external facilitator and/or the participants in the retreat (i.e. involving department directors or not). Again, the responses to the questions above by Council will be part of the options presented to Council in February.

Strategic Priorities and Values:

Operational Excellence

YEAR 2002

Overview

1. General Council discussion to identify major topics to discuss: opportunity for City Council to just talk about their strategic thoughts. (Have this discussion and identification to progress prior to gathering information to focus discussion.)
2. Organize discussion into identifying the following and determining broad principles to organize what:
    a. Information is needed
    b. What types of actions should be considered
    c. Prioritization of resource allocation

1. Future of the Community
    a. What are influences impacting/shaping future
        i. Schools
        ii. Business
        iii. Housing opportunities
        iv. Crime/perception
        v. Capital infrastructure
    b. How can City Council shape/impact future
        i. Ability to
            1. influence
            2. change
2. Smart Growth
    a. Process
    b. City council key elements
    c. Big picture
        i. Transit hub
        ii. Commercial synergy for Brookdale
            1. commercial where Summerchase is
        iii. expanded housing opportnities
3. Budget shortfall
    a. Principles
        i. Current employees
        ii. Use of fund balance
        iii. Neighborhood street projects
        iv. Use of taxes
4. Use of time
    a. What are priorities
        i. relationship to Council Goals for 2002
    b. Approach to Legislature

YEAR 2006

MEMORANDUM – COUNCIL WORK SESSION

DATE: October 6, 2006

TO: Brooklyn Center City Council

FROM: Curt Boganey, City Manager

SUBJECT: November 11th City Council Retreat

COUNCIL ACTION REQUIRED

The Council should provide direction to the City Manger regarding choice of facilitator for the upcoming Council retreat on November 11, 2006 at the Earle Brown Heritage Center.

BACKGROUND

Several months ago the City Council decided to set November 11th as date for a goal setting retreat. At the last Council work session further delineation of Council expectations was given. Based on feed back from colleagues, contact with the Government Training Service and the Kevin Frazell with the League of Minnesota Cities, several potential facilitators were contacted regarding proposal submission. Attached is a brief RFP e-mailed to these consultants following our last work session.

Enclosed for your review are responses from facilitators, Barbara K. Strandell, Barbara S. Arney, Karen Ray Associates and Donald Salverda.

The costs of these services vary as do the approaches outlined:

	Base Fee	
Strandell	$2,000	plus expenses estimated at $1,400
Arney	$2,500	plus mileage at .445/mile plus $ 480 for summary report
Ray	$2,400	City absorbs all other costs
Salverda	$2,000	plus .45/mile base cost includes post retreat report

Of the four firms above, I have only had first hand experience with Salverda. I am completing reference check for each the firms and will be able to provide that critical insight to you at the meeting

COUNCIL POLICY ISSUES

Should the City Council hold a goal setting retreat to help carry out its' policy making and management oversight responsibilities?

YEAR 2007

COUNCIL ITEM MEMORANDUM

TO: Mayor and Councilmembers

FROM: Curt Boganey, City Manager

DATE: January 8, 2019

SUBJECT: Resolution accepting the executive summary from Donald Salverda and Associates from the City of Brooklyn Center City Council and Department Heads 2007 Leadership Planning Team Building Retreat and adopting a Mission Statement, Values Statement and 2007-2008 Goals.

Recommendation:

It is recommended that the City Council consider adoption of the subject resolution.

Background:

On January 13th 2007 the City Council and Department Heads met in a full day retreat at the Earle Brown Heritage Center. The purpose of this retreat was to two-fold. First it was a follow-up and continuation of the discussions held in November with members of the 2006 City Council. Secondly it was intended to develop a Mission, Values Statement, Goals and Strategies that would serve as guide for the City's work plan over the next several years.

Having reviewed the draft document at the Council worksession February 12th, consensus was reached on final language for the Mission Statement, Values Statement and Goals. Staff was then directed to submit this information for final City Council approval.

Fiscal Issues:

The adoption of this resolution will have no immediate fiscal consequences. It is fair to say that the implementation of the necessary strategies will have budgetary implications in the future.

C:

YEAR 2010

MEMORANDUM – COUNCIL WORK SESSION

DATE: November 4, 2010

TO: City Council

FROM: Curt Boganey, City Manager

SUBJECT: City Council Retreat

Recommendation:

It is recommended that the City Council consider providing direction to staff regarding setting a date for the annual Council/Staff retreat.

Background:

For the last several years the City Council has met in a full day planning session to review progress and establish goals for the future.

The purpose this agenda item is to establish the following;

1. Does the City Council want to hold a retreat in 2011?
2. What date would the Council like to hold the retreat?
3. What should be the principal agenda Items?

From the perspective of Management, we have found the retreats to be essential to guiding management efforts, and hope they would continue. Since we know that there will be one new Councilmember, It is recommended that some portion of the retreat be devoted to Council Orientation, with the balance devoted to goal setting. In January, I will provide the City Council with year-end reports on Strategic Goal progress. This should reduce the amount of time needed during the goal setting portion of the retreat, leaving time for Council Orientation. If this approach is acceptable to the City Council, a retreat in February or early March would seem to be the best time.

Policy Issues:

Council Goals:

Ongoing goal supported by this consideration;

1. The annual retreat supports all Strategic and Ongoing Goals of the City Council.

YEAR 2012

THE CITY OF BROOKLYN CENTER
COUNCIL AND DEPARTMENT HEADS
2012 LEADERSHIP – PLANNING – TEAM BUILDING RETREAT

TABLE OF CONTENTS

		Page
I	INTRODUCTION	1
II	INTRODUCTORY REMARKS	2
III	COMMUNICATION ENHANCEMENT	3
IV	REVIEW OF PROGRESS	3
V	LEADERS AND MANAGERS ARE BEING CHALLENGED	4
VI	THE CITY'S MISSION AND VALUES STATEMENTS	4
VII	CHANGES AND EXTERNAL FORCES THAT ARE EXPECTED TO IMPACT THE CITY	4
VIII	ISSUES AND OPPORTUNITIES FACING THE CITY	4
IX	THE CITY'S ONGOING AND STRATEGIC GOALS (PROPOSED)	5
X	THE DESIRED OUTCOMES FOR EACH OF THE CITY'S GOALS	5
XI	THE SUCCESS TARGETS FOR EACH OF THE CITY'S GOALS AND DESIRED OUTCOMES	5
XII	ACTION PLANS TO ACHIEVE THE GOALS AND DESIRED OUTCOMES	5
XIII	WORKING AS A TEAM–UNDERSTANDING WORK BEHAVIOR STYLES	5
XIV	ROLES AND RESPONSIBILITIES	6
XV	EXPECTATIONS AND CONTRIBUTIONS	6
XVI	ORGANIZATIONAL CLIMATE QUESTIONNAIRE	6
XVII	CLOSING REMARKS	6
XVIII	EVALUATION OF THE RETREAT AND PARTICIPANT COMMENTS	7
XIX	RECOMMENDED FOLLOW-UP ACTIONS	7
	ATTACHMENTS	8-37

YEAR 2013

City of Brooklyn Center
Council-Staff Retreat
Friday-Saturday, April 5-6, 2013

Agenda

Friday

1:00 Introductions

1:15 Overview of Strategic Planning sessions
- Connection to previous efforts
- Process- Strategic Planning
- Start with Why
- Check-in: Mission and Values

1:45 Organizational Culture and Value Proposition
- Discuss relevance for setting direction, strategy
- Assess current and desired states

2:30 Break

2:45 Organizational Culture and Value Proposition (continued)
- Review and discuss
- Determine organizational value proposition

3:45 Summarize – Next steps and prepare for Saturday

4:00 Adjourn

Saturday

8:30 Brief Recap- Friday's session

8:45 Strategic Planning in detail- outcomes for the day

9:00 Review the Environment- SWOT Analysis
- Hands-on process- sort and prioritize results - SWOT questionnaire
- Identify strategic challenges

10:30 Break

10:45 Establish Strategic Priorities
- Continue SWOT (if necessary)
- Set 4-6 – based upon challenges
- Define- key elements

11:45 Key Outcome Indicators (KOI's)
- Overview process- examples

12:00 Lunch

12:45 Key Outcome Indicators (KOI's)- continued
- Set 2-3 Key Outcome Indicators - each Priority
- Define successful outcomes
- Create targets and measures

1:45 Break

2:00 Key Outcome Indicators (KOI's) – continued
- Continue process
- Small group reports
- Review/discuss/approve

2:45 Summarize the Day- Next Steps
- Staff follow-up-Strategic Initiatives
- Action Plans

3:00 Adjourn

YEAR 2015

City of Brooklyn Center
Council-Staff Leadership Retreat
February 6-7, 2015

Agenda

Friday, Feb. 6

1. Light Dinner- Group gathering 5:30PM
2. Call to Order – Mayor 6:00
3. Overview of Retreat - Craig Rapp
4. Effective Governance- Roles and Responsibilities for High Performance
5. Who We Are- Organizational Culture & Value Proposition (presentation/results/discussion)
6. Wrap-Up, Preview Saturday
7. Adjourn 9:00

Saturday, Feb. 7

1. Light breakfast 8:00/TBD
2. Call to Order - Mayor 8:30AM
3. Brief Review- Friday
4. Where We Are- SWOT Analysis (presentation/results/group work/decisions)
5. Identifying Organizational & Community Challenges
6. Break 10:30
7. Where We're Going- Establishing Strategic Priorities
8. What We Want- Identify Desired Outcomes
9. Lunch 12:15
10. What We Want- Identify Desired Outcomes & Indicators

11. Break 2:30

12. Finalize Key Outcome Indicators

13. Summing Up- Review and Reflect on Retreat

14. Adjourn 4:30

MEMORANDUM - COUNCIL WORK SESSION

DATE: 1/28/2019

TO: Curt Boganey, City Manager

THROUGH: N/A

FROM: Curt Boganey, City Manager

SUBJECT: State Legislative Priorities

Recommendation:

- It is recommended that the City Council consider discussing, modifying if necessary and indicating consensus on the Initial Brooklyn Center State Legislative Agenda. It is understood that the City Council may add or modify the list of legislative issues before the end of the 91st Minnesota State Legislative Session or no later than May 20, 2019

Background:

The City of Brooklyn Center historically prepares a legislative agenda to be presented and advocated for at the Minnesota State Legislature. The most recent Minnesota legislative session opened on Tuesday, January 8, 2019.

Staff has developed a preliminary list (See Attachment) of state legislative issues to be considered by the Council. The issues were developed based upon:

- Identification of unresolved 2018 Brooklyn Center State Legislative Issues
- Review of the League of Minnesota Cities state policies for 2019
- Review of Metro Cities Policies
- Review of North Metro Mayors Work Plan
- Identification of key issues by departments

Staff leadership identified issues that are critical to the success of the City. Strategies for moving these issues forward may include:

- Partnering with North Metro Mayor's Association
- Meeting directly with MN Senators and Representatives that represent Brooklyn Center
- Dissemination of a legislative literature piece to Legislators

In addition to the priorities, that remain from 2018 staff is recommending three new policies.

1. Transportation Funding for Hennepin County using motor vehicle lease sale tax.
2. Group Home and Housing for Services legislative study.
3. Raise the tobacco purchase age to 21.

Policy Issues:

Is there a consensus of the Council to accept the Preliminary 2019 Brooklyn Center Legislative Agenda, with

the understanding that the Council may add or modify the list of legislative issues before the end of the 90th Minnesota State Legislative, or before May 20, 2019?

CITY of CRYSTAL

4141 Douglas Drive North
Crystal, MN 55422-1696
Main: 763-531-1000 Fax: 763-531-1188

MEMORANDUM

DATE: January 4, 2019

TO: Area Legislators, Mayors, Council Members, and Staff
Brooklyn Center, Brooklyn Park, Golden Valley, New Hope, Robbinsdale and Crystal

FROM: Crystal Mayor Jim Adams

SUBJECT: ***Legislative Breakfast***

You are cordially invited to attend a breakfast meeting with legislators, elected officials, and city staff. We will be discussing legislation that directly affects cities as well as addressing specific concerns within each city. If you have any discussion items to add to the agenda, please contact Terri at terri.fleck@crystalmn.gov or call 763-531-1135. Agenda items can also be sent to City Manager Anne Norris at: anne.norris@crystalmn.gov.

Date: **Saturday, February 9, 2019**
Time: **9:30 a.m.**
Place: **Crystal City Hall** (Community Room in lower level)
4141 Douglas Dr. N.

Rolls, fruit, juice, and coffee will be served. **Please RSVP by Thursday, January 31 (see contact information above).** We look forward to your participation!

Directions:

From Highway 100:
Exit west on 42nd Ave. N. and drive approx. 1/2 mile to Douglas Drive. Turn left on Douglas Drive and then right into parking lot.

From Highway 169:
Exit east on County Road 9/Rockford Rd/42nd Ave. and drive approx. 2.3 miles to parking lot entrance (just before Douglas Drive).

We are located at the SW corner of 42nd Avenue and Douglas Drive

Come in the front doors marked City Hall and go downstairs.

Motor Vehicle Lease Sales Tax

HENNEPIN COUNTY
MINNESOTA

Hennepin and Ramsey counties deliberately excluded from metro-wide transportation funding

Minnesota's general sales tax applies to long-term motor vehicle leases — the motor vehicle lease sales tax (MVLST). Hennepin County residents contribute substantially to the MVLST but the county is excluded by state law from receiving funding from this transportation source. If included, Hennepin County would receive **$10.7 million** annually for roads, bridges, and pedestrian and bikeway projects.

Transportation funds critical to all counties including Hennepin

The economic strength and competitiveness of our state and region depend on an effective, efficient and well-maintained transportation system. County roads and bridges are a critical component of the state and regional transportation system, and no county should be excluded from a key revenue source for keeping pace with the escalating costs of maintaining our transportation infrastructure.

Previous rationale for Hennepin exclusion has ceased to exist

In 2006, voters overwhelmingly supported a constitutional amendment to dedicate the MVLST to transportation. Subsequent legislative action directed the MVLST to transportation but excluded Hennepin and Ramsey counties.

The rationale to exclude Hennepin and Ramsey counties from receiving MVLST formula funds was based on enabling of new taxing authority through the creation of the Counties Transit Improvement Board (CTIB). With CTIB's dissolution in 2017, this rationale for excluding Hennepin and Ramsey counties from receiving MVLST formula funds has ceased to exist.

MVLST funds should be distributed to all seven metro counties

In FY2018, MVLST revenues are being distributed according to the following formula:

- 11% Highway User Tax Distribution Fund (HUTDF)
- 13% MN Transportation Fund (Local Bridges)
- 38% Greater MN Transit
- 38% County State Aid Highway (CSAH) to five metro counties: Anoka, Carver, Dakota, Scott, Washington

Contacts

Hennepin County Intergovernmental Relations

Kareem Murphy
Director
Office: 612-596-9711
Cell: 612-559-5279
kareem.murphy@hennepin.us

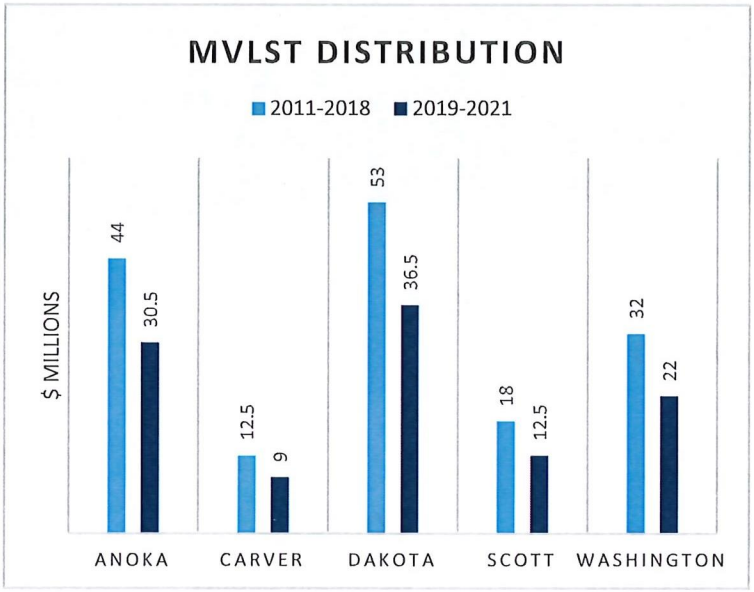
Transportation Planning

John Doan
Assistant Director
Office: 612-543-1468
Cell: 763-355-8746
john.doan@hennepin.us

Website

hennepin.us

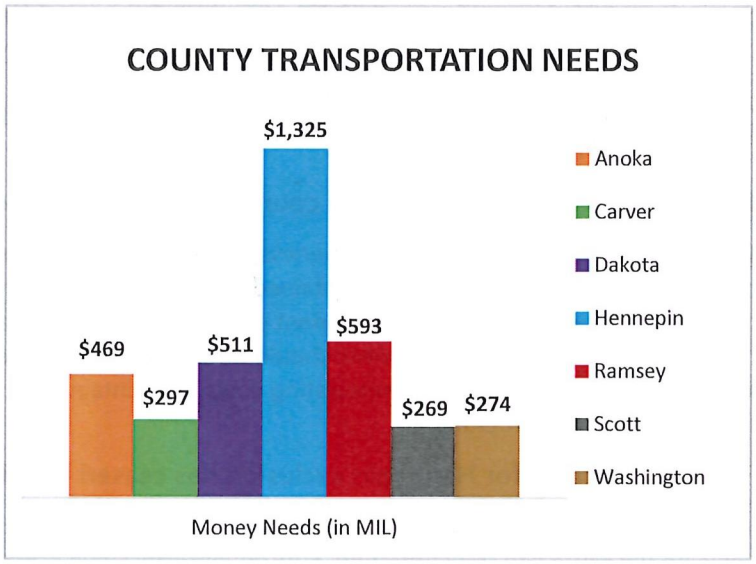
October 2018

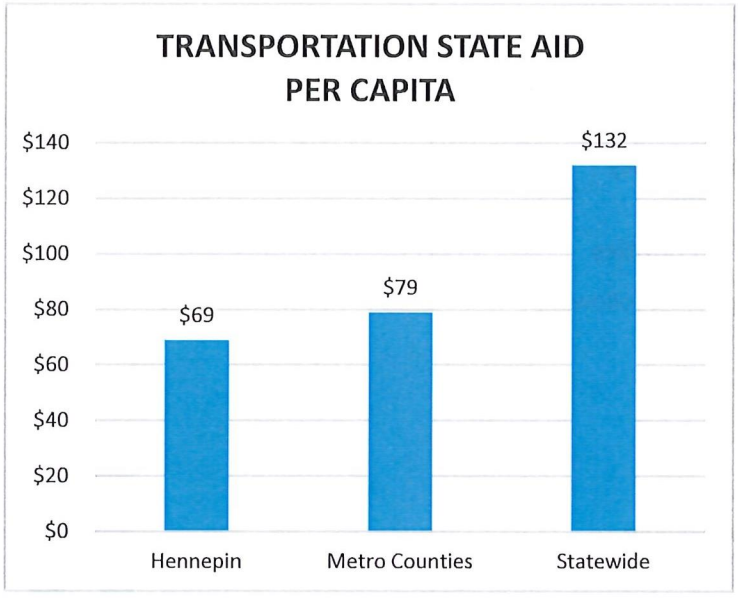


The 38% of revenue distributed to the CSAH fund is allocated to *only* five metro counties, Anoka, Carver, Dakota, Scott and Washington, and *excludes* Ramsey and Hennepin. The MVLST is distributed proportionally based on the population in each of the five eligible metro counties. In FY2018, nearly **$40 million** was generated and distributed to the five metro counties. If FY2018 MVLST funds were distributed to all seven metro counties, Hennepin County's share would have been approximately **$10.7 million**. Between 2011 and 2021, an estimated **$270 million** in MVLST revenues will be distributed to Anoka, Carver, Dakota, Scott, and Washington counties for use on their county roads. Since 2011, approximately **$160 million** in MVLST revenues have been distributed to those five counties, and it is anticipated that an additional **$110 million** will be provided by 2021.

Hennepin needs MVLST funding for essential road and bridge infrastructure

Hennepin County has more than double the center line miles, more than four times the signalized intersections, and serves twice the vehicle miles traveled of any of the five counties receiving MVLST revenues. Hennepin County's 25-year construction needs exceed **$1.3 billion**, based on the 2018 MnDOT CSAH Distribution Report. When compared to the five counties receiving the MVLST, our need is equal to 73% of the five other counties combined. MnDOT's estimated Money Needs for each of the seven metro counties is shown in the chart at right.





More transportation funds generated in Hennepin should stay in Hennepin

According to the Minnesota House Research December 2017 State Aid Report, Hennepin County generated approximately **$480 million** from the Motor Vehicle Sales Tax, Registration Tax and Fuels Tax combined in 2014. In the same year, Hennepin County and its 45 municipalities received **$83.4 million** in the form of County and Municipal Highway State Aid. Thus, about **$400 million per year** of transportation funds generated within Hennepin County went to fund statewide priorities.

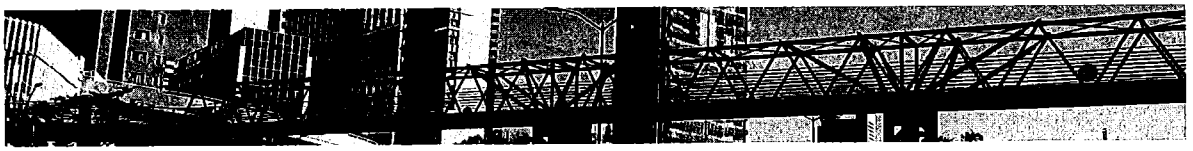
Currently, Hennepin County receives **$69 per capita** in the form of County and Municipal Highway State Aid, compared to **$79 per capita** metro-wide and **$132 per capita** statewide.

Search this website ...

HOME ABOUT US MEMBERS & PARTNERS EVENTS NEWS & UPDATES

PROGRAMS & INITIATIVES COALITIONS CONTACT US

Annual Work Plan



2018 Legislative Action Plan

Transportation Funding

- Work with the Minnesota Department of Transportation, legislative leadership and transportation committees,
  Governor's administration, Metropolitan Council, Minnesota Transportation Alliance and key congressional
  members and staff to secure increased transportation funding.

Transportation Advocacy

- Support the regional efforts of:
  - North Metro I-35W Corridor Coalition MnPASS Lane Project between Minneapolis and Blaine
  - North Trunk Highway 65 Coalition

- Highway 10 Workgroup
- 169 Coalition to relieve congestion on Highway 169 in the North Metro
- Highway 252 Conversion Group
- Connect Blue Line Now! Coalition to address barriers and begin construction on Blue Line Light Rail (Bottineau) project
- Trunk Highway 65–Assist Blaine to provide significant capacity enhancements including upgrading major intersections.
- Highway 169 at 101st Avenue, Brooklyn Park–Assist Brooklyn Park, Maple Grove, and Champlin to secure funding for an interchange and other improvements.
- Trunk Highway 10–Assist Coon Rapids and Anoka to secure funding to construct a third lane between Hanson Boulevard and 7th Avenue in Anoka. Assist Ramsey and Anoka to secure funding to construct all recommended Trunk Highway 10 Access Planning Study improvements.
- Trunk Highway 610–Assist Maple Grove to secure funding to complete 610 and advocate for improvements through the Fish Lake split and expanding capacity on I-94 from Maple
  Grove to the west. Assist Coon Rapids to secure funding for full interchange on 610 in Coon Rapids
- Trunk Highway 252–Work with Brooklyn Center, Brooklyn Park, Hennepin County, the Minnesota Department of Transportation and the Metropolitan Council to resolve transportation system safety and congestion issues.
- Assist North Metro cities to secure funding for County State Aid Highway (CSAH) reconstruction/improvement projects.Transportation Funding
- Work with the Minnesota Department of Transportation, legislative leadership and transportation committees, Governor's administration, Metropolitan Council, Minnesota Transportation Alliance and key congressional members and staff to secure increased transportation funding.

Rail Crossings and Rail Safety

- Support funding for modernization and separation of rail-vehicle traffic as a critical matter of public safety and congestion relief along all major rail lines in the North Metro.
- Assist Ramsey to secure funding for road/rail separation at Ramsey and Sunfish Lake Boulevards along the BNSF main line, adjacent to US Highway 10.
- Assist MnDOT to secure funding for road/rail separation along the BNSF main line at Trunk Highway 47 in Anoka.

Fiscal Policy

- Work with the NMMA legislative delegation, League of Minnesota Cities, Metro Cities, Anoka County, Ramsey County and other stakeholders to be sure the collective North Metro voice is heard and ensure that the Local Government Aid and Metro Area Fiscal Disparities programs remain intact. Advocate for NMMA perspectives in debates over comprehensive tax reform proposals.
- Support and advocate for TIF legislation sought by member cities for and support the use of TIF as a tool for cities to promote economic development.
- Continue to join with other county and city organizations opposing reverse referendum.
- Oppose legislative efforts to restrict city use of, or add a reverse referendum process, to the gas and electric franchise fee statutes.

Governance

- Work with the League of Minnesota Cities, Metro Cities and other local government partners in a collaborative manner to advance key local governmental legislative objectives.
- Support Metropolitan Council changes, including staggered terms, elected city officials' significant participation in nominating Metropolitan Council members, and increased transparency in the appointment process.
- Engage NMMA Community Partners in legislative efforts to more effectively carry the NMMA message to elected officials and the governor's administration.

- Conduct legislative candidate forums in NMMA member city districts to inform candidates on NMMA issues and to assist voters in determining their choices.

Water

- Support efforts of the NMMA Water Work Group to establish policy positions on water issues.
- Engage NMMA stakeholders to endorse and promote regional water supply facilities.
- Assist Champlin to secure funding for the restoration of the Champlin Mill Pond Deep Water Habitat/Fishery.
- Monitor the Minnesota Pollution Control Agency and potential regulation changes which would make it more difficult for cities to develop closed dump sites.

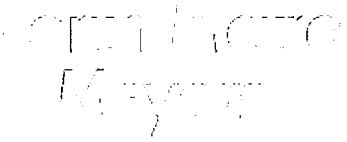
Additional Issues

- PUBLIC SAFETY: Support the expansion of the North Metro Law Enforcement Training Facility in Maple Grove.
- HOUSING: Support consistent application of state housing financing programs to help facilitate local housing goals in addition to state goals.
- ENVIRONMENT: Support the Minnesota Pollution Control Agency and Andover's efforts to secure funding for removing the hazardous waste pit at the Waste Disposal Engineering (WDE) Landfill.
- ELECTIONS: Support legislation creating early voting opportunities that create administrative and financial efficiencies for local governments.
- REGIONAL RECREATION: Assist in securing funding for a competition sized swimming pool in New Hope.

Copyright 2018. All rights reserved.

North Metro Mayors Association
1000 Westgate Drive, Suite 252
St. Paul, MN 55114
651-203-7240

info@northmetromayors.org



Copyright © 2019 · Outreach Pro Theme on Genesis Framework · WordPress · Log in

METRO CITIES

Association of Metropolitan Municipalities

Legislative Policies

January 2019

Metro Cities

Association of Metropolitan Municipalities
145 University Ave. W.
St. Paul, Minnesota 55103-2044
*Phone: **(651) 215-4000***

*Website: **www.MetroCitiesMN.org*** *Fax: **(651) 281-1299*** *Twitter: **@MetroCitiesMN***

Ms. Patricia Nauman	***Mr. Charlie Vander Aarde***	***Mr. Steven Huser***	***Ms. Kimberly Ciarrocchi***
Executive Director	*Gov't Relations Specialist*	*Gov't Relations Specialist*	*Office Manager*
(651) 215-4002	*(651) 215-4001*	*(651) 215-4003*	*(651) 215-4004*
Patricia@MetroCitiesMN.org	*Charlie@MetroCitiesMN.org*	*Steven@MetroCitiesMN.org*	*Kimberly@MetroCitiesMN.org*

Table of Contents

Municipal Revenue & Taxation 1

1-A State and Local Fiscal Relationship 1
1-B Revenue Diversification and Access 2
1-C Restrictions on Local Government Budgets 2
1-D Budget and Financial Reporting Requirements 2
1-E Local Government Aid (LGA) 3
1-F State Property Tax Relief Programs 3
1-G Property Valuation Limits/Limited Market Value 4
1-H Market Value Homestead Exclusion Program 4
1-I Metropolitan Area Fiscal Disparities Program 4
1-J Constitutional Tax and Expenditure Limits 5
1-K State Property Tax 5
1-L Class Rate Tax System 5
1-M Regional Facility Host Communities 5
1-N Sales Tax on Local Government Purchases 6
1-O City Revenue Stability and Fund Balance 6
1-P Public Employees' Retirement Association (PERA) 6
1-Q State Program Revenue Sources 7
1-R Post-Employment Benefits 7
1-S Health Care Insurance Programs 7
1-T State Budget Stability 8
1-U Taxation of Electronic Commerce 8
1-V Payments for Services to Tax Exempt Property 8
1-W Proceeds from Tax Forfeited Property 8
1-X MN Licensing and Registration System 9

General Government 11

2-A Mandates, Zoning & Local Authority 11
2-B City Enterprise Activities 11
2-C Firearms on City Property 11
2-D 911 Telephone Tax 12
2-E 800 MHz Radio System 12
2-F Building Codes 12
2-G Administrative Fines 13
2-H Residential Programs 13
2-I Annexation 13
2-J Statewide Funding Sources for Local Issues with Regional Impact 14
2-K Urban Forest Management Funding 14
2-L Regulation of Harmful Substances and Products 15
2-M Private Well Drilling Restriction Authority 15
2-N Organized Waste Collection 15

2-O Election Administration 16
2-P Utility Franchise Fees, Accountability and Cost Transparency 16
2-Q Water Supply 17
2-R Regulation of Massage Therapists 18

Housing & Economic Development **19**

Policies 3-A to 3-J: Introduction 19
3-A City Role in Housing 19
3-B City Role in Affordable and Life Cycle Housing 19
3-C Inclusionary Housing 21
3-D Metropolitan Council Role in Housing 21
3-E Allocation of Affordable Housing Need 22
3-F Housing Performance Scores 23
3-G State Role in Housing 24
3-H Federal Role in Affordable and Workforce Housing 26
3-I Vacant, Boarded, and Foreclosed Properties and Properties at Risk 27
3-J Housing Ordinance Enforcement 28
3-K Economic Development, Redevelopment and Workforce Readiness 28
3-K (1) Economic Development 29
3-K (2) Redevelopment 30
3-K (3) Workforce Readiness 31
3-L Tax Increment Financing 31
3-M Eminent Domain 33
3-N Community Reinvestment 34
3-O Business Incentives Policy 34
3-P Broadband Technology 35
3-Q City Role in Environmental Protection and Sustainable Development 36
3-R Impaired Waters 36

Metropolitan Agencies **39**

4-A Goals and Principles for Regional Governance 39
4-B Regional Governance Structure 40
4-C Comprehensive Analysis and Oversight of Metropolitan Council 40
4-D Funding Regional Services 41
4-E Regional Systems 41
4-F Regional Water Supply Planning 41
4-G Review of Local Comprehensive Plans 42
4-H Comprehensive Planning Process 43
4-I Comprehensive Planning Schedule 43
4-J Local Zoning Authority 44
4-K Regional Growth 44
4-L Natural Resource Protection 46

4-M Inflow and Infiltration (I/I) 46
4-N Sewer Availability Charge (SAC) 47
4-O Funding Regional Parks & Open Space 48
4-P Livable Communities 48
4-Q Density 49

Transportation **51**

Transportation Policies and Funding Introduction 51
5-A Road and Bridge Funding 51
5-B Regional Transit System 52
5-C Transit Financing 53
5-D Street Improvement Districts 53
5-E Highway Turnbacks & Funding 53
5-F "3C" Transportation Planning Process: Elected Officials' Role 54
5-G Electronic Imaging for Enforcement of Traffic Laws 54
5-H Transportation Network Companies and Alternative Transportation Modes 54
5-I Airport Noise Mitigation 54
5-J Funding for Non-Municipal State Aid (MSAS) City Streets 55
5-K County State Aid Highway (CSAH) Distribution Formula 55
5-L Municipal Input/Consent for Trunk Highways and County Roads 56
5-M Plat Authority 56
5-N MnDOT Maintenance Budget 56
5-O Transit Taxing District 57
5-P Complete Streets 57

Committee Rosters **59**

Municipal Revenue & Taxation 59
Housing & Economic Development 60
Metropolitan Agencies 61
Transportation & General Government 62

Municipal Revenue & Taxation

1-A State and Local Fiscal Relationship

A functional state and local fiscal relationship must emphasize adequacy, equitability, sustainability and accountability for public resources, and effective communication among the state, cities, and the public on the roles and responsibilities of state and local governments. An effective partnership must also emphasize practices that strengthen collaboration and partnership between the state and local units of government.

Services provided by cities are traditionally funded through a combination of property taxes, fees/charges and state aids. Increasingly, cities are bearing more of the costs for services that have historically been the responsibility of the state.

Metro Cities supports a strong state and local fiscal partnership that emphasizes the following principles:

- **Strong financial stewardship and accountability for public resources that emphasizes maximizing efficiencies in service delivery and effective communication between the state and local units of government, and to the public, about state and local roles and responsibilities;**

- **Certainty, predictability and reliability in revenue sources including the property tax and local government aids, and dedicated funds to meet specific local government needs. Metro Cities opposes the diversion of such dedicated funds to help balance state budgets;**

- **Full state funding to cover mandates enacted by the state, and flexibility for local governments in implementing state mandates to ensure local costs are minimized;**

- **The need for local decision-making authority by local elected officials with regard to the terms and conditions of employment for local government employees, including compensation, recognition, and benefit decisions;**

- **Adequate revenue sources available to cities that allow the needs of cities to be met, citizens to receive adequate services at similar levels of taxation, and that maintain our state's economic vitality and competitiveness;**

- **Adequate and timely notification regarding new legislative programs or modifications to existing state programs or policies to allow cities sufficient time to plan for implementation, and any effects on local budgeting processes;**

- **The concept of performance measuring, but opposition to using state established**

local performance measurements to determine the allocation of state aids to local governments, or to deny local governments the authority to establish their own budgets and levies, as such measurements do not account for varying local needs and circumstances.

1-B Revenue Diversification and Access

Metro Cities supports a balanced and diversified revenue system that acknowledges diverse city characteristics, needs and revenue capacities, and allows for greater stability in revenues. Any diminished level in the provision of state aids creates severe challenges for many cities in the provision of public services and increased reliance on the property tax.

Metro Cities supports greater access to other tax and revenue sources and the ability of cities to impose a local option sales tax for public improvements without the need for special legislation.

Metro Cities supports current laws that provide for municipal franchise fee authority, and opposes statutory changes such as reverse referendum requirements or other constraints that would reduce local authority and flexibility for establishing, amending, or renewing franchise fees and interfere with local public processes and goals for establishing such fees.

Metro Cities supports having local sales tax referendums conducted at a general or special election. The Legislature should recognize the equity considerations involved with local sales taxes, and continue to provide aids to cities that have high needs, overburdens and/or low fiscal capacity.

1-C Restrictions on Local Government Budgets

Metro Cities strongly opposes levy limits, reverse referenda, super majority requirements for levy and valuation freezes, or other restrictions on local government budgeting and taxing processes. Such restrictions undermine local budgeting and taxing processes, planned growth, and the relationship between locally elected officials and their residents by allowing the state to decide the appropriate level of local taxation and services, despite varying local conditions and circumstances.

1-D Budget and Financial Reporting Requirements

State laws require cities to prepare and submit or publish numerous budget and financial reports. These requirements often create significant costs to cities, and some requirements result in duplication. Additional reporting requirements should have a clearly defined statement of public purpose and need not covered under existing requirements and balance the need for additional information with the costs of compiling and submitting the information.

Considering the numerous existing reporting requirements, Metro Cities supports reducing the number of mandated reports. Metro Cities supports efforts to consolidate municipal government financial reporting requirements in the Office of the State Auditor, including

an electronic submission alternative to any remaining paper filing requirements, and to authorize the use of web publication where newspaper publication is currently required.

1-E Local Government Aid (LGA)

Metro Cities supports Local Government Aid (LGA) as a means of ensuring that cities remain affordable places to live and work while meeting the basic public service demands of residents and businesses.

Metro Cities' policies recognize that the state's prosperity and vitality depend significantly upon the strength of the metropolitan region. Metro Cities supported 2013 statutory modifications to the LGA program to help better address the needs of cities across the state, and of metro cities in their support of the state's economic growth and supports further examination of the LGA formula to ensure it is continuing to address these needs.

To ensure appropriation levels are adequate to meet LGA program objectives, Metro Cities supports increasing the LGA appropriation to address cities' unmet need as defined by the LGA formula as well as increases in the LGA appropriation to account for inflation. By way of reference, the total need identified in the LGA formula for 2019 is estimated at $814.6 million, whereas the current funding is set at $534.4 million, putting the remaining need at $280.2 million.

Metro Cities supports formula-based allocations for increases to the LGA appropriation, and opposes freezes of the LGA appropriation, or reductions of LGA for balancing state budget deficits. Metro Cities also opposes artificial limits or reductions that single out specific cities, and further opposes using LGA as financial leverage to influence particular activities and policy decisions at the local level.

1-F State Property Tax Relief Programs

Metro Cities supports state funded property tax relief programs paid directly to homestead property taxpayers such as the "circuit breaker" program and enhanced targeting for special circumstances. Metro Cities also supports the renter's credit program. Metro Cities supports an analysis of the state's property tax relief programs to determine their effectiveness and equity in providing property tax relief to individuals and families across the state.

Metro Cities supports efforts by the Minnesota Department of Revenue to expand outreach and notification efforts about state property tax relief programs to homeowners, and notifications to local units of government to support such efforts. Metro Cities also supports legislative modifications to make tax relief payments to taxpayers automatic.

Metro Cities supports the use of the Department of Revenue's "Voss" database to link income and property values, and the consideration of income relative to property taxes paid in determining eligibility for state property tax relief programs. Updates to the database

should occur in a timely manner and data reviewed periodically to ensure the database's accuracy and usefulness.

1-G Property Valuation Limits/Limited Market Value

Metro Cities opposes the use of artificial limits in valuing property at market for taxation purposes, since such limitations shift tax burdens to other classes of property and create disparities between properties of equal value.

1-H Market Value Homestead Exclusion Program

The Market Value Homestead Exclusion Program (MVHE) provides property tax relief to qualifying homesteads, through reductions in property tax values, which shifts property taxes within jurisdictions. The MVHE replaced a former Market Value Homestead Credit Program, which provided credits on local government tax bills to qualifying properties, with reimbursements provided by the state to local governments.

Metro Cities opposes restoration of the former Market Value Homestead Credit, as reimbursements to local governments were inconsistent, and encourages further study of the exclusion program, with input by city officials, to determine the program's overall efficacy and its effects on local tax bases.

1-I Metropolitan Area Fiscal Disparities Program

The Metropolitan Area Fiscal Disparities Program, enacted in 1971, was created for the purposes of:

- providing a way for local governments to share in the resources generated by the growth of the metropolitan area without removing existing resources;
- promoting orderly development of the region by reducing the impact of fiscal considerations on the location of business and infrastructure;
- establishing incentives for all parts of the area to work for the growth of the area as a whole;
- helping communities at various stages of development; and
- encouraging protection of the environment by reducing the impact of fiscal considerations to ensure protection of parks, open space and wetlands.

Metro Cities supports the Fiscal Disparities Program. Metro Cities opposes any diversion from the fiscal disparities pool to fund specific state, regional or local programs, goals or projects as such diversions contradict the purposes of the program.

Legislation that would modify or impact the fiscal disparities program should only be considered within a framework of comprehensive reform efforts of the state's property tax, aids and credits system. Any proposed legislation that would modify or impact the fiscal disparities program must be evaluated utilizing the criteria of fairness, equity, stability, transparency and coherence in the treatment of cities and taxpayers across the metropolitan region, and must continue to serve the program's intended purposes.

Metro Cities opposes legislation that would allow for capturing and pooling growth in residential tax capacity to fund specific programs or objectives.

Further studies or task forces to consider modifications to the fiscal disparities program must include participation and input from metropolitan local government representatives.

1-J Constitutional Tax and Expenditure Limits

Metro Cities strongly opposes including tax and expenditure limits in the state constitution, as such limits eliminate flexibility by the Legislature or local governments to respond to unanticipated critical needs, emergencies, or fluctuating economic situations.

When services such as education, public safety and health care require increased funding beyond the overall limit, other publicly funded services potentially stand to receive inadequate resources. Constitutional limits result in reduced revenue bases during times of economic downturn and the inability to recover to previous service levels when economic prosperity returns.

1-K State Property Tax

The state levies a property tax on commercial/industrial and cabin property. **Since cities' only source of general funds is the property tax, Metro Cities opposes extension of the state property tax to additional classes of property. Metro Cities opposes using the state property tax to fund specific programs or objectives generally funded through state income and sales tax revenue.**

In the interest of increasing transparency, Metro Cities supports efforts to have the state provide information on the property tax statement regarding the state property tax. Metro Cities opposes exempting specific classes of property under the tax as such exemptions shift the costs of the tax onto other classes of property.

1-L Class Rate Tax System

Metro Cities opposes elimination of the class rate tax system or applying future levy increases to market value since this further complicates the property tax system.

1-M Regional Facility Host Communities

Municipalities hosting regional facilities (such as utilities, landfills or aggregate mining) incur costs and community effects such as environmental damage or lost economic development opportunities. Communities should be compensated to accommodate the effects of these facilities that provide benefits to the region and state. **Metro Cities supports legislative efforts to offset the negative impacts of these facilities and activities on host communities.** Metro Cities would prefer that cities and townships be allowed to collect a host fee that may be adjusted when state decisions impact those fees.

1-N Sales Tax on Local Government Purchases

Metro Cities supported the 2013 reinstatement of the sales tax exemption for purchases of goods and services made by cities. The reinstatement enacted in 2013 does not apply to all local government purchases.

To ensure that citizens receive the full benefit of this exemption, the law should treat purchases of all local government units the same, including purchases made by special taxing districts, joint powers entities, or any other agency or instrumentality of local government.

Metro Cities supports granting an extension of the motor vehicle sales tax exemption to all municipal vehicles that are used for general city functions and are provided by governmental entities. Currently, only certain vehicles, including road maintenance vehicles purchased by townships, and municipal fire trucks and police vehicles not registered for use on public roads, are exempt from the MVST.

Metro Cities supports simplifying the process on the exemption for construction materials that is complex and cost ineffective, or converting the process to a refund program.

1-O City Revenue Stability and Fund Balance

Metro Cities opposes state attempts to control or restrict city fund balances. These funds are necessary to maintain fiscal viability, meet unexpected or emergency resource needs, purchase capital goods and infrastructure, provide adequate cash flow and maintain high level bond ratings.

1-P Public Employees' Retirement Association (PERA)

Metro Cities supports employees and cities sharing equally in the cost of necessary contribution increases and a sixty percent employer/forty percent employee split for the PERA Police and Fire Plan. Metro Cities also supports state assistance to local governments to cover any additional contribution burdens placed on cities over and above contribution increases required by employees. Cities should receive sufficient notice of these increases so that they may take them into account for budgeting purposes.

Metro Cities opposes benefit improvements for active employees or retirees until the financial health of the PERA General Plan and PERA Police and Fire Plan are restored.

Metro Cities supports modifications to help align PERA contributions and costs, and reduce the need for additional contribution increases, including a modification of PERA eligibility guidelines to account for temporary, seasonal and part-time employment situations, the use of pro-rated service credit and a comprehensive review of exclusions to simplify eligibility guidelines. Further employer contribution rate increases should be avoided until other cost alignment mechanisms are considered.

Metro Cities supports cities and fire relief associations working together to determine the best application of State Fire Aid. Flexibility in the application of State Fire Aid, where combination departments exist, will ensure that fire services can be provided in the most cost effective means possible.

Regarding police pension contributions, Metro Cities supports a proactive review of factors contributing to the financial status of police and fire pension plans, to ensure that structural adjustments are considered in conjunction with potential increases in employee and employer contribution rates. Specifically, an area that could be considered is contractual overtime impacts on pension levels.

1-Q State Program Revenue Sources

Metro Cities opposes any attempt by the state to finance programs of statewide value and significance, that are traditionally funded with state revenues, with local revenue sources such as municipal utilities or property tax mechanisms. Statewide programs serve important state goals and objectives, and should be financed through traditional state revenue sources such as the income or sales tax.

Metro Cities further opposes substituting traditionally state funded programs with funding mechanisms that would disparately affect taxpayers in the metropolitan area.

1-R Post-Employment Benefits

Metro Cities supported statutory changes that allow local governments to establish trusts from which to fund post-employment health and life insurance benefits for public employees, with participation by cities on a strictly voluntary basis, in recognition that cities have differing local needs and circumstances. Cities should also retain the ability to determine the level of post-employment benefits to be provided to employees.

1-S Health Care Insurance Programs

Metro Cities supports legislative efforts to control health insurance costs, but opposes actions that undermine local flexibility to manage rising insurance costs. Metro Cities encourages a full examination of the rising costs of health care and the impacts on city employers and employees. **Metro Cities also supports a study of the fiscal impacts to both cities and retirees of pooling retirees separately from active employees.**

1-T State Budget Stability

Metro Cities strongly supports a state revenue system that provides for stability, flexibility and adequacy in the system, reduces the volatility of state revenues and improves the long-term balance of state revenues and expenditures. Metro Cities supports a statutory budget reserve minimum that is adequate to manage risks and fluctuations in the state's tax system and a cash flow reserve account of sufficient size so that the state can avoid short term borrowing to manage cash flow fluctuations.

Metro Cities also supports an examination of the property tax system and the relationships between state and local tax bases, with an emphasis on state budget cuts and effects on property taxes. State budget deficits must be balanced with statewide sources and must not further reduce funding for property tax relief programs and aids to local governments that result in local governments bearing more responsibility for the costs of services that belong to the state.

1-U Taxation of Electronic Commerce

Metro Cities supports efforts to develop a streamlined sales and use tax system to simplify sales and use tax collection and administration by retailers and states. Metro Cities supports policies that encourage remote retailers to collect and remit state sales taxes in states that are complying with the Streamlined Sales and Use Tax Agreement.

Metro Cities opposes legislation that allows accommodation intermediaries such as online travel companies a tax exemption that terminates obligations to pay hotel taxes to state and local governments, or otherwise restricts legal actions by states and localities. In 2011 the Legislature clarified that these services are subject to state sales tax. **Metro Cities supports additional statutory changes to further clarify that all lodging taxes, whether administered by the state or locally, apply to total charges, including charges for services provided by accommodation intermediaries.**

1-V Payments for Services to Tax Exempt Property

Metro Cities supports city authority to collect payments from tax exempt property owners to cover the costs of services to those entities, similar to statutory authority for special assessments. Metro Cities opposes legislation that would exempt nonprofit entities from paying user fees and service charges.

1-W Proceeds from Tax Forfeited Property

Metro Cities supports changes to state laws governing the proceeds for tax forfeited properties. Currently, counties can recover administrative costs related to a property before other allocations are made and the law allows for the county to recoup a percentage of assessment costs once administrative costs are allocated. The result is often no allocation or a very low allocation, and usually insufficient level of proceeds available for covering special assessments, unpaid taxes and fees to cities. State processes addressing tax-forfeited properties

can have implications for local land use plans and requirements and can result in unexpected and significant fiscal impacts on local communities. The current process also does not require the repayment of unpaid utility charges, or building and development fees.

Metro Cities supports statutory changes that balance repayment of unpaid taxes and assessments, utility charges and other fees and that more equitably allocates the distribution of proceeds between counties and cities.

1-X MN Licensing and Registration System

Issues at the state government level associated with the rollout of the new MN Licensing and Registration System (MNLARS) have caused significant disruptions to services provided by local deputy registrars and resulted in unanticipated costs to registrars. In some cases, local offices are being required to rely on other local revenues, such as the property tax, to manage normal expenses due to unresolved glitches in the system and the shift from the state to the local level for additional processing time. The ongoing challenges with the system also create a high potential for negative public perceptions regarding local government services, on an issue over which local governments have no ability to control.

Metro Cities supports actions by the state to expedite necessary corrections to the MNLARS system and supports funding to compensate local deputy registrars for unanticipated costs associated with implementation and a shifting of per-transaction processing burdens. Metro Cities further supports a consideration of increases to existing fee levels, which are set in state statutes, to ensure that local deputy registrars can sufficiently function and meet continually evolving local registrar service needs.

2-A Mandates, Zoning & Local Authority

To serve their local citizens and communities, city officials must have sufficient local control and decision-making authority. **Metro Cities supports local decision-making authority and opposes statutory changes that erode local authority and decision making.**

Minnesota State Statutes 462.357, Subdivision 1, provide cities authority to regulate and set local ordinances for zoning. **Metro Cities supports existing state laws that provide for this authority.**

Metro Cities supports statutory changes that give local officials greater authority to approve or deny variances to allow flexibility in responding to the needs of the community. Metro Cities also supports the removal of statutory barriers to uniform zoning ordinance amendment processes for all cities, regardless of city size classification.

Metro Cities opposes the imposition of legislative mandates that increase local costs without a corresponding state appropriation or funding mechanism. Unfunded mandates potentially increase property taxes and impede cities' ability to fund traditional service needs.

To allow for greater collaboration and flexibility in providing local services, Metro Cities encourages the removal of barriers to coordination between cities and other units of government or entities.

2-B City Enterprise Activities

Creation of an enterprise operation allows a city to provide a desired service while maintaining financial and management control. The state should refrain from infringing on this ability to provide and control services for the benefit of community residents.

Metro Cities supports cities having authority to establish city enterprise operations in response to community needs, local preferences or state mandates, or that help ensure residents' quality of life.

2-C Firearms on City Property

Cities should be allowed to prohibit handguns and other weapons in city-owned buildings, facilities and parks and to determine whether to allow permit-holders to bring guns into municipal buildings, liquor stores, city council chambers and city sponsored youth activities. It is not Metro Cities' intention for cities to have the authority to prohibit legal weapons in parking lots, on city streets, city sidewalks or on locally approved hunting land.

Metro Cities supports local control to allow or prohibit handguns and other weapons on

city-owned property.

2-D 911 Telephone Tax

Public safety answering points (PSAPs) must be able to continue to rely on state 911 revenues to pay for upgrades and modifications to local 911 systems, maintenance and operational support and dispatcher training.

Metro Cities supports state funding for technology and training necessary to provide the number and location of wireless and voice over internet protocol (VoIP) calls to 911 on computer screens and transmit that data to police, fire and first responders.

2-E 800 MHz Radio System

Metro Cities urges the Legislature to provide cities with the financial means to obtain required infrastructure and subscriber equipment (portable and mobile radios) as well as provide funding for operating costs, since the prime purpose of this system is to allow public safety agencies and other units of government the ability to communicate effectively.

Metro Cities supports the work of the Metropolitan Emergency Services Board (previously the Metropolitan Radio Board) in implementing and maintaining the 800 MHz radio system, as long as cities are not forced to modify their current systems or become a part of the 800 MHz Radio System unless they so choose.

2-F Building Codes

Thousands of new housing units are constructed annually in the metropolitan area.

Metro Cities supports an equitable distribution of fees from the Construction Code Fund, with proportional distribution based on the area of enforcement where fees were received. Metro Cities further supports efforts by the state, cities and builders to collectively identify appropriate uses for the fund, including education, analysis of new materials and construction techniques, building code updating, building inspector training, and development of performance standards and identification of construction "best practices."

Metro Cities supports including the International Green Construction Code as an optional appendix to the State Building Code to allow cities to utilize appropriate parts of those guidelines in their communities. Metro Cities also supports adopting the international energy conservation code to the state building code without amendments. Metro Cities does not support legislative solutions that fail to recognize the interrelationships among builders, state building codes and cities. Metro Cities supports efforts to increase awareness of the potential impacts and benefits of requiring sprinklers in new homes and townhouses and supports discussion and the dissemination of information on these impacts via the code adoption process through the Department of Labor and Industry.

2-G Administrative Fines

Traditional methods of citation, enforcement and prosecution have met with increasing costs to local units of government. The use of administrative fines is a tool to moderate those costs. **Metro Cities supports the administrative fine authority that allows cities to issue administrative fines for defined local traffic offenses and supports further modifications to enhance functionality of this authority. Metro Cities continues to support cities' authority to use administrative fines for regulatory ordinances such as building codes, zoning codes, health codes, and public safety and nuisance ordinances.**

Metro Cities supports the use of city administrative fines, at a minimum, for regulatory matters that are not duplicative of misdemeanor or higher-level state traffic and criminal offenses. Metro Cities also endorses a fair hearing process before a disinterested third party.

2-H Residential Programs

Sufficient funding and oversight is needed to ensure that residents living in residential programs have appropriate care and supervision and that neighborhoods are not disproportionately impacted by high concentrations of residential programs. Historically, federal and state laws have discouraged the concentration of residential group homes so as not to promote areas that reinforce institutional quality settings.

Under current law, operators of certain residential programs are not required to notify cities when they intend to purchase single-family housing for this purpose. Cities do not have the authority to regulate the locations of residential programs. Cities have reasonable concerns about high concentrations of these facilities in residential neighborhoods, and additional traffic and service deliveries surrounding these facilities when they are grouped closely together. Municipalities recognize and support the services residential programs provide. However, cities also have an interest in preserving balance between residential programs and other uses in residential neighborhoods.

Providers applying to operate residential programs should be required to notify the city when applying for licensure to be informed of local ordinance requirements as a part of the application process. Licensing agencies should be required to notify the city of properties receiving licensure to be operated as residential programs.

Metro Cities supports statutory modifications to require licensed agencies and licensed providers that operate residential programs to notify the city of properties being operated as residential programs. Metro Cities also supports the establishment of appropriate non-concentration standards for residential programs, to prevent clustering, and supports enforcement of these rules by the appropriate county agencies.

2-I Annexation

Attempts have been made in recent years to reduce tensions between cities and townships in

annexations. A Municipal Boundary Adjustment Task Force worked to develop recommendations regarding best practices annexation training for city and township officials to better communicate and jointly plan potential annexations. While the task force defined differences between cities and townships, no significant advancements were made in creating best practices.

Metro Cities supports continued legislative efforts to develop recommendations regarding best practices and annexation training for city and township officials to better communicate and plan for potential annexations. Further, Metro Cities supports substantive changes to the state's annexation laws that will lead to better land use planning, energy conservation, greater environmental protection, fairer tax bases, clarification of fee reimbursement and fewer conflicts between townships and cities. Metro Cities also supports technical annexation changes that are agreed to by cities and townships.

2-J Statewide Funding Sources for Local Issues with Regional Impact

Many issues including but not limited a metropolitan area groundwater monitoring network, emerald ash borer management and the cleanup of storm-water retention ponds, come with significant local costs, and have effects that reach beyond municipal boundaries.

Metro Cities supports the availability of statewide funding sources to address local issues that have regional or statewide significance or are caused by state or regional actions.

Metro Cities opposes any requirement to enact ordinances more restrictive than state law in exchange for access to these funds.

2-K Urban Forest Management Funding

Urban forests are an essential local infrastructure component. Dutch elm disease, oak wilt disease, drought, storms, and emerald ash borer threaten public investments in trees and controlling these issues can be greatly consequential for city budgets. The Minnesota Department of Natural Resources, through its Urban and Community Forestry program, and the Minnesota Department of Agriculture, through its Shade Tree and Invasive Species program, have regulatory authority to direct tree sanitation and control programs. Although these programs allow for addressing some tree disease, pest, and other problems, funding has been inadequate to meet the need of cities to build capacity for tree programs and respond to catastrophic problems.

Cities share the goal of the state's Re-leaf Program—promoting and funding the inventory, planning, planting, maintenance, and improvement of trees in cities throughout the state. In addition, economic and environmental gains for storm water management, climate change mitigation, air quality management, tourism, recreation, and other benefits must be protected from tree loss. A lack of timely investment in urban forests costs cities significantly more in the long run.

Cities are facing immediate costs for the identification, removal, replacement, and treatment of

emerald ash borer (EAB) as it spreads across the state. The state has no program to assist cities in covering those expenses.

Metro Cities supports funding for a state matching grant program to assist cities with building capacity for urban forest management and meeting the costs of preparing for, and responding to, catastrophic urban forest problems. Specifically, direct grants to cities are desperately needed for the identification, removal, replacement, and treatment of trees related to management of EAB. The state should establish an ongoing grant program with annual funding that is usable for those activities.

2-L Regulation of Harmful Substances and Products

In metropolitan regions where most cities share boundaries with other cities, local bans of harmful drugs and substances such as synthetic drugs, which have been found to be dangerous, do not eliminate access to these products unless all cities take the same regulatory action.

Metro Cities supports statewide regulation and prohibition of products or substances in circumstances where there is evidence that products present a danger to anyone who uses them, where there is broad local support for a ban and where corresponding regulatory issues have regional or statewide significance.

In addition, the Legislature should provide for the regulation of products that are known to damage water quality, sewer collection, and storm and wastewater treatment systems, not just at the treatment and infrastructure maintenance levels, but at the consumer and manufacturing levels, through accurate labeling of products, public education, and recycling and re-use programs.

2-M Private Well Drilling Restriction Authority

Cities are authorized to enact ordinances that disallow the placement of private wells within city limits to ensure both water safety and availability for residents and businesses. This authority is important for the appropriate management of local water supply conservation efforts. Municipal water systems are financially dependent upon users to operate and maintain the system. A loss of significant rate payers resulting from unregulated private well drilling would economically destabilize water systems and could lead to contamination of the water supply.

Metro Cities supports current law authorizing cities to regulate and prohibit the placement of private wells within municipal utility service boundaries and opposes any attempt to remove or alter that authority. Metro Cities supports funding that can be used to cap private wells.

2-N Organized Waste Collection

Cities over 1,000 in population are required by law to ensure all residents have solid waste collection available to them. A city can meet the statutory requirement by licensing haulers to

operate in an open collection system, authorize city employees to collect waste, or implement organized collection through one or multiple haulers to increase efficiency, reduce truck traffic and control costs to residents.

Metro Cities supports current laws that allow cities to work with existing haulers to achieve the benefits of organized collection or investigate the merits of organized collection without the pressure of a rigid timeline and requirement to pass 'an intent to organize' at the beginning of the discussion process. Metro Cities opposes any legislation that would further increase the cost or further complicate the process cities are required to follow to organize waste collection or prohibit cities from implementing, expanding or using organized waste collection.

2-O Election Administration

Cities play a critical role in managing and ensuring the integrity of elections. Any changes made to election laws should not place undue financial or administrative burdens on local governments. Additional costs resulting from election law changes should be the responsibility of the state.

Eligible voters in Minnesota may vote by absentee ballot prior to Election Day. Starting 46 days before the election, a voter can request, receive and cast an absentee ballot in one visit to their county or city election offices.

As more and more voters choose to vote early with absentee balloting, improvements must be made to increase efficiency of administering absentee balloting before Election Day, reduce the potential for errors and to improve voter experience.

Metro Cities supports:

- **2016 laws allowing in-person absentee voters to place their ballots in a secure tabulator, and statutory changes to allow this for the duration of absentee voting;**
- **Establishing an earlier deadline for ending in-person absentee voting;**
- **Revising absentee ballot regulations to allow any person 18 and older to witness the absentee process and sign the envelope as a witness; and**
- **Authorizing cities with health care facilities to schedule election judges to conduct absentee voting at an earlier date in health care facilities.**

2-P Utility Franchise Fees, Accountability and Cost Transparency

Minnesota cities are authorized by Minnesota statutes M.S. 216B and 301B.01 to require a public utility (gas or electric) that provides services to the city or occupies the public right of way within a city to obtain a franchise. Several metro area cities have entered agreements that

require the utility to pay a fee to help offset costs of maintaining the right of way.

Cities are also adopting energy policies that use renewable energy resources to light or heat public facilities. Policies and programs have also been instituted in cooperation with the public utility franchisee to increase energy efficiency for all users. Cities also contract, at city expense, with public utilities to "underground" wires. State laws also require energy companies to provide more electric energy from renewable sources. The specific amounts vary by type of utility.

Metro Cities supports:

- **State policies adopted by legislation or through rules of the Public Utility Commission that provide cities with the authority to include city energy policies and priorities in a franchise or similar agreement with a franchisee; and**

- **Greater accountability and transparency for city paid costs associated with underground utility and similar work performed by electric utilities as part of a local project.**

2-Q Water Supply

Municipal water suppliers are charged with meeting the water supply needs of their communities and work to do so with safe, reliable and cost-effective systems that are sustainable both for established cities and for all future growth.

The aquifers in the metropolitan area cross municipal boundaries and therefore require a coordinated regional approach to planning for their future availability. Currently, approximately 75% of municipal water supply in the metropolitan area comes from groundwater. With proper management of the resource, the current water supply in the region is adequate; however, Metropolitan Council projections predict localized declines in aquifer availability due to population growth estimates if current usage levels are maintained.

Regulation of water is complex and compartmentalized. Various agencies permit its use, plan for its availability, regulate stormwater, treat wastewater and protect the safety of water. To ensure that water supply remains adequate and sustainable across the region, we must understand how much water can be sustainably drawn from the aquifers and what effect increases in re-use, conservation and recharge can have on the sustainability and availability of both groundwater and surface water. Many of these strategies cross agency jurisdictions and will require improved coordination and cooperation.

Municipal water suppliers have made significant infrastructure investments in their systems based on calculated water availability and DNR permits. Proposals to reduce the reliance on groundwater by switching municipal water systems from groundwater to surface water supplies will come with significant costs that could place excessive burdens on local resources.

The outcomes and benefits of re-balancing the mix of groundwater and surface water use for specific municipalities and the region must be identifiable before any projects are undertaken.

The sustainability of our water supply is an issue of regional and statewide significance and the expense of any necessary projects that benefit the region should not fall on individual cities. Any attempts to address water supply sustainability must also take into account all water users, including municipal water suppliers, industry, private wells, agriculture and contamination containment.

The metropolitan region must consider the effects of groundwater use beyond the borders of the metropolitan area on the region's groundwater availability and the cost of treating contaminants in surface water that comes into the metropolitan area for use.

Metro Cities supports the removal of barriers to wastewater and storm water re-use, improved inter-agency coordination, clarifying the appropriate roles of local, regional and state governments with respect to water, streamlining and consolidating permit approval processes and the availability of statewide resources to plan for and ensure the future sustainability of water supply in the metropolitan area. Metro Cities also encourages the Metropolitan Council, in consultation with municipalities, to find ways to re-use wastewater and to develop other strategies to improve conservation.

Metro Cities supports state funding for costs associated with converting water supply from groundwater to surface water and funds to encourage and promote water conservation as a strategy to improve water sustainability and to improve and protect water quality.

2-R Regulation of Massage Therapists

In the absence of statewide regulation for massage therapy practitioners, many cities have enacted local ordinances that require massage therapists to obtain a local professional license to assist law enforcement in differentiating between legitimate providers and illegitimate businesses fronting as massage therapy establishments.

Metro Cities supports statewide registration or licensure of massage therapists to aid local law enforcement efforts in this area. Metro Cities supports cities' ability to continue to license massage therapy businesses.

Housing & Economic Development

Policies 3-A to 3-J: Introduction

While the provision of housing is predominantly a private sector, market-driven activity, all levels of government – federal, state, regional and local – have a role to play in facilitating the production and preservation of affordable housing in Minnesota.

Adequate affordable housing is a significant concern for the metropolitan region and effective approaches require participation from all levels of government, the private sector and nonprofit groups.

3-A City Role in Housing

All cities facilitate the development of housing via land use planning, zoning ordinances, subdivision regulations and rental licensing. Cities should have sufficient authority and flexibility to promote housing types best suited to meet local needs, public purposes and goals.

While local government financial resources constitute a relatively small portion of the total costs of providing housing, many cities take on a significant administrative burden by providing financial incentives and regulatory relief, participating in state and regional housing programs and supporting either local or countywide housing and redevelopment authorities and community development agencies.

Cities are responsible for most of the ground-level housing policy in Minnesota; including land use planning, code enforcement, rental licensing, and often the packaging of financial incentives. Cities are also responsible for ensuring the health and safety of residents and the structural soundness and livability of the local housing stock through building permits and inspections. Cities establish fee structures for residential development to cover the costs of growth and corresponding needs for public infrastructure. It is the responsibility of cities to periodically review local requirements such as land use regulations and ordinances to ensure that they are consistent with these purposes.

Metro Cities strongly opposes any effort to reduce, alter or interfere with cities' authority to carry out these functions in a locally determined manner.

3-B City Role in Affordable and Life Cycle Housing

Metro Cities supports housing that is affordable and appropriate for people at all stages of life. A variety of housing opportunities are important to the economic and social well-being of individual communities and the region. The region faces challenges in meeting the existing and future housing needs of low and moderate-income residents. Existing housing stock is aging, with roughly half older than 40 years old, according to the U.S. Census Bureau. Older housing

stock can be more affordable; however, it requires investments to remain viable. Private investors have purchased subsidized and unsubsidized rental units, made improvements and charged higher rents that have made access to previously affordable units prohibitive for low and moderate-income residents. The Metropolitan Council has projected the region will add nearly 35,000 households between 2021 and 2030 that will need affordable housing and require a subsidy of $5 billion to meet the needs of households earning up to 50 percent area median income.

Cities should work with the private and nonprofit sectors, counties, state agencies and the Metropolitan Council to ensure the best use of new and existing tools and resources to produce new housing and preserve existing affordable housing. Cities can facilitate the production and preservation of affordable and life cycle housing by:

- Applying for funding from available grant and loan programs;

- Using city and county funds to support affordable housing. This can include creating a local or regional housing trust fund to support affordable housing;

- Providing information, encouraging participation and incentivizing participation in the Section 8 Housing Choice Voucher program to landlords;

- Working with developers and residents to blend affordable housing into new and existing neighborhoods, including locations with access to amenities and services;

- Periodically examining local requirements, policies and review processes to determine their impacts on the construction of affordable housing;

- Considering criteria under which a city may change its fee structure in support of additional affordable housing;

- Supporting housing design that is flexible for residents at multiple stages of life;

- Periodically reviewing locally imposed development costs and policies;

- Employing innovative strategies to advance affordable housing needs such as public-private partnerships or creative packaging of regulatory relief and incentives;

- Using available regulatory mechanisms to shape housing communities;

- Recognizing inventory of subsidized and unsubsidized (naturally occurring) affordable housing; and

- Working collaboratively with buyers and sellers of naturally occurring affordable housing to retain affordability.

3-C Inclusionary Housing

While Metro Cities believes there are cost savings to be achieved through regulatory reform, density bonuses as determined by local communities, and fee waivers, Metro Cities does not believe a mandatory inclusionary housing approach can achieve desired levels of affordability solely through these steps. Several cities have established local inclusionary housing policies, in some cases requiring the creation of affordable units if the housing development uses public financial assistance or connecting the policy to zoning and land use changes. The Metropolitan Council, in distributing the regional allocation of housing need, must recognize both the opportunities and financial limitations of cities. The Council should partner with cities to facilitate the creation of affordable housing through direct financial assistance and/or advocating for additional resources through the Minnesota Housing Finance Agency.

Metro Cities supports the location of affordable housing in residential and mixed-use neighborhoods throughout a city. Metro Cities supports a city's authority to enact its own inclusionary housing policy. However, Metro Cities does not support passage of a mandatory inclusionary housing state law imposed on local governments that would require a certain percentage of units in all new housing developments to be affordable to households at specific income levels.

3-D Metropolitan Council Role in Housing

The Metropolitan Council is statutorily required to assist cities with meeting the provisions of the Land Use Planning Act (LUPA). The LUPA requires cities to adopt sufficient standards, plans and programs to meet their local share of the region's overall projected need for low and moderate-income housing. The Council's responsibilities include the preparation and adoption of guidelines and procedures to assist local government units with accomplishing the requirements of the LUPA.

The Metropolitan Council also offers programs and initiatives to create affordable housing opportunities, including the Livable Communities Act programs and operation of a metropolitan housing and redevelopment authority.

Unlike parks, transit and wastewater, housing is not a statutory regional system. The Metropolitan Council's role, responsibilities and authority are more limited in scope, centered on assisting local governments by identifying the allocation of need for affordable housing, projecting regional growth and identifying available tools, resources, technical assistance and methods that cities can use to create and promote affordable housing opportunities in their communities.

The Metropolitan Council should work in partnership with local governments to ensure that the range of housing needs for people at various life-cycle and incomes can be met. **Metro Cities opposes the elevation of housing to "Regional System" status. Metro Cities supports removing the Metropolitan Council's review and comment authority connected to housing revenue bonds under M.S. 462C.04.**

In 2014, the Metropolitan Council released a housing policy plan, the first of its kind in nearly 30 years. A housing policy plan should include defined local, regional and state roles for the provision of housing in all sectors, identify the availability of and need for tools and resources for affordable and lifecycle housing, be explicit in supporting partnerships for the advocacy for state and federal resources for housing, and encompass policies, best practices and technical guidance for all types of housing. A plan should also recognize the diversity in local needs, characteristics and resources.

Metro Cities supports strategies such as regional and sub-regional cooperation and the sharing of best practices among local governments and other entities and partners to address the region's affordable housing needs.

A policy plan should allow for ongoing research and analysis by the Metropolitan Council to provide communities with timely and updated information on regional and local housing needs and market trends as regional and local needs change and evolve. **Metro Cities supports the solicitation and use of local data, inputs and analyses and local governments' review of such data.**

Metro Cities supports continued city representation in any updated or new regional housing policy plan.

3-E Allocation of Affordable Housing Need

The allocation of affordable housing need methodology determines how many affordable housing units will be needed in the region and distributes the need by assigning each city its fair share through an affordable housing need number. M.S. 473.859 requires cities to guide sufficient land to accommodate local shares of the region's affordable housing need. **Metro Cities supports additional Metropolitan Council resources to assist cities in meeting cities' share of the region's affordable housing needs.**

Metro Cities supports the creation of a variety of housing opportunities. However, the provision of affordable and lifecycle housing is a shared responsibility between the private sector and government at all levels, including the federal government, state government and Metropolitan Council. Land economics, construction costs and infrastructure needs create barriers to the creation of affordable housing that cities cannot overcome without assistance.

Therefore, Metro Cities supports a Metropolitan Council affordable housing policy and allocation of need methodology that recognizes the following tenets:

- **Regional housing policies characterize individual city and sub-regional housing numbers as a range of needs in the community;**

- **Cities need significant financial assistance from the federal and state government, as well as the Metropolitan Council, to make progress toward creating additional affordable housing and preserving existing affordable housing;**

- **Metropolitan Council planning and policies must be more closely aligned to help ensure that resources for transportation and transit are available to assist communities in addressing their local share of the regional affordable housing need and to ensure that all populations have adequate mobility to reach jobs, education and other destinations regardless of where they live;**

- **The Metropolitan Council will not hold cities responsible if a city does not meet its affordable housing need number. However, efforts to produce affordable housing may be considered when awarding grants;**

- **The Metropolitan Council, with input by local government representatives, should examine the allocation of need methodology with respect to the relationship between the regional allocation and the local share of the need. The formula should also be routinely evaluated to determine if market conditions have changed or if underlying conditions should prompt readjustment of the formula;**

- **The Council should use a methodology that incorporates data accumulated by individual cities and not limited to census driven or policy driven growth projections;**

- **The formula should be adjusted to better reflect the balance and breadth of existing subsidized and naturally occurring affordable housing stocks; and**

- **The Council should work with local governments through an appeals process in order to resolve any local issues and concerns with respect to the need allocations.**

3-F Housing Performance Scores

The Metropolitan Council calculates a city's housing performance score annually. Scores are determined using an annual city survey as well as Council data. The Council uses city Housing Performance Scores when scoring the Regional Solicitation for federal transportation points and the Council's Livable Communities grant programs. Cities may review their own as well as other cities' Housing Performance Scores periodically to gauge recent activity on affordable housing preservation and new construction.

Metro Cities supports Housing Performance Score criteria that recognize varying local resource capacities, tools, programs and policies to support housing production and the market nature of housing development, and that do not limit cities to a prescriptive list of tools and policies. The criteria for determining the score should adequately recognize the current tools, policies and resources employed by local governments.

Metro Cities supports a process for local governments to review, comment on and appeal preliminary Housing Performance Scores as well as provide additional information to be used in calculating the scores.

Metro Cities supports a consistent schedule for sending the annual housing production survey to cities.

In considering Housing Performance Score uses and criteria:

- The Council should engage in a periodic review of the formula;

- Any proposed new or expanded uses or programs in which the Housing Performance Scores would be used should be reviewed by local officials; and

- The Council should recognize market factors such as downward economic cycles when setting timelines and look-backs in calculating recent affordable housing production.

3-G State Role in Housing

The state must be an active participant in providing funding for housing, including direct funding, financial incentives and initiatives to assist local governments and developers to support affordable housing and housing appropriate for people at all stages of life. State funding is a major and necessary component for the provision of housing. Current resource levels are insufficient to meet the spectrum of needs in the metropolitan region and across the state.

Primarily through programs administered by the Minnesota Housing Finance Agency (MHFA), the state establishes the general direction and prioritization of housing issues, and financially supports a variety of housing, including transitional housing, supportive housing, senior housing, workforce housing and family housing. Minnesota's low-income rental property classification, commonly known as class 4d, allows landlords to certify qualifying low-income rental property. The state must continue to be an active partner in addressing life cycle and affordable housing needs.

Workforce housing is generally defined as housing that supports economic development and job growth and is affordable to the local workforce. A statewide program, administered through the Minnesota Housing Finance Agency, supports workforce homeownership efforts in the metropolitan area. State policies and funding should recognize that affordable housing options that are accessible to jobs and meet the needs of a city's workforce, are important to the economic competitiveness of cities and the metro region. In addition, significant housing related racial disparities persist in Minnesota, especially as it relates to the percentage of households of color who pay more than 30 percent of their income in housing costs, and as it relates to the significant disparity gap in homeownership rates.

Metro Cities supports:

- **Increased, sustainable and adequate state funding for new and existing programs that support life cycle, workforce and affordable housing, address homeownership disparities, address foreclosure mitigation, address housing for families with children, and support senior, transitional and emergency housing for the metro region;**

- **A state match for local and regional housing trust fund investments and local policies in support of affordable housing. State funds should be issued on a timeline that works with a city's budget process;**

- **Private sector funding for workforce housing;**

- **Housing programs that assist housing development, preservation and maintenance of existing housing stock, including unsubsidized, naturally occurring affordable housing that is affordable to residents throughout the low-to-moderate income range;**

- **State funded housing programs, including rental assistance, to help with rent affordability;**

- **Housing programs designed to develop market rate housing in census blocks with emerging or high concentrations of poverty, where the private market might not otherwise invest, as a means of creating mixed-income communities and reconciling affordable housing with community development goals;**

- **Continuing the policy of using the Minnesota Housing Finance Agency's investment earnings for housing programs;**

- **City input into state legislation and administrative policies regarding distribution of tax credits and tax-exempt bonding;**

- **Exemptions from, or reductions to sales, use and transaction taxes applied to the development and production of affordable housing;**

- **Consideration of the use of state bond proceeds and other appropriations for land banking, land trusts, and rehabilitation and construction of affordable housing;**

- **Programs that help avoid foreclosures, improve homeownership rates and reduce racial disparities through homeownership assistance programs and counseling services, including pre-purchasing counseling to improve financial wellness and inform homeowners and potential homeowners of their rights, options and costs associated with owning a home;**

- **Preserving and expanding the state 4d low-income property tax program which provides a property tax benefit to qualifying low-income rental properties;**

- **An affordable housing tax credit to help spur construction and secure additional private investment. This incentive could be used in conjunction with city, regional, or other state incentives; and**

- **Maintaining existing municipal authority to establish a housing improvement area (HIA). If the Legislature grants multi-jurisdictional entities the authority to create HIAs,**

creation of an HIA must require municipal approval.

3-H Federal Role in Affordable and Workforce Housing

Federal funding plays a critical role in aiding states and local governments in their efforts to maintain and increase affordable and workforce housing. Providing working families access to housing is an important piece to the economic vitality of the region.

Metro Cities encourages the federal government to maintain and increase current levels of funding for affordable and workforce housing. Federal investment in affordable and workforce housing will maintain and increase the supply of affordable and life cycle housing as well as make housing more affordable through rental assistance programs such as the Section 8 housing choice voucher program.

In July 2015, the U.S. Department of Housing and Urban Development (HUD) released a final rule on affirmatively furthering fair housing (AFFH) with an aim to provide communities that receive HUD funding with clear guidelines to meet their obligation under the Fair Housing Act of 1968 to promote and reduce barriers to fair housing and equal opportunity. HUD has since provided new guidance to comply with the AFFH rule.

Opportunity Zones is a community development program established by Congress in the Tax Cuts and Jobs Act of 2017 to encourage long-term investments in low-income urban and rural communities nationwide. The Opportunity Zones program provides a tax incentive for investors to re-invest their unrealized capital gains into Opportunity Funds that are dedicated to investing into Opportunity Zones as designated by the chief executives of every state and territory in the United States. The tax incentive is available for up to ten years.

As the chief executive of the state of Minnesota, Governor Mark Dayton designated 128 census tracts across the state as Opportunity Zones, but beyond the responsibility for this designation the state does not have an additional role in the implementation of the Act. As the United States Treasury Department has yet to release rules for Opportunity Zones, there are many unknowns about the effects the Act will have on communities. It is anticipated that the Act may be a useful tool in spurring development in low-income communities and could help with business development and jobs. There are also questions about what impact the Act will have on the residents that live and businesses that operate in these communities today. For example, while development may have positive impacts such as increasing tax base or job opportunities, robust development could have unintended consequences such as displacement of current residents and businesses.

Metro Cities urges the federal government to seek regular input from communities, especially from individuals and businesses within Opportunity Zones, regarding how the tool is being used, whether the tool is encouraging new development opportunities, and how community members who live in the Zones are impacted. The Federal Government should seek input from local communities throughout the implementation of the rules and regulations and consider necessary amendments and adjustments as needed in response to potential questions or concerns raised by the communities whose residents, workers, and businesses will be experiencing the changes that

ensue in the Zones.

The State of Minnesota should utilize community development resources to stimulate investment in Opportunity Zones and adopt policies that ensure that local residents, workers and businesses benefit from the investments.

Metro Cities supports the following:

- **Preserving and increasing funding for the Community Development Block Grant Program (CDBG) and the federal HOME program that are catalysts for creating affordable housing;**

- **Preserving and increasing resources and incentives to sustain existing public housing throughout the Metro Area;**

- **Maintaining the federal tax credit program to help spur construction and secure additional private investment, including making the four percent Low Income Housing Tax Credit a fixed rate as was done with the nine percent credit in 2015;**

- **Creating and implementing a more streamlined procedural method for local units of government to participate in and access federal funding and services dealing with grants, loans, and tax incentive programs for economic and community development efforts;**

- **Additional resources to assist communities to meet obligations to reduce barriers to and promote fair housing and equal opportunity;**

- **Maintaining and increasing resources to Section 8 funding and to support incentives for rental property owners to participate in the program; and**

- **Federal funding to provide short-term assistance for HRAs to facilitate the sale of tax- exempt bonds.**

3-I Vacant, Boarded, and Foreclosed Properties and Properties at Risk

Abandoned residential and commercial properties can harm communities when vacant buildings result in reduced property values and increased crime. The additional public safety and code enforcement costs of managing vacant properties are a financial strain on cities.

Metro Cities supports solutions to vacant and boarded properties that recognize:

- **Prevention is more cost effective than a cure;**

- **The causes of this problem are many and varied, thus the solutions must be as well; and**

- **It is not simply a "city" problem so cities must not be expected to bear the bulk of the burden of mitigation.**

Further, Metro Cities supports:

- **Registration of vacant and boarded properties;**

- **Allowing cities to acquire vacant and boarded properties before deterioration and vandalism result in unsalvageable structures, including providing financial tools such as increasing eminent domain flexibility;**

- **Improvements to the cost assignment process to ensure that cities can recoup their costs of managing vacant properties;**

- **Improving the ability of cities to recoup the increased public safety and enforcement costs related to vacant properties;**

- **Improvement of the redemption process to provide increased notification to renters, strengthen the ability of homeowners to retain their properties, and reduce the amount of time a property is vacant;**

- **Expedition of the tax forfeiture process;**

- **Increasing financial tools for neighborhood recovery efforts, including tax increment financing; and**

- **Year-round notification by utility companies of properties not receiving utility service.**

3-J Housing Ordinance Enforcement

A Minnesota State Supreme Court ruling, Morris v. Sax, stated that provisions of the city of Morris' rental housing code were invalid because there were subjects dealt with under the state building code and the city was attempting to regulate these areas "differently from the state building code." M.S. 16B.6s subdivision 1 states: "The state building code applies statewide and supersedes the building code of any municipality. A municipality must not by ordinance or through development agreement require building code provisions regulating components or systems of any residential structure that are different from any provision of the state building code."

Metro Cities supports the ability of cities to enforce all housing codes passed by a local municipality to maintain its housing stock.

3-K Economic Development, Redevelopment and Workforce Readiness

The economic viability of the metro area is enhanced by a broad array of economic development tools that create infrastructure, revitalize previously developed property, provide incentives for business development, support technological advances, support a trained workforce, and address disparities in economic development and workforce development. It should be the goal of the state to champion development and redevelopment by providing enough sustainable funding to assure competitiveness in a global marketplace. The state should recognize the relationship between housing and economic development. Economic development and redevelopment are not mutually exclusive – some projects require a boost on both counts. The State of Minnesota should recognize cities as the primary unit of government responsible for the implementation of economic development, redevelopment policies and land use controls.

3-K (1) Economic Development

For purposes of this section, economic development is defined as a form of development that can contain direct business assistance, infrastructure development, technical assistance and policy support with the goal of sustainable job creation, job retention, appropriate state regulation or classification, or to nurture new or retain existing industry in the state. The measure of return on investment of public business subsidies should include the impact (positive or negative) of "spin-off development" or business development that is ancillary and supportive of the primary business.

A strength of the regional economy has been its economic diversity. GREATER MSP has identified multiple industry clusters and sectors that employ a specialized, trained workforce and support entrepreneurs in developing new businesses. Partnerships and collaborations among the state and local levels of government, higher education and industry should continue to develop, to commercialize new technologies and to support efforts to enhance the economic vitality of the region.

While cities are the primary unit of local government responsible for the implementation of economic development, counties have an interest in supporting local economic development efforts. Any creation of a county CDA, EDA or HRA with economic development powers should follow M.S. 469.1082 that requires a city to adopt a resolution electing to participate. Cities can work with the public and private sectors to support the region's economic growth by reducing barriers to economic participation by people of color.

Metro Cities supports state funded programs that support new and expanding businesses, infrastructure development and public-private partnerships. This includes the Minnesota Investment Fund, Job Creation Fund and Angel Tax Credit. Programs using statewide funding should strive to award funds balanced between the metro region and greater Minnesota. **Metro Cities supports competitive funding for statewide grant programs such as the Minnesota Investment Fund (MIF) as opposed to direct legislative appropriations for projects from these funds. Metro Cities supports a percentage of MIF loan repayments to cities.** The state should provide administrative support and technical assistance to cities that administer these programs. Applications for state MIF funds should allow a city to indicate support for a MIF grant or a loan.

Metro Cities supports economic tools that facilitate job growth without relying solely on the property tax base; green job development and related innovation and entrepreneurship; programs to support minority business start-ups; small business financing tools including a state new markets tax credit program mirrored on the federal program; tools to attract and retain data centers and other IT facilities; and maintaining existing municipal authority to establish a special service district (SSD). Metro Cities supports further study of allowing mixed-use buildings that have both commercial and residential uses to be included in an SSD.

3-K (2) Redevelopment

Redevelopment involves the development of land that requires "predevelopment." The goal of redevelopment is to facilitate the development of "pre-used" land, thereby leveling the playing field between greenfield and brownfield sites so that a private sector entity can rationally choose to locate on land that has already been used. The benefits of redevelopment include a decrease in Vehicle Miles Traveled (VMTs), more efficient use of new or existing public infrastructure (including public transit), ameliorated city costs due to public safety and code enforcement, and other public goods that result when land is reused rather than abandoned and compact development is encouraged.

Metro Cities supports increased funding from state and regional sources. The Metropolitan Council's Livable Communities Act programs fund redevelopment activities that support cleanup and tax base revitalization. **Metro Cities supports allowing a maximum levy amount for this program, as provided under law. Metro Cities supports increased and sustained general fund and state bond funds for DEED-administered programs like the Redevelopment Grant Program, dedicated to metropolitan area projects, innovative Business Development Public Infrastructure grants, as well as increased, flexible and sustained funding for the Contamination Cleanup and Investigation Grant Program.**

The expansion of transit service throughout the region brings opportunity for redevelopment and transit oriented development (TOD). **Metro Cities supports financing, regulatory tools and increased flexibility in the use of TIF to nurture TOD. Metro Cities supports funding Transit Improvement Areas (TIAs) and ensuring that the eligibility criteria encourage a range of improvements and infrastructure and accommodate varying city circumstances and needs.**

Correcting and stabilizing polluted soils and former landfill sites allows cities to redevelop and reuse properties. **Metro Cities supports expansion of existing tools or development of new funding mechanisms to correct unstable soils as well as city authority to redevelop land previously used as landfills and dumps.** If a city receives initial approval from a state regulatory authority, a city's redevelopment project approval should be considered final.

Local governments and cities may choose to revitalize historic structures rather than construct new buildings. **Metro Cities supports extension of the sunset of the state income tax credit and maintaining the federal tax credit for preservation of historic properties.**

Metro Cities supports state funding to allow cities and/or their development authorities to assemble small properties so that business expansion sites will be ready for future redevelopment.

3-K (3) Workforce Readiness

A trained workforce is important to a strong local, regional and state economy. Cities have an interest in the availability of qualified workers and building a future workforce based on current and future demographics, as part of their economic development efforts. Cities can work with the public and private sectors to address workforce readiness to include issues such as addressing racial disparities in achievement and employment gaps and the occupational gender gap. The state has a role to prepare and train a qualified workforce through the secondary, vocational and higher education systems and job training and retraining programs in the Department of Employment and Economic Development, including youth employment programs.

Metro Cities supports:

- **Increased funding for the Job Skills Partnership, youth employment programs and other workforce training programs administered by the state that lead to jobs that provide a living wage and benefits, and help address racial disparity gaps in employment;**

- **Innovative workforce programs and partnerships that foster workforce readiness for a full range of jobs and careers, including skilled municipal jobs and current high opportunity areas such as manufacturing and construction;**

- **Investments in programs that address the gender wage gap, including training for women to enter nontraditional careers;**

- **A payroll tax credit for job training programs that invest in employees; and**

- **A city's authority to tie workforce requirements to local public finance assistance.**

3-L Tax Increment Financing

Tax Increment Financing (TIF) continues to be the primary tool available for local communities to assist economic development, redevelopment and housing. Over time, statutory changes have made this critical tool increasingly difficult to use. At the same time, federal and state development and redevelopment resources have been steadily shrinking. The cumulative impact of TIF restrictions, shrinking federal and state redevelopment resources and highly restrictive eminent domain laws constrain cities' abilities to address problem properties, which leads to an accelerated level of decline of developed cities in the metropolitan area. Thus, the only source of revenue available to accomplish the scope of redevelopment necessary is the value created by the redevelopment itself, or the "increment." Without the use of the increment, development will either not occur or is unlikely to be optimal.

Metro Cities urges the Legislature to:

- **Not adopt any statutory language that would further constrain or directly or indirectly reduce the effectiveness of TIF;**

- **Not adopt any statutory language that would allow a county, school district or special taxing district to opt out of a TIF district;**

- **Incorporate the Soils Correction District criteria into the Redevelopment District criteria so that a Redevelopment District can be comprised of blighted and contaminated parcels in addition to railroad property;**

- **Expand the flexibility of TIF to support a broader range of redevelopment projects;**

- **Amend MN Statutes to clarify that tax increment pooling limitations are calculated on a cumulative basis;**

- **Increase the ability to pool increments from other districts to support projects;**

- **Continue to monitor the impacts of tax reform on TIF districts and if warranted provide cities with additional authority to pay for possible TIF shortfalls;**

- **Allow for the creation of transit zones and transit related TIF districts in order to shape development and related improvements around transit stations but not require the use of TIF districts to fund the construction or maintenance of the public transit line itself unless a local community chooses to do so;**

- **Allow TIF eligibility expansion to innovative technological products, recognizing that not only physical items create economic value;**

- **Support changes to TIF law that will facilitate the development of "regional projects";**

- **Shift TIF redevelopment policy away from a focus on "blight" and "substandard" to "functionally obsolete" or a focus on long range planning for a particular community, reduction in greenhouse gases or other criteria more relevant to current needs;**

- **Encourage DEED to do an extensive cost-benefit analysis related to redevelopment, including an analysis of the various funding mechanisms, and an analysis of where the cost burden falls with each of the options compared to the distribution of the benefits of the redevelopment project;**

- **Support TIF for neighborhood recovery efforts in the wake of the foreclosure crisis;**

- **Consider creating an inter-disciplinary TIF team to review local exception TIF**

proposals, using established criteria, and make recommendations to the legislature on their passage;

- **Encourage the State Auditor to continue to work toward a more efficient and streamlined reporting process. There are an increasing number of noncompliance notices that have overturned longstanding practices or limited statutorily defined terms. The Legislature has not granted TIF rulemaking authority to the State Auditor and the audit powers granted by statute are not an appropriate vehicle for making administrative or legislative changes to TIF statutes. If the State Auditor is to exercise rulemaking authority, the administrative power to do so must be granted explicitly by the Legislature. The audit enforcement process does not create a level playing field for cities to challenge the Auditor's interpretation of statutes. The Legislature should provide a process through which to resolve disputes over TIF policy that is fair to all parties;**

- **Clarify the use of TIF when a sale occurs after the closing of a district;**

- **Revise the substandard building test to simplify, resolve ambiguities and reduce continued threat of litigation; and**

- **Amend TIF statutes to address, through extending districts or other mechanisms, shortfalls related to declining market values during economic crises.**

3-M Eminent Domain

Significant statutory restrictions on the use of eminent domain have resulted in higher public costs for traditional public use projects like streets, parks, and sewers, and have all but restricted the use of eminent domain for redevelopment to cases of extreme blight or contamination.

The proper operation and long term economic vitality of our cities is dependent on the ability of a city, its citizens and its businesses to continually reinvest and reinvent. Reinvestment and reinvention strategies can occasionally conflict with the priorities of individual residents or business owners. Eminent domain is a critical tool in the reinvestment and reinvention process and without it our cities may deteriorate to unprecedented levels before the public reacts.

Metro Cities strongly encourages the Governor and Legislature to revisit eminent domain laws to allow local governments to address redevelopment problems before those conditions become financially impossible to address. **Specifically, Metro Cities supports:**

- **Clarifying contamination standards;**

- **Developing different standards for redevelopment to include obsolete structures or to reflect the deterioration conditions that currently exist in the metro area;**

- **Allowing for the assembly of multiple parcels for redevelopment projects;**

- **Modifying the public purpose definition under Chapter 117 to allow cities to more expediently address properties that are vacant or abandoned in areas with high levels of foreclosures, to address neighborhood stabilization and recovery;**

- **Providing for the ability to acquire land from "holdouts" who will now view a publicly funded project as an opportunity for personal gain at taxpayer expense; i.e. allow for negotiation using balanced appraisals for fair relocation costs;**

- **Examining attorney fees and limit fees for attorneys representing a property owner;**

- **Allowing for relocation costs not to be paid if the city and property owner agree to a sale contract;**

- **A property owner's appraisal to be shared with the city prior to a sale agreement; and**

- **Appropriately balanced awards of attorney fees and costs of litigation with the outcome of the eminent domain proceeding.**

3-N Community Reinvestment

Communities across the metropolitan region have aging residential and commercial structures that need repair and reinvestment. Reinvestment prevents neighborhoods from falling into disrepair, revitalizes communities and protects a city's tax base.

Metro Cities supports state programs and incentives for reinvestment in older residential and commercial/industrial buildings, such as, but not limited to, tax credits and/or property tax deferrals.

Historically, the state has funded programs to promote reinvestment in communities, including the "This Old House" program, that allowed owners of older homestead property to defer an increase in their tax capacity resulting from repairs or improvements to the home and "This Old Shop" for owners of older commercial/industrial property that make improvements that increase the property's market value.

3-O Business Incentives Policy

Without a thorough study, the Legislature should not make any substantive changes to the Business Subsidy Act, as defined in M.S. 116J.993, but should look to technical changes that would streamline both state and local processes and procedures. The Legislature should distinguish between development incentives and redevelopment activities. In addition, in order to ensure cohesive and comprehensive regulations, the legislature should limit regulation of business incentives to the Business Subsidy Act.

Metro Cities supports additional legislation that includes tools to help enhance and

facilitate economic development and job creation.

3-P Broadband Technology

Where many traditional economic development tools have focused on managing the costs and availability of traditional infrastructure - roads, rail and utilities - the 21st century economy is dependent on reliable, cost effective, high bandwidth communications capabilities. This includes voice, video, data and other services delivered over cable, telephone, fiber-optic, wireless and other platforms.

The state has increased its role in expanding broadband infrastructure across the state by funding broadband access for residents and businesses. The Governor's Broadband Task Force regularly recommends updates to state broadband speed goals and funding levels to expand statewide broadband access. The Office of Broadband Development in the Department of Employment and Economic Development supports the role of broadband in economic development. The Office coordinates broadband mapping and administers state broadband grant funds.

Cities play a vital role in achieving significantly higher broadband speeds. Local units of government are contributing to increasing broadband capacity and ensuring internet connectivity, reliability, and availability. However, attempts have been made in Minnesota and other states to restrict or stop cities from facilitating the deployment of broadband services or forming partnerships with private sector companies to provide broadband services to unserved or underserved residents or businesses. Restricting municipal authority is contrary to existing state law on electric utility service, telecommunications, and economic development. **Metro Cities opposes the adoption of state policies that further restrict a city's ability to finance, construct or operate broadband telecommunications networks.**

Metro Cities supports:

- **State policies and support programs that substantially increase speed and capacity of broadband services statewide, including facilitating solutions at the local level. The state should offer incentives to private sector service providers to respond to local or regional needs and to collaborate with cities and other public entities to deploy broadband infrastructure capable of delivering sufficient bandwidth and capacity to meet immediate and future local needs as well as policies which seek to position Minnesota as a state of choice for testing next-generation broadband;**

- **Metro eligibility for broadband funds, including increased capacity for areas with existing levels of service;**

- **Municipal authority and encouragement of local governments to play a direct role in providing broadband service. This includes repealing Minnesota Statute 237.19. The state should clarify that cities have the authority to partner with private entities to finance broadband infrastructure using city bonding authority;**

- **Local authority to manage public rights-of-way, to zone, to collect compensation for the use of public assets, or to work cooperatively with the private sector. Cities may exercise local authority over zoning and land-use decisions for wireless service facilities; and**

- **Public-private collaborations that support broadband infrastructure and services at the local and regional level, including partnerships and cooperation in providing last-mile connections.**

3-Q City Role in Environmental Protection and Sustainable Development

Historically, cities have played a major role in environmental protection, particularly in water quality. Through the construction and operation of wastewater treatment and storm water management systems, cities are a leader in protecting the surface water of the state. In recent years, increased emphasis has been placed on protecting ground water and removing impairments from storm water. In addition, there is increased emphasis on city participation in controlling our carbon footprint and in promoting green development.

Metro Cities supports public and private environmental protection efforts to reduce greenhouse gas emissions and to further protect surface and ground water. Metro Cities also supports "green" design and construction techniques to the extent that those techniques have been thoroughly tested and are truly environmentally beneficial, economically sustainable and represent sound building practices. Metro Cities supports additional, feasible environmental protection with adequate funding and incentives to comply.

Green jobs represent employment and entrepreneurial opportunities that are part of the green economy, as defined in M.S. 116J.437, including the four industry sectors of green products, renewable energy, green services and environmental conservation. Minnesota's green jobs policies, strategies and investments need to lead to high quality jobs with good wages and benefits, meeting current wage and labor laws.

3-R Impaired Waters

Metro Cities supports continued development of the metropolitan area in a manner that is responsive to the market, but is cognizant of the need to protect the water resources of the state and metro area. Since all types of properties are required to pay storm water fees, Metro Cities opposes entity-specific exemptions from these fees. Metro Cities supports the goals of the Clean Water Act and efforts at both the federal and state level to implement it.

Metro Cities supports continued funding of the framework established to improve the region's ability to respond to market demands for development and redevelopment, including dedicated funding for surface water impairment assessments, Total Maximum Daily Load (TMDL) development, storm water construction grants and wastewater construction grants.

Local units of government should not bear undue cost burdens associated with completed TMDL reports. As recent TMDL reports show, non-point agricultural sources are producing more run off pollution than urban areas at a rate of 13:1. Cities must not be required as primary entities for funding the clean-up and protection of state and regional water resources. Benefits of efforts must be proportional to the costs incurred and agricultural sources must be held responsible for their share of costs.

4-A Goals and Principles for Regional Governance

The Twin Cities metropolitan region is home to a majority of the state's population and businesses and is poised for significant growth in the next two decades. At the same time, the region faces significant challenges and opportunities. The responses to these opportunities and challenges will determine the future success of the region and its competitiveness in the state, national and world economies.

The Metropolitan Council was created to manage the growth of the metropolitan region, and cities are responsible for adhering to regional plans as they plan for local growth and service delivery.

The region's cities are the Metropolitan Council's primary constituency, with regional and local growth being primarily managed through city comprehensive planning and implementation, and the delivery of a wide range of public services. To function successfully, the Metropolitan Council must be accountable to and work in collaboration with city governments.

The role of the Metropolitan Council is to set broad regional goals and to provide cities with technical assistance and incentives to achieve those goals. City governments are responsible and best suited to provide local zoning, land use planning, development and service delivery. Any additional roles or responsibilities for the Metropolitan Council should be limited to specific statutory assignments or grants or authorization, and should not usurp or conflict with local roles or processes, unless such changes have the consent of the region's cities.

Metro Cities supports an economically strong and vibrant region, and the effective, efficient and equitable provision of regional infrastructure, services and planning throughout the metropolitan area.

Metro Cities supports the provision of approved regional systems and planning that can be provided more effectively, efficiently or equitably on a regional level than at the local level by individual local units of government.

The Metropolitan Council must involve cities in the delivery of regional services and planning and be responsive to local perspectives on regional issues, and be required to provide opportunities for city participation on Council advisory committees and task forces.

The Metropolitan Council must involve cities at all steps of planning, review and implementation around the regional development guide, policy plans, systems statements, and local comprehensive plan requirements to ensure transparency, balance and Council adherence to its core mission and functions. These processes should allow for stakeholder input before policies and plans are released for comment and finalized.

4-B Regional Governance Structure

Metro Cities supports the appointment of Metropolitan Council members by the Governor with four-year, staggered terms for members to stabilize ideological shifts and provide for continuity of knowledge on the Council, which is appropriate for a long-range planning body. The appointment of the Metropolitan Council Chair should coincide with the term of the Governor.

Metro Cities supports a nominating committee process that maximizes participation and input by local officials. Metro Cities supports expanding the nominating committee from seven to 13 members, with a majority of a 13-member committee being local elected officials. Of the local officials appointed to a nominating committee, two thirds should be elected city officials, appointed by Metro Cities.

Consideration should be given to the creation of four separate nominating committees, with committee representation from each quadrant of the region.

Metro Cities supports having the names of recommended nominees or other individuals under consideration for appointment to the Council by the Governor to be made public at least 21 days prior to final selection by the Governor, and a formal public comment period before members are appointed to the Council.

Metro Cities supports the appointment of Metropolitan Council members who have demonstrated the ability to work with cities in a collaborative manner and commit to meet with local government officials regularly, and who understand the diversity and the commonalities of the region, and the long-term implications of regional decision-making. A detailed position description outlining the required skills, time commitment and understanding of regional and local issues and concerns should be clearly articulated and posted in advance of the call for nominees.

4-C Comprehensive Analysis and Oversight of Metropolitan Council

Metro Cities supports the 2016 study of the Metropolitan Council's governance structure conducted by the Citizens League, the recommendations of which are largely consistent with Metro Cities' governance policies.

The metropolitan region will continue to expand while simultaneously facing significant challenges for the effective, efficient and equitable provision of resources and infrastructure. Metro Cities supports an objective study of the Metropolitan Council's activities and services as well as its geographical jurisdiction to ensure that the Metropolitan Council's services are positioned to be effective and adequate in addressing the future needs of the region. Such work must include the participation of local officials. The Metropolitan Council should also examine its scope of services to determine their benefit and efficiency, and be open to alternative methods of delivery to assure that services are provided at high levels of effectiveness for the region.

Metro Cities supports appropriate legislative oversight of the Metropolitan Council to

regularly review the Council's activities, and to provide transparency and accountability of its functions and operations.

4-D Funding Regional Services

The Metropolitan Council should continue to fund regional services and activities through a combination of user fees, property taxes, and state and federal grants. The Council should set user fees through an open process that includes public notices and public hearings. User fees should be uniform by type of user and set at a level that supports effective and efficient public services based on commonly accepted industry standards, and allows for sufficient reserves to ensure long-term service and fee stability. Fee proceeds should be used to fund regional services or programs for which they are collected.

Metro Cities supports the use of property taxes and user fees to fund regional projects so long as the benefit conferred on the region is proportional to the fee or tax, and the fee or tax is comparable to the benefit cities receive in return.

4-E Regional Systems

Regional systems are statutorily defined as transportation, aviation, wastewater treatment and recreational open space. The purpose of the regional systems and the Metropolitan Council's authority over them is clearly outlined in state law. The Metropolitan Council must seek a statutory change to alter the focus or expand the reach of any of these systems.

Systems plans prepared by the Metropolitan Council should be specific in terms of size, location and timing of regional investments to allow for consideration in local comprehensive planning. Systems plans should also clearly state the criteria by which local plans will be judged for consistency with regional systems.

Additional regional systems should be established only if there is a compelling metropolitan problem or concern best addressed through the designation. Common characteristics of the existing regional systems include public ownership of the system and its components and established regional or state funding sources. These characteristics should be present in any new regional system that might be established. Water supply and housing do not meet necessary established criteria for regional systems. Any proposed additional system must have an established regional or state funding source.

4-F Regional Water Supply Planning

The Metropolitan Council is statutorily authorized to carry out regional planning activities to address the water supply needs of the Metro Area. A Metropolitan Area Water Supply Advisory Committee that includes state agency representatives and local officials was concurrently established to assist the Council in developing a master water supply plan that includes recommendations for clarifying the roles of local, regional and state governments, streamlining and consolidating approval processes and recommending future planning and capital

investments. The Master Water Supply Plan serves as a framework for assisting and guiding communities in their water supply planning, without usurping local decision-making processes. Many cities also conduct their own analyses for use in water supply planning.

As the Metropolitan Council continues its assessment of the region's water supply and issues for sustainability, it must work cooperatively with local policymakers and professional staff throughout the region on an on-going structured basis to ensure a base of information for water supply decision making that is sound, credible and verifiable, and considers local information, data, cost-benefit analyses and projections before any policy recommendations are issued.

Metro Cities encourages the Metropolitan Council to consider the inter-relationships of wastewater treatment, storm water management and water supply. Any state and regional regulations and processes should be clearly stated in the Master Water Supply Plan. Further, regional monitoring and data collection benefits should be borne as shared expenses between the regional and local units of government.

Metro Cities supports Metropolitan Council planning activities to address regional water supply needs and water planning activities as prescribed in statute. Metro Cities opposes the insertion of the Metropolitan Council as another regulator in the water supply arena. Further, while Metro Cities supports regionally coordinated efforts to address water supply issues in the metropolitan area, Metro Cities opposes the elevation of water supply to "Regional System" status, or the assumption of Metropolitan Council control and management of municipal water supply infrastructure.

Metro Cities supported 2015 law changes that expanded municipal representation on the water supply advisory committee and eliminated the requirement that city comprehensive plans be consistent with the regional water supply plan. These laws serve to strengthen input and collaboration for water supply planning, and help to ensure sound scientific analyses and models are developed before legislative solutions to these issues are considered. **Metro Cities supports the technical advisory committee to the MAWSAC that maximizes participation by municipal officials.**

Metro Cities supports efforts to identify capital funding sources to assist with municipal water supply projects. Any fees or taxes for regional water supply planning activities must be consistent with activities prescribed in M.S. 473. 1565, and support activities specifically within the region.

4-G Review of Local Comprehensive Plans

In reviewing local comprehensive plans and plan amendments, the Metropolitan Council should:

- Recognize that its role is to review and comment, unless it is found that the local plan is more likely than not to have a substantial impact on or contain a substantial departure from one of the four system plans;

- Be aware of the statutory time constraints imposed by the Legislature on plan

amendments and development applications;

- Provide for immediate effectuation of plan amendments that have no potential for substantial impact on systems plans;

- Require the information needed for the Metropolitan Council to complete its review, but not prescribe additional content or format beyond that which is required by the Metropolitan Land Use Planning Act (LUPA);

- Work in a cooperative and timely manner toward the resolution of outstanding issues. **When a city's local comprehensive plan is deemed incompatible with the Metropolitan Council's systems plans, Metro Cities supports a formal appeals process that includes a peer review. Metro Cities opposes the imposition of sanctions or monetary penalties when a city's local comprehensive plan is deemed incompatible with the Metropolitan Council's systems plans or the plan fails to meet a statutory deadline when the city has made legitimate, good faith efforts to meet Metropolitan Council requirements;**

- Work with affected cities and other organizations such as the Pollution Control Agency, Department of Natural Resources, Department of Health and other stakeholders to identify common ground and resolve conflicts between respective goals for flexible residential development and achieving consistency with the Council's system plans and policies; and

- Require entities, such as private businesses, nonprofits, or local units of government, among others, whose actions could adversely affect a comprehensive plan, to be subject to the same qualifications and/or regulations as the city.

4-H Comprehensive Planning Process

Metro Cities supports continuing efforts to examine the comprehensive planning process to make sure that the process is streamlined and efficient and avoids excessive cost burdens or duplicative or unnecessary planning requirements by municipalities in the planning process. Metro Cities supports resources to assist cities in meeting regional goals as part of the comprehensive planning process, including planning grants and technical assistance.

Metro Cities supports funding and other resources from the Metropolitan Council for the preparation of comprehensive plan updates, including grant funding. Grants and other resources should be provided to all eligible communities through a formula that is equitable, and recognizes varying city needs and capacities.

4-I Comprehensive Planning Schedule

Cities are required to submit comprehensive plan updates to the Metropolitan Council every 10 years. A city's comprehensive plan represents a community's vision of how the city should grow and develop or redevelop, ensure adequate housing, provide essential public infrastructure and services, protect natural areas and meet other community objectives.

Metro Cities recognizes the merit of aligning comprehensive plan timelines with the release of census data. However, the comprehensive plan process is expensive, time consuming and labor intensive for cities, and the timing for the submission of comprehensive plans should not be altered solely to better align with census data. If sufficient valid reasons exist for the schedule for the next round of comprehensive plans to be changed or expedited, cities should be provided with financial resources to assist them in preparing the next round of plans.

Metro Cities opposes cities being forced into a state of perpetual planning because of regional and legislative actions. Should changes be made to the comprehensive planning schedule, Metro Cities' supports financial and other resources to assist cities in preparing and incorporating policy changes in local planning efforts.

Metro Cities supports a 10-year time frame for comprehensive plan update submissions.

4-J Local Zoning Authority

Local governments are responsible for zoning and local officials should have full authority to approve variances to remain flexible in response to the unique land use needs of their own community. Local zoning decisions, and the implementation of cities' comprehensive plans, should not be conditioned upon the approval of the Metropolitan Council or any other governmental agency.

Metro Cities supports local authority over land use and zoning decisions and opposes the creation of non-local appeals boards with the authority to supersede city zoning decisions.

4-K Regional Growth

The most recent regional population forecast prepared by the Metropolitan Council projects a population of 3,738,047 people by 2040.

Metro Cities recognizes cities' responsibility to plan for sustainable growth patterns that integrate transportation, housing, parks, open space and economic development that will result in a region better equipped to manage population growth, to provide a high quality of life for a growing and increasingly diverse metropolitan area population and improved environmental health.

In developing local comprehensive plans to fit within a regional framework, adequate state and regional financial resources and incentives, and maximum flexibility around local planning decisions are imperative. The regional framework should assist cities in managing growth while being responsive to the individual qualities, characteristics and needs of metropolitan cities, and should encourage sub-regional cooperation and coordination.

In order to accommodate this growth in a manner that preserves the region's high quality of life:

- Natural resource protection will have to be balanced with growth and development/reinvestment;

- Significant new resources will have to be provided for transportation and transit; and

- New households will have to be incorporated into the core cities, first and second-ring suburbs, and developing cities through both development and redevelopment.

In order for regional and local planning to result in the successful implementation of regional policies:

- The State of Minnesota must contribute additional financial resources, particularly in the areas of transportation and transit, community reinvestment, affordable housing development, and the preservation of parks and open space. If funding for regional infrastructure is not adequate, cities should not be responsible for meeting the growth forecast set forth by the Metropolitan Council;

- The Metropolitan Council and Legislature must work to pursue levels of state and federal transportation funding that are adequate to meet identified transportation and transit needs in the metropolitan area;

- The Metropolitan Council must recognize the limitations of its authority and continue to work with cities in a collaborative, incentives-based manner;

- The Metropolitan Council must recognize the various needs and capacities of its many partners, including but not limited to cities, counties, economic development authorities and nonprofit organizations, and its policies must be balanced and flexible in their approach;

- Metropolitan counties, adjacent counties and school districts must be brought more thoroughly into the discussion due to the critical importance of facilities and services such as county roads and public schools in accommodating forecasted growth; and

- Greater recognition must be given to the fact that the "true" metropolitan region extends beyond the traditional seven-county area and the need to work collaboratively with adjacent counties in Minnesota and Wisconsin, and the cities within those counties. The region faces environmental, transportation, and land use issues that cannot be solved by the seven-county metro area alone. **Metro Cities supports an analysis to determine the impacts of Metropolitan Council's growth management policies and infrastructure investments on the growth and development of the collar counties, and the impacts of growth in the collar counties on the metropolitan area.**

Metro Cities opposes statutory or other regulatory changes that interfere with established regional and local processes to manage growth in the metropolitan region, including regional systems plans, systems statements, and local comprehensive plans. Such changes erode local planning authority as well as the efficient provision of regional infrastructure, disregard established public processes, and create different guidelines for communities that may

result in financial, environmental and other impacts on surrounding communities.

4-L Natural Resource Protection

Metro Cities supports the Metropolitan Council's efforts to compile and maintain an inventory and assessment of regionally significant natural resources for providing local communities with additional information and technical assistance. The state and region play significant roles in the protection of natural resources. Any steps taken by the state or Metropolitan Council regarding the protection of natural resources must recognize that:

- The protection of natural resources is significant to a multi-county area that is home to more than 50 percent of the state's population and a travel destination for many more. Given the limited availability of resources and the artificial nature of the metropolitan area's borders, neither the region nor individual metropolitan communities would be well served by assuming primary responsibility for financing and protecting these resources;

- The completion of local Natural Resource Inventories and Assessments (NRI/A) is not a regional system nor is it a required component of local comprehensive plans under the Metropolitan Land Use Planning Act;

- The protection of natural resources should be balanced with the need to accommodate growth and development, reinvest in established communities, encourage more affordable housing and provide transportation and transit connections; and

- Decisions about the zoning or land use designations, either within or outside a public park, nature preserve or other protected area are, and should remain, the responsibility of local units of government.

The Metropolitan Council's role with respect to climate change, as identified in the 2040 regional development guide, should be focused on the stewardship of its internal operations (wastewater, transit) and working collaboratively with local governments to provide information, best practices, technical assistance and incentives around responses to climate change.

Metro Cities urges the Legislature and/or the Metropolitan Council to provide financial assistance for the preservation of regionally significant natural resources.

4-M Inflow and Infiltration (I/I)

The Metropolitan Council has identified a majority of sewered communities in the metropolitan region to be contributing excessive inflow and infiltration into the regional wastewater system or to be on the threshold of contributing excessive inflow and infiltration. Inflow and infiltration are terms for the ways that clear water (ground and storm) makes its way into sanitary sewer pipes and gets treated, unnecessarily, at regional wastewater plants. The number of identified communities is subject to change, depending on rain events, and any city in the metropolitan area can be affected.

The Metropolitan Council establishes a surcharge on cities determined to be contributing unacceptable amounts of I/I into the wastewater system. The charge is waived when cities meet certain parameters through local mitigation efforts.

Metro Cities recognizes the importance of controlling I/I because of its potential environmental and public health impacts, because it affects the size, and therefore the cost, of wastewater treatment systems and because excessive I/I in one city can affect development capacity of another. However, there is the potential for cities to incur increasingly exorbitant costs in their ongoing efforts to mitigate excessive I/I.

Metro Cities continues to monitor the surcharge program and supports continued reviews of the methodology used to measure excess I/I to ensure that the methodology appropriately normalizes for precipitation variability and the Council's work with cities on community specific issues around I/I.

Metro Cities supports state financial assistance for Metro Area I/I mitigation through future Clean Water Legacy Act appropriations or similar legislation and encourages the Metropolitan Council to partner in support of such appropriations. Metro Cities also supports resources, including identified best practices, information on model ordinances, public education and outreach, and other tools, to local governments to address inflow/infiltration mitigation for private properties.

Metro Cities recognizes the recommendations of a 2016 Inflow/Infiltration Task Force that support considering the use of a portion of the regional wastewater charge for private property inflow/infiltration mitigation. Any proposal to utilize the wastewater fee for this purpose must include the opportunity for local officials to review and comment on specific proposals.

Metro Cities supports continued state capital assistance to provide grants to metro area cities for mitigating inflow and infiltration problems into municipal wastewater collection systems.

4-N Sewer Availability Charge (SAC)

Metro Cities supports a SAC program that emphasizes equity, transparency, simplification and lower rates.

Metro Cities supports principles for SAC that include program transparency and simplicity, equity for all served communities and between current and future users, support for cities' sewer fee capacities, administrative reasonableness, and weighing any program uses for specific goals with the impacts to the program's equity, transparency and simplicity. As such, Metro Cities opposes the use of the SAC mechanism to subsidize and/or incent specific Metropolitan Council goals and objectives.

Metro Cities supports modifications to the SAC program recommended by a 2018 SAC Task Force and adopted by the Metropolitan Council to simplify the SAC determination

process by using gross rather than net square feet in making determinations, combining use categories, adjusting the grandfather credit date and not requiring a new SAC determination for business remodels that do not change the use of the property. These changes are intended to help simplify the SAC program for users, and to reduce incidents of "surprise" SAC charges.

Metro Cities supports current SAC policy that enhances flexibility in the SAC credit structure for redevelopment purposes, and supports continued evaluation of SAC fees to determine if they hinder redevelopment.

Metro Cities supports the Metropolitan Council providing details on how any changes to the SAC rate are determined. Metro Cities supports a periodic review of MCES' customer service policies, to ensure that its processes are responsive and transparent to communities, businesses and residents. Metro Cities supports continued outreach by MCES to users of the SAC program to promote knowledge and understanding of SAC charges and policies. Any modifications to the SAC program or structure should be considered only with the participation and input of local officials in the metropolitan region.

Metro Cities supports a "growth pays for growth" approach to SAC. If state statutes are modified to establish a "growth pays for growth" method for SAC, the Metropolitan Council should convene a group of local officials to identify any technical changes necessary for implementing the new structure.

Metro Cities supports allowing the Council to utilize the SAC 'transfer' mechanism provided for in state statute when the SAC reserve fund is inadequate to meet debt service obligations. Any use of the transfer mechanism must be done so within parameters prescribed by state law and with appropriate notification and processes to allow local official input and should include a timely 'shift back' of any transferred funds from the wastewater fund to the SAC reserve fund. Efforts should be made to avoid increasing the municipal wastewater charge in use of the transfer mechanism.

4-O Funding Regional Parks & Open Space

In the seven-county metropolitan area, regional parks essentially serve as state parks, and the state should continue to provide capital funding for the acquisition, development and improvement of these parks in a manner that is equitable with funding for state parks. State funding apart from Legacy funds should equal 40 percent of the operating budget for regional parks. Legacy funds for parks and trails should be balanced between metro and greater Minnesota.

Metro Cities supports state funding for regional parks and trails that is fair, creates a balance of investment across the state, and meets the needs of the region.

4-P Livable Communities

The Livable Communities Act (LCA) provides a voluntary, incentive-based approach to

affordable housing development, tax base revitalization, job growth and preservation, brownfield clean up and mixed-use, transit-friendly development, and redevelopment. **Metro Cities strongly supports the continuation of this approach, which is widely accepted and utilized by local communities.** Since its inception in 1995, the LCA program, administered by the Metropolitan Council, has generated billions of dollars of private and public investment, created thousands of jobs and added thousands of affordable housing units in the region.

Metro Cities supports the ongoing monitoring of the LCA programs and any necessary statutory changes to ensure that the LCA program criteria are flexible and promote the participation of all participating communities, and to ensure that all metropolitan area cities are eligible to participate in the Livable Communities Demonstration Account (LCDA).

Metro Cities supports increased funding and flexible eligibility requirements in the LCDA to assist communities with development that may not be exclusively market driven or market proven in the location, in order to support important development and redevelopment goals. Metro Cities supports the findings of a recent local-official working group that identified the need for the Metropolitan Council to expand its outreach to communities on the LCA programs and to continue efforts to ensure that LCA criteria are sufficiently flexible to meet the range of identified program objectives.

Metro Cities supports the statutory goals and criteria established for the Livable Communities Act and opposes any changes to LCA programs that constrain flexibility around statutory goals, program requirements and criteria.

Metro Cities opposes funding reductions to the Livable Communities Act programs and the transfer or use of these funds for purposes outside of the LCA program.

Metro Cities supports statutory modifications in the LCDA to reflect the linkages among the goals, municipal objectives, and Met Council system objectives.

Metro Cities supports the use of LCA funds for projects in transit improvement areas, as defined in statute, if funding levels for general LCA programs are adequate to meet program goals and the program remains accessible to participating communities.

Use of interest earnings from LCA funds should be limited to covering administrative program costs. Remaining interest earnings should be considered part of LCA funds and used to fund grants from established LCA accounts per established funding criteria.

4-Q Density

Metro Cities recognizes the need for a density policy, including minimum density requirements, that allows the Metropolitan Council to effectively plan for and deliver cost-efficient regional infrastructure and services. Regional density requirements must recognize that local decisions, needs and priorities vary, and that requirements must be sufficiently flexible to accommodate

local circumstances as well as the effect of market trends on local development and redevelopment activity.

The Metropolitan Council asks cities to plan for achieving minimum average net densities across all areas identified for new growth, development or redevelopment. Because each community is different, how and where density is guided is determined by the local unit of government. Regional density requirements should use minimum average net densities. **Metro Cities opposes parcel-specific density requirements as such requirements are contrary to the need for local flexibility in a regional policy.**

Any regional density policy must use local data and local development patterns and must accommodate local physical and land use constraints such as, but not limited to, wetlands, public open space, trees, water bodies and rights-of-way, and any corresponding federal and state regulations imposed on local governments when computing net densities.

The Metropolitan Council must coordinate with local governments in establishing or revising regional density requirements and should ensure that regional density and plat monitoring reports comprehensively reflect local densities and land uses.

Transportation Policies and Funding Introduction

Metro Cities supports a comprehensive transportation system as a vital component in planning for and meeting the physical, social and economic needs of the state and metropolitan region.

A comprehensive transportation system includes streets and bridges, transit, and multi-modal solutions that work cohesively to best meet state, regional and local transportation needs.

Adequate and stable sources of funding are necessary to ensure the development and maintenance of a high quality, efficient and safe transportation system that meets these needs and that will position the state and region to be economically competitive in the years ahead. Failure to maintain a functional transportation system will have adverse effects on the state's ability to attract and retain businesses and create jobs.

Transportation funding and planning must be a high priority for state, regional and local policymakers so that the transportation system can meet the needs of the state's residents and businesses as well as projected population growth. Funding and planning for regional and statewide systems must be coordinated at the federal, state, regional and local levels to optimally achieve long-term needs and goals.

5-A Road and Bridge Funding

Under current financing structures that rely primarily on local property taxes and fees as well as the motor vehicle sales tax (MVST) receipts, road and bridge needs in the metropolitan region continue to be underfunded. **Metro Cities strongly supports stable, sufficient and sustainable statewide transportation funding and expanded local tools to meet the transportation system needs of the region and local municipal systems.** Consideration should be given to using new, expanded and existing resources to meet these needs.

In addition, cities lack adequate tools and resources for the maintenance and improvement of municipal street systems, with resources restricted to property taxes and special assessments. It is imperative that alternative revenue generating authority be granted to municipalities and that state resources be made available for this purpose to aid local communities and relieve the burden on the property tax system. **Metro Cities supports Municipal State Aid Street (MSAS) funding.** MSAS provides an important but limited revenue source that assists eligible cities with street infrastructure needs and is limited to twenty percent of a city's street system.

Metro Cities supports state funding to assist cities over-burdened by cost participation responsibilities from improvement projects on the state's arterial system and county state aid highway (CSAH) systems.

Metro Cities supports state funding for state highway projects, including congestion, bottleneck and safety improvements. Metro Cities also supports state financial assistance, as well as innovations in design and construction, to offset the impacts of regional transportation construction projects on businesses.

Metro Cities opposes statutory changes restricting the use of local funds for transportation projects. Metro Cities opposes restrictions on aesthetic related components of transportation projects, as these components often provide important safety and other benefits to projects.

Metro Cities supports further research into the policy implications for electric and autonomous vehicles on roadways, transit, and other components of transportation systems. Metro Cities encourages the state to study the impact of electric and autonomous vehicles on transportation related funding and policies.

5-B Regional Transit System

The Twin Cities Metropolitan Area needs a multi-modal regional transit system as part of a comprehensive transportation strategy that serves all users, including commuters and the transit dependent. The transit system should be composed of a mix of High Occupancy Vehicle (HOV) lanes, High Occupancy Toll (HOT) lanes, a network of bike and pedestrian trails, Bus Rapid Transit, express and regular route bus service, exclusive transit ways, light rail transit, streetcars, and commuter rail corridors designed to connect residential, employment, retail and entertainment centers. The system should be regularly monitored and adjusted to ensure that routes of service correspond to the region's changing travel patterns.

Current congestion levels and forecasted population growth require a stable, reliable and growing source of revenue for transit construction and operations so that our metropolitan region can meet its transportation needs to remain economically competitive. **Metro Cities supports an effective, efficient and comprehensive regional transit system as an invaluable component in meeting the multimodal transportation needs of the metropolitan region and to the region's economic vibrancy and quality of life.** Metro Cities recognizes that transit service connects residents to jobs, schools, healthcare and activity centers. Transit access and service frequency levels should recognize the role of public transit in addressing equity, including but not limited to racial and economic disparities, people with disabilities and the elderly. **Metro Cities supports strategic expansion of the regional transit system.**

Metro Cities supports a regional governance structure that can ensure a measurably reliable and efficient system that recognizes the diverse transit needs of our region and addresses the funding needs for all components of the system.

Metro Cities recognizes the need for flexibility in transit systems for cities that border the edges of the seven-county metropolitan area to ensure users can get to destinations outside of the seven-county area. Metro Cities encourages the Metropolitan Council to coordinate with collar counties so that riders can get to and from destinations beyond the boundaries of the region.

5-C Transit Financing

The Twin Cities metropolitan area is served by a comprehensive regional transit system that is expanding to include rail transit and dedicated busways. Shifting demographics in the metropolitan region will mean increased demand for transit in areas with and without current transit service. **Metro Cities supports stable and growing revenue sources to fund operating and capital expenses for all regional transit providers and Metro Mobility at a level sufficient to meet the growing operational and capital transit needs of the region and to expand the system to areas that currently have insufficient transit options.** MVST revenue projections are unpredictable, and the Legislature has repeatedly reduced general fund support for Metro Transit. Thus, regional transit providers continue to operate at a funding deficit.

Operating subsidies necessary to support a regional system should come from regional and statewide funding sources and not local property taxpayers. In addition, capital costs for the expansion of regional transit system should be supported through state and regional sources, and not the sole responsibility of local units of government. **Metro Cities continues to support an advisory role for municipal officials in decisions associated with local transit projects.**

5-D Street Improvement Districts

Funding sources for local transportation projects are limited to the use of Municipal State Aid Street Program (MSAS), property taxes and special assessments. In addition, cities under 5,000 in population are not eligible for MSA. With increasing pressures on city budgets and limited tools and resources, cities are finding it increasingly difficult to maintain aging streets.

Street improvement districts allow cities in developed and developing areas to fund new construction as well as reconstruction and maintenance efforts.

The street improvement district is designed to allow cities, through a fair and objective fee structure, to create a district or districts within the city in which fees are raised on properties in the district and spent within the boundaries of the district. Street improvement districts would also aid cities under 5,000 with an alternative to the property tax system and special assessments.

Metro Cities supports the authority of local units of government to establish street improvement districts. Metro Cities also supports changes to special assessment laws to make assessing state-owned property a more predictable process with uniformity in the payment of assessments across the state.

5-E Highway Turnbacks & Funding

Cities do not have the financial capacity, other than through significant property tax increases, to absorb additional roadway responsibilities without new funding sources. The existing municipal turnback fund is not adequate based on contemplated turnbacks.

Metro Cities supports jurisdictional reassignment or turnback of roads (M.S. 161.16, Subd. 4), on a phased basis using functional classifications and other appropriate criteria subject

to a corresponding mechanism for adequate funding of roadway improvements and continued maintenance.

Metro Cities does not support the wholesale turnback of county or state roads without the consent of municipality and the total cost, agreed to by the municipality, being reimbursed to the city in a timely manner.

5-F "3C" Transportation Planning Process: Elected Officials' Role

The Transportation Advisory Board (TAB) was developed to meet federal requirements, designating the Metropolitan Council as the organization that is responsible for a continuous, comprehensive and cooperative (3C) transportation planning process to allocate federal funds among metropolitan area projects. Input by local officials into the planning and prioritization of transportation investments in the region is a vital component of these processes.

Metro Cities supports continuation of the TAB with a majority of locally elected municipal officials as members and participating in the process.

5-G Electronic Imaging for Enforcement of Traffic Laws

Enforcement of traffic laws with cameras and other motions imaging technology has been demonstrated to improve driver compliance and safety.

Metro Cities supports local law enforcement agencies having the authority to use such technology, including photos and videos, to enforce traffic laws.

5-H Transportation Network Companies and Alternative Transportation Modes

The introduction of transportation network companies (TNC) such as Lyft and Uber, vehicle sharing and other wheeled transportation modes such as bicycles and scooters, require the need for local officials to determine licensing and inspection requirements for these modes, and to address issues concerning management over public rights-of-way. Cities have the authority to license rideshare companies, inspect vehicles, license drivers and regulate access to sidewalks and streets.

Metro Cities supports the ability of local officials to regulate these transportation modes. Emerging and future transportation technologies have potentially significant implications for local public safety and local public service levels, the needs and impacts of which vary by community.

5-I Airport Noise Mitigation

Acknowledging that the communities closest to MSP and reliever airports are significantly impacted by noise, traffic and other numerous expansion-related issues:

- **Metro Cities supports the broad goal of providing MSP-impacted communities greater representation on the Metropolitan Airports Commission (MAC).** Metro Cities wants to encourage continued communication between the MAC commissioners and the cities they represent. Balancing the needs of MAC, the business community and airport host cities and their residents requires open communication, planning and coordination. Cities must be viewed as partners with the MAC in resolving the differences that arise out of airport projects and the development of adjacent parcels. Regular contact between the MAC and cities throughout the project proposal process will enhance communication and problem solving. The MAC should provide full funding for noise mitigation for all structures in communities impacted by flights in and out of MSP; and

- **Metro Cities supports noise abatement programs and expenditures and the work of the Noise Oversight Committee to minimize the impacts of MAC operated facilities on neighboring communities.** The MAC should determine the design and geographic reach of these programs only after a thorough public input process that considers the priorities and concerns of impacted cities and their residents. The MAC should provide full funding for noise mitigation for all structures in communities impacted by flights in and out of MSP.

5-J Funding for Non-Municipal State Aid (MSAS) City Streets

Cities under 5,000 in population do not directly receive any non-property tax funds for collector and arterial streets. Cities over 5,000 residents have limited eligibility for dedicated Highway User Tax Distribution Fund dollars, which are capped by the state constitution as being available for up to twenty percent of streets. Current County State Aid Highway (CSAH) distributions to metropolitan counties are inadequate to provide for the needs of smaller cities in the metropolitan area. Possible funding sources include the five-percent set-aside account in the Highway User Tax Distribution Fund, modification to county municipal accounts, street improvement districts, and/or state general funds.

The 2015 Legislature created a Small Cities Assistance Account that is distributed through a formula to cities with populations under 5,000. While the account will remain in statute, future appropriations will have to be appropriated by future legislatures.

Cities need long-term, stable, funding for street improvements and maintenance. **Metro Cities supports additional resources and flexible policies to meet local infrastructure needs and increased demands on city streets. Metro Cities also supports sustainable state funding sources for non-MSAS city streets, including funding for the Small Cities Assistance Account as well as support for the creation and funding of a Large Cities Assistance Account.**

5-K County State Aid Highway (CSAH) Distribution Formula

Significant resource needs remain in the metro area CSAH system. Revenues provided by the Legislature for the CSAH system have resulted in a higher number of projects being completed,

however, greater pressure is being placed on municipalities to participate in cost sharing activities, encumbering an already over-burdened local funding system. When the alternative is not building or maintaining roads, cities bear not only the costs of their local systems but also pay upward of fifty percent of county road projects. **Metro Cities supports special or additional funding for cities that have burdens of additional cost participation in projects involving county roads.**

CSAH eligible roads were designated by county engineers in 1956 and although only 10 percent of the CSAH roads are in the metro area, they account for nearly 50 percent of the vehicle miles traveled. The CSAH formula passed by the Legislature in 2008 increased the amount of CSAH funding for the metropolitan area from 18 percent in 2007 to 21 percent in 2011. The formula helps to better account for needs in the metropolitan region, but is only the first step in addressing needs for additional resources for the region.

Metro Cities supports a new CSAH formula more equitably designed to fund the needs of our metropolitan region.

5-L Municipal Input/Consent for Trunk Highways and County Roads

State statutes direct the Minnesota Department of Transportation (MnDOT) to submit detailed plans, with city cost estimates, at a point one-and-a-half to two years prior to bid letting, at which time public hearings are held for community input. If MnDOT does not concur with requested changes, it may appeal. Currently, that process would take a maximum of three and a half months and the results of the appeals board are binding on both the city and MnDOT.

Metro Cities supports the municipal consent process, and opposes changes to weaken municipal consent or adding another level of government to the consent process. Metro Cities opposes changes to current statutes that would allow MnDOT to disregard the appeals board ruling for state trunk highways. Such a change would significantly minimize MnDOT's need to negotiate in good faith with cities for appropriate project access and alignment and would render the public hearing and appeals process meaningless. **Metro Cities also opposes the elimination of the county road municipal consent and appeal process for these reasons.**

5-M Plat Authority

Current law grants counties review and comment authority for access and drainage issues for city plats abutting county roads.

Metro Cities opposes any statutory change that would grant counties veto power or that would shorten the 120-day review and permit process time.

5-N MnDOT Maintenance Budget

The state has failed in its responsibility for maintaining major roads throughout the state by

requiring, through omission, that cities bear the burden of maintaining major state roads.

MnDOT should be required to meet standards adopted by cities through local ordinances, or reimburse cities for labor, equipment and material used on the state's behalf to improve public safety or meet local standards. Furthermore, if a city performs maintenance, the city should be fully reimbursed.

Metro Cities supports MnDOT taking full responsibility for maintaining state-owned infrastructure and property, including, but not limited to, sound walls and right of way, within city limits. Metro Cities supports cooperative agreements between cities and MnDOT, which have proven to be effective in other parts of the state.

5-O Transit Taxing District

The transit taxing district, which funds the capital cost of transit service in the Metropolitan Area through the property tax system, is inequitable. Because the boundaries of the transit taxing district do not correspond with any rational service line nor is being within the boundaries a guarantee to receive service, cities within and outside of the taxing district are contributing unequally to the transit service in the Metropolitan Area. This inequity should be corrected.

Metro Cities supports a stable revenue source to fund both the capital and operating costs for transit at the Metropolitan Council. However, Metro Cities does not support the expansion of the transit taxing district without a corresponding increase in service and an overall increase in operational funds. To do so would create additional property taxes without a corresponding benefit.

5-P Complete Streets

A complete street may include: sidewalks, bike lanes (or wide paved shoulders), special bus lanes, comfortable and accessible public transportation stops, frequent and safe crossing opportunities, median islands, accessible pedestrian signals, curb extensions, narrower travel lanes and more.

A complete street in a rural area will differ from a complete street in a highly urban area, but both are designed to balance safety and convenience for everyone using the road.

Metro Cities supports options in state design guidelines for complete streets that would give cities greater flexibility to:

- **Safely accommodate all modes of travel;**
- **Lower traveling speeds on local streets;**
- **Address city infrastructure needs; and**

- **Ensure livability in the appropriate context for each city.**

Metro Cities opposes state-imposed mandates that would increase street infrastructure improvement costs in locations and instances where providing access for alternative modes including cycling and walking are deemed unnecessary or inappropriate as determined by local jurisdictions.

Committee Rosters

Municipal Revenue & Taxation

Patrick Trudgeon (Chair), City Manager, Roseville

Sasha Bergman, Government Relations Representative, Minneapolis
Brooke Bordson, Senior Project Coordinator, Metropolitan Council
Gary Carlson, IGR Director, League of MN Cities
Heather Corcoran, IGR Member Relations Coordinator, League of MN Cities
Bill Coughlin, Councilmember, Burnsville
Bob Crawford, Mayor, Elko New Market
Jim Dickinson, City Administrator, Andover
Lori Economy-Scholler, Chief Financial Officer, Bloomington
LaTonia Green, Finance Director, Brooklyn Park
Dana Hardie, Administrative Services Director, Burnsville
Lisa Herbert, Finance Director, Rogers
Laurie Hokkanen, Administrative Services Director, Plymouth
Judy Johnson, Councilmember, Plymouth
Merrill King, Finance Director, Minnetonka
Tom Lawell, City Administrator, Apple Valley
Melissa Lesch, Senior Government Relations Representative, Minneapolis
Dean Lotter, City Manager, New Brighton
Kristi Luger, City Manager, Excelsior
Anne Mavity, Councilmember, St. Louis Park
Madeline Mitchell, Budget Analyst, St. Paul
Noel Nix, Intergovernmental Relations Deputy Director
Candy Petersen, Councilmember, North St. Paul
Gene Ranieri, IGR Director, Minneapolis
Steven Stahmer, City Administrator, Rogers
Matt Stemwedel, City Manager, Coon Rapids
Jay Stroebel, City Manager, Brooklyn Park
ThaoMee Xiong, Intergovernmental Relations Director, St. Paul

Housing & Economic Development

Bryan Hartman (Chair), HRA Program Manager, Bloomington

Patty Acomb, Councilmember, Minnetonka
Myron Bailey, Mayor, Cottage Grove
Karl Batalden, Housing & Economic Development Coordinator, Woodbury
Ryan Baumtrog, Assistant Commissioner of Policy and Community Development, Housing Finance Agency
Sasha Bergman, Government Relations Representative, Minneapolis
Brooke Bordson, Senior Project Coordinator, Metropolitan Council
Connie Buesgens, Councilmember, Columbia Heights
Heather Corcoran, IGR Member Relations Coordinator, League of MN Cities
Nathan Coulter, Councilmember, Bloomington
Bob Crawford, Mayor, Elko New Market
Molly Cummings, Mayor, Hopkins
Darielle Dannen, Government Relations Director, DEED
Sue Denkinger, Councilmember, Shoreview
Jenni Faulkner, Community Development Director, Burnsville
Jason Gadd, Councilmember, Hopkins
Ben Gozola, Assistant Director of Community Assets and Development, New Brighton
Shannon Guernsey, Executive Director, MN NAHRO
Janice Gundlach, Planning Director, New Brighton
Eric Anthony Johnson, Community Development Director, Bloomington
Judy Johnson, Councilmember, Plymouth
Steve Juetten, Community Development Director, Plymouth
Irene Kao, Intergovernmental Relations Counsel, League of MN Cities
Melissa Lesch, Senior Government Relations Representative, Minneapolis
Brad Martens, City Administrator, Corcoran
Patrick Martin, Councilmember, Bloomington
Anne Mavity, Councilmember, St. Louis Park
Melanie Mesko Lee, City Administrator, Hastings
Bill Neuendorf, Economic Development Manager, Edina
Noel Nix, Intergovernmental Relations Deputy Director
Rebecca Noecker, Councilmember, St. Paul
Bruce Nordquist, Community Development Director, Apple Valley
Loren Olson, Government Relations Representative, Minneapolis
Margaret Rog, Councilmember, St. Louis Park
Dan Ryan, Councilmember, Brooklyn Center
Cara Schulz, Councilmember, Burnsville
Jonathan Stanley, Housing and Community Services Manager, Eden Prairie
Bob Streetar, Community Development Director, Oakdale
Julie Wischnack, Community Development Director, Minnetonka
Barb Wolff, Community Development Office Supervisor, Bloomington
ThaoMee Xiong, Intergovernmental Relations Director, St. Paul
Laura Ziegler, IGR Liaison, League of MN Cities

Metropolitan Agencies

Susan Arntz (Chair), City Administrator, Waconia

Myron Bailey, Mayor, Cottage Grove
Sasha Bergman, Government Relations Representative, Minneapolis
Brooke Bordson, Senior Project Coordinator, Metropolitan Council
Deb Calvert, Councilmember, Minnetonka
Bob Crawford, Mayor, Elko New Market
Jim Dickinson, City Administrator, Andover
Steve Elkins, Councilmember, Metropolitan Council
Jerry Faust, Mayor, St. Anthony Village
Tom Goodwin, Councilmember, Apple Valley
Gary Hansen, Councilmember, Eagan
Dana Hardie, Administrative Services Director, Burnsville
Elizabeth Kautz, Mayor, Burnsville
Melissa Lesch, Senior Government Relations Representative, Minneapolis
Devin Massopust, Assistant City Manager, New Brighton
Tim McNeil, Mayor, Dayton
Noel Nix, Intergovernmental Relations Deputy Director
Loren Olson, Government Relations Representative, Minneapolis
Gene Ranieri, Intergovernmental Relations Director, Minneapolis
Dan Ryan, Councilmember, Brooklyn Center
ThaoMee Xiong, Intergovernmental Relations Director, St. Paul
Nyle Zikmund, City Administrator, Mounds View

Transportation & General Government

Jason Gadd (Chair), Councilmember, Hopkins

Susan Arntz, City Administrator, Waconia
Geralyn Barone, City Manager, Minnetonka
Sasha Bergman, Government Relations Representative, Minneapolis
Brooke Bordson, Senior Project Coordinator, Metropolitan Council
Connie Buesgens, Councilmember, Columbia Heights
Maria Carillo-Perez, Management Assistant, St. Louis Park
Heather Corcoran, IGR Member Relations Coordinator, League of MN Cities
Bob Crawford, Mayor, Elko New Market
Steve Elkins, Councilmember, Metropolitan Council
Robert Ellis, Public Works Director, Eden Prairie
Steve Fletcher, Councilmember, Minneapolis
Bruce Gorecki, Councilmember, Rogers
Charles Grawe, Assistant City Administrator, Apple Valley
Mary Hamann-Roland, Mayor, Apple Valley
Gary Hansen, Councilmember, Eagan
Chris Hartzell, City Engineer, South St. Paul
Jon Haukaas, Public Works Director, Blaine
Marvin Johnson, Mayor, Independence
Irene Kao, Intergovernmental Relations Counsel, League of MN Cities
Dan Kealey, Councilmember, Burnsville
Melissa Lesch, Senior Government Relations Representative, Minneapolis
Ann Lindstrom, Intergovernmental Relations Representative, League of MN Cities
Mark Maloney, Public Works Director, Shoreview
Tom McCarty, City Administrator, Stillwater
Mary McComber, Mayor, Oak Park Heights
Mark McNeill, City Administrator, Mendota Heights
Andi Moffatt, Councilmember, Lauderdale
Heidi Nelson, City Administrator, Maple Grove
Noel Nix, Intergovernmental Relations Deputy Director
Loren Olson, Government Relations Representative, Minneapolis
Ryan Peterson, Public Works Director, Burnsville
Katie Rodriguez, Councilmember, Metropolitan Council
Dan Ruiz, Operations and Maintenance Director, Brooklyn Park
Dan Ryan, Councilmember, Brooklyn Center
Craig Schlichting, Community Assets and Development Director, New Brighton
Nora Slawik, Mayor, Maplewood
Michael Thompson, Public Works Director, Plymouth
George Tourville, Mayor, Inver Grove Heights
Kevin Watson, City Administrator, Vadnais Heights
ThaoMee Xiong, Intergovernmental Relations Director, St. Paul
Nyle Zikmund, City Administrator, Mounds View

LEAGUE OF MINNESOTA CITIES

2019 LEGISLATIVE PRIORITIES

The League of Minnesota Cities promotes excellence in local government through effective advocacy, expert analysis, and trusted guidance for all 853 Minnesota cities.

MinnesotaCities

MinnesotaCities #LMCleg

www.lmc.org

City Street Funding

The League calls for a dedicated and sustainable state funding source for non-Municipal State Aid city streets, legislation that would allow cities to create street improvement districts, and grant funding for cities burdened by cost participation requirements.

Housing

The League supports funding for workforce housing and affordable housing programs, including resources in a bonding bill.

Infrastructure Fees

The League supports legislation that will give cities the ability to impose infrastructure fees so new development pays its fair share of public infrastructure needed to serve growing communities.

Local Control

The League opposes legislation that erodes local control in cities across Minnesota.

Local Government Aid Funding

The League calls for a restoration of the local government aid system to at least the 2003 certified level of $586.8 million.

Police and Fire Disability Benefits

The League supports fully funding the Public Safety Officers Benefit Account to reimburse local units of government for the cost of health insurance benefits for firefighters and peace officers injured in the line of duty, and for dependents of officers killed in the line of duty.

Presidential Primary

The League supports legislation to expand eligible reimbursements, limit party affiliation data dissemination to political parties only, and allow for mail balloting.

Sales Tax Exemption on Construction Materials

The League supports legislation to streamline the process required for cities to secure the sales tax exemption on construction materials.

Telecommunications

The League supports a balanced approach to telecommunications policy that allows new technologies to flourish while preserving local regulatory authority.

Urban Forest Management Funding

The League supports at least $5 million per year for a state matching grant program to assist cities with emerald ash borer, and to build cities' capacity to respond to other catastrophic urban forest problems.

Water Policy and Funding

The League supports technical and financial resources needed for drinking water, stormwater, and wastewater infrastructure. The League will continue to work to ensure that non-city water users are held accountable for their impacts on water quality and quantity.

©2019 League of Minnesota Cities. All Rights Reserved.

LEAGUE OF MINNESOTA CITIES

WWW.LMC.ORG/PRIORITIES19

LEAGUE OF MINNESOTA CITIES

2019
City Policies

For Legislative and
Administrative Action

Adopted November 15, 2018

The only comprehensive statewide advocacy agenda for all Minnesota cities

LEAGUE OF MINNESOTA CITIES

This document is available in the Legislative Action Center on the League's website at ***www.lmc.org/policies***

Copyright © 2018 League of Minnesota Cities.
All rights reserved.



League of Minnesota Cities
145 University Avenue West • St. Paul, MN 55103-2044
(651) 281-1200 • (800) 925-1122 • Fax: (651) 281-1299
TDD: (651) 281-1290 • www.lmc.org

Table of Contents

LMC INTERGOVERNMENTAL RELATIONS STAFF vi

2018 LMC POLICY COMMITTEE MEMBERS vii
Improving Service Delivery vii
Improving Local Economies vii
Human Resources & Data Practices viii
Improving Fiscal Futures ix

LMC POLICY DEVELOPMENT PROCESS xi

PURPOSE, PROCESS & PRINCIPLES OF CITY POLICIES xii

IMPROVING SERVICE DELIVERY 1
SD- 1. Local Control 1
SD- 2. Unfunded Mandates 1
SD- 3. Local Approval of Special Laws 1
SD- 4. Redesigning and Reinventing Government 2
SD- 5. State Government Shutdowns 3
SD- 6. Duration of Conservation Easements 3
SD- 7. Responsibility for Locating Private Underground Facilities 4
SD- 8. Utility Relocation Under Design-Build Road Construction 5
SD- 9. National Fire Protection Association (NFPA) Standards 5
SD- 10. Fire Mutual Aid 6
SD- 11. Clarification of Joint Powers Relationships with Federally Recognized Indian Tribes. 6
SD- 12. Ambulance Service Costs and Liability 7
SD- 13. Fees for Service 8
SD- 14. Improving and Increasing Citizen Access to Information 8
SD- 15. Administrative Fines for Code Violations 9
SD- 16. Contracting and Purchasing 10
SD- 17. City Enterprise Operations 11
SD- 18. Preservation of Order in City Council Meetings 11
SD- 19. Constitutional Amendments 11
SD- 20. Initiative and Referendum 12
SD- 21. Civil Liability of Local Governments 12
SD- 22. Private Property Rights and Takings 13
SD- 23. Organized Solid Waste Collection 14
SD- 24. Private Well Drilling 15
SD- 25. Sustainable Development 15
SD- 26. Construction Codes 17

SD- 27. Building Officials 18
SD- 28. Disability Access Requirements 18
SD- 29. Assaults on Code Inspectors and Officials 19
SD- 30. Restrictions on Possession of Firearms 20
SD- 31. Public Safety Communications 20
SD- 32. CriMNet 21
SD- 33. Pawn Shop Regulation and Use of the Automated Property System (APS) 22
SD- 34. City Costs for Enforcing State and Local Laws 23
SD- 35. Compensation and Reimbursement for Public Safety Services 23
SD- 36. Administrative Traffic Citations 24
SD- 37. Driver Diversion Programs 25
SD- 38. Distracted Driving 26
SD- 39. Juveniles in Municipal Jails 26
SD- 40. Justice System Funding 26
SD- 41. 21st Century Policing 27
SD- 42. Post-Incarceration Living Facilities 28
SD- 43. Homeland Security Costs and Liability 29
SD- 44. Cybersecurity 29
SD- 45. Immigration Reform 30
SD- 46. Legalization of Fireworks 30
SD- 47. Traffic Enforcement Cameras 31
SD- 48. Operation of Motorized Foot Scooters 31
SD- 49. Electric Personal Assistive Mobility Devices and Electric Vehicles Operation While Impaired 32
SD- 50. Drug Courts 32
SD- 51. Methamphetamine 33
SD- 52. Drug Paraphernalia 33
SD- 53. Regulation of Massage Therapists 34
SD- 54. Lawful Gambling and Local Control 35
SD- 55. Liquor Liability Insurance Limits 35
SD- 56. On-Sale Liquor or Wine Licenses to Cultural Centers 36
SD- 57. Wine and Off-Sale Licenses 36
SD- 58. Youth Access to Alcohol and Tobacco 36
SD- 59. Smoking Ban Ordinances 37
SD- 60. Regulation of Mobile Businesses 37
SD- 61. Regulation of Party Buses and Boats-for-Hire 38
SD- 62. Environmental Protection 39
SD- 63. Impaired Waters 40
SD- 64. Municipal Public Water Supplies 42
SD- 65. Municipal Electric Utilities 43
SD- 66. State Support for Municipal Energy Policy Goals 44
SD- 67. Urban Forest Management Funding 45
SD- 68. Election Issues 45
SD- 69. Administering Absentee Balloting 46
SD- 70. Felon Voting Rights 47
SD- 71. Write-in Candidates in City Elections 48

SD- 72. Ranked Choice Voting 48
SD- 73. Posting Campaign Finance Reports Online....48
SD- 74. Electronic Rosters....49
SD- 75. Election Judge Recruitment and Retention 49
SD- 76. Mail Balloting....50
SD- 77. Modernizing Charter Amendment Process 50
SD- 78. Presidential Primary 51

IMPROVING LOCAL ECONOMIES 52
LE- 1. Growth Management and Annexation....52
LE- 2. Wildlife Management Areas....53
LE- 3. Official State Mapping Responsibility 53
LE- 4. Electric Service Extension....54
LE- 5. Statutory Approval Timelines 54
LE- 6. Maintenance of Retaining Walls Adjacent to Public Rights of Way 55
LE- 7. Development Disputes....56
LE- 8. Foreclosure and Neighborhood Stabilization 56
LE- 9. Resources for Affordable Housing....58
LE- 10. Energy Efficiency Improvement Requirements for Housing 59
LE- 11. In-Home Day Care Facilities....61
LE- 12. Residential Programs....61
LE- 13. Inclusionary Housing....62
LE- 14. Community Land Trusts....63
LE- 15. Telecommunications and Information Technology....63
LE- 16. Broadband....63
LE- 17. Competitive Cable Franchising Authority....65
LE- 18. Right-of-Way Management....66
LE- 19. Wireless Infrastructure and Equipment Siting....67
LE- 20. County Economic Development Authorities....67
LE- 21. Local Appropriations to Economic Development Organizations....67
LE- 22. Workforce Readiness....68
LE- 23. Business Development Programs 68
LE- 24. Land Recycling and Redevelopment....69
LE- 25. Development Authority Levy Limits 70
LE- 26. Tax Increment Financing (TIF) 70
LE- 27. Property Tax Abatement Authority 71
LE- 28. Opportunity Zones....72
LE- 29. Revisions to the OSA Audit Function 73
LE- 30. OSA Time Limitations 73
LE- 31. Workforce Housing 74
LE- 32. Development Along Transit Corridors 75
LE- 33. Public Infrastructure Utilities 76
LE- 34. Adequate Funding for Transportation 77
LE- 35. Turnbacks of County and State Roads 78
LE- 36. MnDOT Rights-of-Way Maintenance....78
LE- 37. Funding for Non-Municipal State Aid City Streets....79

LE- 38. Authority to Allow Amenities in MnDOT Rights-of-Way 79
LE- 39. Complete Streets 80
LE- 40. Infrastructure Fees 80
LE- 41. Safe Routes to School Grants Management 81
LE- 42. Railroads 81
LE- 43. Airport Planning and Funding 82
LE- 44. Airport Safety Zones 83

HUMAN RESOURCES & DATA PRACTICES 85
HR- 1. Personnel Mandates and Limits on Local Control 85
HR- 2. Earned Sick and Safe Time 85
HR- 3. Pay Equity Compliance 85
HR- 4. Public Employment Labor Relations Act (PELRA) 86
HR- 5. Implications of Janus v. AFSCME 87
HR- 6. Public Employment Relations Board 88
HR- 7. Payment of Arbitration Fees 88
HR- 8. Essential Employees 88
HR- 9. Re-employment Benefits 89
HR- 10. Public Employee Defined Benefit Pension Plans 89
HR- 11. Retirement Work Incentives 92
HR- 12. State Paid Police and Fire Medical Insurance 92
HR- 13. Health Care Insurance Programs 93
HR- 14. Workers' Compensation 94
HR- 15. Drug and Alcohol Testing in the Workplace 95
HR- 16. Veterans Preference 95
HR- 17. Military Leave Reimbursement 96
HR- 18. Background Checks 97
HR- 19. Tele-Health Exams 97
HR- 20. Critical Incident Stress Debriefing 97

Data Practices 98
DP- 1. Data Practices Compliance Costs 98
DP- 2. Records Retention Compliance Costs 99
DP- 3. Updating the Minnesota Government Data Practices Act 100
DP- 4. Maintaining Government Data in Large Databases 101
DP- 5. Sharing of Student Data with Local Law Enforcement in Emergencies 101
DP- 6. Disclosure of Victim Data 102
DP- 7. Challenges to the Accuracy of Data 102
DP- 8. Law Enforcement Technologies 103
DP- 9. Rideshare Data 104
DP- 10. Open Meeting Law 104
DP- 11. Exceptions to the Open Meeting Law 105

Federal Employment Law 107
FED- 1. Consolidated Omnibus Budget Reconciliation Act (COBRA) 107

FED- 2. Flexible Spending Accounts 107
FED- 3. IRS Regulations on Death Benefits 107
FED- 4. Federal Public Safety Collective Bargaining Bill 108
FED- 5. Federal Health Care Reform 108

IMPROVING FISCAL FUTURES 110
FF- 1. State-Local Fiscal Relations 110
FF- 2. Economic Contributions by Cities 111
FF- 3. State Budget Stability 111
FF- 4. Funding Local Government Aid 112
FF- 5. State Charges for Administrative Services 112
FF- 6. Reporting Requirements 113
FF- 7. Direct Property Tax Relief Programs 114
FF- 8. Sales Tax on Local Government Purchases 114
FF- 9. Taxation of Electronic Commerce 115
FF- 10. Local Lodging Taxes 115
FF- 11. Taxation of Electric Generation Personal Property 116
FF- 12. Electric Generation Taxation Reform 116
FF- 13. Support for Transitioning Communities 117
FF- 14. Taxation of Municipal Bond Interest 118
FF- 15. Pollution Control Exemption 118
FF- 16. Local Elected Officials Authority to Establish Local Budgets 119
FF- 17. Tax Hearing and Notification Process 120
FF- 18. General Election Requirement for Ballot Questions 120
FF- 19. Municipal Liquor Store Continuation 121
FF- 20. City Fund Balances 121
FF- 21. Local Option Sales Tax and City Revenue Diversification 121
FF- 22. City Franchise Authority 123
FF- 23. Utility Valuation Transition Aid 123
FF- 24. State Assistance for Property Tax Refunds for State-Assessed Property 124
FF- 25. Transition for Property Acquired by Tax-Exempt Entities 124
FF- 26. Payments for Services to Tax-Exempt Property 125
FF- 27. Fire Protection Districts 125
FF- 28. Housing Improvement Areas and Special Service Districts Petitioned by Business 125
FF- 29. Tax-Forfeited Properties and Local Special Assessments 126
FF- 30. Distribution of Proceeds from the Sale of Tax-Forfeit Property 127
FF- 31. State Hazard Mitigation and Response Support 128
FF- 32. Library Funding 128
FF- 33. Park and Library Land Tax Break 130
FF- 34. Increasing Safe School Levy Authority 130
FF- 35. Equitable Funding of Community Education Services 130
FF- 36. Street Reconstruction Bond Approval 131
FF- 37. Special Assessment Election Requirements 131

LEAGUE OF MINNESOTA CITIES

CONNECTING & INNOVATING
SINCE 1913

LMC INTERGOVERNMENTAL RELATIONS STAFF

Gary Carlson, Director

(651) 281-1255 | gcarlson@lmc.org | @garyncarlson

- Aid to cities
- Economic Development
- Pensions and retirement
- Taxes
- Public finance
- Tax-increment financing (TIF)
- Worker's Compensation

Anne Finn, Assistant Director

(651) 281-1263 |afinn@lmc.org | @annemfinn

- Broadband
- Emergency management
- Pre-emption
- Public safety
- State bonding
- Transportation

Craig Johnson, Representative

(651) 281-1259 | cjohnson@lmc.org | @cajohnson_1

- Energy
- Environment
- Land use and annexation
- Local/tribal relations
- State bonding
- Sustainable development
- Wastewater, drinking water, and stormwater

Irene Kao, Counsel

(651) 281-1260 | ikao@lmc.org | @irenewkao

- Civil liability
- Building Code
- Data Practices
- Employment Law
- Housing
- Land use, zoning, and annexation
- Telecommunications

Daniel Lightfoot, Representative

(651) 281-1295 | dlightfoot@lmc.org | @dflightfoot

- Broadband
- Cable/franchising
- Housing
- Telecommunications & information technology
- Wireless infrastructure

Ann Lindstrom, Representative

(651) 281-1261 | alindstrom@lmc.org | @annRL

- Elections
- Federal Relations & Advocacy
- Human resources
- Pre-emption
- Local/State Regulation & Licensing

145 UNIVERSITY AVE. WEST
ST. PAUL, MN 55103-2044

PHONE: (651) 281-1200 FAX: (651) 281-1299
TOLL FREE: (800) 925-1122 WEB: WWW.LMC.ORG

2018 LMC POLICY COMMITTEE MEMBERS

Improving Service Delivery

Chair: Daniel Buchholtz, Administrator-Clerk-Treasurer, Spring Lake Park
Vice Chair: Maria Carrillo Perez, Management Assistant, St. Louis Park

Anita Archambeau, Community Development Director/Assistant City Administrator, Sartell
Steve Barrows, Councilmember, Baxter
Sasha Bergman, Government Relations Representative, Minneapolis
Kelli Bourgeois, Human Resources Director / Asst. to the City Manager, Columbia Heights
Jessica Brokaw, Deputy Director - Procurement, Contract Compliance & Business Development, Saint Paul
Deb Calvert, Councilmember At Large, Minnetonka
Bob Crawford, Mayor, Elko New Market
Raeanne Danielowski, Mayor, Big Lake
Amber Eisenschenk, Staff Attorney, League of Minnesota Cities
Jeremiah Ellison, Councilmember, Minneapolis*
Emmanuel Emukah, Staff Attorney, League of Minnesota Cities
Bart Fischer, City Administrator, Oakdale
Jacob Glass, Staff Attorney, League of Minnesota Cities
Gary Hansen, Councilmember, Eagan
Dana Hardie, Director of Administrative Services, Burnsville
Blaine Hill, City Manager, Morris
Laurie Hokkanen, Admin Services Director, Plymouth
Fran Holmes, Councilmember, Arden Hills
Steve Huser, Government Relations Specialist, Metro Cities
Allyn Kuennen, Assistant City Administrator, Lakeville
Andrea Lauer, Mayor, Royalton
Melissa Lesch, Senior Government Relations Representative, Minneapolis
Peter Lindstrom, Mayor, Falcon Heights
Debra Mangen, City Clerk, Edina
Justin Markon, Management Assistant, Delano
Noel Nix, Deputy Director of Intergovernmental Relations, Saint Paul
Loren Olson, Government Relations, Minneapolis
Aaron Parrish, Assistant City Administrator, Rochester
Calvin Saari, Councilmember, Nashwauk
Brian Scholin, Councilmember, Pine City
Marty Schultz, City Administrator, Alexandria
Cathy Sorensen, City Clerk, Blaine
Kevin Staunton, Councilmember, Edina*
Duane Willenbring, Mayor, Rockville
ThaoMee Xiong, Director of IGR, Saint Paul

Improving Local Economies

Chair: Mary McComber, Mayor, Oak Park Heights*
Vice Chair: George Tourville, Mayor, Inver Grove Heights

Chad Adams, City Manager, Albert Lea
Patrick Antonen, City Administrator, Circle Pines
Anita Archambeau, Community Development Director/Assistant City Administrator, Sartell
Sasha Bergman, Government Relations Representative, Minneapolis
Mark Box, City Administrator, Deer River
Michael Brethorst, City Administrator, Melrose
Jason Brisson, Director of Community / Economic Development, Worthington
Anne Buckvold, Councilmember, St. Joseph
Connie Buesgens, Councilmember, Columbia Heights

Ken Cammilleri, City Administrator, Pine City
Tony Chladek, City Administrator, Rushford
Craig Clark, City Administrator, Austin
Bob Crawford, Mayor, Elko New Market
Emmanuel Emukah, Research Staff Attorney, League of Minnesota Cities
Jenni Faulkner, Community Development Director, Burnsville
Justin Femrite, City Engineer, Elk River
Anthony Fernandez, Councilmember , West Saint Paul
Nicole Fernholz, Director EDA, Alexandria
Tom Fletcher, Councilmember, Greenwood
Renae Fry, City Administrator, North Branch
Jason Gadd, Councilmember, City of Hopkins
Kathy George, City Administrator, Sandstone
Jacob Glass, Research Staff Attorney, League of Minnesota Cities
Tom Goodwin, Councilmember, Apple Valley
Lisa Griebel, General Counsel-MPHA, Minneapolis
Shannon Guernsey, Executive Director, Minnesota NAHRO
Dan Gustafson, Councilmember, Burnsville
CJ Holl, City Administrator, Wells
Anissa Hollingshead, City Clerk/Communications Director, Rochester
Steve Huser, Government Relations Specialist, Metro Cities
Rachel Johnson, Councilmember, Staples
Rob Keehn, City Administrator, Lake City
Kelcey Klemm, City Administrator, Detroit Lakes
Alicia LaBeau, Councilmember, Paynesville
Melissa Lesch, Senior Government Relations Representative, Minneapolis
Amanda Luepke, City Administrator, Clarkfield
Mark Maloney, Director of Public Works, Shoreview
Brent Mareck, City Manager, Carver*
Justin Markon, Management Assistant, Delano
Anne Mavity, Councilmember, St. Louis Park
Mark Miazga, Councilmember, Falcon Heights
Justin Miller, City Administrator, Lakeville*
Noel Nix, Deputy Director of Intergovernmental Relations, Saint Paul
Ross Olson, City Administrator, Sauk Rapids
Loren Olson, Government Relations, Minneapolis
Aaron Parrish, Assistant City Administrator, Rochester
Jim Paulsen, Economic Development Administrator, Gilbert
Margaret Rog, Councilmember, St. Louis Park
Brian Scholin, Councilmember, Pine City
Les Schultz, Councilmember, New Ulm
Marty Schultz, City Administrator, Alexandria
Peter Senarighi, Councilmember, Biwabik
Jonathan Smith, Manager, Perham
Robert Streetar, Community Development Director, Oakdale
Kevin Toskey, Research Staff Attorney, League of Minnesota Cities
George Tourville, Mayor, Inver Grove Heights
Charlie Vander Aarde, Government Relations Specialist, Metro Cities
Clay Wilfahrt, City Administrator, Big Lake
ThaoMee Xiong, Director of Intergovernmental Relations, Saint Paul

Human Resources & Data Practices

Chair: Michael Rietz, City Administrator, Barnesville
Vice Chair: Melissa Haas, Human Resources Manager, Apple Valley

Julianne Bacon, City Management Assistant, Coon Rapids

Jessica Beise, City Clerk/Administrative Services Coordinator, Corcoran
Sasha Bergman, Government Relations Representative, Minneapolis
Kelli Bourgeois, Human Resources Director / Asst. to the City Manager, Columbia Heights
Dick Brainerd, Councilmember, Mahtomedi
Mark Casey, City Manager, St. Anthony*
Bob Crawford, Mayor, Elko New Market
Aisia Davis, Staff Attorney, League of Minnesota Cities
Emmanuel Emukah, Research Staff Attorney, League of Minnesota Cities
Julie Flaten, Administrative Services Director, Hastings
Mike Funk, Assistant City Manager, Maplewood
Jennifer Gabbard, Human Resources Manager, Shakopee
Karissa Goers, Human Resources Administrator, Dakota County CDA
Melissa Haas, Human Resources Manager, Apple Valley
Corrine Heine, City Attorney, Minnetonka
Anissa Hollingshead, City Clerk/Communications Director, Rochester
Steve Huser, Government Relations Specialist, Metro Cities
Givonna Kone, Human Resources Manager, Plymouth
Melissa Lesch, Senior Government Relations Representative, Minneapolis
Melissa Manderschied, City Attorney, Bloomington
Ben Martig, City Administrator, Northfield
Patricia Nauman, Executive Director, Metro Cities
Noel Nix, Deputy Director of Intergovernmental Relations, Saint Paul
Rebecca Olson, Assistant City Manager, Roseville
Chelsea Petersen, Assistant City Manager, Chanhassen
Gene Ranieri, Director of Intergovernmental Relations, Minneapolis
Donna Robole, Human Resources Manager, Stillwater
Deborah Schulz, Accountant, Newport
Janet Shefchik, Human Resources Manager, Inver Grove Heights
Andrea Turner, Director of Human Resources, Saint Paul
Kevin Toskey, Research Staff Attorney, League of Minnesota Cities
Deb Wegeleben, Finance Director, Big Lake
Brenda Wendlandt, Human Resources Director, Farmington
ThaoMee Xiong, Director of Intergovernmental Relations, Saint Paul

Improving Fiscal Futures

Chair: Josh Malchow, Clerk/Adminstrator, Slayton*
Vice Chair: Chris Volkers, City Manager, Moorhead

Patrick Antonen, City Administrator, Circle Pines
Geralyn Barone, City Manager, Minnetonka
Sasha Bergman, Government Relations Representative, Minneapolis
Cornelius Boganey, City Manager, Brooklyn Center*
Sarah Brown, Treasury Analyst, Saint Paul
Connie Buesgens, Councilmember, Columbia Heights
Tony Chladek, City Administrator, Rushford
Bill Coughlin, Councilmember, Burnsville
Bob Crawford, Mayor, Elko New Market
Emmanuel Emukah, Research Staff Attorney, League of Minnesota Cities
Anthony Fernandez, Councilmember , West Saint Paul
Jason Gadd, Councilmember, Hopkins
Kelly Grinnell, Finance Director, Victoria
Shannon Guernsey, Executive Director, Minnesota NAHRO
Marshall Hallock, Administrative Business Director, Red Wing
Dana Hardie, Director of Administrative Services, Burnsville

Lisa Herbert, Finance Director, Rogers
Connie Holmes, Mayor, Waverly
Tom Lawell, City Administrator, Apple Valley
Melissa Lesch, Senior Government Relations Representative, Minneapolis
Dan Matejka, City Administrator, Goodview
Madeline Mitchell, Budget Analyst, Saint Paul
Steve Nasby, City Administrator, Windom
Patricia Nauman, Executive Director, Metro Cities
Noel Nix, Deputy Director of Intergovernmental Relations, Saint Paul
Aaron Parrish, Assistant City Administrator, Rochester
Michelle Pietrick, Finance Director, South St. Paul
Gene Ranieri, Director Intergovernmental Relations, Minneapolis
Aaron Reeves, City Administrator, Cloquet
Paul Sandy, City Engineer, Brainerd
Jonathan Smith, Manager, Perham
Steve Stahmer, City Administrator, Rogers
Kurt Ulrich, City Administrator, Ramsey
Deb Wegeleben, Finance Director, Big Lake
Jim Weikum, Mayor, Biwabik
John Werner, Mayor, Rice Lake
Brad Wiersum, Mayor, Minnetonka*
ThaoMee Xiong, Director of Intergovernmental Relations, Saint Paul
Nancy Zaworski, Finance Director, Kasson

*LMC Board of Director

LMC POLICY DEVELOPMENT PROCESS

The *City Policies* document addresses more than 180 legislative issues that impact cities and serves as the foundation of the League of Minnesota Cities (LMC) advocacy efforts. City officials from across the state are recruited throughout the year to serve on one or more policy committees. In 2018, over 150 city officials participated in the policy committees. Policies are considered, discussed, and revised annually with considerable member input. Then, draft policies are published online for member comments before being considered for approval by the LMC Board of Directors. Guided by the *City Policies*, LMC member cities and staff actively advocate for city-friendly legislation. Below are some of the major events in the policy development process:

January	The Minnesota Legislature begins the first session of each two-year biennium in January of odd-numbered years. The 2019 Legislative Session is scheduled to begin on January 8, 2019.
February	The Legislature typically begins the second session of each biennium in February or March of even-numbered years. The February forecast will likely be released at the end of February or early March.
March/April	From March 10-13, the National League of Cities (NLC) hosts the Congressional City Conference in Washington, D.C. The League's legislative conference will be held on February 20-21, 2019 near the State Capitol.
May	Under the Minnesota Constitution, the deadline to end any legislative session is the first Monday following the third Saturday in May (May 20, 2019). The governor may call special legislative sessions when necessary.
June	At the LMC Annual Conference (Duluth, June 26-28, 2019), members provide comments on *City Policies* throughout the conference and during the Legislative Update.
July	Policy committees hold their first of three meetings. The July meeting typically includes a review of the most recent legislative session, a preliminary discussion of emerging issues, and a review of member comments and board interim policies from the prior year.
August	Policy committees hold their second of three meetings to hear from subject-matter experts on existing and potential new policy topics.
September	Policy committees meet for a third time to finalize their work and make specific policy recommendations to the LMC Board of Directors.
October	Draft policies, as approved by the policy committees, are shared with members online during the comment period. Member input is also sought from city officials attending LMC Regional Meetings around the state each fall.
November	The LMC Board of Directors reviews member input, then considers and amends the policies for the following calendar year. The Board adopts policies on behalf of League members before the start of the next legislative session.

PURPOSE, PROCESS AND PRINCIPLES OF CITY POLICIES

The League of Minnesota Cities is dedicated to promoting excellence in local government through effective advocacy, expert analysis, and trusted guidance for all Minnesota cities. Each year, the League's member cities identify common needs and goals, and the Board of Directors adopts policies designed to help cities overcome obstacles and reach those goals. These policies serve as the foundation of the League's advocacy work on behalf of Minnesota cities.

There are 853 cities in Minnesota, and 833 cities are members of the League of Minnesota Cities. Eleven townships and 63 special districts/other members are also League members. The League's members include the smallest rural cities in Greater Minnesota and the largest cities in the urban core; they include suburban communities in the Metropolitan Area and regional centers in every corner of the state. Every member of the League has a voice in developing the following policies.

Two core principles guide the development of City Policies and the actions of the League:

1. Local units of government must have sufficient authority and flexibility to meet the challenges of governing and providing citizens with public services. The Legislature must avoid imposing unfunded and underfunded mandates that erode local control and create liability and financial risk for city taxpayers.

2. The increasingly complex and costly requirements necessary for cities to provide services to their citizens require a strong partnership between federal, state, and local governments. This partnership should be based upon a shared vision for Minnesota and should allow individual communities to tailor that vision to the unique needs of their citizens.

Because of the fluid nature of emerging issues, state and national politics, and current events, additional and alternative policies may be proposed after the policies are adopted by the Board of Directors. The League will make every effort to notify members of substantial changes or additions to policies after they are adopted by the Board of Directors.

LEAGUE OF MINNESOTA CITIES

2019
City Policies

IMPROVING SERVICE DELIVERY

SD-1. Local Control

Issue: Cities are often laboratories for determining public policy approaches to the challenges that face citizens. Success in providing for the basic needs of a functional society is rooted in local control to determine how best to respond to the ever-changing needs of a citizenry. Because city government most directly impacts the lives of people, and representative democracy ensures that locally elected officials are held accountable for their decisions through local elections, local governments must have sufficient authority and flexibility to meet the challenges of governing and providing citizens with public services.

Response: **The increasingly complex and costly requirements necessary for cities to provide services to their citizens would benefit from a strong partnership between federal, state and local governments. This partnership should be based upon a shared vision for Minnesota and should allow individual communities to tailor that vision to the unique needs of their citizens without mandates and policy restrictions imposed by state and federal policy makers. The state should recognize that local governments, of all sizes, are often the first to identify problems and inventive solutions to solve them, and should encourage further innovation by increasing local control. The state should not enact initiatives that erode the fundamental principle of local control in cities across Minnesota.**

SD-2. Unfunded Mandates

Issue: Federal and state mandated programs substitute the judgment of Congress, the president, the Minnesota Legislature, and the governor for local budget priorities. These mandates force cities to reduce funding for other basic services or to increase taxes and service charges.

Response:

a) **Existing unfunded mandates should be reviewed and modified, or repealed where possible.**
b) **No additional statewide mandates should be enacted unless full funding for the mandate is provided by the level of government imposing it or a permanent stable revenue source is established.**
c) **Cities should not be forced to comply with unfunded mandates.**
d) **Cities should be given the greatest flexibility possible in implementing mandates to ensure their cost is minimized.**
e) **The legislative government redesign groups created in 2010 should consider the various unfunded mandates as they look at local government reform and redesign and make recommendations for the next session.**

SD-3. Local Approval of Special Laws

Issue: The Minnesota Constitution prohibits special legislation except for certain special laws relating to local government. It provides that a special law must name the affected local unit of government and is effective only after approval by the local government unit, unless general state law provides otherwise. Under state statute, a special law is not effective unless approved by the affected local unit of government, except under limited circumstances.

In recent years, the Legislature has occasionally enacted general laws that affect a single local unit of government. By enacting a general law with limited application, local approval is not required.

Response: **The League of Minnesota Cities supports the constitutional requirement that a special law must be approved by the affected local unit of government before it can take effect. If a law is intended to affect or benefit a single local unit of government, the Legislature must follow the requirements for enacting a special law set forth in the Minnesota Constitution and in state statute. The League specifically opposes the Legislature's technique of bypassing the constitution by not naming the local government, but describing the local government in such narrow terms that it can only apply to one entity.**

SD-4. Redesigning and Reinventing Government

Issue: Every level of government is redesigning, reinventing, and reevaluating its organizational structure and programs in response to financial realities and citizens' needs and problems. Reforms, however, must be more than change for the sake of change to existing programs. It is imperative that government officials talk with citizens about how services are currently provided and how they can be best provided in the future.

To be meaningful, redesign of governmental entities and services should:

a) save money where feasible;
b) deliver improved services;
c) serve essential needs; and
d) be equitably structured.

Cities have and will continue to re-evaluate city programs and services, pursue the use of cooperative agreements, and consider organizational changes that provide greater government efficiency and result in better service to citizens. Citizen input and participation should be gathered and taken into account as decisions about service delivery are being made and implemented.

All levels of government are encouraged to:

a) Ensure that in redesigning, reinventing or reassigning government services and programs, the appropriate level of service to citizens is evaluated and citizen demands and expectations are adequately addressed.
b) Engage as many citizens as possible, from diverse backgrounds and interests, to determine what services matter most to citizens and how the delivery of those services can be changed to increase efficiency and lower cost.
c) Educate citizens about what services government delivers, how they are delivered, and how those services are funded.
d) Engage in traditional and nontraditional partnerships to make service changes and do things in new ways.
e) Identify and repeal programs or discontinue services that are no longer necessary, and evaluate which services can readily and fairly be provided by the private sector.

Response: **Federal, state, and county governments should:**

a) Promote and support local redesign efforts through incentives rather than mandates.
b) Communicate and establish a process of negotiation before shifting responsibility for delivering services from one level of government to

another, or seeking to reduce service duplication.

c) **Utilize government entities with proven track records in redesign efforts.**

SD-5. State Government Shutdowns

Issue: Twice in less than one decade, the state Legislature and governor failed to reach a global agreement on the state budget by the end of the fiscal biennium (June 30 of odd-numbered years). As a result of these impasses, portions of state government were shut down. The shutdowns, particularly the shutdown in 2011, created a range of challenges for cities, as well as for the state's courts, residents, businesses, licensed professionals, state employees and others.

For cities, the most pronounced challenges related to the shutdowns were as follows:

a) Uncertainty about the timing and amount of aid and credit reimbursement payments and the distribution of local sales tax revenues.
b) Inability of licensed city professionals such as peace officers and water treatment facility operators to renew licenses.
c) Loss of access to critical information such as the Bureau of Criminal Apprehension database and state-mandated reports.
d) The shutdown of transportation projects on the trunk highway and state aid system.
e) Interruption of local economic development due to the state having sole authority to inspect, review and approve various plans and types of projects.

Response: **The League of Minnesota Cities urges the Legislature and governor to establish a procedure in state law to continue certain state government operations into a new biennium in the event that the governor and legislators cannot reach a budget agreement. Specifically, the Legislature and governor should modify state law to assure that the staff necessary to distribute state funds that are already encumbered or statutorily appropriated to local governments are distributed as statutorily scheduled, or in the absence of a statutory payment schedule, are released in a predictable and timely manner in the event of future shutdowns.**

The Legislature should also pass legislation that allows existing licenses of public employees to be continued during any future state government shutdown and should identify additional areas, such as electrical and plumbing inspection and plumbing plan review, where local governments could reasonably step in to handle the inspections, review, and approval necessary for local projects to move forward, and allows work on approved projects to continue in state rights-of-way.

SD-6. Duration of Conservation Easements

Issue: The Minnesota Marketable Title Act provides that any deed over 40 years old can be disregarded unless the holder of the interest re-records it. There is an exception for a person in possession of the property. A 2010 Minnesota Supreme Court decision said that the person in possession has to show that the possession has been visible enough to put a prudent person on notice of the interest, and that the possession has to be continuous. *Sampair v. Village of Birchwood*, 784 N.W.2d 65 (Minn. 2010).

This creates issues for cities that have conservation easements. It is difficult, if not impossible, to show actual use of the

easement because conservation easements are passive easements, not active ones. As a result, cities will have to re-record the easements every 40 years in order to maintain them. This will result in a significant administrative burden and increase costs for local units of government due to staff time, legal fees, and recording fees.

Additionally, Minn. Stat. § 500.20, entitled "Defeasible Estates," provides in subd. 2a that private covenants, conditions, or restrictions that affect the title or use of real estate cease to be valid 30 years after the date of the instrument creating them and they may be disregarded. This provision was initially enacted in 1988.

Minn. Stat. ch. 84C regarding conservation easements was enacted in 1985, and Minn. Stat. §§ 84.64-.65 regarding conservation restrictions were originally enacted in 1974. Because conservation easements and conservation restrictions are not listed among the restrictions that are not subject to Minn. Stat. § 500.20, subd. 2a, it is possible to conclude, by negative implication, that subd. 2a does apply to the conservation easements and conservation restrictions created by earlier enacted statues. This conclusion is inconsistent with the language in Minn. Stat. § 84C.02(b) that "a conservation easement is unlimited in duration unless the instrument creating it otherwise provides."

Response: **The League of Minnesota Cities supports legislation that excepts holders of conservation easements from re-recording the easements under the Minnesota Marketable Title Act and that clarifies that Minn. Stat. § 500.20, subd. 2a, does not apply to conservation easements and restrictions.**

SD-7. Responsibility for Locating Private Underground Facilities

Issue: Cities are responsible for complying with state pipeline safety regulations that hold cities responsible for locating and marking private service laterals that connect in public rights-of-way to city sanitary and storm sewer, water, and district heating systems. The Minnesota Office of Pipeline Safety (MNOPS) is proposing amendments to state pipeline and safety rules related to the definition of excavation and changes to mandatory damage reporting.

Cities are concerned that damage to private service laterals within the public right-of-way continues due, in part, to construction methods during the replacement, repair and/or installation of underground utilities which cross city water and sewer services that are in the public rights-of-way. Trenchless excavation could potentially cause damage to underground service laterals and negatively impact the quality of utility services.

Response: **The League supports the changes to the definition of excavation presented by MNOPS at the 2012 Review of Minn. Stat. ch. 216D. Cities support the elimination of windbreaks, shelterbelts, and tree plantations from the definition of excavation, unless any of these activities disturbs the soil to a depth of 18 inches or more.**

The League supports exempting normal maintenance of roads and streets from the definition of excavation if the maintenance does not change the original grade and does not involve the road ditch by defining "original grade" as the grade at the date of issue of the first notice by the excavator.

The League supports increasing MNOPS fines for violators of state pipeline safety requirements, bringing state penalties in line with federal penalties.

The League opposes mandatory damage reporting and recommends a simple standardized form to encourage cities to voluntarily report damages. The League opposes requirements that would force cities to mark underground facilities of all sizes and materials.

The League recognizes that trenchless excavation presents concerns to cities. Private property owners in the excavation area must receive advance notice of any trenchless or other excavation activities that could affect the quality of utility services. Notice must include at least one phone number for assistance in case of any service problems.

Contractors must comply with city permits requiring that the drill head be visible when crossing any paint marks and moving through the pothole at the depth that the city allows for the installation.

Cities must not be required to locate privately-owned water and sewer laterals and must not be held responsible for actions by excavators when the city determines not to locate such facilities. Excavators should be responsible for locating and protecting any private service lateral that is impacted by excavation activities conducted on private property beyond the public right-of-way.

SD-8. Utility Relocation Under Design-Build Road Construction

Issue: The Minnesota Department of Transportation (MnDOT) has promoted legislation relating to the design-build construction process that would require private and public utilities to be responsible for utility relocation necessitated by road construction. The policy, if enacted, would create unanticipated costs for utilities owned and operated by cities. Municipally-owned utilities would be unreasonably held to the same standards as privately-owned utilities that exist in the public right-of-way.

Response: **The League of Minnesota Cities supports use of the design-build procedure, however, municipal utilities that exist in the public right-of-way should not be penalized under this process. Municipal utilities legitimately exist in the public right-of-way. When a MnDOT construction project requires the relocation of utilities, the cost of relocating municipal utilities should be shared equitably between MnDOT and affected municipal utilities.**

SD-9. National Fire Protection Association (NFPA) Standards

Issue: The National Fire Protection Association (NFPA) is an international association of individuals and trade and professional organizations that deals with fire and life safety. The NFPA has advocated legislation that would mandate two standards: NFPA 1710, Organization and Deployment of Fire Suppression Operations, Emergency Medical Operations, and Special Operations to the Public by Career Fire Departments, and NFPA 1720, Organization and Deployment of Fire Suppression, Emergency Medical Operations, and Special Operations to the Public by Volunteer Fire Departments. NFPA standards 1710 and 1720 define minimum response times, minimum fire company staffing levels, initial full alarm response levels, and extra alarm response levels. Although NFPA codes and standards

are voluntary, they are often adopted by local jurisdictions.

Response: **Levels of service delivery for fire and emergency medical services (EMS) have always been determined by local jurisdictions. If mandated, the NFPA standards would force local governments to shift dollars from fire prevention programs to fire suppression activities, potentially increasing the risk of fire and the danger to local firefighters.**

The League of Minnesota Cities opposes any attempt to mandate standards for minimum staffing levels of fire, specialized or EMS vehicles controlled by units of local government. The League also opposes any attempt to adopt a standard dictating or affecting the response time of any fire, specialized or EMS vehicle.

SD-10. Fire Mutual Aid

Issue: City and township fire departments regularly assist each other with firefighting and other response activities. This mutual aid is mostly authorized by individual written contracts with each city or township, which results in a patchwork of different agreements with different provisions. Often, each city attorney recommends different provisions.

Following the Red River floods and the St. Peter tornados, emergency responders (including fire departments) met and helped pass a statute to govern mutual aid situations when there is an emergency declared by mayor or governor and no written agreements exist. The statute, Minn. Stat. § 12.331, provides a framework for how worker's compensation, liability, property claims, insurance, and charges between the departments will be handled in mutual aid situations.

The League of Minnesota Cities Insurance Trust (LMCIT) developed a model mutual aid agreement that contains the same basic structure for liability as the statute. Many cities have entered into area-wide mutual aid agreements that are similar to the LMCIT model agreement. To provide uniformity, there should be a statute that is similar to Minn. Stat. § 12.331, to govern daily fire mutual aid situations that do not rise to the level of emergencies.

Response: **The Legislature should pass a statute to provide uniform provisions when fire departments assist each other. These provisions should include statutory definitions and clarifications for:**

a) **Who is in command of the mutual aid scene.**
b) **Who will cover the firefighters for worker's compensation.**
c) **How liability and property claims will be handled.**
d) **Who will pay for expendable supplies such as foam.**
e) **When fire departments will charge each other for these services.**
f) **The ability for fire departments to opt out by having a separate written agreement.**

SD-11. Clarification of Joint Powers Relationships with Federally Recognized Indian Tribes

Issue: During the 2010 legislative session, Minn. Stat. § 471.59 was modified to allow federally recognized Indian tribes to participate in joint powers agreements with other governmental entities, including Minnesota cities. Indian tribes are extremely unique legal entities under federal law and international treaties. The new law was a broad brush authorization that did not address important issues that uniquely arise

when dealing with Indian tribes related to sovereignty, insurance liability and liability limits (commonly called "tort caps"). Previous laws, such as Minn. Stat. § 626.93 (authorizing tribes to act as law enforcement entities) explicitly addressed these concerns. Since the new law passed, interest has been expressed by public safety groups and individual cities in entering into joint powers agreements with federally recognized Indian tribes. However, legislative guidance is needed to address concerns related to sovereignty, insurance and liability limits for these agreements.

Response: **Include in Minn. Stat. § 471.59 (the joint powers statute) language substantially similar to Minn. Stat. § 626.93 that clarifies that Indian tribes entering into joint powers relationships agree to:**

a) **Be subject to liability for its torts and those of its officers, employees, and agents acting within the scope of their employment or duties arising out of the joint powers agreement to the same extent as a municipality under Minn. Stat. ch. 466; and**
b) **Notwithstanding Minn. Stat. § 16C.05, subd. 7, waive its sovereign immunity with respect to claims arising from liability under the joint powers.**

SD-12. Ambulance Service Costs and Liability

Issue: The cost of providing ambulance care has increased steadily over the last several years due in part to changes in Medicare reimbursement. The federal Balanced Budget Act (BBA) of 1997 made two significant changes to ambulance billing. First, the act mandated that all ambulance services accept Medicare assignments as payment in full; that is, ambulance services cannot bill the Medicare patient for any unpaid balance beyond the Medicare payment. Second, the act mandated a uniform fee schedule that was implemented in April 2002. The new fee schedule significantly reduced reimbursement levels for many ambulance services. The BBA mandates are impacting the ability of some Minnesota ambulance service providers to adequately fund their operations.

The loss of revenue due to Medicare reimbursement changes, coupled with higher insurance rates, is affecting the ability of many non-government-based ambulance service providers to deliver emergency care, particularly in rural Minnesota. All ambulance services and personnel are regulated by Minn. Stat. ch. 144E and must comply with the same licensing, training, and equipment-related requirements, regardless of ownership. However, non-government-based ambulance service providers are treated differently from government-based service providers in terms of exposure to liability. While government-based ambulance service providers have specific statutory caps on damages that limit their liability, non-government-based ambulance service providers are not protected by such caps. Consequently, non-government-based ambulance service providers have experienced inordinate growth in their insurance rates.

Non-government-based ambulance service liability exposure is a concern for three reasons. First, municipalities that contract for ambulance service may be required to purchase excess liability coverage in order to protect non-government-based ambulance service providers against claims. Second, it may discourage mutual aid agreements between government- and non-government-based ambulance service providers. Finally, unlimited liability exposure threatens the existence of small, non-government-based rural ambulance providers, which could

leave large geographic areas without any ambulance service and undermine emergency response to mass casualty incidents.

In addition, the liability exposure of medical directors associated with ambulance service is a concern. While medical directors of government-based ambulance services may arguably be covered by public official immunity, the law is unclear and should be clarified.

Response: **The League of Minnesota Cities supports federal legislation that would:**

a) **Require Medicare to set ambulance payment rates at the "regional cost" of providing service;**
b) **Require adequate reimbursement for ambulance providers;**
c) **Establish a "prudent layperson" standard for the payment of emergency ambulance claims such that if a reasonable person believed an emergency medical problem existed when the ambulance was requested, Medicare would pay the claim;**
d) **Make it easier for providers to file claims with Medicare by eliminating a processing system that often leads to the rejection of legitimate reimbursement claims.**

The League also urges the Legislature to extend the protection of the state and municipal Tort Claims Act to, at a minimum, licensed third parties that contract with a municipality to provide ambulance services. The League also supports extending the applicability of public official immunity to medical directors in the course of ambulance service activities.

SD-13. Fees for Service

Issue: While general services—such as permitting, inspections or enforcement—are typically funded out of a city's general fund, cities often impose fees to cover the cost of providing certain services, permits, and licenses.

The Legislature and interest groups often seek to mandate or preserve fee limitations for city services. Over the last several years, the Legislature has enacted a number of new laws designed to rigorously control local fee-setting authority. Examples of such mandates include placing limits on coin-operated amusement machine license fees, on-sale and off-sale liquor license fees, license fees for retailers selling fireworks, deputy registrar fees and planning and zoning fees. The state also requires cities that collect more than $5,000 in development-related fees each year to annually report all construction and development fees to the Department of Labor and Industry.

Response: **While the state has a role in providing a general, statewide funding policy, the state should not interfere in the decision-making functions performed by cities when setting city budgets to provide city services. The League of Minnesota Cities seeks authority for cities to charge fees that are reasonably related to the cost of providing the service, permit or license. The League opposes legislation that would require specific methods to pay for city services or would place caps on city fees.**

SD-14. Improving and Increasing Citizen Access to Information

Issue: State law requires that cities publish certain types of information in a "qualified" newspaper designated by the city. While the

requirements vary based on city population size, most cities must publish: ordinances before they can take effect; advertisements for bids; various financial reports; meeting and hearing notices; notices of elections; dates for filing affidavits of candidacy; and sample ballots. Collectively, these items are referred to as "official notices," legal notices" and "public notices" in state statute.

There are several requirements in statute for a newspaper to be a "qualified" or "official" newspaper for the city. For instance, there can only be one newspaper chosen for the city; it must be printed in English in a newspaper format; if it is a daily newspaper, it must be distributed at least five days each week; if not a daily paper, it may be distributed twice a month with respect to the publishing of government public notices; it must be circulated in the city which it purports to serve, and either have at least 400 copies regularly delivered to paying subscribers or have at least 400 copies distributed without charge to local residents.

As technology has evolved, citizens have become more accustomed to the instantaneous availability of online information. Because cities are committed to providing information to citizens and responding to this demand, they have invested heavily in their websites and in growing a robust online presence. They survey citizens about what method of communication is preferred and based on this, cities update, reform, evolve, and advance communication tools and often, they do so with limited means and resources to ensure citizens have access to information about their city.

Because of the publishing mandate outlined in state statute, cities continue to publish in newspapers with limited resources while simultaneously providing information to citizens in the format they actually demand: online. These requirements originated in 1949 and to ensure the original intent of the law – providing citizens access to their local government – it is time to eliminate these outdated requirements and make communicating with citizens more efficient.

Response: **The Legislature should eliminate outdated and unnecessary publication requirements that are no longer relevant or representative of the technology we now have that has significantly increased access to government. Cities should have the authority to:**

a) **Determine whether web publication should replace or supplement newspaper publication based on the unique needs of each community.**
b) **Designate an appropriate publication that reaches the maximum number of citizens possible.**
c) **Use alternative means of communication to fulfill statutory requirements such as city newsletters, cable television, video streaming, e-mail, blogs and city websites.**
d) **Expand the use of summaries where information is technical or lengthy.**
e) **Publish and provide public access to local codes of ordinances on a website accessible to the public and to post revisions and changes to city codes, resolutions, and rules on the city website, when feasible.**

SD-15. Administrative Fines for Code Violations

Issue: Many statutory and home rule charter cities have implemented administrative enforcement programs for violations of local regulatory ordinances such as building codes, zoning codes, health codes, and public nuisance ordinances. This use of administrative proceedings has kept

enforcement at the local level and reduced pressure on over-burdened district court systems. Cities using administrative enforcement processes experience a lower cost of enforcement and a quicker resolution to code violations.

Minnesota statutes expressly provide the authority for all cities to utilize administrative enforcement of local codes and enforcement of liquor license and tobacco license violations.

In 2009, the Legislature amended Minn. Stat. ch. 169, the chapter of law pertaining to state traffic regulations, to allow cities and counties to issue administrative citations for certain minor traffic offenses. Since the passage of the 2009 administrative traffic citations law, some people have questioned whether administrative citations for non-traffic, liquor, and tobacco license code violations can be legally issued by statutory cities given that state law does not expressly provide authority on other code matters.

Response: **The League of Minnesota Cities continues to support the use of city administrative fines for local regulatory ordinances, such as building codes, zoning codes, health codes, public nuisance ordinances, and regulatory matters that are not duplicative of misdemeanor or higher-level state traffic and criminal offenses. The Legislature should clarify that both statutory and home rules charter cities have the authority to issue administrative citations for code violations. Further, state statute should allow statutory and home rule charter cities to adjudicate administrative citations and to assess a lien on properties for unpaid administrative fines.**

SD-16. Contracting and Purchasing

Issue: Minnesota statutes stipulate contracting and purchasing requirements for Minnesota cities. The law prescribes the process political subdivisions must use to make purchases and award contracts, and requires a competitive sealed bid procedure for contracts or purchases over $175,000. The intent of these statutory requirements is to provide taxpayers with the best value for their dollar and ensure integrity in the process. However, imposing these statutory requirements may, at times, result in political subdivisions paying more for goods and services than private entities under the same circumstances.

The Legislature recognized the benefits associated with alternative purchasing methods when it amended municipal contracting law in 2004 to authorize the use of reverse auctions to purchase supplies, materials, and equipment. Similarly, other contracting procedures, including "design-build" and direct negotiation are proven alternatives to the formal bidding process. Authorizing broader use of these types of alternatives as the Legislature did in 2009 by authorizing a design-build pilot program, would enhance the ability of cities to make appropriate and fiscally responsible purchasing decisions.

Response: **The League of Minnesota Cities supports broader use of alternative contracting and purchasing methods that streamline the process and reduce local purchasing costs. Specifically, the League supports authorizing cities to use the design-build procedure and providing municipalities with broader authority, similar to that of private businesses, to directly negotiate contracts. The Legislature should establish a task force to review municipal contracting laws, and consider contracting and purchasing**

reforms that give cities the flexibility to provide quality goods and services at the lowest cost to taxpayers.

SD-17. City Enterprise Operations

Issue: Historically, city enterprise operations have been created in response to community needs, lack of a private market, financial reporting requirements, state and federal mandates, to enforce state and local law, and to ensure a quality of life for the residents of a community. Establishing an enterprise operation allows a city to provide a desired service while maintaining financial control over service levels, costs, and public inputs.

In some cases, enterprise operations produce general public benefits and may require public support to ensure a desired level of service at a reasonable cost. The benefits of an enterprise operation, therefore, should be evaluated not solely in terms of profitability but also on the service benefits to citizens of the community.

Response: **The League of Minnesota Cities supports the local decisions made by cities to deliver services by establishing a city enterprise operation. The state should refrain from infringing on the ability of a city to provide services for its community.**

SD-18. Preservation of Order in City Council Meetings

Issue: The Minnesota Supreme Court recently held a provision in Minn. Stat. § 609.72, subd. 1(2), that prohibits disturbing public meetings was unconstitutionally broad. *State v. Hensel*, A15-0005 (Minn. 2017). Minn. Stat. § 412.191 gives statutory authority to city councils to preserve order and regulate procedure at their meetings. Cities rarely relied on the struck-down statute, but instead used other avenues to maintain order, such as issuing warnings and enforcing decorum rules. The struck-down statute served as a last resort when other options did not work.

Response: **The Legislature should ensure statutes adequately balance public participation with the ability to effectively manage public meetings and protect public safety.**

SD-19. Constitutional Amendments

Issue: The Minnesota Constitution requires that a constitutional amendment be approved by a simple majority of both chambers of the Legislature at one session, and must then be ratified by a majority of all the voters voting at the election. Minnesota is one of 18 states that require a simple majority vote by legislators while 26 states require a higher threshold (17 states require a two-thirds majority and nine require a three-fifths majority). Since statehood, 215 proposed constitutional amendments have been voted on by the electorate; 120 of them have been approved (56%) and 95 rejected (44%).

Cities provide a variety of critical and essential services to residents of Minnesota. Many public policy decisions at the state level impact cities and therefore, city officials depend on their state legislators to represent city interests at the Legislature.

Additionally, unlike a statutory change, a constitutional amendment is difficult to modify or repeal once enacted.

Response: **The League of Minnesota Cities strongly supports our representational system of government and opposes laws and amendments that restrict local government. The Legislature is the appropriate governing body to consider and enact laws that reflect**

statewide interests. Utilizing constitutional amendments to change public policy circumvents this process.

Therefore, the League supports requiring a supermajority vote (two-thirds in support) by the Legislature to put an amendment on the ballot.

SD-20. Initiative and Referendum

Issue: The Legislature has frequently considered legislation to establish initiative and referendum by proposing to place a question for voter approval on the state general election ballot to amend the state constitution to allow voters to initiate or repeal state laws by submitting a petition which would cause such questions to be placed on the state general election ballot.

Response: **Cities strongly support our representational system of governance and, therefore, oppose amending the state constitution to provide for initiative and referendum. The Legislature is the appropriate governing body to consider and enact public policy that reflects statewide interests.**

The process of adopting state law based on good public policy is best upheld and supported by increasing the accountability and responsiveness of the legislative process, not by circumventing it. Presenting complex issues to voters in the guise of direct democracy further weakens representative government.

A state constitutional amendment to provide for initiative and referendum subjects cities and their residents and taxpayers to the unintended outcomes of sometimes unwise attempts to place significant public policy decisions into the hands of special interests that can raise unlimited funds for the purpose of promoting their more narrow interests.

SD-21. Civil Liability of Local Governments

Issue: One of the barriers to the delivery of governmental services and programs is the exposure of local governments and their officials to civil damage claims. The state has acted to protect itself and its local governments by enacting exceptions and limitations to liability suits, and authorizing self-insurance and other mechanisms to deal with claims allowed by law.

Response: **The League of Minnesota Cities supports:**

a) **Creating an exception to municipal tort indemnification law, Minn. Stat. § 466.07, where an employee is defended and indemnified for claims under a contract of insurance carried by the employee.**
b) **Extending the protection of the state and municipal Tort Claims Act to quasi-governmental entities when performing public services such as firefighting or licensed third-party ambulance providers that contract with a municipality to provide ambulance services.**
c) **Existing constitutional safeguards for protecting public and private property interests without any statutory expansion of property rights.**
d) **Clarifying and maintaining the applicability of municipal immunity in various areas, including, but not limited to, vicarious official immunity and park and recreational immunity, including the extension to entities providing a public service that have not traditionally been included within the immunity (e.g., state trails over municipal utility easements).**

e) **Preserving changes to Minnesota's joint and several liability laws that require a municipality to be at least 50 percent at fault to be held responsible for 100 percent of a damage award.**
f) **Reasonable limits on the amount and circumstances in which statutory attorney fees may be awarded in order to encourage settlement by all parties and decrease the likelihood of litigation.**
g) **Preserving the essential structure of the local government tort liability caps in Minn. Stat. § 466.04.**

SD-22. Private Property Rights and Takings

Issue: In the wake of the U.S. Supreme Court's 2005 decision, *Kelo v. City of New London*, 545 U.S. 469, which upheld the ability of local governments to use eminent domain for economic development purposes, the Legislature enacted significant restrictions on cities' use of eminent domain for economic development and redevelopment, and imposed new compensation and procedural requirements that apply to all condemnation actions, including those for traditional public uses such as roads, parks, and schools. Legislation to control cities' abilities to perform regulatory acts—such as road rights-of-way condemnation, shooting range zoning, and amortization—has also received strong support from legislators. In addition, some legislators would like to authorize businesses to seek inverse condemnation when a governmental entity enters the business market and provides competing goods or services or limits the number of businesses that can operate privately or receive public contracts.

Such legislative initiatives threaten a wide array of planning, environmental, historic preservation, and land conservation measures and undermine the fundamental responsibility of cities to protect the public health, safety, and welfare of its citizens.

In 2006, the Legislature enacted Minn. Stat. § 117.031, a statute related to attorney fees in the eminent domain process. The structure of the statute has resulted in attorney fee awards in eminent domain actions that have no relationship to the outcome of the case, serve only to encourage litigation, and shift limited public funding away from infrastructure projects.

Response: **State law must continue to provide cities with the tools needed to balance the rights of private property owners with the interests of the public. The League of Minnesota Cities opposes legislation that diminishes the ability of cities to act in the best interest of the health, safety, and welfare of its citizens; that increases the cost of doing business for the public good; or that creates the possibility of additional lawsuits against cities.**

Specifically, the League opposes legislation that:

a) **Allows businesses to seek inverse condemnation when a city provides competing goods or services, or limits the number of private operators.**

b) **Creates an automatic cause of action for damages any time a local regulatory action impacts the use or reduces the value of private property.**

The League supports legislation that:

a) **Authorizes cities to use eminent domain for economic development and redevelopment projects that advance a greater public good that benefits the community.**

b) **Empowers local elected officials to determine whether a particular taking of property serves a public purpose.**
c) **Creates incentives to encourage landowners to voluntarily sell their property to the public for development or redevelopment.**
d) **More appropriately balances awards of attorney fees and costs of litigation with the outcome of the eminent domain proceeding.**

SD-23. Organized Solid Waste Collection

Issue: "Organized collection" refers to a situation where a local unit of government, for any of a variety of reasons, decides that there is a public interest served by limiting the number of solid waste and recycling collection services available in the area. The reasons for implementing organized collection can vary, but include:

a) Public safety concerns caused by the number and frequency of large trucks moving quickly through residential neighborhoods;
b) Reducing wear on public infrastructure from heavy truck traffic;
c) Improving the efficiency, cost and quality of garbage and recycling service provided to local residents;
d) Cooperating with other local governments to best meet solid waste management and recycling objectives;
e) Taking local steps to reduce energy impacts of public services; and
f) Meeting the requirements of county ordinances and solid waste management plans as required under Minn. Stat. § 115.94.

Organized collection is also encouraged in state solid waste policies as a means of improving the efficiency and coordination of solid waste management between local units of government. There are very specific and burdensome public procedures laid out in statute defining how such a decision must be publicly vetted and approved and over what time period that can occur.

Despite all of these important and valid reasons for using organized collection, legislation has been discussed in several recent sessions that would allow special takings claims or contractual damages to be claimed by the solid waste industry if local governments make decisions that limit the number of companies that can collect garbage in a community in a manner that prevents a company currently operating in the community from continuing to do so through the implementation of organized collection. The unspecified and ongoing liability this change would create would have the effect of eliminating organized collection as a waste management option. This change would also create a virtual monopoly situation for any company awarded a solid waste contract under organized collection. The local unit of government would have to "buy out" a contractor in the future to change providers, even if their services were no longer the lowest bid. It also creates an incentive for bidders under organized collection to submit high bids, as they would be eligible for damages if they fail to win without having to provide service. Furthermore, this is a precedent that, if applied to other government purchasing and service contracting decisions, would clearly run counter to the public purpose of government providing services at the lowest feasible cost to taxpayers.

Response: **The League of Minnesota Cities opposes efforts to apply inverse condemnation claims to city solid waste contracting decisions or to allow automatic contractual damage claims for**

solid waste haulers that lose competitive bids in organized collection communities.

Further, the League supports the current state policy that organized collection is a valuable tool as part of a comprehensive solid waste and recycling management program and recognizes the need to protect and preserve the authority of cities to adopt solid waste service contracts that protect public safety, the environment and public infrastructure.

SD-24. Private Well Drilling

Issue: The state has continued to place requirements on public water supply providers to add drinking water treatment and testing, to restrict the volume of water used, and to increase the cost of water use through fees and requirements on utility rate structures. As a result, many water users are choosing to obtain all or portions of their water from wells they place on their own property. This creates risks to public health and safety, can affect the surrounding environment, can affect city water supplies, and can leave city water utilities with massive losses of customer load and rate revenue.

Providing clean, safe, cost-efficient drinking water to citizens is an essential service provided by 726 active municipal water systems. The Minnesota Department of Health (MDH) agrees that cities have the statutory authority to determine whether private wells are an appropriate use within their boundaries and that cities must protect the public water supplies from numerous private wells in city boundaries. Private wells in a city increase the risk of contaminating public water supplies and encourage over use of water. Cities have the authority to regulate and even prohibit private wells by local ordinance.

Response: **The League of Minnesota Cities supports current law that authorizes cities to protect public health and safety through local controls regulating or prohibiting private wells being placed within municipal water utility service boundaries and would oppose any changes to law to remove that authority.**

SD-25. Sustainable Development

Issue: Minnesota cities spend significant time and resources planning for growth, development, and redevelopment that will best serve the future needs of their residents. Numerous factors are considered as part of that process, but an area of increasing interest involves concepts often categorized as "sustainable development." Minn. Stat. § 4A.07, subd. 1(b), defines this term, as it pertains to local government, to mean "development that maintains or enhances economic opportunity and community well-being while protecting and restoring the natural environment upon which people and economies depend. Sustainable development meets the needs of the present without compromising the ability of future generations to meet their own needs."

Cities play a key role in fostering sustainable development and other conservation practices due to their role in land use planning and zoning, stormwater and wastewater management, and local economic development. Local governments can take a lead on these issues by choosing to incorporate aspects of sustainable development into their local operations and facilities. They can also develop local policies and regulations that support and guide individual and private sustainability efforts. The ability of a city to affect these changes can, however, be restricted by policies and requirements imposed by other levels of government.

Sustainable development initiatives can cover a wide range of issues, but share the benefit of lessening the future environmental impacts of communities on the land, air, and water in their area. Lakes, streams, rivers, wetlands, wildlife habitat, shoreland areas, and other natural resources can be protected and enhanced in quality through local efforts. Energy efficiency and renewable energy production reduce the energy demands of a community and the environmental impacts of energy production. By more efficiently using public infrastructure and minimizing resource consumption, the costs to individuals, business, and government can be reduced. New and expanded business and job opportunities are also generated by the "green" products and services needed to implement sustainable development initiatives. The ideal result of well-planned sustainability, natural resources management, and conservation efforts is a city that is more efficient in the use of its resources and infrastructure, creates fewer environmental problems for future generations to address, and is a more desirable home for residents and businesses.

Response: **The League of Minnesota Cities supports federal, state, and regional efforts to promote sustainable development where the effectiveness of the proposed practice is supported by sound science, and as long as those efforts do not supersede the authority of local governments to determine their own policies regarding land use and related issues.**

Providing technical assistance and financial incentives, and streamlining regulations to encourage local governments and private property owners to engage in sustainable development practices, as well as assisting in education and information efforts for the building industry and the public, are the best means to generate successful results. These programs should focus on outcomes, allowing flexibility in how to best meet those outcomes in different locations and situations. The League opposes mandates that limit the authority of cities to determine what practices will best meet the needs of their communities.

The League supports sustainable development efforts that meet the above criteria, including programs proposed in the following areas:

a) **Shifting public resources, services, investments, purchasing power, and procurement toward more economically and environmentally sustainable outcomes where those solutions are cost effective and appropriate.**
b) **Using local land-use planning and zoning to protect and enhance limited natural resources, and reduce the impacts of growth and development on local infrastructure.**
c) **Promoting efficient and renewable energy sources.**
d) **Encouraging sustainable building design, construction, and operation strategies focused on integrated design, energy efficiency, water conservation, stormwater management, waste reduction, pollution prevention, indoor environmental quality, and the use of low-impact building materials and products.**
e) **Supporting sustainable economic development, such as brownfield clean-up, on-site stormwater management, and sustainable business practices and technologies.**
f) **Assisting and recognizing local governments that take actions to reduce greenhouse gas emissions and**

increase energy efficiency by providing and identifying technical assistance, financial assistance, and best practices.

SD-26. Construction Codes

Issue: The State Building Code (SBC) is the statewide standard for the construction, reconstruction, alteration, and repair of the buildings and other structures of the type governed by the code. A building code provides many benefits, including uniformity of construction standards in the building industry, consistency in code interpretation and enforcement, and life-safety guidance. Beginning in 2018, the state will adopt a new version of the SBC every six years after a rulemaking process that allows for significant public input. The League supports adopting and amending the SBC through the rulemaking process, and opposes legislative changes to the building codes absent unusual or extraordinary circumstances.

While all cities must enforce certain codes—such as the accessibility code and the bleacher safety code—enforcement of the SBC remains a local option for cities outside of the seven-county metropolitan area with fewer than 2,500 people that did not adopt the code before Jan. 1, 2008. Requiring enforcement of the SBC by smaller cities in Greater Minnesota is cost-prohibitive for many cities, and would result in an unfunded mandated.

While a single set of coordinated codes helps provide consistency in code administration and enforcement, implementation of sustainable building design, construction, and operation does not readily integrate with the existing state building and energy code system. As a result, many cities are interested in adopting more aggressive local standards for sustainable development and conservation.

Response: **A statewide-enforced building code may have benefits, but requiring it would result in an unfunded mandate.**

Enforcing the State Building Code should remain a local option for the municipalities that have not already adopted the Code, unless the state fully funds the costs of enforcement and inspection services necessary to enforce a statewide building code. If the Legislature requires all cities to enforce the State Building Code, local governments must have the option to hire or select a building official of their choice and set the appropriate level of service—even if the state fully funds code enforcement activities.

The state should collaborate with local governments, construction industry representatives, and other stakeholders to review the building and energy codes and consider modifications to encourage sustainable building design, construction, and operation.

Specifically:

a) **For purposes of federal conformity, the state should adopt the International Energy Conservation Code as part of the State Building Code.**
b) **The state should include an optional sustainable appendix to the State Building Code to allow cities to utilize appropriate parts of guidelines in their communities.**
c) **The Legislature should authorize cities to experiment with more aggressive local standards for sustainable development and**

conservation that will help inform the state code development process.

SD-27. Building Officials

Issue: There is a shortage of certified building officials in Minnesota. This shortage is particularly acute in Greater Minnesota where some cities have trouble finding certified building officials to perform inspections required by state law. Minnesota needs to hire a new generation of certified building officials, and must ensure that current officials have adequate training and opportunity to inspect a wide range of projects.

The Department of Labor and Industry (DLI) has authority over state-licensed facilities and public buildings. Pursuant to Minn. Stat. § 326B.106, subd. 2, it must delegate authority to inspect projects on these buildings to a municipality if DLI determines that the municipality has adequate qualified local building officials to perform plan review or inspection of the projects. In 2014 the Legislature passed legislation requested by the League of Minnesota Cities and agreed to by DLI to provide more transparency and clarity to the delegation process. DLI, after consulting local governments and the League, implemented a new delegation procedure as required by statute. Although the new delegation process is a significant improvement, it can still be difficult for local building officials to achieve the experience necessary to be delegated full inspection authority.

Response: **Minnesota's housing and construction industries depend on the work of local building officials, and cities that enforce the State Building Code endeavor to provide quality code administration and enforcement. The State must increase its efforts to train new building officials, and must provide sufficient education to help local officials efficiently administer and enforce construction regulations to protect the health and safety of citizens. These education efforts should include training to assist local building officials gain the requisite experience to qualify for delegation of state-licensed facilities and public buildings.**

The League urges the state to make surplus revenue from the building permit surcharge available to local governments to help defray the cost of complying with code official training and education requirements.

SD-28. Disability Access Requirements

Issue: Title II of the Americans with Disabilities Act (ADA) of 1990 requires that state and local governments provide people with disabilities equal opportunity to benefit from all of their programs, services, and activities. Public entities are not required to take actions that would result in significant financial and administrative burdens, but they must modify policies, practices, and procedures to avoid discrimination unless they can demonstrate that doing so would fundamentally alter the nature of the service, program, or activity being provided.

State and local governments are also required to follow specific standards when constructing new facilities and altering existing public buildings, and they must relocate programs or otherwise provide access in inaccessible older buildings. Under the ADA, public entities are not necessarily required to make each existing facility accessible. However, their programs—when viewed in their entirety—must be readily accessible to people with disabilities. A public entity may achieve program

accessibility through various methods. For example, a city may alter existing facilities, acquire or construct new facilities, relocate a service or program to an accessible facility, or provide services at other accessible sites.

One district court judge has taken an expansive view of disability access requirements for public recreation facilities. The case involved a parent who sued a city due to difficulty viewing soccer and baseball games on certain city fields. The court, in interpreting the Minnesota Human Rights Act (MHRA), held that any public facility is a public service. Since the MHRA requires that every public service be accessible to disabled persons, the court concluded that each and every playing field and other public facility must be fully accessible. The court rejected the ADA's limitations on modifications for physical access to older facilities, as well as the ADA's "when viewed in its entirety" language for program access. The result is a more restrictive state standard for physical access to public facilities than required by the ADA and the State Building Code.

Response: **The League of Minnesota Cities supports changes to the MHRA that will make state accessibility standards compatible with the federal ADA for public services and facilities. The Legislature should clarify that a facility that is in compliance with Accessibility Code provisions of the State Building Code meets the physical access requirements of the MHRA. State law should also specify that accessibility requirements apply to public programs and services as a whole, rather than to each individual aspect of a public program or service.**

SD-29. Assaults on Code Inspectors and Officials

Issue: Many city employees and contractors are required to enforce city codes and ordinances and state statutes and rules as part of their job duties. Code enforcement can involve denying a building permit, ordering a landlord to make repairs to rental properties, or fining property owners for failing to abate a nuisance. Because of the nature of their job, code inspectors and officials can be subjected to verbal assaults, threats, and physical violence.

Minnesota law recognizes the need to protect certain employees whose jobs make it more likely that they will be the target of assaults by escalating assault charges from fifth to fourth degree for the assaults of peace officers, firefighters, school officials, and "public employees with mandated duties". Minn. Stat. § 609.2231, subd. 6, specifically defines "public employees with mandated duties" as agricultural inspectors, occupational safety and health inspectors, child protection workers, public health nurses, animal control officers, and probation or parole officers. An assault on one of these employees who is engaged in the performance of a duty mandated by law, court order, or ordinance, is a gross misdemeanor if the person knows the employee is engaged in the performance of official duties and inflicts demonstrable bodily harm.

Under current law, an assault on a code inspector or official not enumerated in Minn. Stat. § 609.2231, subd. 6, while performing official business can only be charged as fifth degree assault, a misdemeanor, unless it results in substantial bodily harm. All code inspectors and officials should be afforded the same protections under Minnesota Statutes, and the legislature should amend the statute to

expand the employees covered by the statute.

Response: **The legislature should expand Minn. Stat. § 609.2231, subd. 6, to include code inspectors and officials, and should be defined broadly to include public employees and contractors whose jobs require them to enforce all administrative codes, rules, ordinances, and state laws.**

SD-30. Restrictions on Possession of Firearms

Issue: The Minnesota Citizens Personal Protection Act, also known as "conceal-and-carry," prohibits guns on most school properties but forbids other local units of government from prohibiting loaded firearms on their properties. The inconsistencies in the law's treatment of different kinds of properties have caused confusion about how the law applies to multi-use facilities, such as municipal ice arenas used for school-sponsored programs.

Further, the law gives private property owners the right to prohibit guns in their establishments, but prohibits landowners from restricting firearm possession by tenants and their guests without distinguishing between residential and commercial properties. This creates confusion for shopping malls and other retail properties with large common areas that are not occupied by the tenants but which the tenants and their customers must cross to access the tenant's space.

Finally, the Citizens Personal Protection Act does not explicitly state the type of firearm a permit holder may carry, and this has led to ambiguity regarding whether the law is limited to the right to carry a pistol-length firearm in public or if it allows for any firearm, including a military-style assault rifle.

Response: **The League of Minnesota Cities requests an amendment to the Citizens Personal Protection Act that would allow cities to prohibit firearms in city-owned buildings, facilities, and parks. The League supports clarifying the Act to state that a permit holder, under the terms of a permit, is allowed to carry a pistol-length firearm, but not a semiautomatic military-style assault weapon. The League is not seeking a repeal of the Citizens Personal Protection Act, nor authority to prohibit legal weapons in parking lots or on city streets and sidewalks. The League also supports efforts by commercial property owners to clarify that the prohibition on restricting possession by tenants and their guests applies only to residential rental property.**

SD-31. Public Safety Communications

Issue: The state role in financing public safety communications has important cost implications for cities. The state needs to accept financial responsibility for use by cities of the state public safety radio communications backbone. Cities have struggled to pay high expenses to participate in the 800 MHz statewide public safety system.

In previous state budgets, the Legislature turned to revenue sources upon which cities depend to cover costs to purchase and operate new communications technology and hardware for computer-aided dispatch, 911 public safety answering points (PSAPs), and interoperable radio communications equipment and subsystems in order to finance the build-out of the state backbone for the new system. As a result, fees were directed to fund revenue bond debt service used to complete the statewide build-out of the Allied Radio Matrix for Emergency Response (ARMER) and the cost of

operations of the state public safety radio communications backbone.

At the federal level, the Federal Communications Commission (FCC) has ordered reservation of 700 MHz wireless spectrum for a national interoperable broadband network to meet public safety communications needs. FirstNet was established in 2012 as an independent authority within the National Telecommunications and Information Administration (NTIA) and is responsible for constructing a nationwide high-speed public safety wireless broadband network.

Response: **The League of Minnesota Cities supports continued and increased state financing of substantial local costs to participate in ARMER, including the acquisition and modernization of subscriber equipment, such as portable and mobile radios required for ARMER users. The League also opposes efforts to divert dedicated ARMER funds to the state's general fund. The Legislature should fund regional cooperation and partnerships for effective delivery of 911 service, training and use of ARMER.**

The League also urges the FCC to continue to support availability of wireless spectrum necessary to expand channel capacity that allows local public safety agencies to meet future needs of cities and other local units of government.

SD-32. CriMNet

Issue: Public safety is compromised by the lack of centralized, complete, and accurate criminal history data about individuals, incidents, and cases. Without an integrated criminal justice information system, Minnesota cannot always hold serious criminals accountable for their crimes. CriMNet, Minnesota's effort to integrate the 1,100 criminal justice information systems operated by agencies at all levels, will improve access to relevant criminal history data for public safety and criminal justice authorities.

City officials are well aware of the complex issues raised by the utilization of electronic record keeping, data sharing, and access to records that identify data subjects. The League of Minnesota Cities recognizes that one of the challenges in making CriMNet operational is meeting the requirements of the Minnesota Government Data Practices Act (MGDPA).

More than 500 cities operate police departments. These departments vary dramatically in fiscal capacity, staffing resources, and technical expertise. Further, each municipal law enforcement agency has unique operating procedures, strengths, and needs based on the community it serves. The League knows CriMNet will have a significant impact on municipal police business practices, and could mean increased staffing needs, training, and equipment purchases. The League also recognizes that every agency must participate fully in CriMNet to make the system effective.

Response: **The League of Minnesota Cities supports efforts by the state to integrate criminal justice information systems. The League also supports cooperation between legislators, law enforcement and corrections agents, court officials, prosecutors, community groups, and businesses that build public support for CriMNet.**

If CriMNet is to be implemented statewide, the Legislature must consider the different capacities of municipalities to participate. The League requests that

the Legislature fund CriMNet planning and implementation at the local level.

To ensure compliance with the MGDPA, comprehensive guidelines and operational practices should be implemented to safeguard access to and use of CriMNet data. However, data practices policies should not create new, unfunded mandates for local units of government or compromise CriMNet's usefulness to the criminal justice system by creating unnecessary barriers. CriMNet stakeholders and participating users at the local level should be involved in crafting any legislation that would govern data practices requirements for CriMNet.

SD-33. Pawn Shop Regulation and Use of the Automated Property System (APS)

Issue: Minn. Stat. ch. 325J enables licensure for pawnbrokers and provides statewide minimum regulations for the pawn industry.

Specifically, the law:

a) Requires pawnbrokers to record all transactions, including details of the item pawned or sold, information about the customer and the cost of the transaction.
b) Requires pawnbrokers to maintain records of all transactions for three years, and to make records available upon request to law enforcement agencies.
c) Allows pawnbrokers to charge a maximum monthly interest rate of 3 percent of the principal amount loaned in a transaction, plus a reasonable fee for storage and services.

The Automated Property System (APS) is a computerized system for tracking and monitoring pawn transactions. The purpose of the APS is to provide a tool to verify compliance with Minn. Stat. ch. 325J, to help identify and minimize illegal activity, to recover stolen property, and to provide a legitimate environment for consumers. Currently, almost 260 law enforcement agencies and over 190 stores in Minnesota and Wisconsin participate in the APS system as either a "query only" or "contributing" member.

All access to and use of information in the APS system is governed by the Minnesota Data Practices Act. Only authorized users have access to the data. There is no public access to the data. Further, data that would reveal the identity of persons who are customers of a licensed pawnbroker or secondhand goods dealer are private data on individuals and only used for law enforcement purposes. Data describing the property in a regulated transaction with a licensed pawnbroker or secondhand goods dealer is public.

Original pawn and secondhand transactions reported to the APS carry a $1 fee, regardless of the number of items involved. All subsequent updates or corrections to transactions are processed without charge. Contributing jurisdictions may also add regulatory costs to the transaction fee. The total transaction fee is then typically assessed by the dealer to the customer.

A bill that would weaken Minn. Stat. ch. 325J and restrict the use of the APS has been introduced in the Minnesota Legislature. Specifically, the legislation would forbid law enforcement agents from acquiring customer information from pawn and secondhand shops until they have probable cause to do so, and would eliminate the authority of local units of government to more strictly regulate pawn and secondhand dealers.

Response: **The League of Minnesota Cities supports the authority of cities to regulate and license pawnbrokers, and opposes any legislation that would remove the authority of local governments to enact more restrictive regulations than currently exist in Minn. Stat. ch. 325J.**

The League supports the authority of cities to set licensing and transaction fees that enable them to recover their full regulatory and enforcement expenses.

The League supports cooperation between law enforcement agencies and the pawn industry that enhances the ability to identify illegal activity and recover stolen property. Access to transaction information by law enforcement agencies is vital to accomplishing this goal. Further, the sharing of information through the use of the APS is a proactive way to prevent property and other crimes.

SD-34. City Costs for Enforcing State and Local Laws

Issue: Cities experience substantial costs enforcing state and local laws, particularly those related to traffic, controlled substances, and incarceration of prisoners. The current method in our criminal justice system of recovering costs for law enforcement and prosecution through fines is insufficient to meet the costs incurred by local governments. Further, when a violator requests relief from paying the full amount of the fine and surcharge, the courts have been more inclined to waive the fine than to reduce the surcharge. When this occurs, the local units of government recover no costs even though the city has incurred expenses.

Response: **The Legislature should review this issue and adopt measures that provide for complete reimbursement of the costs incurred by local governments in enforcing state and local laws. Solutions that should be considered include:**

a) **Increasing fine amounts.**
b) **Removing or modifying county and state surcharges that conflict with cost recovery principles.**
c) **Requiring the courts to consider ordering restitution from the defendant to reimburse the costs of enforcement and prosecution as part of any sentence.**
d) **Requiring that if a court reduces the amount paid by a violator, any reduction should be made from the surcharge and not the fine.**

SD-35. Compensation and Reimbursement for Public Safety Services

Issue: Municipal public safety personnel often respond to emergencies involving non-residents. For example, municipal fire, police, and/or ambulance services may be dispatched to the scene of a traffic accident on an interstate highway involving victims from other cities or states. Although cities can bill for some public safety services they provide to non-residents, they have limited authority to collect on unpaid bills.

Cities have also found that auto insurance policies vary when it comes to coverage for emergency responses. Insurance companies of those responsible for accidents sometimes deny payment for fire and ambulance service.

Additionally, municipal public safety personnel commonly respond to emergencies that require the provision of medical services. The medical services provided by the city-employed first responders are part of a continuum of health care that is covered by insurance companies

when provided by paramedics and other medical care providers; however, insurance policies vary when it comes to coverage for municipally provided medical services. Insurance companies of those treated by municipal public safety personnel frequently deny payment for emergency medical services when they are billed by a municipality.

Thus, when a municipal public safety agency provides first response medical assistance, they commonly do so at the expense of local property taxpayers. While emergency responses are legitimate functions of municipal public safety departments, the costs of providing services to non-residents should not be borne by the community's taxpayers.

Response: **Cities should be compensated for emergency responses they provide to non-residents. They should have the authority to bill for the full cost of fire and ambulance services they provide, and to collect on unpaid bills.**

Further, while emergency medical responses are legitimate functions of municipal public safety departments, the costs of providing emergency medical care to individuals should be covered by insurance and not be borne exclusively by the community's taxpayers. Cities should have the authority to bill for the full cost of first responder medical services they provide and to collect on unpaid bills. Insurance companies should be required to reimburse local governments for the full cost of providing these emergency medical services. Finally, auto and homeowners insurance policies should be required to insure for the cost of emergency responses.

SD-36. Administrative Traffic Citations

Issue: Cities have implemented administrative enforcement programs for violations of local regulatory ordinances, such as building codes, zoning codes, health codes, and public nuisance ordinances. This use of administrative proceedings has kept enforcement at the local level and reduced pressure on over-burdened district court systems.

The Legislature has repeatedly increased the fine surcharge on district court cases to generate revenues for the state's general fund. The surcharge—the amount paid over and above the fine—is now $75 per citation. The growth in the surcharge has dramatically increased the cost of citations and has caused some to question whether the total of the fine and surcharge is disproportionate for minor matters. To lower the amount imposed on their residents, a number of cities have expanded their administrative programs to include some offenses traditionally heard in district court, such as minor traffic offenses.

The increased state surcharges have not been used to assist local units of government with the growing costs of enforcement and prosecution. No matter which entity—city, county or state—issues a statutory citation, the violator pays between $115 and $127 for a minor speeding violation. Of this amount, the city receives between $13 and $20, and the county receives just slightly more.

Further, when a violator requests relief from paying the full amount of the fine and surcharge, the courts have been more inclined to waive the fine than to reduce the surcharge. When this occurs, the local units of government recover no costs even though the city has incurred expenses.

In 2009, the Legislature amended the statutes to allow administrative fines to be issued for certain minor traffic offenses. Cities report that the short list of offenses noted in that law change does not adequately address the needs of local law enforcement. Additional authority is necessary to allow law enforcement officers to implement an effective program to reduce violations.

Response: **The League of Minnesota Cities continues to support the use of city administrative fines for local regulatory ordinances, such as building codes, zoning codes, health codes, public nuisance ordinances and regulatory matters that are not duplicative of misdemeanor or higher level state traffic and criminal offenses. Cities should have the authority to issue administrative citations for low-level moving and equipment violations that: 1) would otherwise result in warnings, and 2) occur on roadways where the speed limit is 45 miles per hour or less.**

If state leaders choose not to expand the list of administrative traffic offenses, they should then change the distribution of statutory violation fine revenues so that cities are adequately compensated for enforcement and prosecution costs.

SD-37. Driver Diversion Programs

Issue: Traffic offense educational diversion programs provide an alternative to first-time petty misdemeanor traffic citations. The programs require an accused violator to enroll in an educational class and successfully complete the class. The courses focus on safe driving and have been shown to change behavior and reduce recidivism, particularly among young drivers.

In 2014, a judge in Wabasha County ruled that local units of government do not have the authority to implement minor traffic offense educations diversion programs that are not explicitly authorized by law. Given this ruling, many longstanding, successful diversion programs for first-time offenders were suspended.

In 2008, the legislature approved a pilot diversion program. It authorizes designated cities and counties to implement diversion programs that meet specific criteria. The commissioner of the Department of Public Safety (DPS) has the authority to approve or deny participation in the pilot program by individual cities and counties, and each person participating in the program must first be granted approval by the DPS. Due to limited DPS staffing for this function, approval for some participants has been delayed. The pilot program is scheduled to expire December 31, 2019.

The session law governing the pilot requires that all sums owed must be paid within 18 months. Most people entering the driver diversion program have outstanding fines and fees in the amount of between $1,000 and $4,000. There are some individuals, however, who owe as much as $8,000 to $10,000 in fines and fees. The short timeline for making all payments causes a number of otherwise cooperative participants to drop out of the program.

Response: **The League of Minnesota Cities also supports making the driver diversion pilot program for individuals with suspended or revoked licenses permanent and available to all jurisdictions, and a broadening of the eligibility criteria for participation in the program so it is available to more people. The law should allow jurisdictions to consider the financial circumstances of individuals and provide authority to extend the timeline for collecting outstanding fines and fees beyond the**

current 18 months. Lastly, the DPS must provide adequate staffing for processing driver diversion program applications to avoid delays in approval for participation.

SD-38. Distracted Driving

Issue: Distracted driving is when a driver engages in any activity that might take attention away from the primary task of driving. According to the Minnesota Department of Public Safety, one in four motor vehicle crashes is related to distracted driving. Distracted driving was a contributing factor in 175 fatal crashes from 2011 to 2013 in Minnesota and resulted in 191 deaths. More than half of those crashes occurred in rural areas. Those fatalities cost the state more than $269 million. A University of Utah study finds that the relative risk of being in a traffic accident while using a cell phone is similar to the hazard associated with driving with a blood alcohol level at the legal limit.

Under existing law, it is illegal for a driver to read, compose, or send text messages and emails, or access the Internet using a wireless device, while the vehicle is in motion or a part of traffic (including while stopped in traffic or at a semaphore). Cell phone use is totally banned for school bus drivers. Cell phone use is also totally banned for teen drivers during their permit and provisional license stages.

Response: **The League of Minnesota Cities opposes any changes to Minnesota Statutes that would weaken distracted driving laws.**

The League supports state funding for distracted driving enforcement and education and also supports strengthening distracted driving laws.

SD-39. Juveniles in Municipal Jails

Issue: Municipal jails have long served as holding facilities for suspects who are being questioned and/or booked, and for those awaiting transfer to a county jail or juvenile detention facility. In 2012, the Minnesota Department of Corrections (DOC) issued a reinterpretation of an existing law to say that, "[W]here counties have secure juvenile correctional facilities…juveniles are not allowed to be held in jail and/or municipal lock-ups for any length of time."

This interpretation is in conflict with a provision in Minn. Stat. § 260B.181, subd. 4, which provides that juveniles can be held in a licensed juvenile facility for up to six hours. Many municipal jails, including those in counties where juvenile detention facilities exist, have been operating under the six-hour holding law.

Managers of municipal jails indicate the reinterpretation of the law is contrary to common practice and presents significant challenges for municipal law enforcement personnel.

Response: **The League of Minnesota Cities supports a statutory clarification that would allow juveniles to be held for questioning and booking in licensed jail facilities for up to six hours, regardless of whether the county has a juvenile detention facility.**

SD-40. Justice System Funding

Issue: Over the past several years, Minnesota's justice system has operated under consecutive budget shortfalls. Public service windows are closed part of each week in many courthouses. Delays in case filings, hearings and dispositions are building throughout the state as staff and judges struggle to keep up with caseloads.

The budget shortfalls limit the ability of the courts to process cases pertaining to shoplifting, trespassing, worthless checks, traffic and ordinance violations, juvenile truancy, runaways and underage drinking, consumer credit disputes, property-related and small civil claims, and many other cases. Timely processing of these cases is critical to keeping communities safe and to preserving the quality of life residents expect.

The State Court Administrator has advocated for statutory changes that have resulted in efficiencies and cost savings while preserving core services. These changes involve consolidating services where practicable and using technology to reduce costs. They include centralized payable processing, use of e-citations and restructuring of state mandated programs.

Response: **The League of Minnesota Cities supports a statement by former Chief Justice Eric J. Magnuson that calls for "an adequately funded, functioning justice system that resolves disputes promptly in order to ensure the rule of law, protect public safety and individual rights and promote a civil society." The League supports the use of technology to reduce costs and preserve services. The League opposes any changes that would decriminalize local ordinances, petty misdemeanors or misdemeanor offenses, or that would make prosecution of these crimes more difficult.**

SD-41. 21st Century Policing

Issue: Published in May 2015, the *President's Task Force on 21st Century Policing Report* makes multiple recommendations aimed at helping law enforcement agencies and communities strengthen trust and collaboration, while reducing crime by implementing the next phase of community-focused policing. The report contains recommendations related to six key areas of law enforcement:

1. Building Trust and Legitimacy;
2. Policy and Oversight;
3. Technology and Social Media;
4. Community Policing and Crime Reduction;
5. Training and Education; and
6. Officer Safety and Wellness.

Many Minnesota communities have embraced 21st Century Policing concepts, and municipal police departments throughout the state have adopted policies that align with 21st Century Policing principles.

In Minnesota, police chiefs have indicated strong interest in securing additional training in 21st Century Policing practices for officers. Demand for training has increased in recent years, and in 2017 the Legislature responded by increasing continuing education requirements for officers, expanding the scope of this training to include more community policing, and by providing $6 million per year over the next 4 years for training reimbursement provided by the Peace Officer Standards and Training (POST) Board. This funding is not permanent and sunsets after the four-year period.

The POST Board is funded through a special revenue account from a surcharge on criminal and traffic convictions. However, a significant amount of the special revenues collected are diverted to the state's general fund and are not made available for training reimbursement, and the amount of the surcharge paid to the state has been

declining. There is also growing concern about the impact of the surcharge on residents, particularly those of low income and persons of color, and concern about funding policy training based on ticket revenue.

Response: **The League of Minnesota Cities recognizes the need for communities and law enforcement agencies to strengthen trust and collaboration, while continuing to reduce crime. The League supports the recommendations of the *President's Task Force on 21st Century Policing Report*. To that end, the League supports:**

a) **POST Board model policies that align with the recommendations of the President's Task Force on 21st Century Policing Report;**
b) **POST Board approved training opportunities for new recruits and in-service peace officers that include but are not limited to procedural justice, bias/implicit bias and cultural awareness, de-escalation, and crisis intervention training;**
c) **Increased state and federal funding for peace officer training that includes reimbursement for tuition, travel, time and backfilling the shifts of officers who are out for training;**
d) **Permanent funding for police training that is not based on criminal and traffic ticket revenue;**
e) **State and federal funding for peace officer safety and wellness initiatives; and**
f) **Authority and grants for municipal police departments to deploy technologies such as dash cameras and police body worn cameras that enhance both criminal justice and officer accountability.**

SD-42. Post-Incarceration Living Facilities

Issue: Sufficient funding and oversight is needed to ensure that residents living in post-incarceration living facilities have appropriate care and supervision, and that neighborhoods are not disproportionately impacted by high concentrations of these types of facilities. Under current law, operators of certain post-incarceration living facilities are not required to notify cities when they intend to purchase single family housing for these purposes. Cities do not have authority to regulate the locations of post-incarceration living facilities. Cities have reasonable concerns about the safety of facility residents and neighborhoods, particularly in cases of public safety. Cities also have an interest in preserving a balance in residential neighborhoods between this type of facilities and other uses. It is in the best interest of providers to inform and work with cities before opening a facility in order to educate providers of community standards and expectations.

Response: **Cities should have statutory authority to require agencies, as well as licensed and registered providers, that operate post-incarceration living facilities to notify the city before properties are operated. Cities should be provided with the necessary contact information once licensed or registered. Providers applying to operate post-incarceration living facilities should be required to contact the city to be informed of applicable local regulations. The Legislature should also require establishment of non-concentration standards for post-incarceration living facilities to prevent clustering. Finally, licensing or registering authorities must be responsible for removing any residents incapable of living in such an environment,**

particularly if they become a danger to themselves or others.

SD-43. Homeland Security Costs and Liability

Issue: The federal government's response to terrorism has resulted in new responsibilities for local governments in a number of areas. For example, shortly after the terrorist attacks on Sept. 11, 2001, the federal government tapped local law enforcement personnel to provide security and perform screening at our nation's airports. These new responsibilities increase cities' liability exposure and result in higher local costs for public safety services. In addition, local governments are expected to continue emergency planning and capacity building efforts, provide additional training and equipment for first responders, and improve emergency response coordination and communication.

As partners in protecting our country from terrorism, the federal government must: 1) provide greater direct financial support for our first responders; 2) maintain funding for general pre- and post-disaster emergency management programs; 3) ensure a coordinated and effective national emergency response system; and 4) address issues of cyber security that threaten public safety, services, and infrastructure.

Response: **The League of Minnesota Cities recommends that when the federal government requires or contracts for cities' assistance in meeting federal homeland security responsibilities, the federal government should fully cover the costs, including the risk of liability arising from these activities.**

The League supports greater federal funding to prepare, train, and equip our first responders. The League also supports changes in the federal funding process to ensure Department of Homeland Security funds move quickly to the local level. Furthermore, the League supports the allocation of state resources to provide training and technical assistance to local governments related to the prevention and control of cyber security risks to critical infrastructure.

SD-44. Cybersecurity

Issue: Dating back to at least 2012, U.S. Defense Secretaries have warned that the United States are increasingly vulnerable to foreign computer hackers who could dismantle the nation's power grid, transportation system, financial networks and government. On a state level, the original Minnesota broadband task force issued unanimous joint recommendations regarding cybersecurity in their 2009 report. The more recent iteration of the Broadband Task Force also issued a 2016 recommendation to establish a legislative cybersecurity commission to share information, monitor workforce issues, and support and strengthen infrastructure. These recommendations to address cybersecurity issues in the state have not been implemented, which creates an absence of a secure and safe forum for state and local officials and policymakers to share information and assess the necessary tools and capabilities needed to protect their systems. The problem is serious. The Minnesota Judicial Branch, state agencies, cities, and school districts were all affected by cyberattacks in 2017.

Response: **The League of Minnesota Cities supports state action to identify and strengthen state and local capabilities. The League supports the inclusion of funding to evaluate state government cyber vulnerabilities, single points of failure, and fixes, and, based on**

those findings, create an ability for municipal governments to apply for grant funding or assistance to help conduct the same evaluation.

SD-45. Immigration Reform

Issue: The United States and the State of Minnesota have long traditions of welcoming immigrants. Immigrants strengthen Minnesota by contributing to the state's economy, enhancing cultural resources, and participating in efforts to build strong communities.

According to the National League of Cities, roughly 35 percent of undocumented immigrants have lived in the United States for 10 years or more. Approximately 1.6 million undocumented immigrants are children, and another 3.1 million children in the United States have at least one undocumented parent. These families are forced to live "underground" and are unable to get drivers' licenses or car insurance in most states. In addition, they are unlikely to obtain health insurance and are afraid to report crimes to local law enforcement.

Since immigrants are barred from most federal public assistance, the burden of providing social services, education, and health care falls to state and local governments that are increasingly feeling the financial impact of both legal and illegal immigrants living in their communities.

Response: **The League of Minnesota Cities, together with the National League of Cities, urges Congress to move quickly to enact and enforce effective immigration laws.**

Federal and state governments must not transfer responsibility for enforcing U.S. immigration laws to local personnel, including police officers, firefighters, educators, health professionals, and social service employees. Finally, federal and state governments must not prohibit local units of government from implementing policies aimed at fostering positive relationships between local government officials, including law enforcement personnel, and immigrant communities.

SD-46. Legalization of Fireworks

Issue: In 2002, the state enacted a law allowing the sale and use of non-aerial, non-explosive consumer fireworks, including sparklers, party poppers, snakes, and other novelty items—relaxing the ban on consumer fireworks in place in Minnesota since 1941. In 2008, the Legislature further relaxed the ban by increasing the amount of explosive material allowed in legal fireworks.

Local fire service professionals have reported that consumers and law enforcement personnel have had difficulty distinguishing between legal and illegal fireworks, and that the 2002 law resulted in greater use in Minnesota of illegal fireworks purchased in other states.

According to data provided by the Minnesota State Fire Marshal Division, injury trends and dollar losses related to fireworks incidents surged after the consumer fireworks ban was lifted. Hospital reports reveal that the annual number of injuries caused by fireworks rose dramatically in 2002 and remains elevated. Likewise, Minnesota Fire Incident Reporting System records show that the annual dollar loss resulting from fireworks incidents increased significantly in 2002 and has since grown.

In 2003, the state enacted a number of provisions limiting local authority pertaining to fireworks sales. The 2003 law caps the

allowable municipal permit fee at $100 per vendor selling fireworks with other products, and $350 per vendor selling fireworks exclusively. The law restricts cities from requiring fireworks sellers to purchase additional liability insurance. Finally, the 2003 law states that cities cannot prohibit or restrict the display of consumer fireworks if the display and structure complies with National Fire Protection Association (NFPA) Standard 1124. The NFPA is a private international association of individuals and trade and professional organizations. (NFPA Standard 1124 is not a public document and is available only for a fee.)

Fireworks products can cause serious injuries and fire loss. The legal sale of consumer fireworks undermines fire prevention efforts. The sale and use of consumer fireworks increases local public safety enforcement, emergency response, and fire-suppression costs.

Response: **The League of Minnesota Cities opposes legislation that would further relax the ban on the sale and use of consumer fireworks. The League supports a repeal of the 2002 law that relaxes the ban on the sale and use of consumer fireworks.**

Fees are needed to cover the costs associated with compliance checks, education, and inspections relating to the sale of a regulated product. The current fee caps do not allow cities to recover these costs. The League supports allowing cities to establish and impose reasonable fees on retailers that sell fireworks. The League opposes restrictions on requiring fireworks retailers to purchase additional liability insurance. Finally, the League seeks repeal of the NFPA reference.

SD-47. Traffic Enforcement Cameras

Issue: Drivers who disobey traffic laws can cause serious traffic accidents and contribute to gridlock. In spite of the severity of this problem, cities cannot always afford the levels of peace officer enforcement that residents demand. The technology exists to enforce traffic laws with photographic evidence. For example, there is less running of red lights when motions imaging recording systems (MIRS) are installed at traffic signals.

Response: **Local law enforcement agencies should have the express authority to use photo enforcement technology to enforce traffic laws. Local law enforcement officers should have the express authority to issue citations for traffic violations by mail where the violation is detected with photographic evidence.**

SD-48. Operation of Motorized Foot Scooters

Issue: Current state statute (Minn. Stat. § 169.225) regulates the operation of motorized foot scooters and treats motorized foot scooters similar to bicycles in terms of rights and duties. By statutory definition (Minn. Stat. § 169.011, subd. 46), motorized foot scooters must be powered by an engine or motor that is limited to a maximum speed of 15 miles per hour. The law provides that an operator must be 12 years of age or older. Although the law contains safety provisions, including a requirement that operators under the age of 18 must wear helmets, it does not require training or permits for operators of any age.

Motorized foot scooters that are part of organized sharing or rental businesses rely on the ability to park in the public right-of-

way, especially on public sidewalks, to facilitate customer access and vending. Cities have express authority to regulate parking on city streets and sidewalks. Local government units should also have clear authority to regulate or proscribe unauthorized use of city right-of-way for motorized foot scooter parking, to require a permit or license for each scooter or sharing company, and to include terms and conditions dictated by the granting authority.

In order to protect public health, safety and welfare, it is important that cities have clear authority to regulate motorized foot scooter parking and sharing options.

Response: **State law should support the ability of local governments to regulate or proscribe unauthorized use of city right-of-way for motorized foot scooter parking, to require a permit or license authorizing motorized foot scooter parking or sharing in the public right-of-way, and to impose terms, conditions, and local rules on businesses seeking such a permit or license.**

SD-49. Electric Personal Assistive Mobility Devices and Electric Vehicles Operation While Impaired

Issue: Electric personal assistive mobility devices (commonly referred to as Segways) and electric vehicles are becoming increasingly popular modes of transportation, particularly for local trips. The definitions of these types of vehicles are provided under Minn. Stat. § 169.011 as follows:

• "Electric personal assistive mobility device" means a self-balancing device with two nontandem wheels, designed to transport not more than one person, and operated by an electric propulsion system that limits the maximum speed of the device to 15 miles per hour.

• "Electric vehicle" means a motor vehicle that is able to be powered by an electric motor drawing current from rechargeable storage batteries, fuel cells, or other portable sources of electrical current, and meets or exceeds applicable regulations in Code of Federal Regulations, title 49, part 571, and successor requirements. Electric vehicles include neighborhood electric vehicles, medium-speed electric vehicles and plug-in hybrid electric vehicles.

Although the state driving while impaired (DWI) law (Minn. Stat. § 169A.20) prohibits a person with a blood alcohol level (BAC) above .08 from operating a motor vehicle, boat or off-road vehicle, the Minnesota Court of Appeals recently held that such devices are not motor vehicles for purposes of Minnesota's DWI laws. *State v. Brown*, 801 N.W.2d 186 (Minn. Ct. App. 2011). The court's decision makes it difficult for local officials to prosecute a person who is threatening public safety by operating an electric personal assistive mobility device or an electric vehicle while impaired.

Response: **The League of Minnesota Cities supports an expansion of the current DWI law so that it applies to a person operating an electric personal assistive mobility device or an electric vehicle.**

SD-50. Drug Courts

Issue: The League of Minnesota Cities recognizes the impact of substance abuse on individuals, communities and taxpayers. According to the National Council on Alcoholism and Drug Dependence, the relationship between alcohol and drugs and crimes--including domestic abuse and

violence, underage drinking, robbery, assault and sexual assault--is clearly documented. The National Center on Addiction and Substance Abuse reports 65 percent of the nation's inmates meet certain medical criteria for substance abuse and addiction, but only 11 percent received treatment for their addictions.

Drug courts are an effective problem-solving approach for dealing with alcohol and other drug addicted offenders in the judicial system. Drug courts closely monitor the defendant's progress toward sobriety and recovery through ongoing treatment, frequent drug testing, regular mandatory check-in court appearances, and the use of a range of immediate sanctions and incentives to foster behavior change.

In drug court, judges collaborate with other traditional court participants (prosecutors, defense counsel, treatment providers, probation officers, law enforcement, educational and vocational experts, community leaders and others), whose roles have been substantially modified, but not relinquished, in the interest of helping defendants deal with addiction.

Response: **The League of Minnesota Cities supports the efforts of drug courts to address substance abuse and reduce crime. The League supports funding for additional drug courts.**

SD-51. Methamphetamine

Issue: The production and abuse of methamphetamine (meth) continues to be a problem for communities across Minnesota. Cities are facing serious issues pertaining to meth, including costly cleanup of drug labs, and the social problems and public safety issues resulting from meth abuse. To meet the challenges presented by the growing meth problem, cities are working with retailers to monitor the sale of precursor ingredients, and are coordinating with other units of government on the impact on communities.

Response: **The Legislature and state agencies must:**

a) **Provide sufficient funding to assist local units of government with cleanup of drug labs.**
b) **Allow local governments to be more restrictive in the development of ordinances at the city and county level to appropriately address the needs of their communities.**
c) **Support public education on methamphetamine, including information to local government officials, retailers, schools, and health care providers.**
d) **Provide training, equipment, standards, and support sufficient to allow local law enforcement and other responders to safely perform their duties.**

SD-52. Drug Paraphernalia

Issue: Cities throughout the state struggle with local businesses selling items primarily designed to enable illegal drug use. Current state law only prohibits use, possession, delivery, and advertisements of drug paraphernalia. The law inadequately defines the term "drug paraphernalia," and leaves cities to pass more effective ordinances "prohibiting or otherwise regulating the manufacture, delivery, possession, or advertisement of drug paraphernalia."

Many cities have adopted their own ordinances to regulate drug paraphernalia, including specifically prohibiting sales. But for a variety of reasons, business owners routinely challenge these ordinances as unconstitutional and then successfully

invoke virulent public outcry on that basis. This experience—along with costly court challenges—discourages other cities from taking similar steps to curb illegal drug activity, and leaves most cities only able to enforce an inadequate state law.

Most states immediately around Minnesota define "drug paraphernalia" in a detailed way based on a 1979 model federal law designed to avoid constitutional issues. Minnesota does not. Federal law and the law of half the states immediately around Minnesota explicitly ban sales of drug paraphernalia, but Minnesota does not. The current state of the law arguably makes drug paraphernalia easier to obtain in Minnesota than in the states immediately surrounding it.

Response: **The League of Minnesota Cities supports strengthening the current statutory prohibition on drug paraphernalia, including improving the statutory definition of "drug paraphernalia" and explicitly prohibiting sales.**

SD-53. Regulation of Massage Therapists

Issue: The state does not currently license nor register massage therapists. Minn. Stat. ch. 146A is the Complementary and Alternative Health Care Practices Act which identifies prohibited provider conduct and authorizes the Minnesota Department of Health to take disciplinary action against noncompliant providers who are not registered or licensed by a health-related licensing board. The office has authority to respond to allegations of prohibited behavior through an investigatory process but this function is triggered mainly by consumer complaints and there is no requirement that the office take any action. Additionally, resources for these purposes have been severely limited.

In absence of any required statewide standards or regulation, several cities have entered the traditional state domain of health-care licensure by enacting ordinances that require all massage therapists to obtain a local professional license and many cities have also required bricks and mortar establishments to obtain a business license. These ordinances help local law enforcement officers to differentiate between legitimate providers and businesses engaged in sex trafficking and prostitution as well as provide for health and sanitation standards.

City staff and law enforcement have spent much time and resources conducting criminal background checks; investigating massage therapist accreditation programs to determine legitimacy and credibility; and inspecting and monitoring establishments due to citizen complaints and concerns. This has resulted in different procedures, requirements and fee structures across the state. Additionally, despite the thorough work of city staff and law enforcement, when an illegitimate business suspects investigation, it will often close down and re-open in a different city. Without any sort of statewide database of these businesses, one city's solution may become another city's problem.

Response: **The League of Minnesota Cities supports the statewide registration or licensure of massage therapists that would not pre-empt the ability of cities to regulate massage therapy establishments. The League also supports legislation pertaining to the practice of massage therapy that accomplishes the following:**

a) **Helps cities establish legitimacy of providers and businesses applying for a local license to practice.**
b) **Prevents individuals from conducting criminal activities such as prostitution and sex trafficking out of establishments operating as massage therapy facilities.**
c) **Improves provider compliance with Minn. Stat. ch. 146A and requires the state to take action in response to noncompliance.**
d) **Protects the public from injury and from other conditions that may result in harm.**

SD-54. Lawful Gambling and Local Control

Issue: As part of the 2009 reforms to lawful gambling statutes, some local control was removed from the lawful gambling process. Previously, the lawful gambling licensee would have to obtain the city council's approval as part of its application to renew the organization's premises permit (some forms of lawful gambling require obtaining an organizational license and a premises permit(s) from the state). This step was removed when the state established a perpetual organizational license and premises permitting system. Because these licenses and permits are issued by the state, under the current system a city's authority over these licensees is limited to: 1) approval of the initial premises permit; and 2) enforcement of the city's lawful gambling ordinance. Some city officials have concerns that gambling organizations will be more apt to ignore local regulations (such as spending the required percentage of lawful gambling expenditures in the city's trade area) if they don't need the city's approval for the renewal of their state-issued premises permits.

Response: **The licensee should be required to obtain local approval on an annual basis, or at longer intervals as determined by the city, and file the resolution of local approval with the Gambling Control Board.**

SD-55. Liquor Liability Insurance Limits

Issue: Minn. Stat. § 340A.409 requires that "no retail license may be issued, maintained or renewed unless the applicant demonstrates proof of financial responsibility with regard to liability imposed by Minn. Stat. § 340A.801" relating to the sale of alcoholic beverages. The minimum limits of liability currently in statute require $50,000 of coverage because of bodily injury to any one person in any one occurrence, $100,000 because of bodily injury to two or more persons in any one occurrence, $10,000 because of injury to or destruction of property of others in any one occurrence, $50,000 for loss of means of support of any one person in any one occurrence, $100,000 for loss of means of support of two or more persons in any one occurrence, $50,000 for other pecuniary loss of any one person in any one occurrence, and $100,000 for other pecuniary loss of two or more persons in any one occurrence. These limits have not been updated since at least 1985 and would provide very little relief to persons impacted by an intoxicated person. While cities can choose to require higher limits of liability than required by statute, it may create competitive imbalance between communities if the limits are not consistent.

Response: **The minimum limits in Minn. Stat. § 340A.409 should be increased to $500,000 per occurrence with a $500,000 annual aggregate.**

SD-56. On-Sale Liquor or Wine Licenses to Cultural Centers

Issue: Cultural centers are not one of the qualifying entities to which municipalities may issue on-sale liquor or wine licenses. Several cultural centers have received special legislation that allows their municipalities to issue on-sale liquor or wine licenses to them. This practice interferes with the ability of municipalities to control the placement and operating manner of these entities.

Response: **The Legislature should authorize municipalities to issue on-sale liquor or wine licenses to cultural centers, subject to restrictions imposed by the municipality.**

SD-57. Wine and Off-Sale Licenses

Issue: Minn. Stat. ch. 340A authorizes cities to issue liquor licenses to various establishments within their jurisdictions, but in virtually all cases, the license issued by the city is not valid until the state approves it. This is true for such commonly issued licenses as wine, off-sale intoxicating liquor and temporary on-sale intoxicating liquor licenses. The result is extra time spent for city staff, as well as a time-based commercial impact to the business pursuing the original license.

Additionally, if a business applies for an on-sale wine license, the state may choose to conduct an inspection of the business further delaying approval of the license and full operation of the establishment. This inspection is often in addition to a city certificate of occupancy inspection and a county health inspection.

Response: **The Legislature should remove the requirement of approval by the commissioner for city-issued liquor licenses and simply require cities to notify the state of newly issued and renewed licenses as is already the case for intoxicating on-sale liquor licenses and all 3.2-liquor licenses. If the state requires an inspection to certify an on-sale wine license, this should be delegated to either the city or county to be conducted at the same time as other inspections. This will expedite the process for both the state and the business.**

SD-58. Youth Access to Alcohol and Tobacco

Issue: To promote public safety and public health, cities have an interest in preventing youth from obtaining alcohol and tobacco. For example, the Minnesota Department of Health reports that 80 percent of adult smokers had their first cigarette before the age of 18; reducing youth tobacco use may help prevent adverse impacts of tobacco in the future. To this end, many cities operate compliance check programs in an effort to discern the current level of youth access and to reduce youth access. Statewide, a number of cities have created community partnerships with their court systems, local businesses, and school districts to quickly address problems associated with youth access to alcohol and tobacco.

Response: **The League of Minnesota Cities opposes any proposal that could result in increased risks of youth access to alcohol and tobacco products and supports statutory changes that assist in reducing youth access to alcohol and tobacco products. The League supports locally-determined alcohol compliance check programs, but any state mandate for alcohol compliance checks should come with state-supported funding initiatives to support these locally-determined compliance efforts. The Legislature should consider a grant**

program supporting locally-based community partnerships that can quickly and effectively respond to youth access problems.

SD-59. Smoking Ban Ordinances

Issue: In 2007, the Legislature extended the Minnesota Clean Indoor Air Act (MCIAA) to cover all workplaces, including restaurants and bars. The law sets a floor with minimum standards and allows local governments to implement more restrictive ordinances.

In recent years, the popularity and use of electronic cigarettes (e-cigarettes) has increased significantly. There is much that is unknown about the health impacts of e-cigarettes which has slowed government regulation of their sale and use. Because of concerns over potential health impacts and the lack of comprehensive state and federal regulation, cities have passed ordinances on an individual basis restricting the sale of e-cigarettes to minors and prohibiting their use in public places.

In 2014, the Legislature passed regulations on the sale of e-cigarettes to mirror existing cigarette sale regulations including prohibiting sale to minors. It also passed a law prohibiting use in public buildings owned and operated by the State of Minnesota and all political subdivisions. The Legislature did not ban indoor use in all workplaces.

Response: **Many cities have already passed ordinances banning the use of e-cigarettes in all public places. To ensure uniformity and consistency across the state, the Legislature should regulate e-cigarettes under the MCIAA while preserving the ability of local governments to enact more restrictive ordinances.**

SD-60. Regulation of Mobile Businesses

Issue: The transient nature of mobile businesses presents unique challenges to traditional city zoning and permitting and may create an unfair competitive advantage over traditional businesses that pay property taxes and generate income for a city. Cities also make significant investments in the development of retail districts and downtowns and have a strong interest in maintaining a level playing field for brick and mortar establishments.

Minnesota has seen a sharp increase in the number of food trucks (Mobile Food Units) operating throughout the state. Food trucks are licensed as food and beverage service establishments by the Minnesota Department of Health (MDH) or by local jurisdictions pursuant to an MDH delegation agreement. Food trucks are prohibited from operating in the same location for more than 21 days without approval of the regulatory authority.

In 2015, the Legislature authorized the Board of Cosmetologist Examiners to adopt rules governing the licensure, operation and inspection of "Mobile Salons" which are operated in a mobile vehicle or mobile structure for exclusive use to offer personal services defined in Minn. Stat. § 155A.23, subd. 3. The rules must prohibit mobile salons from violating reasonable municipal restrictions on time and place of operation of a mobile salon within its jurisdiction, and shall establish penalties, up to and including revocation of a license, for repeated violations of municipal laws.

Response: **It is appropriate for mobile businesses to be licensed by the state or its designees in the same manner as non-mobile business establishments. Such state regulation must not preempt the**

ability of local governments to enact reasonable time and place restrictions on the operation of mobile businesses within their jurisdictions.

SD-61. Regulation of Party Buses and Boats-for-Hire

Issue: A party bus (also known as a party ride, limo bus, limousine bus, party van, or luxury bus) is a large motor vehicle usually derived from a conventional (school) bus or coach, but modified and designed to carry 8 or more people for recreational purposes. In Minnesota, these vehicles are regulated by default under Minn. Stat. ch. 221 (the chapter of law dealing with motor carriers) and registered by the Minnesota Dept. of Transportation's (MnDOT's) Office of Freight and Commercial Vehicle Operations. The regulations require operators to carry commercial insurance, have an annual vehicle inspection and be registered with the state. Party bus drivers are required to hold a current commercial driver's license (CDL) issued through the Minnesota Dept. of Public Safety's Driver and Vehicle Services Division.

A boat-for-hire is a watercraft used by owners and operators to carry passengers for hire. Minn. Stat. § 326B.94 and Minnesota Rules 5225.6000 through 5225.7200 govern the requirements of boat owners and operators carrying passengers for hire on Minnesota's inland waters. These vessels must have a permit to carry passengers for hire. They must have an annual safety inspection and a dry-dock inspection performed by Minnesota Department of Labor and Industry boiler inspection personnel once every three years (or annually if the hull is made of wood). The vessels must also be operated by a licensed master and must follow all Minnesota Dept. of Natural Resources' boating and water recreation regulations.

Party buses and boats-for-hire are sometimes chartered for celebrations such as weddings, proms, bachelor and bachelorette parties, birthdays and tours. Party buses are also popular for round trips to casinos and sporting events, and personalized drop-offs and pick-ups at various bars and nightclubs. Additionally, both party buses and boats-for-hire have become popular settings for adult entertainment.

Cities have seen a sharp increase in the number of party buses and boats-for-hire being used as venues for illegal activities such as underage drinking, drug use and sex trafficking. The transient nature of party buses and boats-for-hire presents unique challenges to traditional city zoning, permitting and law enforcement. While state laws regulate requirements for the operation of party buses and boats-for-hire, the law is silent on enforcement, penalties, inspection and liability related to illegal activities that occur in party buses and on boats-for-hire.

Response: **The League of Minnesota Cities supports changes to state statutes that would help reduce criminal activities taking place on party buses and boats-for-hire. Specifically, the League supports:**

a) **Creation of statutory definitions of "party bus" and "boat-for-hire" that contain permissible uses of the vehicles;**
b) **Prohibition on offering or allowing "adult entertainment" as defined by Minn. Stat. § 617.242, "sexual conduct" as defined by Minn. Stat. § 617.241, or "nudity" as defined by Minn. Stat. § 617.292, subd. 3, on party buses and boats-for-hire;**
c) **Explicit authority for peace officers to investigate suspicious activities on party buses and boats-for-hire and to**

cite individuals on board who are involved in illegal activities; and

d) **Requiring the appropriate authority to utilize existing authority to impose fines, or to deny, suspend, or revoke permits or registration certificates held by operators found to have adult entertainment, drug, or underage consumption violations.**

SD-62. Environmental Protection

Issue: Cities demonstrate strong stewardship for the protection and preservation of the environment. Minnesota municipalities have historically been the leading funding source for environmental protection and improvements. Municipal efforts include environmental protection through wastewater treatment, wetland restorations, stormwater treatment, public utility emission reductions, brownfield cleanup, safe drinking water programs, as well as others.

At some point, however, the diminishing or nonexistent environmental benefit received from additional efforts is fiscally irresponsible. The programs are often improperly designed to meet their stated goals. Additionally, the absence of funding by the state and federal government has removed an essential restraining feature in program design and implementation. Agencies are less accountable to the governments that mandate environmental programs when they do not have to find the money to implement the programs.

Specific problems faced by cities include:

a) New programs or standards are continually adopted without regard to the existence, attainability or cost of existing programs and standards.
b) Regulatory bodies fail to consistently use the best science available and the most current and accurate data when establishing water quality standards.
c) Regulatory bodies impose new permit requirements without going through rulemaking. Instead, the agencies rely on internal documents, program strategies, and "best professional judgment of staff" when setting permit criteria.
d) Regulatory bodies approve permits and programs that compete with traditional municipal services and encourage urban sprawl. This behavior puts at risk the public investments and growth management efforts cities have made when planning for future development.
e) Permit fees and other cost-transfer elements of federal and state programs do not provide an incentive for environmental agency efficiency, policy prioritization or risk assessment. Additionally, all residents of the state contribute to the need for wastewater, drinking water, and stormwater treatment and benefit from the resulting improved water quality. These factors make the state general fund an appropriate source for significant portions of state water program funding.
f) Third-party environmental advocacy groups create significant hardships on cities by threatening litigation even when the best science available may not support the groups' positions.
g) Cities are often required to pay the cost of removing problem materials from the waste stream, rather than preventing the problem at the consumer product or manufacturing level.

Response: **Alternative wastewater treatment and cooperative service systems should be prohibited from operating in areas that can reasonably and effectively be served by existing municipal systems, unless:**

a) **The municipal system is proven to be substantially less cost-effective and substantially less beneficial to the environment; and**
b) **The operation of these systems will not create a stranded public investment in the existing system.**

Sufficient state and federal financial assistance should be provided to local governments when complying with state and federal infrastructure requirements, particularly with regard to wastewater, stormwater, and drinking water facilities.

The Minnesota Pollution Control Agency (MPCA) should streamline its permitting and re-issuing processes to allow for effluent standards and permit requirements to be known earlier, thereby giving communities more time to defend against contested case hearings.

The Legislature should require the MPCA to make its determination regarding permit-required submittals, permit modifications, and the reissuance of a permit within a reasonable set time period, and require the MPCA to make its determinations and reissue the permit within that reasonable set time frame.

The state should ensure townships are required to meet the same environmental protection and regulatory requirements as cities.

Legislation should be passed that requires state agencies to establish permit requirements only when the criteria they are using is developed through the rule-making process.

State agencies need to develop science-based standards and quantify new effluent standards, ensuring that they are scientifically and economically practicable. State and federal agencies should coordinate and integrate their monitoring data to assure that all pertinent data is available and utilized.

The state general fund is an appropriate source for state water program funding. Municipal water permit fees should only be increased if new revenue is needed because of increased costs of processing municipal water permits or if the funds would go for specific scientific research, technical and financial support for cities, or agency staffing needed by cities to address environmental and public health concerns, not as a means to generate new revenue to cover other budget shortfalls.

Additionally, the Legislature should create effective, producer-led reduction, reuse, and recycling programs to deal with a product's lifecycle impacts from design through end-of-life management and should regulate products and compounds that damage water quality, sewer collection, stormwater or wastewater treatment systems at the consumer and manufacturing levels, not just at the treatment and infrastructure maintenance level. Examples include requiring accurate labeling as to whether disposable wipes can be safely flushed and creating incentives for private salt applicators to reduce the volume of salt they apply.

SD-63. Impaired Waters

Issue: Despite the billions of dollars that Minnesota municipalities have invested and continue to invest in wastewater and stormwater management systems, and best management practices to protect, preserve, and restore the quality of Minnesota's surface waters, the quality of some of Minnesota's surface waters does not meet federal water quality requirements. The

federal Clean Water Act requires that further efforts be made by the state to reduce human impacts on surface waters that are determined to be impaired due to high pollutant loads of nutrients, bacteria, sediment, mercury, and other contaminants. Scientific studies of these waters must be conducted to determine how much pollution they can handle (Total Maximum Daily Loads, or TMDLs). The pollutant load reduction requirements will affect municipal, industrial, and agricultural practices and operations along any river, stream or lake determined to be impaired. While the sources of 86 percent of the pollutants affecting Minnesota waters are non-point sources, there will also be new costs and requirements for point-source dischargers, like municipal wastewater treatment facilities. Municipal stormwater systems will also face increased protective requirements and regulation as part of the state's impaired waters program.

Response: **The League of Minnesota Cities will work actively with the administration, the Legislature, and other stakeholders in the design and implementation of Minnesota's impaired waters program to:**

a) **Ensure equitable funding solutions are found, such as the state general fund or bonding, that broadly collect revenue to address this statewide problem;**
b) **Support legislative appropriation of constitutionally dedicated clean water revenues that will supplement traditional sources of funding for these purposes, not be used to cover budget cuts, backfill past program reductions, or to otherwise supplant normal state spending on water programs;**
c) **Direct the majority of funds collected by the state for impaired waters into programs that fund municipal wastewater and stormwater projects, and for state programs needed for municipal wastewater and stormwater permitting and technical support, including the Clean Water Revolving Loan Fund, Wastewater Infrastructure Fund, TMDL Grants Program, Small Community Wastewater Treatment Grant and Loan Program, and other state programs that provide financial resources for city wastewater treatment facilities, septic tank replacement, stormwater management projects, and other city water quality improvement and protection projects;**
d) **More adequately cover the current five-year wastewater infrastructure funding need projection of more than $1.65 billion;**
e) **Recognize and address the upcoming costs of stormwater management infrastructure and operation on municipalities from new regulatory mandates and load reduction requirements;**
f) **Allow flexibility in achieving pollutant load reductions and limitations through offsets or trading of pollutant load reduction credits for both point and non-point load reduction requirements within watersheds;**
g) **Recognize and credit the work underway and already completed by local units of government to limit point and non-point source water pollutant discharges;**
h) **Recognize the diversity of efforts and needs that exists across the state;**
i) **Ensure the best science available is used to accurately determine the sources of pollutant load in order to maximize positive environmental outcomes and minimize unnecessary regulatory and financial burdens for**

cities by correctly accounting for and addressing agricultural and other non-point pollutant sources;

j) Ensure the state requires that the MPCA retain control of the TMDL development process and that all scientific research related to TMDLs is conducted by the MPCA or qualified, objective parties pursuant to state contracting, procurement, and conflict of interest laws; and

k) Clarify state water quality mandates so cities know specifically what they are required to do and what methods of achieving those outcomes are acceptable to state and federal regulators.

SD-64. Municipal Public Water Supplies

Issue: Essential residential water supplies provided by public water supply systems are classified as the highest priority for the use of public water under Minn. Stat. §103G.261. Minnesota cities spend significant resources meeting their responsibility to providing safe, reliable, affordable water to their residents in a sustainable manner. That is an essential element in assuring a healthy and stable future for public health, the environment, and economic development. As a result, municipal water suppliers have collected some of the most current and accurate information available on local water conditions.

The state requires extensive planning and permitting processes for municipal water suppliers to document that their systems are drawing water at sustainable levels, that the water is safe for human consumption, that they have land use controls in place to protect public water supplies from contamination, that adequate plans exist for emergency and high demand situations, and that rate structures meet state statutory requirements. Those systems are constantly becoming more technologically, environmentally, and economically efficient. City water suppliers have invested many billions of dollars to develop their utility systems and infrastructure in a manner that meets those criteria.

Demand and supply sides of this issue are being addressed throughout the state. Cities have established educational programs, incentives, and local water use restrictions to further improve water conservation efforts, while appliances and plumbing fixtures are becoming more efficient in their water use. Furthermore, stormwater is being infiltrated into the ground at unprecedented levels as part of municipal stormwater permit requirements and is being redirected for irrigation purposes in some cities.

Despite those efforts, there are places in the state where monitoring data indicates that water may be being used faster than the supply can sustain, particularly in the case of underground aquifers. These issues are very complex, however, and causes and effects are not always easily documented or understood. City water supplies are not the only users of that water, either. Industries, smaller private wells, agricultural operations, irrigation systems, and contamination containment and treatment can all be major drains on local water supplies.

Hard facts and sound science need to be used to determine the best courses of action to assure that safe, reliable, affordable water supplies are available to future Minnesotans. Those approaches will vary considerably depending on local water and soil conditions, the types and sizes of users, and the quantity and quality of available water. They also need to be coordinated between the many state entities that play a role in

water management and regulations so that scarce local resources are not wasted and efforts are not counterproductive to other priority environmental and public health results.

Response: **The state should lead the development of sound scientific information on water supply, aquifer recharge, and groundwater availability and quality, making good use of the existing studies, data, and staff expertise of municipal water suppliers.**

The state should also be working to remove barriers to water re-use, aquifer recharge, encouraging cultural changes in water use practices, applying technology for smart water use, exploring impacts and creative mitigation options at contaminated sites, on ways to incent and enable alternate uses of stormwater, and ways to make sure that all water users play a role in ensuring that water supplies are being managed in a manner that is sustainable for future residents. Those solutions need to keep in mind that essential residential water use is the highest preferred use of public water supplies.

Finally, in cases where sound management of water resources will require substantial modifications in public water systems that were previously determined to be adequate, the state needs to be a partner in developing cost-effective solutions and in providing the technical and financial resources to make those changes to prevent communities from being economically uncompetitive.

SD-65. Municipal Electric Utilities

Issue: Municipal electric utilities provide essential community services to many Minnesota cities. The League of Minnesota Cities works closely with the Minnesota Municipal Utilities Association (MMUA) to identify issues of concern and to support their legislative and administrative efforts to address them.

How those entities are regulated by the state, how their service territory is defined and amended, how their very limited customer base is protected, and how they are treated in relation to other types of electric utilities is important to them remaining affordable, efficient, and effective.

Currently, the legislative proposals have been made to allow unregulated third-party electricity sales from generators directly to the customer, circumventing long-established consumer protections. In some cases, municipal utilities would be required to "wheel" energy from third parties across their power lines to retail customers in violation of the utility's exclusive service area rights.

Another way to arrange third-party sales is by selling electricity from solar panels or other generating equipment sited on a consumer's own property to retail customers, while maintaining ownership of those panels or equipment. The equipment owner would charge for electricity it provides, yet rely on the local utility to provide reliable service to the customer at all other times. While such arrangements may seem convenient to an unregulated third-party, they come at a significant cost to the utilities and subsequently, to the rate payers of that utility.

Providing municipal reliable utility services comes with certain unavoidable expenses such as electric generation, power lines, poles, and substations. These types of fixed costs are on-going and should be equitably shared by the local customers. However, both current and previously proposed changes to state law would give third-party

providers an advantage subsidized by the remaining rate payers and/or taxpayer.

Response: **The legislature should support and maintain the current regulatory compact, and recognize the value of the dependable services provided by municipal utilities, and the fact that municipal utilities are accountable directly to the citizens. Further, the legislature should reject giving third-party providers any advantage over municipal utilities, as well as any other effort to de-regulate utilities.**

Additionally, current state practice is for the Department of Commerce and Public Utility Commission to require payment of quarterly fees on municipal utilities to the Department of Commerce three quarters in advance. The state should bill for those fees only for the upcoming quarter

SD-66. State Support for Municipal Energy Policy Goals

Issue: The State of Minnesota has adopted an aggressive energy policy focusing on the promotion of energy efficiency and the expansion of renewable energy with the goal of achieving a reduction in carbon generation through reduced use of fossil fuels. Minnesota cities share this goal, as demonstrated by over 100 cities voluntarily participating in the GreenStep Cities program. However, already strained budgets and reserves at the state and local level have limited the ability of the state to assist local units of government in furthering specific projects that support the overall state goal. In addition, institutional knowledge and capacity of most cities limits their ability to explore energy efficiency or renewable energy projects, even projects whose energy "payback" could finance project capital costs.

As the role cities are playing in reducing energy use and developing renewable energy generation expands, how those efforts are affected by electric utility practices also becomes more important. Utility billing is not consistent between electric utilities, with many using different rate categories, significantly complicating B3 benchmarking reporting and billing transparency. For projects on which a utility provides capital, the length of time over which city projects are amortized can also be extended to the point that energy cost savings are eliminated, even with substantial demand reductions. The application of demand and peak demand rates in repayment schedules can also reduce or eliminate energy cost savings.

Response: **The League of Minnesota Cities calls on our legislators and state executive agencies charged with accomplishing the state's energy policy goals to assist cities, townships and counties with tailored efforts to identify appropriate energy efficiency and renewable energy projects for undertaking at the local level. Among those tools, the state should:**

a) **Help ensure that reduced energy use results in reduced energy costs by addressing problems with amortization timing;**
b) **Have laws that allow and support utility grant and loan programs;**
c) **Create a program to assist in covering local capital costs to install solar energy systems on public buildings;**
d) **Use proceeds from the Renewable Development Fund to support local government projects;**
e) **Provide increased flexibility for utilities to work with local government;**
f) **Support development of a unified electric energy billing and usage structure that is easily imported into a B3 Benchmarking tracking system;**

g) **Develop a framework that allows Property Assessed Clean Energy Programs;**
h) **Play an increased role in providing a network of charging stations to support a transition to electric vehicles;**
i) **Create a grant and loan program to offset start-up capital expenses for projects identified where the savings in energy costs can offset capital project costs or where projects are needed to meet energy policy goals;**
j) **Clarify state law so that cities may use public utility franchise agreements to advance energy policy goals, and;**
k) **Recognize that state energy agency technical expertise needs to be made available to cities at no cost.**

SD-67. Urban Forest Management Funding

Issue: Urban forests are an essential part of city infrastructure. Dutch elm disease, oak wilt disease, drought, storms, and emerald ash borer threaten our investment in trees. The costs for control and removal can be catastrophic and put pressure on city budgets. The Minnesota Department of Natural Resources, through its Urban and Community Forestry program, and the Minnesota Department of Agriculture, through its Shade Tree and Invasive Species program, currently have regulatory authority to direct tree sanitation and control programs. Although these programs allow for addressing some tree disease, pest, and other problems, funding levels have been inadequate to meet the need of cities to build capacity for urban tree programs and respond to catastrophic problems. Cities share the goal of the state's Releaf Program—promoting and funding the inventory, planning, planting, maintenance, and improvement of trees in cities throughout the state. In addition, economic gains for stormwater management, tourism, recreation, and other benefits must be protected from tree loss. A lack of timely investment in urban forests costs cities significantly more in the long run.

Further, more and more cities are facing immediate costs for the identification, removal, replacement, and treatment of emerald ash borer (EAB) as it spreads across the state. The state has no program to assist cities in covering those expenses.

Response: **The League of Minnesota Cities supports funding from the general fund or other appropriate state funds for a state matching grant program to assist cities with building capacity for urban forest management and meeting the costs of preparing for, and responding to, catastrophic urban forest problems.**

Specifically, direct grants to cities are desperately needed for the identification, removal, replacement, and treatment of trees related to management of EAB. The state should establish an ongoing grant program with at least $5 million per year that is usable for those activities.

SD-68. Election Issues

Issue: Cities play an important role in administering state and federal election law and conducting voting activities.

Response: **To strengthen the effectiveness of elections administration, the Legislature should:**

a) **Seek the input of cities, townships, counties, and school districts on proposed changes to voter registration, election law, and needed improvements and updates to the Statewide Voter Registration System;**

b) **Amend the timeline for candidate filings in cities without a primary so that the final day of filing is not on the August primary date;**
c) **Expedite court action to resolve candidate eligibility related to residency in errors and omissions proceedings; and**
d) **Eliminate redundant audio testing of assistive voting technology and equipment by election judges in precinct polling places on Election Day.**

SD-69. Administering Absentee Balloting

Issue: Eligible voters in Minnesota may vote by absentee ballot prior to Election Day. Starting 46 days before the election, a voter can request an application for an absentee ballot and if approved, receive and cast an absentee ballot in one visit to their county or city election offices. Ballots can also be requested, applied for and received by mail and returned by the voter to the election office by 3:00 pm on Election Day or by 8:00 pm on Election Day if delivered by mail or package delivery. Absentee balloting results are not known until combined with polling place results when the polls close on Election Day.

For those voting absentee in-person, the absentee ballot application process is burdensome and confusing as voters expect the same process they encounter in their polling place on Election Day. The application process should be replaced by having the voter verify their identity on a paper or electronic roster. Currently electronic signatures are not allowed by state law; having the authority to use electronic signatures would make the process more efficient. Streamlining the voter check-in procedures would increase efficiency and decrease the time voters spend in line waiting to cast their absentee ballot.

Minn. Stat. § 203B.121, subd. 4 stipulates that at the close of business on the seventh day before Election Day, elections administrators can begin processing absentee ballots received by mail and accepted. At the beginning of the seventh day before Election Day, in-person absentee voters can place their ballots directly into a tabulator (Minn. Stat. § 203B.081, subd. 3). If a voter who has voted absentee prior to the seventh day before Election Day wishes to "claw back" their ballot and receive a new ballot, they are able to do so through the seventh day. Once direct balloting begins, a voter should no longer be able to "claw back" a ballot. Additionally, opening absentee ballots that have been accepted should begin at the beginning of the day on the seventh day before Election Day.

For those who vote in-person absentee prior to the seven days before Election Day, there is confusion and in some cases, frustration that they are not allowed to place their ballots directly into a tabulator. To improve the voter experience and respond to the voter demand to vote early, this time period should be increased from seven to the full 46 days before Election Day. Additionally, a voter can request to place their ballot in a series of envelopes similar to those returned by mail to be processed after they have left the building. Few, if any, voters request to place their ballot into envelopes.

State law allows alternative sites for conducting absentee balloting but requires that these sites remain open for the full 46 days prior to Election Day. For some jurisdictions, staffing alternative sites for the full 46 days is not efficient as these sites may be underutilized until closer to Election Day. Cities should be able to determine the length of time most appropriate for

alternative sites to meet the voting demands of their residents. As required by state law, voters would maintain the ability to vote in-person absentee during the full 46-day period at city halls.

Current law allows for in-person absentee voting until 5:00 p.m. on the day before Election Day. This does not leave adequate time for election officials to process absentee ballots, prepare supplemental lists indicating which voters have already cast absentee ballots and deliver the lists to precincts prior to opening of the polls on Election Day. The current absentee voting process further requires that additional supplemental lists of final absentee voters be delivered to the polls after the last mail delivery on Election Day and often leads to administrative challenges and increased potential for errors in the process.

As more and more voters choose to vote early with absentee balloting, improvements must be made to increase efficiency of administering absentee balloting before Election Day, reduce the potential for errors, and to improve voter experience.

Response: **The League of Minnesota Cities supports:**

a) **Reviewing the current in-person absentee ballot application process to determine if paper, electronic or a combination of the two application processes would be more efficient and be preferable to voters;**
b) **Amending state statute to allow elections administrators to begin processing accepted absentee ballots when direct balloting begins at the beginning of the seventh day before Election Day and subsequently, concluding the "claw back" period at the close of business the day before;**
c) **Increasing the time period that an in-person absentee voter can place their ballot directly into a tabulator from seven to 46 days;**
d) **Eliminating the option to place an in-person absentee ballot in a series of envelopes instead of a tabulator;**
e) **Allowing alternative in-person absentee voting sites to be established for less than the full 46 days currently required by state law;**
f) **Establishing an earlier deadline for ending in-person absentee voting;**
g) **Revising absentee ballot regulations to allow any person 18 and older to witness the absentee process and sign the envelope as a witness; and**
h) **Authorizing cities with health care facilities to schedule election judges to conduct absentee voting at an earlier date in health care facilities.**

SD-70. Felon Voting Rights

Issue: There is confusion as to when felon voting rights are restored, and notification of restoration is inconsistent or nonexistent. While there were some changes made to data sharing requirements between the Department of Corrections and the Office of the Secretary of State in the 2013 legislative session, the process of notifying felons of their eligibility to vote was not improved. This very often leads to challenges placed on Election Day rosters for felons who are not eligible to vote and election judges must then challenge the voter and spend time and resources determining a voter's eligibility. It would be much clearer if the loss of voting rights occurred only when a person is incarcerated.

Response: **The League of Minnesota Cities opposes the loss of voting rights for felons who serve the entirety of their sentence in the community and are not incarcerated. If incarcerated, the League**

of Minnesota Cities supports the restoration of voting rights to felons once they have completed their term of incarceration. This will eliminate the administrative burden of challenging voters at the polls and determining eligibility from various jurisdictions. This will also eliminate the need for investigation by local law enforcement of those who have unknowingly registered to vote or voted before their rights were restored.

SD-71. Write-in Candidates in City Elections

Issue: For federal, state and county offices, write-in candidates are totaled together as one number for write-in votes. If a candidate wants the write-in votes to be individually recorded, the candidate must file a written request with the Secretary of State no later than seven days before the general or special Election Day. This provides any declared write-in candidate the same provisions for tabulation as a candidate whose name is printed on the ballot. Because this requirement does not exist in city elections, city election officials are required to take considerable time and resources to count and individually record write-in votes cast, many of which are frivolous.

Response: **The League of Minnesota Cities supports legislation to:**

a) **Give cities the option to require that write-in candidates for local elective offices file a formal request with the chief election official at least seven days before the city election if they wish to have their write-in votes individually recorded; and**
b) **Allow the city clerk to only compile and report write-in votes for specific candidates if the total number of write-in votes for an office is greater than or equal to the number of votes received by the candidate appearing on the ballot receiving the fewest number of votes.**

SD-72. Ranked Choice Voting

Issue: Current law allows charter cities to consider and adopt Ranked Choice Voting (RCV) as an alternative voting method in local elections. State statute does not extend this authority to statutory cities. Additionally, there are no statewide standards for conducting RCV. The lack of consistent guidelines on how to effectively implement a RCV system imposes significant challenges for election administrators and voters.

Response: **The League of Minnesota Cities supports legislation that would give statutory cities the same authority given to charter cities to consider and adopt RCV. The League of Minnesota Cities also supports statewide standards for those cities that choose to adopt RCV to ensure it is implemented consistently throughout the state to give voters confidence in the fairness of the alternative process of casting their ballots and in the outcome of such elections.**

SD-73. Posting Campaign Finance Reports Online

Issue: The 2014 Legislature passed a law requiring the filing officer of a local government to post all campaign reports required to be filed with the local government online. The law does not change what reports must be filed and only requires the posting of reports online if a city has a website. The filing officer must post the reports on the city's website as soon as possible, but no later than 30 days after receipt of the report. The reports must be available on the city's website for four years

from the date the report was posted to the website.

While posting the reports online may be more convenient for citizens and city staff alike as it will replace the physical distribution of reports upon request, the time required to make the report available may be difficult for maintenance of city websites.

Response: **While the League of Minnesota Cities supports increasing access to information through the use of city websites, the League also urges the Legislature to revisit the length of time required to keep reports online.**

SD-74. Electronic Rosters

Issue: While electronic rosters (or "e-poll books") may increase efficiency and decrease cost for some cities, this may not be true for all. As cities explore the use of electronic rosters, data collected from the Office of the Secretary of State and from jurisdictions that have used the technology, may be helpful in determining next steps and to improve the process. Currently when a voter verifies their identity at a polling place via an electronic roster, they sign a paper form. State law does not allow voters to sign the e-poll book.

Response: **As the Legislature continues to examine the use of electronic rosters, cities should retain the option of utilizing this technology but should not be required to do so. If cities choose to use e-poll books, the use of electronic signatures should be allowed to increase efficiency. To ensure there is a paper copy of the signatures, the receipts printed by the electronic rosters should include a copy of the voter's signature.**

SD-75. Election Judge Recruitment and Retention

Issue: Nearly 30,000 Minnesotans serve as election judges. The recruitment and retention of election judges is a significant and essential component of administering elections throughout the State of Minnesota.

State statute requires that precincts with more than 500 registered voters be assigned at least four election judges and those with fewer than 500 registered voters be assigned at least three election judges. Minn. Stat. § 204B.21 requires that at least two election judges in each precinct serve with a different major political party designation, except for student trainee election judges. The remaining election judges in a precinct can serve without an affiliation to a major political party and no more than half the judges in a precinct may belong to the same major political party. Statute specifically requires election judge party balance to perform four polling place activities: assisting a voter in curbside voting; opening the ballot box; duplicating ballots; and in conducting an election at a Healthcare Facility. Political party affiliation is also unnecessary in city special elections when offices on the ballot are nonpartisan.

Minn. Stat. § 204B.19 allows high school students to be excused from school to serve as a trainee election judge if the student submits a written request signed and approved by the student's parent or guardian to be absent from school and a certificate from the appointing authority stating the hours during which the student will serve as a trainee election judge to the principal of the school at least ten days prior to the election. This process is not currently extended to college students which has proven to be a barrier for recruiting college students to serve as election judges.

Additionally, teachers and college faculty are also allowed to take time off of work to serve as an election judge.

Response: **To ensure state requirements are met, party balance is maintained, and to expand the opportunity of serving as an election judge to others, the League of Minnesota Cities supports the following changes:**

a) **Eliminate the party balance requirement for elections where only nonpartisan offices and/or ballot questions are on the ballot;**
b) **Authorize college students to get time off from classes if they have been appointed to serve as an election judge;**
c) **Allow for one election judge affiliated with each major political party to perform the four activities that require party balance specifically outline in statute and allow the remaining judges to serve as non-partisan; and**
d) **Shorten the deadline for major political parties to provide lists of persons interested in serving as election judges to election officials within 30 days following precinct caucuses.**

SD-76. Mail Balloting

Issue: Minn. Stat. § 204B.45 authorizes all non-metropolitan townships and cities with less than 400 registered voters located outside of the Minneapolis/St. Paul seven-county metropolitan area to hold elections by mail. A city may conduct mail balloting for an individual precinct having fewer than 100 registered voters, subject to the approval of the county auditor.

Staffing and equipment needs can be very costly and mail balloting is an efficient way of conducting an election for cities that have lower numbers of registered voters regardless of location in or outside the metro area. It is not uncommon for the redistricting process to create very small precincts in the metro area that are more cost-effectively served by a mail balloting process. Additionally, for special elections that historically have lower turnout, mail balloting could increase voter participation.

Response: **The League of Minnesota Cities supports allowing all cities to conduct mail balloting.**

SD-77. Modernizing Charter Amendment Process

Issue: Minn. Stat. § 410.12 outlines the process for amending city charters and one of the methods is citizen petition and Minn. Rules 8205 provides specific criteria for formatting. City staff then review the petition to determine if it is valid and has met statutory requirements for completion and submission. To ensure that both citizens and city staff fully understand the requirements, clarifying changes should be made.

Additionally, if a charter commission or city council wishes to amend provisions in a charter that prohibit the sale of intoxicating liquor or wine in certain areas, such provisions shall not be amended or removed unless approved by voters. The process to amend a charter by ordinance is outlined in statute including notification and public hearing requirements.

Response: **To improve the process for amending a city charter, the League of Minnesota Cities supports:**

a) **Adding clarifying language regarding "registered voters". These voters**

must be eligible voters in the district for which the petition is being circulated who are in active status on the statewide registration system at the time of petition verification and have not had a name or address change since the most recent voter registration application was submitted.

b) **Ensuring that petitioners have access to the petition, public information lists used to verify registered voters, and the examination log available for inspection on request of any registered voter.**
c) **Revising Minn. Rules 8205 to ensure that formatting requirements are clear and up to date.**

Allowing cities to modify liquor provisions in the charter through an open and transparent process that does not require an election.

SD-78. Presidential Primary

Issue: In 2016, the legislature passed into law a process for the state of Minnesota to conduct a presidential primary in 2020, replacing the party caucus system. This election will be administered by cities and counties much the same way other elections are conducted.

Minn. Stat. § 207A.15 provides a process for local units of government to be reimbursed for expenses incurred from conducting the primary. The Office of the Secretary of State (OSS) will submit to the Department of Management and Budget (MMB) an estimated cost of administering the election, and MMB will provide funding to the OSS. That funding will then be distributed to local units of government as a reimbursement based on expense reporting submitted to the OSS. Because the election is a partisan activity administered on behalf of political parties, it is critical that local units of government be reimbursed fully and that the cost of the election not be borne by Minnesota taxpayers.

When a voter participates in the primary, they will choose one ballot representing one major party. This party declaration will be included in public information lists which are designated as public information. Though the election is a political activity, it is anticipated that voters will be very concerned that this information will be accessible by anyone.

The last time the state of Minnesota held a presidential primary was in 1992 and turn-out was very low. There is concern that this could happen in 2020 and would therefore be an inefficient use of resources, particularly staffing thousands of precincts throughout the state. Conducting the election by mail could conserve resources and potentially increase voter participation.

Response: **The current process for conducting a presidential primary in 2020 needs to be improved to ensure an efficient and positive voting experience for those who chose to participate. To do so, the League of Minnesota Cities supports:**

a) **Exploring expanding the list of reimbursable items currently outlined in statute to ensure that local units of government are fully reimbursed for conducting the primary;**
b) **Restricting the dissemination of party declaration information to the political parties only and not including it on the public information lists; and**
c) **Allowing the presidential primary to be conducted via mail balloting.**

IMPROVING LOCAL ECONOMIES

LE-1. Growth Management and Annexation

Issue: Unplanned and uncontrolled growth has a negative environmental, fiscal, and governmental impact on cities, counties, and the state because it increases the cost of providing government services and results in the loss of natural resource areas and prime agricultural land.

Response: **The League of Minnesota Cities believes the existing framework for guiding growth and development primarily through local plans and controls adopted by local governments should form the basis of a statewide planning policy, and that the state should not adopt a mandatory comprehensive statewide planning process. Rather, the state should:**

a) **Provide additional financial and technical assistance to local governments for cooperative planning and growth management issues, particularly where new comprehensive plans have been mandated by the Legislature;**
b) **Keep comprehensive planning timelines on a ten-year cycle due to the financial and workload impacts these processes place on cities;**
c) **Clearly establish the public purposes served by existing statewide controls, such as shore land zoning and wetlands conservation; clarify, simplify, and streamline these controls; eliminate duplication in their administration; and fully defend and hold harmless any local government sued for a "taking" as a result of executing state land-use policies;**
d) **Give cities broader authority to extend their zoning, subdivision, and other land-use controls outside the city's boundaries, regardless of the existence of county or township controls, to ensure conformance with city facilities and services;**
e) **Clearly define and differentiate between urban and rural development and restrict urban growth without municipal services or annexation agreements outside city boundaries. This should contain a requirement that counties and joint power districts that provide sewer, water, and other services, which have been traditionally provided by cities, include as a condition of providing service the annexation of properties that are the recipients of such services in cases where annexation is requested by a city that could feasibly be providing those services;**
f) **Facilitate the annexation of urban land to cities by amending state statutes that regulate annexation to make it easier for cities to annex developed or developing land within unincorporated areas;**
g) **Oppose legislation that would reinstate the election requirement in contested annexations;**
h) **Support legislation to prohibit detachment of parcels from cities unless approval of the detachment has been granted by both the affected city and township and the affected county has been notified prior to the city and township acting on the request;**
i) **Oppose legislation that allows orderly annexation agreements to be adopted that prohibit annexation by other cities of property not being annexed under the agreement;**
j) **Encourage ideas consistent with the long-term goal of allowing urban**

development only in areas currently or about to become urban or suburban in character ; and

k) **Establish stricter criteria on the amount cities can pay to townships as part of an orderly annexation agreement so that payments to townships are limited to reimbursement for lost property tax base for no more than a fixed number of years, documented stranded assessments, and other items for which there is a clear nexus.**

LE-2. Wildlife Management Areas

Issue: The Department of Natural Resources has been pressing for legislative requirements creating development restrictions on property adjacent to land purchased by the state for hunting and other conservation purposes. This issue has been increasingly controversial as urban growth extends into areas previously considered rural and residential property owners are finding themselves adjacent to public hunting land. With large amounts of new revenue going into state land purchase for game and fish habitat and public access purposes because of the passage of the constitutional amendment, these problems could occur even more frequently.

The solution being proposed will put local governments in the position of enforcing state land use restrictions and would require extensive changes to local plans, controls and ordinances. It would also create large numbers of nonconformities on properties within city limits and would make state wildlife management areas far less desirable due to impacts on future city development.

In rural areas, where this is less of a concern, counties and townships have the authority to object to the state purchasing land for the outdoor recreation system for these very reasons. Cities do not have that statutory right. Due to recent statutory changes (Minn. Stat. § 97A.137, subd. 4) removing city authority to adopt ordinances related to firearm discharge, hunting and trapping activity in wildlife management areas within their borders, these purchases should not occur without city consent and input.

Response: **The League of Minnesota Cities opposes the state imposing retroactive development restrictions around existing wildlife management areas.**

When purchasing state wildlife management areas and other conservation and outdoor recreation system land, the state should either purchase sufficient land to provide an internal buffer from surrounding development or purchase development rights to land adjacent to the property if such a buffer is deemed essential to preserving the intended uses for the property. This should be required for new land purchases and done where feasible for existing wildlife management areas.

Furthermore, Minn. Stat. § 84.944 and § 97A.145 should be amended to include cities in the local government notification and approval process the state must follow before purchasing public land.

LE-3. Official State Mapping Responsibility

Issue: For many years, the Minnesota Department of Transportation (MnDOT) has provided the mapping services to keep survey-level accuracy in place for the state's official maps and records. That information changes when roads are made or improved, and needs regular adjustment when municipal boundary adjustments are made.

The information is then used at all levels of government to accurately determine property boundaries for transportation aid, utility service boundaries, state and local funding formulas, election issues, and a number of other uses.

No state agency, however, has ever been statutorily provided with mapping responsibility and MnDOT is not funded for providing that level of detail in its mapping. Because MnDOT, as an agency, requires less specificity in its maps, a change has slowly been integrated to mostly restrict MnDOT mapping to what changes occur in road ownership and responsibility, leaving many mapping needs unmet for other users of boundary data.

Response: **The League of Minnesota Cities supports legislation making a named state entity the official provider of survey-level mapping for the state, including maps for municipal boundary adjustments. The Legislature must provide the necessary appropriations to the entity for providing that service.**

LE-4. Electric Service Extension

Issue: Minnesota law preserves the right of municipal electric utilities to grow with the cities they serve. Municipal electric utilities may grow either through application to the Minnesota Public Utilities Commission (MPUC) or through condemnation proceedings. Eliminating authority of municipal electric utilities to extend services, or making extension of municipal electric service to annexed property unreasonably costly, would interfere with community development and make it unfeasible for municipal electric utilities to serve properties located within rural electric cooperative (REC) or other electric service provider service territory in annexed areas, even if the REC or other electric utility had not served them prior to annexation.

Response: **The League of Minnesota Cities opposes any attempt to remove or alter the eminent domain option available to municipal electric utilities in state law, or to make it financially unfeasible for municipal utilities to compensate rural electric cooperatives or other electric utilities for serving future customers who reside in annexed areas where that electric utility has not provided service.**

LE-5. Statutory Approval Timelines

Issue: Cities since 1995 have been required to act on written requests relating to zoning, septic systems, the expansion of Metropolitan Urban Service Areas (MUSA), and other land-use applications in accordance with a statutory time period generally referred to as the 60-day rule. Pursuant to Minn. Stat. § 15.99, state and local government agencies must approve or deny a permit within a statutory timeframe. Failure by the agency to issue a specific denial of the application is deemed an approval.

Minn. Stat. § 15.99 does not directly address whether an appeal of a decision triggers an extension or is part of an original zoning request that must be handled within the 60- or 120-day time period. In a 2004 Minnesota Court of Appeals decision, the court found that a zoning application is not approved or denied for the purposes of Minn. Stat. § 15.99 until the city has resolved all appeals challenging the application. *Moreno v. City of Minneapolis*, 676 N.W.2d 1 (Minn. Ct. App. 2004). According to the court, an appeal is not a request for a permit, license or other governmental approval; therefore, it does not trigger a new 60-day time period. Under this interpretation, a decision

rendered by a zoning board or planning commission is not the final approval or denial of an application if the city allows an appeal to the city council.

This court decision is problematic for a couple of reasons. Forcing cities to further condense the process for considering planning and zoning applications will make it more difficult to gather public input and leave less time for thoughtful deliberation by zoning boards and planning commissions. It may also provide an incentive for cities to extend the original 60-day period in every instance in order to build-in adequate time to consider possible appeals.

The Minnesota Supreme Court recently issued another 60-day rule decision that held that an application to the Minneapolis Heritage Preservation Commission for a certificate of appropriateness was a "written request related to zoning," and therefore was subject to the automatic approval provision of the 60-day rule. *500, LLC v. City of Minneapolis*, 837 N.W. 2d 287 (Minn. 2013). This opinion creates ambiguity and uncertainty about what permit applications are subject to the law.

While the Legislature has clarified some aspects of this law, additional modifications are necessary to assist cities in providing accurate and timely responses to applicants and to allow adequate time for public input. Furthermore, as city staff and financial resources are increasingly limited, flexibility in the length of approval timeline requirements may be needed at the local level.

Response: **The Legislature should repeal or amend Minn. Stat. § 15.99. If repeal is unlikely, amendments should:**

a) **Increase the initial time limit to 90 days or have the language in Minn. Stat. § 15.99 apply as the default requirement only in cases where permitting bodies have not established an independent approval timeline;**
b) **Clarify that approval does not abrogate the need for approvals under other applicable federal, state or local requirements;**
c) **Provide appeal rights to adjacent property owners;**
d) **Clarify that, if requests are to be decided by a board, commission or other agent of a governmental agency, and the decision of the board, commission or other agent is adopted subject to appeal to the governing body of the agency, then the agency may extend the 60-day time limit to resolve the appeal; and**
e) **More clearly define that the phrase "related to zoning" refers to a traditional land use decision such as rezoning, conditional use permits, and variances.**

LE-6. Maintenance of Retaining Walls Adjacent to Public Rights of Way

Issue: The Minnesota Constitution grants cities the power to "levy and collect assessments for local improvements upon property benefited hereby." Retaining walls are one of the many improvements that a city is authorized to make on behalf of its citizens, and Minnesota's special assessment law, Minn. Stat. ch. 429, authorizes cities to charge special assessments on properties that are benefitted by an improvement.

The Minnesota Court of Appeals held that the city of Minneapolis had a nondelegable duty of lateral support to a property owner with a retaining wall abutting a city sidewalk. *Howell v. City of Minneapolis*, 2013 WL 1707759 (April 22, 2013). A

subsequent jury found that the city created the need for lateral support when it built the street and sidewalk adjacent to the property, making the city responsible for the maintenance the retaining wall, despite the fact that the property is clearly benefitted by the retaining wall.

The special assessment statute anticipates the need for cities to create retaining walls when making public improvements, and this holding could create significant costs for cities forced to repair and maintain retaining walls that benefit a single property. A choice by a developer or previous property owner to build a retaining wall to improve the value or usefulness of property may appear to be necessary today, but determining who first created the need for lateral support in the past can involve costly and time-consuming historical research that may not reveal a clear answer.

Response: **The Legislature should amend the special assessment statute so that retaining walls needed to facilitate public improvements are treated the same as other local improvements. In cases where retaining walls located along public rights of way or within drainage and utility easements separate public improvements from adjacent properties, the Legislature should establish a rebuttable presumption that the need for lateral support was created by the property owner.**

LE-7. Development Disputes

Issue: State law is clear that fees collected under Minn. Stat. ch. 462 are eligible for judicial review in the event of dispute. The Legislature recently limited the timeframe during which an aggrieved party may challenge planning and zoning fees to 60 days after approval of an application. However, the law is not clear about what notice requirements to the municipality are necessary, relative to the timing for a person aggrieved by an ordinance or decision under the municipal planning act to seek review.

Response: **The Legislature should amend Minn. Stat. § 462.361 to establish a 60-day time limitation in which an aggrieved person may bring an action against the municipality.**

LE-8. Foreclosure and Neighborhood Stabilization

Issue: Cities dedicate scarce resources to address public safety and maintenance challenges associated with foreclosed, vacant, and under-maintained homes. Left unaddressed, these properties destabilize neighborhoods, depress neighborhood property values, and potential increase the costs of municipal services. Cities' revenue also continue to decline due to delinquent utility payments and property tax payments, as well as added costs for nuisance abatements. Although the number of those mortgage foreclosures has stabilized somewhat since the peak of the recession in 2008, issues surrounding community recovery are still ongoing.

State and local governments can play an important role in spurring reinvestment in struggling neighborhoods, but without additional resources to address the variety and costly impacts of foreclosures and vacant properties, cities cannot maintain or increase those activities to meet local needs. The federal government has provided funds for neighborhood stabilization, but such funds are limited in eligible uses and scope, and they are only available to a limited number of cities.

Contracts for deed have been used to successfully buy and sell thousands of homes around Minnesota. However, some property owners use contracts for deed as an

alternative to a traditional lease, even though the purchaser has no intention of buying the home. Some communities have encountered a situation where a property owner is buying many homes in a community, then selling them on contract for deed. This can allow a person to essentially act as a landlord while evading a city's rental inspection and rental licensing process, while the buyers lose the traditional legal rights and protections as tenants. Many view it as a way to rent the property and may not be aware of it being a contract for deed.

Numerous problems arise for cities and neighborhoods when property owners are acting essentially as renters. It is difficult to determine who is responsible for maintaining the property or for paying utility bills and property taxes, and cities may not be able to inspect substandard properties if they are not subject to a lease agreement. In some situations, property owners may wish to have a renter be the responsible party for utility bills and utilize contract for deed arrangements to have the person living on the property be the responsible party. The property may also not be recorded at the county for homesteading purposes if the buyer is not aware of the formal change in ownership that results from a contract for deed.

In recent years, private equity companies have begun purchasing large numbers of single-family homes to convert to residential rental uses. The impacts of large a number of acquisitions by private equity companies on cities, housing stock, and the rental and home ownership market are not yet fully understood by local, state, and federal units of government. Possible issues that may need further exploration include proposed disposition strategies for such a large number of properties and how that may affect the local housing market.

Response: **The Legislature should:**

a) Secure increased state and federal resources and provide financing tools to help cover city costs associated with foreclosed and /or vacant properties, community revitalization strategies, and community investment, including revenue sources for programs that support foreclosure mitigation, homeownership counseling, and expanded homeownership opportunities and are sustainable.

b) Allow cities to take actions necessary to protect foreclosed and/or vacant homes from damage and to help preserve property values in neighborhoods where concentrations of such conditions are present, including an expedited process to address nuisance properties.

c) Reexamine the Contract for Deed statutes to determine whether additional protections are necessary to prevent property owners from evading responsibilities of a landlord, and provide local jurisdictions resources to allow for education of future buyers and sellers in contract for deed arrangements.

d) Support local authority for cities to collect all delinquent taxes, utility bills, liens, and assessments on foreclosed, vacant, boarded and/or tax forfeited properties.

e) Improve notification to cities, and consistency in the information available to cities, when a property is in the foreclosure process and vacated.

f) Support coordinated responses to prevent foreclosures, activate and guide private investment and home purchases, and support distressed neighborhoods.

g) Study and monitor the impacts on the housing market of single-family home

acquisition by private equity companies.

h) **Re-enact a program similar to "This Old House" to allow owners of qualifying single-family homes or multi-unit rental properties to defer the increase in tax capacity from repairs or improvements to their homestead property as an incentive for cities to maintain housing stock, including, but not limited to re-occupying and homesteading foreclosed and vacant homes. In order to provide potential opportunities in more communities, the program's age limit qualifications for a homestead property should be updated to include properties that are at least 30 years old.**

i) **Support programs that provide resources to cities for rehabilitation or new construction of single-family homes, such as the Community Impact Fund and the Community Fix Up Program currently administered through MN Housing Finance Agency (MHFA).**

LE-9. Resources for Affordable Housing

Issue: Cities, along with local housing officials, are concerned about the need for proactive commitment at the state level to aid cities to meet demand for affordable housing that is sensitive to local conditions, emerging trends, and changing demographics. This includes meeting the needs of an aging population and ensuring a wide range of lifecycle housing options that allow seniors of all incomes to stay in their community, addressing racial disparity gaps in housing, and responding to emerging trends, such as the need to preserve naturally occurring (unsubsidized) affordable housing. The League also recognizes that federal, state and local governments all have a role to play in meeting affordable housing needs, overcoming barriers to housing stability such as high market prices, eviction, and foreclosure, and responding to problems caused by vacant homes and the increase in rental properties that are the result of foreclosure. In 2017, the Minnesota Legislature passed legislation to provide local governments with the ability to establish a local affordable housing trust fund as a tool to help meet affordable housing needs.

Since the Fair Housing Act of 1968, local government has been obligated to promote and reduce barriers to fair housing and equal opportunity. Households with Section 8 housing choice vouchers face many barriers to securing housing in the private rental market, especially when rental vacancy rates are low. Currently rental vacancy rates are at a historic low in much of the state. As a result, many families and individuals may be unable to use their Section 8 housing choice vouchers and thus unable to secure safe, decent and affordable housing.

In December of 2017, Governor Mark Dayton announced the establishment of a Task Force on Housing to study the housing system throughout the state and craft recommendations to increase access to safe and affordable rental housing, create more pathways to homeownership, and improve housing stability and opportunity. In August of 2018, the recommendations of the Task Force were released, including 30 specific recommendations to help achieve six goals, including: commit to homes as a priority; preserve the homes we have; build more homes; increase home stability; link homes and services; and support and strengthen homeownership.

Response: **The Legislature should:**

a) **Support the affordable housing priorities of the Minnesota Housing Finance Agency (MHFA), which include making resources and methods available to maintain and improve existing affordable homes, especially housing stock that is aging such as naturally occurring (unsubsidized) affordable housing.**
b) **Provide stable and long term funding, including but not limited to dedicated funding sources, for Minnesota Housing and other affordable housing programs, including those that allow flexibility for cities to create partnerships and leverage resources with private and public entities, such as: capital investment funding for affordable and public housing, funding for supportive services and programs that address homelessness and reduce barriers to stable housing and homeownership, a tax credit contribution fund or a state low-income housing tax credit to help rebuild the state's partnership with local governments in the development of homeownership, and multi-family rental assistance and housing renovation programs.**
c) **Consider establishing a program to address immediate needs throughout the year to provide a match for new or existing city-supported affordable housing projects. This could include matching funds, issued on a timeline that is consistent with local budgeting processes, for local revenues allocated to a local affordable housing trust fund.**
d) **Substantially increase long-term funding for the Economic Development & Challenge Fund to leverage local private and public resources to develop workforce rental and single-family homes.**
e) **Support legislation to provide sales, use, and transaction tax exemptions or reductions for development and production of affordable housing and use state bond proceeds for land banking and trusts as well as rehabilitation and construction of affordable housing.**
f) **Provide funding and financing tools to cities to create affordable senior housing for our aging population.**
g) **Provide funding and financing tools to cities to create affordable housing and prevent foreclosure for veterans.**
h) **Support for policy, programs and funding to reduce the racial gap in homeownership rates, such as targeted homeownership capacity building and homebuyer assistance.**
i) **Support resources to assist communities to reduce barriers to and promote fair housing and equal opportunity.**
j) **Support housing stability for renters through policies that mitigate the impact of or reduce evictions filed and provide additional funding for the Section 8 housing choice voucher or other rental assistance programs and financial, tax, and/or other incentives for rental property owners to participate in these programs.**
k) **Support the goals of the Governor's Housing Task Force, and, to the extent that local governments are impacted by legislation which moves specific Task Force recommendations forward, the legislature should ensure that cities have a seat at the table.**

LE-10. Energy Efficiency Improvement Requirements for Housing

Issue: Rising energy costs have brought attention to the poor energy efficiency of

many private residences and multi-family properties, especially in older housing stock. The affordability of housing could be severely impacted by continued increases in home energy costs. Improvements in the energy efficiency of housing would improve the affordability of local housing options and would help achieve state energy demand and greenhouse gas emission reduction goals. The challenge is how best to achieve that result.

Legislative discussions have suggested that minimum energy efficiency improvements could be added as point of sale requirements, including energy use disclosure and basic renovations such as improved attic insulation levels, window caulking and other air sealing, or improved light fixtures.

While the goals of such a program are laudable, there are a number of concerns for how this would actually be accomplished in individual cities. Most cities do not, for example, have point of sale inspections. There will also be cases where the building could be structurally unable to meet high attic insulation requirements, such as with manufactured housing or with older houses with very little attic space. There are also concerns that the cost of meeting these energy requirements could result in homeowners being reluctant to sell their houses because of the expense of the improvements that would be required to meet new standards or property owners passing on the cost of upgrades to tenants.

Increased exposure to educational information, such as increased access to energy audits and more familiarity with and access to programs that finance energy efficiency projects could increase adoption of energy efficiency improvements. Electric utilities provide successful, cost-effective energy efficiency programs, have a customer relationship with homeowners, a regulatory requirement to meet energy demand reduction goals through conservation spending, and access to technical expertise that can take into account variations in building age and construction. Cities could, however, play a strong role in increasing public exposure to approved educational materials and providing incentives through the use of other local financing support options for property owners, such as grants, loans, a Property Assessed Clean Energy (P.A.C.E.) program, and other financing tools.

Response: **The League of Minnesota Cities agrees that there is a need to improve the energy efficiency of residential building stock to reduce energy consumption and improve the affordability and livability of housing. The state should focus its efforts on improving educational programs and on improving the use of the existing statewide Conservation Improvement Program (CIP) and similar programs, and provide property owners with technical and financial support for weatherization and energy efficiency improvements. Further, the state should work to make residential Property Assessed Clean Energy (P.A.C.E.) programs viable for local governments.**

Cities should use their communication tools, such as newsletters, web sites, and staff communications to promote these efforts and to help link property owners to educational materials and program resources. Additionally, cities could be incentivized to adopt strategies to disclose energy usage data for building owners to identify options for cost-efficient energy improvements.

LE-11. In-Home Day Care Facilities

Issue: There are restrictions on the ability of a city to regulate licensed day care facilities. Minn. Stat. § 462.357, subd. 7, states that certain licensed residential facilities and day care facilities must be considered a permitted single-family use for zoning purposes. The restriction is designed to protect "in-home" daycare facilities, but the law applies even if the facility is not the primary residence of the day care provider. This creates a loophole for providers to use a single-family home as a commercial daycare facility, which might not otherwise be allowable under a city zoning ordinance.

Response: **The Legislature should amend Minn. Stat. § 462.357, subd. 7, to clarify that a licensed day care facility serving 12 or fewer persons is considered a permitted single-family use only if the license holder owns or rents and resides in the home.**

LE-12. Residential Programs

Issue: Minnesota's deinstitutionalization policy seeks to ensure that all people can live in housing that maximizes community integration. Minn. Stat. § 462.357, subd. 6a. states that "persons with disabilities should not be excluded by municipal zoning ordinance or other land use regulations from the benefits of normal residential surroundings." Minnesota cities support inclusion of people with and without disabilities in their communities, but these policies are best implemented with minimal encroachments on municipal zoning authority and positive working relationships between cities, care providers, and the state.

On one hand, treating persons with disabilities differently generally raises questionable issues of disparate treatment with the Federal Fair Housing Act. On the other hand, without some regulation, cities are powerless to protect individuals with disabilities from a clustering of residential programs within one neighborhood. As the Department of Justice has stated, while density regulations are generally suspect, "if a neighborhood came to be composed largely of group homes, that could adversely affect individuals with disabilities and would be inconsistent with the objective of integrating persons with disabilities into the community." (*Joint Statement of the Department of Justice and the Department of Housing and Urban Development*.)

To this end, and in upholding a state and local dispersal requirement, the Eighth Circuit Court of Appeals stated that the requirement was designed to ensure that people with disabilities "needing residential treatment will not be forced into enclaves of treatment facilities that would replicate and thus perpetuate the isolation resulting from institutionalization." *Familystyle of St. Paul, Inc. v. St. Paul*, 923 F.2d 91, 95 (8th Cir. 1991).

City authority to regulate the locations of residential programs is limited by state statute and the federal Fair Housing Act (FHA), although Minn. Stat. § 245A.11, subd. 4, prohibits the Commissioner of Human Services from granting an initial license to a residential program of six or fewer people within 1,320 feet of an existing residential program in cities of the first class.

In 2015, Minn. Stat. § 245A.11, subd. 4, was amended to clarify that the Commissioner of Human Services is required to approve licenses for "community residential settings" within 1,320 feet of existing residential programs. A "community residential setting" is commonly known as adult foster care. While this was the original intent of the legislature, statutory terms changed over

the years; this amendment was to make various statutory references consistent.

Sufficient funding and oversight is needed to ensure that residents living in residential programs have appropriate care and supervision, and that neighborhoods and residents of residential programs are not negatively impacted by high concentrations of these types of programs. As it stands now, there is nothing preventing clustering of residential programs in most cities in the state. Cities want to be part of the solution, and more than anything cities desire to be, and should be, partners in serving the policies of deinstitutionalization. Cities have an interest in, and are in the best position, to preserve a balance in residential neighborhoods between residential programs and all other uses. Because Minnesota cities are committed to inclusion of all individuals, it is in the best interest of the state, care providers, and those individuals served, that all parties include cities as partners before opening a residential program to best plan for community integration.

Response: **Cities should maintain the statutory authority to require agencies, as well as licensed and registered providers that operate residential programs, to notify the city before properties are operated. Cities should be provided with the necessary contact information after a residential program is licensed or registered. Providers applying to operate residential programs should be required to contact the city to be informed of applicable local regulations. Finally, licensing or registering authorities must be responsible for removing any residents incapable of living in such an environment, particularly if they become a danger to themselves or others.**

The Legislature should amend Minn. Stat. § 245A.11, subd. 4, to allow for appropriate non-concentration standards for all types of cities to prevent clustering.

LE-13. Inclusionary Housing

Issue: Provisions in current state statute (Minn. Stat. § 462.358, subd. 11) allowing cities to enter into development agreements for the inclusion of a portion of the units in the development to be affordable for low- or moderate-income families have been a source of conflict between cities and housing developers.

Cities are concerned builders that view this statute as a restriction on local authority to adopt policies that promote availability of housing affordable to those who are unable to purchase or rent housing at price points that the market alone provides.

Response: **The Legislature should:**

a) **Strengthen and clarify cities' authority to carry out policies that offer developers a range of incentives in return for including a designated number of affordable units in their projects.**
b) **Identify strategies to ensure long-term affordability of rental and owner-occupied housing produced as a result of such policies and practices.**
c) **Focus state housing policy to support for local assessment of housing needs and direct additional state resources and the full exercise of local authority to increase development of affordable rental units and access to entry-level, owner-occupied housing.**
d) **Support voluntary measures to encourage cities to adopt and carry out land-use plans, activities, and subdivision regulations aimed at providing for construction and marketing of housing where a portion**

of all new units are affordable to lower-income households.

LE-14. Community Land Trusts

Issue: The increasing price of land available for housing development, particularly for retaining affordability of housing for lower-income households, is a concern throughout the state. Creating more permanently affordable, owner-occupied housing depends heavily on maximizing the cost-effectiveness of taxpayer investments. The Legislature has previously appropriated funding and granted the Minnesota Housing Finance Agency authority to assist cities with funding community land trusts (CLTs) for affordable housing.

Response: **The Legislature should support continuation of the land trust capacity-building program and provide capital start-up funds so community land trusts can continue to offer gap financing, interest rate write-downs, predevelopment financing, and financial underwriting. The Legislature should also support efforts by the Minnesota Community Land Trust Coalition to develop property tax valuation to lower property taxes for sales-price-restricted properties enrolled in CLT programs.**

LE-15. Telecommunications and Information Technology

Issue: Telecommunications and information technology is essential public infrastructure for the efficient, equitable, and affordable delivery of local government services to residents and businesses. Telecommunications includes voice, video, data, and services delivered over cable, telephone, fiber-optic, wireless, and all other platforms.

Response: **The League of Minnesota Cities supports a balanced approach to telecommunications policy that allows new technologies to flourish while preserving local regulatory authority. Regulations and oversight of telecommunications services are important prerogatives for local government to advance and balance community interests, including ensuring public safety, maintaining high quality basic services that meet local needs, spurring economic development, and providing affordable rates to all consumers. Policies should not diminish local authority to manage public rights-of-way, to zone, to collect reimbursement and reasonable compensation for the use of public assets, or to work cooperatively with the private sector. The League opposes the adoption of state and federal policies that restrict cities' ability to finance, construct, and operate telecommunications networks.**

LE-16. Broadband

Issue: High-speed Internet is essential infrastructure needed by cities to compete in a global economy. Yet many communities do not have access to broadband at affordable prices. High fixed costs, low density, and short-term return-on-investment thresholds for private sector providers contribute to the lack of broadband across the state. Investing in universal broadband access has substantial local and regional economic benefits for communities of all sizes. Cities and other local units of government are facilitating the deployment of broadband services to increase connectivity, reliability, availability, and affordability for residents and businesses through a variety of models, including municipal broadband and public-private partnerships. However, attempts have been made to restrict cities from providing

telecommunications services, particularly in unserved or underserved areas. Recent court cases have overturned interpretation by the Federal Communications Commission (FCC) that states may not limit the extension of municipal broadband services from one city to another.

Due to the high costs of broadband infrastructure, the state has expanded its role to identify and formulate tools to expand broadband access. The Office of Broadband Development within the Department of Employment and Economic Development (DEED) created in 2013 formally established a partnership between the state and local communities to deploy high-speed Internet in unserved and underserved areas. The Office supports broadband expansion through broadband mapping and managing the state's broadband grant program. Additional state action occurred during the 2016 legislative session when the legislature reestablished state speed and adoption goals under Minn. Stat. § 237.012. In addition to the state's focus on extending broadband to unserved areas, Minnesota must also be on the cutting edge for next-generation broadband investments.

Response: **To promote economic development and achieve state broadband goals, the Legislature, Governor's office, and state agencies should:**

a) **Identify and implement actions for the state to reach and maintain a position in the top five states for broadband speed that is universally accessible to residents and businesses;**
b) **Make significant investments to the Border-to-Border Broadband Grant Program and continue to encourage public/private sector collaboration;**
c) **Support measures to authorize and encourage cities and other local units of government to play a direct role in providing broadband services;**
d) **Remove barriers to the exercise of local authority to provide such services, including repeal of Minn. Stat. § 237.19, that requires a supermajority voter approval for the provision of local phone service by a local unit of government;**
e) **Offer incentives to private sector service providers to respond to local or regional needs and to collaborate with cities and other public entities to deploy broadband infrastructure capable of delivering sufficient bandwidth and capacity to meet immediate and future local needs;**
f) **Adopt policies which seek to position Minnesota as a state of choice for testing next-generation broadband technologies;**
g) **Affirm that cities have the authority to partner with private entities to finance broadband infrastructure using city bonding authority;**
h) **Remove barriers, restrict anti-competitive practices, and prevent predatory action that prevent or impede cities, municipal utilities, schools, libraries, and other public sector entities from collaborating and deploying broadband infrastructure and services at the local and regional level;**
i) **Continuously update and verify comprehensive statewide street-level mapping of broadband services to identify underserved areas and connectivity issues; and**
j) **Recognize the crucial role of local government in the work of the Governor's Broadband Task Force and fund the Office of Broadband Development to help achieve significantly higher broadband speeds and to ensure that robust and**

affordable Internet connectivity is widely available.

On the federal level, the League urges Congress to adopt laws restoring the ability of municipalities to extend beyond their borders to serve unserved and underserved areas.

LE-17. Competitive Cable Franchising Authority

Issue: Despite claims made by some actors in the cable industry, studies and evidence to date do not support that state franchising is the solution for competition, lower consumer rates, and improved customer service. Unlike the exercise of local franchising authority, state franchising models frequently make no provision for staffing at the state level or for effective resolution of consumer complaints.

The transmission of video signals, regardless of how they are transported, remains subject to local franchising authority. Maintaining local franchising most effectively creates and preserves agreements that guarantee broad access to services throughout the community, ensuring there is no digital divide for access to available additional services such as access to IP voice and high-speed Internet via infrastructure that also delivers video programming services.

Response: **State policy should maintain local cable franchise authority and oversight of the rights-of-way, as well as ensure franchise agreements reflect new technology, and are reasonably tailored to the technical and operational differences among providers and communities. Independent studies clearly demonstrate that statewide franchising does not increase direct competition to incumbent cable franchisees. In Minnesota, there are markets throughout the state with two franchised cable service providers, which is further proof that state cable franchising is neither necessary nor warranted in Minnesota.**

The Legislature, Federal Communications Commission (FCC), and Congress should also continue to recognize, support and maintain the exercise of local franchising authority to encourage increased competition between incumbent cable system operators and new wireline competitive video service providers including:

a) **Maintaining provisions in Minn. Stat. ch. 238 that establish and uphold local franchising authority, including the authority to receive a gross revenues based franchise fee;**
b) **Refraining from adopting any FCC rule changes that would restrict existing local authority to charge for and control access to public rights-of-way by all video and cable service providers;**
c) **Clarifying local authority to charge fees on providers to ensure the provision of public, educational, and governmental (PEG) programming, to require the provision of video channels and video streaming for PEG programming with video and audio quality equivalent to that of the local broadcast stations, and ensuring programming is accessible and searchable by all residents of the local authority through detailed Electronic Programming Guide listings that are equivalent to that of local broadcast stations;**
d) **Providing for continued local government access to capacity on institutional networks (I-Nets) provided by local cable system operators for public safety communications, libraries, schools, and other public institutions to use**

state-of-the-art network applications; and

e) Strengthening local authority to enforce customer service standards and transparency in pricing.

LE-18. Right-of-Way Management

Issue: Cities hold local rights-of-way in trust for the public as an increasingly scarce and valuable asset. As demand increases for use of rights-of-way for underground wired and overhead wireless facilities and sites for wireless communications, cities must coordinate the use of this resource among competing uses and to manage the use of PROWs for delivery of essential municipal utility services. Local management responsibilities vary and are site specific, underscoring the necessity for maintaining local authority.

Minnesota's Telecommunications Right-of-Way User Law was amended during the 2017 Session with legislation creating a separate permitting system for placement of small wireless facilities on city-owned structures in the public right-of-way. The new law clarified that wireless providers are telecommunications right-of-way users and maintained cities' right-of-way management authority, but limitations were imposed on cities' compensation through rent and timelines for processing small wireless facilities permits.

Response: **Minn. Stat. §§ 237.162-.163 worked well for many years, but Minnesota was a part of a nationwide effort by wireless providers to pass laws providing them with easier access to public rights-of-way and city-owned infrastructure. While Minnesota's law maintains more local control than those passed in many other states, the League of Minnesota Cities opposes efforts to further restrict local government authority over the public right-of-way. Furthermore, the Federal Communications Commission is undergoing review of Telecommunications Act rules and policies related to local government regulatory authority. State and federal policymakers and regulators should:**

a) Uphold local authority to manage and protect public rights-of-way, including reasonable zoning and subdivision regulation and the exercise of local police powers;

b) Recognize that cities have a paramount role in developing, locating, siting, and enforcing utility construction and safety standards;

c) Support local authority to require reimbursement and compensation from service providers for managing use of public rights-of-way;

d) Maintain city authority to franchise gas, electric, cable, telecommunications and broadband services, open video systems and all other wireline programming platforms and services and to collect franchise fees and alternative revenue streams to support maintenance and management of the traveled portion of the PROW and other public services of importance to communities;

e) Encourage a collaborative process with stakeholders, including cities, to determine any revised standards if needed;

f) Recognize that as rights-of-way become more crowded, the costs of disrupting critical infrastructure become evident and the exercise of local authority to manage competing demands and ensure public safety in the PROWs becomes increasingly important;

g) Ensure the removal of abandoned equipment and accompanying support

structures by the service providers from the public right-of-way;

h) **Maintain the courts as the primary forum for resolving disputes over the exercise of such authority; and**

i) **Maintain existing local authority to review and approve or deny plans for installation or relocation of additional wires or cables on in-place utility poles. In the alternative, cities should have broader authority to require the underground placement of new and/or existing services at the cost of the utility or telecommunications provider.**

LE-19. Wireless Infrastructure and Equipment Siting

Issue: Demand for wireless communication service has increased requests by private and public sector providers to site additional towers, antennas, small cells and other facilities in cities. It is anticipated that applications to install small cell wireless facilities and distributed antenna systems (DAS) will continue to grow as technology evolves over time. Despite Minnesota's new law creating a special process for the siting of small wireless facilities, maintaining cities' local zoning authority and police power to manage and coordinate the siting of these facilities continue is necessary and appropriate.

Response: **Cities must continue to exercise full authority to consider public health, safety, and welfare concerns in responding to requests to site, upgrade or alter wireless facilities. The Legislature should not place further restrictions on city authority to manage the siting of wireless facilities in the public right-of-way nor enact compensation restrictions that would result in local government subsidization of wireless providers. Furthermore, cities must have recourse to require removal by the provider of equipment deemed abandoned.**

LE-20. County Economic Development Authorities

Issue: The 2005 Legislature authorized all counties outside the metropolitan area to establish county economic development authorities (EDAs). Minn. Stat. § 469.1082 provides specificity on certain process and limitations issues, including the ability of cities to prohibit the county EDA from operating within the city as well as within an agreed-upon urban service area or within a distance approved during the formation of the county EDA. County EDA activity in areas surrounding cities will directly impact the adjacent city in terms of service provision and taxes.

Response: **The Legislature should require city approval for proposed county EDA activities within two miles of a city.**

LE-21. Local Appropriations to Economic Development Organizations

Issue: Cities and towns are allowed to appropriate up to $50,000 per year from general fund revenue to an incorporated development society or organization for "promoting, advertising, improving, or developing the economic and agricultural resources" of the city or town. The $50,000 cap has been in place since 1989 and places unnecessary restrictions on a city's ability to work with non-profit development corporations. Local governments should have the flexibility to work with outside organizations if local elected officials believe it is in the best interest of their communities to do so. Such appropriations are subject to the same budgetary oversight as other government expenditures, and local

elected officials are ultimately responsible to the voters for how local tax dollars are spent.

Response: **The Legislature should amend Minn. Stat. § 469.191 to eliminate or increase the cap on appropriations to incorporated development societies or organizations.**

LE-22. Workforce Readiness

Issue: It is critical for the future of our economy to prepare for new demographic trends. While population rates among communities of color are projected to increase, the unemployment rate for communities of color exceed the unemployment rate for white Minnesotans. For example, data from the Bureau of Labor Statistics (BLS) indicate that black unemployment rates are consistently two to three times higher than the unemployment rates of white Minnesotans and studies indicate that hiring bias is a substantial factor for this disparity in unemployment rates. In addition, while early work experience is a leading predictor of future success in a workplace, recent statistics from BLS show that the youth unemployment rate for 16-19 year olds is three times that of the unemployment rate for the state as a whole.

Incumbent worker training and education must be an important component of Minnesota's efforts to improve workforce readiness. By making firms and employees more competitive, incumbent worker training can increase wages, increase employment opportunities, fill skilled worker gaps, and keep jobs and employers in their communities. The Minnesota Job Skills Partnership is one proven tool that provides training to thousands of incumbent workers each year.

Response: **The Legislature should:**

a) **Fully fund the Minnesota Job Skills Partnership and other workforce training programs administered by the Department of Employment and Economic Development, the Department of Human Services, and the various education agencies;**
b) **Provide additional flexible funding to local workforce councils, including governments and educational facilities, for the purpose of upgrading the skills and productivity of the workforce, and pursue additional creative programming and funding to prepare and place underemployed and unemployed Minnesotans, as well as address the issue of those phasing out of the workplace and retiring;**
c) **Provide additional funding for programs specifically designed to address youth employment such as career and workforce readiness programs, and employment disparities; and**
d) **Continue to support cities that provide workforce programs that are coordinated with and complement state and regional efforts by seeking municipal approval before making any changes to those service areas.**

LE-23. Business Development Programs

Issue: Programs such as the Minnesota Investment Fund (MIF), the Job Creation Fund (JCF), the Redevelopment Program, and contaminated site clean-up grants provide funding opportunities for communities and businesses to develop their local and regional economies. These well-utilized programs create infrastructure, revitalize property, and help businesses generate and expand jobs. Cities are key facilitators in the implementation of

economic development strategies through land use and other policies.

Response: **The League of Minnesota Cities supports continued and sustainable funding for the Minnesota Investment Fund and the Job Creation Fund to assist local communities and businesses in creating, growing, and retaining jobs.**

DEED should solicit input from cities about how best to implement the Fund and make adjustments to the administration of the program as necessary. The League supports Department of Employment and Economic Development (DEED) studying and making recommendations on methods to improve the geographic balance of recipients, perhaps by altering the required number of jobs created or developing other programmatic changes that allow all regions of the state to better prosper.

LE-24. Land Recycling and Redevelopment

Issue: Communities across Minnesota are faced with expensive barriers to re-using property. These roadblocks include deteriorating, obsolete, and vacant structures, and contaminated land.

Larger scale redevelopment projects often require the purchase and assembly of multiple, smaller parcels of land that are not suitable for development on their own. Cities and development authorities may need to purchase land over a period of years and hold them for later development, reducing the effectiveness of traditional financing tools that require immediate development.

Such barriers pose significant problems for cities seeking to re-use existing infrastructure, maintain and improve property tax base, provide jobs and housing opportunities, and preserve historic structures. Land recycling activities are particularly costly because significant remediation must occur before private-sector interest can be generated. Exacerbating this situation, the land recycling programs administered by the Department of Employment and Economic Development (DEED) and the Metropolitan Council programs continue to be underfunded.

Response: **In recognition of the unique needs of land recycling projects statewide, the Legislature should increase funding for the statewide redevelopment account. The League of Minnesota Cities would also support the creation of a land assembly grant or loan program to assist cities and economic development authorities assemble small parcels for redevelopment. The League supports competitive programs administered by DEED with both bonding and general fund appropriations that distribute the funds equitably between greater Minnesota and the metro area. The Legislature should continue its support and increase funding levels for state and regional programs to assist in contamination cleanup and brownfields remediation efforts.**

The State should recognize that the rehabilitation of land due to obsolescence or incompatible land uses is a component of redevelopment. The Legislature should amend the definition of redevelopment district in Minn. Stat. 469.174, subd. 10, to include the obsolescence and incompatible land uses included in a renewal and renovation district (Minn. Stat. § 469.174, subd. 10a), thereby providing cities with more flexible tools to address land recycling and redevelopment.

The Legislature should also revive a program similar to "This Old Shop" (Minn. Stat. § 273.11, subd. 19), which would allow cities greater flexibility in targeting commercial development and redevelopment. The Legislature should consider enacting authority that would provide a tax deferral on improvements to commercial buildings, including those located in designated rehabilitation or historic preservation districts. The program's age limit qualifications under Minn. Stat 273.11, subd. 19, should be modified to include properties that are at least 30 years old.

LE-25. Development Authority Levy Limits

Issue: Under Minn. Stat. § 469.107, § 469.033, and § 469.053, Economic Development Authorities (EDAs), Housing and Redevelopment Authorities (HRAs) and port authority levies for economic development activities are capped. These limits can hinder the planning of future development.

Response: **The Legislature should repeal levy limits or increase the levying authority for EDA, HRA, and port authority activities in Minn. Stat. ch. 469.**

LE-26. Tax Increment Financing (TIF)

Issue: TIF is the most important tool available to fund community development and redevelopment efforts. Over time, the TIF law has become increasingly complex as the Legislature seeks to provide cities with the resources to grow the state's economy while maintaining limits on the use of property taxes. Cities need greater flexibility to use TIF for community and economic development that support a city's residents and businesses. Further restrictions of TIF would render the tool less effective and will hinder local efforts to support job creation, housing, redevelopment and remediation.

One component of the redevelopment TIF law (Minn. Stat. 469.174, subd. 10) requires that more than 50 percent of the buildings in a proposed redevelopment district be deemed "structurally substandard to a degree requiring substantial renovation or clearance" before a district can be established. This makes small districts with two properties particularly difficult to establish.

Response: **The Legislature should not enact future TIF law restrictions, rather the Legislature should:**

a) **Amend Minn. Stat. § 469.1763, subd. 4, to clarify that tax increment pooling limitations are calculated on a cumulative basis.**
b) **Modify Minn. Stat. 469.174, subd. 10, to allow a redevelopment district to be established where only 50 percent of the buildings are required to be structurally substandard to a degree requiring substantial renovation or clearance.**
c) **Clarify that expenditures for the necessary maintenance of properties within TIF districts are an allowable use of tax increment under Minn. Stat. § 469.176, subd. 4;**
d) **Allow term extensions for redevelopment districts which are taking longer to develop;**
e) **Amend Minn. Stat. § 469.1763, subd. 3, to eliminate the "Five-year Rule" for districts that are taking longer to develop;**
f) **Amend Minn. Stat. § 469.174, subd. 25, to provide time limits on the "deemed increment" created by land**

sales, leases and loans, and allow authorities greater flexibility in the use of lease revenues to fund ongoing operations;

g) **Expand the use of TIF to assist in the development of technological infrastructure and products, biotechnology, research, multi-modal transportation and transit-oriented development, restoration of designated historic structures, non-retail commercial projects, and non-wetland areas where unstable/non-buildable soils exist;**
h) **Increase the ability of TIF to facilitate redevelopment and housing activities;**
i) **Modify the housing district income qualification level requirements to allow the levels to vary according to individual communities;**
j) **Encourage compact development and consider reauthorization of compact development TIF districts with modifications to increase their effectiveness;**
k) **Discourage any statutory mechanisms that directly or indirectly decrease the impact of city redevelopment and economic development projects;**
l) **Simplify the substandard building test to resolve ambiguities and reduce the continued threats of litigation;**
m) **Create an exception to the interfund loan resolution requirement in Minn. Stat. 469.178, subd. 7, to authorize the development authority to delegate to a staff person the ability to set the terms and conditions of an interfund loan.**
n) **Amend the definition of redevelopment district under the TIF Act to include the obsolescence and incompatible land uses included in a renewal and renovation district, thereby providing cities with more flexible tools to address land recycling and redevelopment.**

LE-27. Property Tax Abatement Authority

Issue: In an effort to increase the number of development tools available, the 1997 Legislature authorized local units of government to grant property tax abatements. Although tax increment financing (TIF) continues to be the primary financing mechanism for local development projects, tax abatements provide cities with an important, additional economic development tool. Recognizing the need for municipal development tools, the 2008 Legislature expanded the abatement authority by converting the limit on abatements from ten percent of the current tax levy to ten percent of net tax capacity. In order to provide maximum benefits and recognize local decision-making, tax abatements should have less restrictive funding caps, financing terms, and authorized uses.

The tax abatement law requires that a political subdivision may only approve an abatement after holding a public meeting with a minimum of 10 days published public notice. When more than one political subdivision abates property taxes for a development project, there must be separate notices and hearings for each subdivision. This requirement can be particularly burdensome for programs designed to develop multiple properties over an extended period of time. If one political subdivision could be designated as the lead entity for purposes of the notice and hearing requirements, such projects could be made more efficient without sacrificing public transparency.

Property tax abatements should not be considered a replacement for TIF.

Response: **In light of current economic conditions existing property tax**

abatement authority should be strengthened. The Legislature should:

a) **Expand the abatement authority to allow abatement revenues to be used for economic development activities such as workforce readiness and assistance programs, and technology infrastructure improvements;**
b) **Develop a state fund to facilitate state participation in abatement projects by allowing the state property tax to be abated;**
c) **Increase funding caps under Minn. Stat. § 469.1813, subd. 8 and duration limits under Minn. Stat. § 469.1813, subd. 6; and**
d) **Amend Minn. Stat. § 469.1813, subd. 5, to create a streamlined notice and hearing requirement for multi-jurisdictional tax abatement projects.**

LE-28. Opportunity Zones

Issue: The Opportunity Zones program is a new community development program established by Congress in the Tax Cuts and Jobs Act of 2017 to encourage long-term investments in low-income urban and rural communities nationwide. The Opportunity Zones program provides a tax incentive for investors to re-invest their unrealized capital gains into Opportunity Funds that are dedicated to investing into Opportunity Zones as designated by the chief executives of every state and territory in the United States. The tax incentive is available for up to ten years.

As the chief executive of the state of Minnesota, Governor Mark Dayton designated 128 census tracts across the state as Opportunity Zones, but beyond the responsibility for this designation the state does not have an additional role in the implementation of the Act. As the United States Treasury Department is expected to release rules and regulations related to the implementation, there are many unknowns about the impact the Act will have on communities across the state. It is anticipated that the Act may be a useful tool in spurring development in low-income communities and could help with business development and jobs; there are also questions about what impact the Act will have on the residents that live and businesses that operate, in these communities today. For example, while development may have positive impacts such as increasing tax base or job opportunities, robust development could have unintended consequences such as displacement of current residents and businesses.

Response: **The League of Minnesota Cities urges the federal government to seek regular input from communities that are designated as Opportunity Zones regarding how the tool is being used, whether the tool is encouraging new development opportunities, and how community members who live in the Zones are impacted, such as through a local advisory board made up of residents, businesses, and other stakeholders located in the designated census tracts. The Federal Government should seek input from local communities throughout the implementation of the rules and regulations and consider necessary amendments and adjustments as needed in response to potential questions or concerns raised by the communities whose residents, workers, and businesses will be experiencing the changes that ensue in the Zones.**

The State of Minnesota should utilize community development resources to stimulate investment in Opportunity Zones and adopt policies that ensure that

local residents, workers and businesses benefit from the investments.

LE-29. Revisions to the OSA Audit Function

Issue: Pursuant to Minn. Stat. § 469.1771, the Office of the State Auditor (OSA) is responsible for tax increment financing (TIF) oversight. As part of its review of TIF districts, the OSA identifies alleged violations of the TIF laws and issues noncompliance notices to TIF authorities. In recent years, a number of cities have received letters of inquiry from the OSA that raise questions about practices long-accepted by the OSA or limit statutory definitions that have not been amended by the legislature for over a decade. The audit power in Minn. Stat. § 469.1771 is necessary to ensure that individual cities comply with the TIF statutes, but is not effective in clarifying the legislative intent of the TIF statutes.

In addition, the TIF statute requires that authorities respond to noncompliance notices within 60-days of receiving the notification. There is no deadline for the OSA to respond, and authorities often do not receive timely responses on the matter from the OSA. Government agencies typically have response-time deadlines, and it is appropriate for the OSA to respond by a time certain to provide finality to the audit process. Any final disposition notice must be clear about the final disposition of the matter.

Finally, the statutory audit enforcement process does not create an environment where these policy questions can be fairly and sufficiently resolved. County attorneys lack the resources to prioritize TIF disputes and lack the subject matter expertise needed to analyze the merits of the OSA's audit findings. This results in excessive deference granted to the OSA's original audit findings. Faced with the potential loss of increment, payment of attorney fees, and small likelihood of success on the merits, cities often acquiesce to the OSA to save time and money.

Response: **The League of Minnesota Cities believes there should be a more defined process to establish rules or guidelines for TIF authorities with adequate input from local government officials and public finance professionals prior to their adoption.**

In the event that the OSA determines to issue a final noncompliance notice to a TIF authority, the Legislature should require the OSA to issue the notice within 60 days of receiving the authority's response. Any final noncompliance notice should contain the OSA's final position on the matter, the date upon which it forwarded the matter to the county attorney, and the next steps that are required to be taken according to state law. Upon expiration of the 60-day period, the authority should be deemed to be in compliance with the TIF laws if no final noncompliance notice is received.

In order to ensure a fair process to resolve disputes over TIF findings of the OSA, the Legislature should consider whether the authority to resolve such disputes should be shifted from county attorneys to the Office of Administrative Hearings.

LE-30. OSA Time Limitations

Issue: The Office of the State Auditor (OSA) has the authority to issue noncompliance notices for every existing tax increment financing (TIF) district in the state for alleged violations of the TIF laws. This authority extends retroactively to the

inception of the district. Accordingly, TIF authorities can receive noncompliance notices for alleged violations that occurred 20 or more years ago. Often, staff and record-keeping procedures have changed, and TIF authorities find it difficult to reconstruct the past in order to identify and remedy these situations. Similarly, the OSA claims the authority, based on the state's records retention schedule, to audit TIF districts for up to 10 years after decertification, which requires cities to expend staff resources to maintain files and a working knowledge of old districts for an unreasonable period of time.

Response: **A reasonable timeframe within which alleged violations are identified should be established. The Legislature should reasonably restrict the OSA's ability to issue noncompliance notices to the six-year period prior to the notice's issuance date. The Legislature should also require the OSA to conduct any audits on decertified districts within one year of decertification.**

LE-31. Workforce Housing

Issue: Job creation is one of the fundamental goals of economic development. When employers create new jobs through expansion or relocation there must be sufficient housing in the host community for the new workers and their families to live. In rural communities, a lack of housing stock for new workers can prevent a planned expansion or relocation, hampering job growth and economic development. The economics of building a housing development in greater Minnesota communities makes private development difficult, and workers with higher paying jobs do not qualify for traditional affordable housing. This housing gap can bring development and job growth in a community to a halt.

In 2014, at the urging of cities through Minnesota, the Legislature created a workforce housing pilot program for three cities in Roseau and Pennington Counties. In 2015 the Legislature passed League-sponsored legislation that created the workforce housing development program and appropriated $4 million to the Department of Employment and Economic Development (DEED) to administer the program. Once grant awards from DEED were made, prevailing wage requirements, construction costs, and land prices have shown to lessen the effectiveness of creating more workforce housing units. It is important to ensure the appropriate resources and process exist for the Department of Labor and Industry (DLI) to determine representative and accurate prevailing wage amounts in different areas across the state.

The 2017 Legislature approved funding for the Workforce Housing Grant Program at $2 million each year. The program was moved from DEED to be administered by MN Housing Finance Agency (MHFA) in Minn. Stat. 469A.39 with a change in qualifications that gives preference to cities under 30,000 population (rather than 18,000 previously).

The 2017 Legislature also approved a new use of TIF authority for workforce housing (Minn. Stat. § 469.174-176). In addition to requirements under Minn. State. 469.175, subd. 3, county and school boards must approve the TIF plan before it is enacted and the authority sunsets in 2027. These additional requirements specific to workforce housing TIF districts put additional barriers on workforce housing development and does not fully recognize the role of cities as the typical lead government entity on housing projects. Minn. Stat. § 469.175, subd. 2, currently requires cities to provide the county auditor

and clerk of the school board with the proposed TIF plan and an estimate of the fiscal and economic implications of the proposed TIF district at least 30 days before the public hearing required by Minn. Stat. § 469.175, subd. 3. The county auditor and school board shall provide copies of these TIF plan materials to members of their boards. These current requirements provide sufficient notice to taxpayers and other government entities about proposed TIF districts.

Response: **The League of Minnesota Cities supports additional tools for local communities to develop workforce housing:**

a) **MHFA should solicit input from local communities to ensure that the goals of the Workforce Housing Grant program are met, and MHFA should award funds to eligible projects as quickly and efficiently as possible;**
b) **The Legislature should increase funding to the Housing and Job Growth Initiative to aid housing in support of job growth, and amend Minn. Stat. § 462A.33 to eliminate or increase the maximum income levels for participation in the program; and**
c) **The Minnesota Housing Finance Agency should make administrative changes to the Housing Challenge Grant program to streamline the application process, reduce the per-unit cost of constructing affordable housing, and increase the construction of affordable rental units at 80% of median income and owner-occupied units at 115% of median income, as currently allowed by state and federal law; and**
d) **The Legislature should pass legislation creating a workforce housing tax credit to spur development of workforce housing.**
e) **The Legislature should scale the workforce housing grant program to account for the additional cost associated with the prevailing wage requirements.**
f) **The Legislature should eliminate the provision in Minn. Stat. § 469.175, subd. 3, that requires the county board and school board to approve a workforce housing TIF plan before it is enacted and the Legislature should also eliminate the sunset of the workforce housing TIF authority.**

LE-32. Development Along Transit Corridors

Issue: While the establishment of transit lines and corridors provide the impetus for economic development, there are limits to existing development tools that hinder full development of transit corridors. For example, acquisition of land outside of the line but within the corridor can be difficult, and current tools are not well-suited for the creation of public spaces, enhancement of infrastructure, and investments such as parking ramps that are necessary components of a transit-oriented development plan.

In 2008 the Department of Employment and Economic Development (DEED) was authorized to establish Transit Improvement Areas, which should complement long-term transportation planning initiatives such as MAP-21 and Minnesota GO. Transit Improvement Areas include parcels of land that are located in part within one-half mile of a transit station. A transit station is defined as a physical structure or designated area which supports the interconnection of various transportation modes, including light rail, commuter rail and bus rapid transit, and which promotes and achieves the loading, discharging and transporting of people. The commissioner of DEED may designate a

Transit Improvement Area if it will increase the effectiveness of a mass transit project by incorporating one or more modes of public transportation with commercial and housing development, as well as providing a clean and pleasant place for pedestrian use. DEED has designated over 50 Transit Improvement Areas; all but two are located in the seven-county metropolitan area. Although the language passed and was signed into law by the governor (Minn. Stat. § 469.35), there was no funding put into place to implement the new program.

Response: **The League of Minnesota Cities urges the Legislature to increase the ability of traditional economic development tools, including tax increment financing, tax abatement, and special service districts, to address the needs of transit-oriented development. The League encourages the Legislature to appropriate bonding and general fund dollars for revolving loans and grants to fund the TIA program. Additionally, the Legislature should consider adding park and ride facilities to the list of qualifying transportation modes, as defined in Minn. Stat. § 469.351. Because the majority of the DEED-designated Transit Improvement Areas are currently located in the seven-county metropolitan area, increased funding for this program will not be balanced between greater Minnesota and the metro area. Additional funding for this program should not change the overall balance of state funding between greater Minnesota and the seven-county metropolitan area.**

LE-33. Public Infrastructure Utilities

Issue: Successful economic development efforts and community stability are dependent upon a city's ability to make infrastructure investments. Current infrastructure funding options available to cities are inadequate and unsustainable. Funding pressures have been exacerbated by levy limits, unallotment and reductions in the local government aid and market value homestead credit programs. The existing special assessment law, Minn. Stat. ch. 429, does not meet cities' financing needs because of the special benefit requirement. The law also requires a bond election unless a minimum of 20 percent of such a project can be specially assessed against affected properties due to the increase in fair market value or "benefit" from the project. In practice, however, proof of increased property value to this degree of benefit can rarely be proven from regular repair or replacement of existing infrastructure such as streets or sidewalks. Alternatives to the Minn. Stat. ch. 429 methods for financing infrastructure improvements are nearly nonexistent.

The Legislature has given cities the authority to operate utilities for waterworks, sanitary sewers, and storm sewers. The storm sewer authority, established in 1983, set the precedent for a workable process of charging a use fee on a utility bill for a city service infrastructure that is of value to everyone in a city. Similar to the storm sewer authority, a transportation or sidewalk utility would use technical, well-founded measurements and would equitably distribute the costs of local infrastructure services.

Response: **The Legislature should authorize cities to create, as a local option, additional utilities such as a transportation or sidewalk utility, that ensure funding for the maintenance of these public amenities. Additionally, whether established as a new chapter of law or added to the list of service charges in Minn. Stat. § 429.101, cities should be able to impose service charges against**

property to ensure the maintenance and safety of the right of way for all Minnesotans without having to prove an increase in fair market value or having to determine whether those contributing to the utility fund are taxable or tax-exempt. Such authority would acknowledge the effects of repeated levy limits and the general funding shift from the state to local governments for building and maintaining necessary infrastructure; the benefits to all taxpayers of a properly maintained public infrastructure; and, the limitations of existing special assessment authority.

LE-34. Adequate Funding for Transportation

Issue: A well-coordinated state transportation policy utilizing all modes of transportation in moving passengers and freight will enhance the state economic development of new and expanding business as well as foster additional tourism opportunities.

Response: **More resources must be dedicated to all components of the state's transportation system, and local units of government must have access to resources and funding tools to meet growing needs. The League of Minnesota Cities supports:**

a) **Development of a comprehensive state transportation policy which provides an environment where all modes of transportation (motor, rail, air, water and pipeline) complement each other in moving passengers and freight within the state.**
b) **A dedicated and sustainable state revenue source for non-municipal state aid city streets.**
c) **The Statewide Transportation Plan 2009-2028 developed by the Minnesota Department of Transportation (MnDOT).**
d) **MVST distribution of 60 percent for roads and bridges and 40 percent for transit.**
e) **A permanent increase in the gas tax.**
f) **Indexing of the gas tax, provided there is a limit on how much the tax can be increased for inflation in a given amount of time.**
g) **Increases in vehicle registration taxes (tab fees).**
h) **Trunk highway bonding provided the Legislature implements reasonable restrictions on the amount of debt service the state will incur, and provided the Legislature appropriates funding to assist with local costs related to projects funded with trunk highway bonds.**
i) **General obligation bonding for local roads and bridges, particularly for routes of regional significance.**
j) **A sales tax increase dedicated to transportation.**
k) **Funding to assist cities burdened by cost participation responsibilities imposed by improvement projects on the state's principal arterial system and on the county state aid highway (CSAH) system.**
l) **Funding for transportation components of economic development and redevelopment projects.**
m) **Full funding for all components of state highway projects, including related stormwater management systems, through state sources.**
n) **Establishment of a "Mainstreets Fund" to assist cities with non-transportation related components of trunk highway projects such as utility upgrades and improvements that contribute to economic development.**

o) **Funding to build roads to standards that can accommodate the year-round transport of heavy loads.**
p) **A sales tax exemption for materials purchased for state and local road, bridge, sidewalk, trail and transit construction projects.**
q) **Authority for cities to impose development impact fees for transportation infrastructure.**
r) **Local funding options that would allow cities to raise revenues for roads, bridges, sidewalks, trails, and transit.**
s) **Expanded use of alternative revenue sources such as MnPASS and other tolling mechanisms for funding of maintenance and construction (where feasibility studies indicate the program is appropriate).**

LE-35. Turnbacks of County and State Roads

Issue: As road funding becomes increasingly inadequate, more roads are being "turned back" to cities from counties and the state.

Response: **Turnbacks should not occur without direct funding or transfer of a funding source. A process of negotiation and mediation should govern the timing, funding, and condition of turned-back roads. Agreements should be negotiated and finalized before work on a project requiring a turnback begins. City taxpayers should receive the same treatment as township taxpayers. The requirement for a public hearing, standards about the conditions of turnbacks, and temporary maintenance funding should also apply to county turnbacks to cities. At a minimum, roads that are proposed to be turned back to a city government should be brought up to the standards of the receiving government, or that city should be compensated with a direct payment. Direct funding should be provided for smaller cities that are not provided with turnback financing through the municipal state aid system.**

LE-36. MnDOT Rights-of-Way Maintenance

Issue: Maintenance of property, including government property and facilities, is important to public safety and to the image of Minnesota cities. Cities are acutely aware of the responsibility they have for enforcing property maintenance codes pertaining to grass mowing, noxious weed abatement, the placement of trash in yards and fence maintenance.

Minnesota has many miles of highways that run through cities. In recent years, the Minnesota Department of Transportation (MnDOT) has cut a substantial percentage of its rights-of-way management staff. The cuts have resulted in reduced maintenance along some corridors and on parcels acquired by MnDOT for transportation purposes. Specifically, MnDOT has reduced the frequency of mowing, litter collection, noxious weed abatement, graffiti abatement and repair of fences and guard rails. This maintenance reduction has created public safety concerns, undermined efforts to keep corridors attractive and presented challenges for communities working to promote economic development.

Response: **MnDOT must maintain state rights-of-way and parcels acquired by MnDOT for transportation purposes located within city limits in a manner consistent with local ordinances governing the upkeep of private property when requested by the city. Alternatively, MnDOT should reimburse Minnesota cities for the labor, supplies, and**

equipment necessary to maintain state rights-of-way to meet city standards and/or minimize public safety hazards. The Legislature must provide MnDOT with adequate funds to maintain state rights-of-way.

LE-37. Funding for Non-Municipal State Aid City Streets

Issue: Minnesota has over 141,000 miles of roadway, and more than 22,500 miles—or 16 percent--are owned and maintained by Minnesota's 853 cities.

The Minnesota Constitution limits eligibility for dedicated Highway User Tax Distribution Fund dollars to up to twenty percent of streets in cities with populations over 5,000 (147 of 853 cities). This means almost 85 percent of municipal streets are ineligible for municipal state aid (MSA) funds and must be paid for with property taxes and special assessments. Funding challenges are compounded by city cost participation requirements in state and county highway projects, which divert resources from city-owned streets.

Recognizing the unique street funding needs in cities under 5,000 population, the 2015 legislature created the Small Cities Assistance Account (Minn. Stat. § 162.145). Funds in the account are distributed through a formula to all cities under 5,000 population for street maintenance and reconstruction. Unfortunately, funding for the account was only provided for one year.

Maintenance costs increase as road systems age, and no city--large or small—is spending enough on roadway capital improvements to maintain a 50-year lifecycle. For every one dollar spent on maintenance, a road authority--and therefore taxpayers--save seven dollars in repairs. According to a report released in late 2012 by the governor's Transportation Finance Advisory Committee, cities collectively need an additional $400 million per year to bring city streets up to an economically competitive standard.

Response: **City streets are a separate but integral piece of the network of roads supporting movement of people and goods. Cities need greater resources and flexible policies in order to meet growing demands for street improvements and maintenance. The League of Minnesota Cities supports:**

a) **A dedicated and sustainable state funding source for non-MSA city streets in large and small cities statewide;**
b) **enabling legislation that would allow cities to create street improvement districts (similar to sidewalk improvement districts already allowed under Minn. Stat. § 435.44); and**
c) **the creation of a new fund within the Local Road Improvement Program that would provide grants to cities burdened by cost participation requirements related to trunk highway and county state-aid projects.**

LE-38. Authority to Allow Amenities in MnDOT Rights-of-Way

Issue: Cities served by the state's trunk highway system frequently request features on the highway right-of-way (ROW) that would improve the aesthetics of the highway or provide public amenities exceeding components the Minnesota Dept. of Transportation (MnDOT) may include. Minn. Stat. §161.20, Subd. 2(b), gives the MnDOT commissioner authority to make agreements with and cooperate with any governmental authority relating to trunk

highway construction and improvements; however, Minn. Stat. §161.434 provides that arrangements and agreements must be "for highway purposes".

These restrictions are problematic in cities where a downtown commercial area exists along a trunk highway. Some of these cities desire amenities that would make commercial areas adjacent to trunk highways more vibrant by allowing outdoor dining, landscaping, decorative lighting or other aesthetic improvements that do not serve a highway purpose. Under current law, the city cannot approve amenities that encroach on the ROW.

Response: **The League of Minnesota Cities supports authorizing cities, by ordinance, to allow amenities that do not serve highway purposes on trunk highway ROW within their jurisdictions. The League also supports a requirement that MnDOT develop and approve rules related to local ordinances.**

LE-39. Complete Streets

Issue: There is increasing public support for the reform of local street design policies to make streets safer for pedestrians, cyclists and neighborhood residents.

Response: **The League of Minnesota Cities supports reforms in state design guidelines for local streets that would give cities greater flexibility to safely accommodate all modes of travel, including walking and biking. The state should also provide incentives such as grants to local units of government working to advance complete street projects. Crosswalks and Safe Routes to School projects should be eligible for incentives.**

The League opposes state imposed unfunded mandates that would increase the costs of building streets in contexts where facilities for cyclists and pedestrians are unnecessary or inappropriate.

LE-40. Infrastructure Fees

Issue: New development and the resulting growth create an increased demand for public infrastructure and other public facilities. Severe constraints on local fiscal resources and dramatic forecasts for population growth have prompted cities to reconsider ways to pay for the inevitable costs associated with new development.

Traditional financing methods tend to subsidize new development at the expense of the existing community, discourage sound land-use planning, place inefficient pressures on public facilities, and allow under-utilization of existing infrastructure. Consequently, local communities are exploring methods to ensure new development pays its fair share of the true costs of growth.

In *Harstad v. City of Woodbury*, the Minnesota Supreme Court recently clarified that state statute does not provide the authority for cities to impose infrastructure fees to fund future road improvements when approving subdivision applications under Minn. Stat. § 462.358, subd. 2a. Given the existing authorization to impose fees on new development of other infrastructure, such as water, sanitary and storm sewer, and for park purposes, it is reasonable to extend the concept to additional public infrastructure and facilities improvement also necessitated by new development.

Response: **The Legislature should authorize local units of government to impose infrastructure fees so new**

development pays its fair share of the off-site, as well as the on-site, costs of public infrastructure and other public facilities needed to adequately serve new development.

LE-41. Safe Routes to School Grants Management

Issue: The Safe Routes to School (SRTS) Program provides funding support for capital projects that promote and encourage more students to walk or bicycle to school by making the school routes safer and more accessible.

The following are some types of SRTS infrastructure improvement grants that are provided by the state and offered through the Minnesota Dept. of Transportation (MnDOT):

- School site improvements: secure bicycle parking facilities, traffic diversion improvements, and Americans with Disabilities Act (ADA) improvements;
- Pedestrian facilities: new sidewalk, sidewalk gap closures, and related ADA improvements;
- Bicycle facilities: bicycle trails, separated multi-use or shared paths and related ADA improvements; and
- Traffic calming and crossing improvements: curb extensions, speed humps, median refuges, enhanced crosswalk markings, timed on/off beacons, vehicle feedback signs (dynamic speed signs), and other traffic control devices.

Cities that receive municipal state aid (MSA)--those with populations above 5,000--may apply for and administer their own SRTS grants. Non-MSA cities, even those with a city engineer on staff or contract, must rely on the county to manage any grant funds secured as well as to approve the project design. In some cities, this requirement has led to project delays and disputes with counties over project design and delivery.

Response: **The League of Minnesota Cities supports changes to MnDOT rules to allow small cities that have the capacity to manage SRTS grants and projects to do so without county approval.**

LE-42. Railroads

Issue: Railroads impose far-reaching and long-term impacts on communities. The impact of railroads on communities has become more pronounced in Minnesota as the number and length of trains have increased due to frac sand and crude oil entering the state by rail to and from North Dakota. While railroads often support economic activity and can relieve pressure on roadway and bridge infrastructure, they also bring noise, environmental impacts and safety challenges. Below are some of the concerns cities have raised about railroads:

a) Local public safety personnel are underequipped to respond to a potential derailment of a train carrying hazardous materials such as crude oil or nuclear products.
b) The cost-share ratio related to roadway crossing improvements is borne disproportionately by the public sector. Some estimates are 80 percent public to 20 percent private funding, regardless of the public entity's ability to pay or whether service is provided within the community. Funding has not kept pace with the growing need for grade separations.
c) Legislation brought by the railroad industry that would exempt railroads from stormwater fees and assessments and shift the cost of complying with

stormwater management to other property owners.

d) The financial burden is faced by the public sector to deal with mitigation improvements, a cost that the Surface Transportation Board (STB) is not requiring the private sector to pay.
e) At-grade crossings are blocked by both long moving trains and by trains that stop and remain stopped, sometimes for hours at a time. Blocked crossings delay motorists and sometimes prevent passage of emergency vehicles.
f) Difficulty and expense of imposing and enforcing whistleblowing ordinances.
g) Unabated graffiti on railroad cars and structures.
h) Negative impacts of long- and short-term storage of rail cars on adjacent properties.
i) Pre-emption of local and state authority to regulate railroad activities.

Response: **The League of Minnesota Cities opposes legislation and policies that disproportionately shift authority, costs and/or liability away from railroad companies and onto other entities. The railroad industry, along with state and federal government, must:**

a) Adequately mitigate the negative impacts of railroads on communities;
b) Allow local governments to enforce the existing state and federal laws regarding the maximum time a crossing may be blocked, and provide a mechanism to do so;
c) Provide that timely notice to the impacted municipality is required in advance when a crossing or crossings will be blocked by a stopped train;
d) Require railroad companies to provide a direct emergency response telephone number for city first responders (police, fire, ambulance or other designated official) to call when an at-grade crossing is blocked, and the emergency services need this crossing immediately unblocked to continue their response;
e) Allow local governments to enforce whistle-free zones;
f) Impose and implement safety standards that are in the best interest of the public, including requiring every train that is carrying freight to be operated with a crew of at least two crewmembers;
g) Equip and train local public safety officials to respond to potential catastrophic rail incidents;
h) Develop plans and identify funding sources for more grade separations between railways and roadways; and
i) Fund and implement improvements to rail car storage facilities.

The public sector should not incur the costs of improvements sought by the private sector, and cities should not be required to fund most of the cost of crossing repairs or improvements. The federal government must exercise greater oversight of the STB to ensure fair and equitable solutions are reached when dealing with cities in Minnesota. Finally, the Minnesota Department of Transportation's (MnDOT's) Office of Freight and Passenger Rail should advocate on behalf of local communities when conflicts between cities and railroad entities arise.

LE-43. Airport Planning and Funding

Issue: Airports are an essential component of Minnesota's transportation infrastructure. Airports in the State of Minnesota serve important gateway to the region, the nation, and global markets. They serve as a primary access point to our national airport system. The Minneapolis St. Paul International

Airport (MSP) is critical to the movement of people and goods in and out of the state and even with all the planned improvements, it will eventually reach its capacity. The state needs to implement a long-term strategy to make better use of other airport facilities and existing resources, reduce environmental impacts, and achieve sound and sustainable economic growth throughout the state.

Aviation planning is a multi-layered effort with different levels of responsibilities. Currently, the State Airports System Plan is put together by MnDOT with individual pieces developed by the Federal Aviation Agency (FAA), Metropolitan Council (MC), and Metropolitan Airports Commission (MAC). Aviation planning could be improved by a more unified statewide effort and coordination of the various aviation strategies through creation of an oversight body.

Minn. Stat. § 360.017 establishes the State Airport Fund and authorizes the Minnesota Department of Transportation (MnDOT) Office of Aeronautics to support cities, counties and townships in the planning, development, maintenance and safe operation of public airports. In recent years, in order to help balance the state's budget, the Legislature transferred funds from the State Airport Fund to the General Fund. Although the borrowed funds were eventually repaid in full, efforts to preserve and improve the quality of airports throughout the state were hindered by the unavailability of these revenues.

The Minnesota Council of Airports (MCOA), a membership organization for airport authorities and municipal entities who own airports, has led efforts to bring stakeholders together. Most recently, the MCOA established the State Airports Fund Committee to work with the MnDOT Office of Aeronautics to discuss and advise future management practices of the State Airport Fund.

Response: **The state needs a higher degree of integration of agencies (FAA, MnDOT, MC, and MAC) and communities related to aviation planning. The League of Minnesota Cities supports the collaborative efforts initiated by the MCOA and supports the development of a statewide airport advisory board, which could provide input, review and make recommendations to assist in development of a comprehensive statewide State Airports System Plan.**

The state needs to make planning and investment decisions that will maximize the potential for airports to become economic development centers that provide access to domestic and global marketplaces. Investments in airports allow existing businesses to remain and grow, help attract new businesses, increase employment, and lower product and service costs for the benefit of the region.

Finally, the Legislature should not authorize shifting of dedicated State Airports Fund dollars to resolve general fund deficits.

LE-44. Airport Safety Zones

Issue: The field of aeronautics is regulated generally by Minn. Stat. ch. 360 and Chapter 8800 of the Minnesota Rules. Land use safety zones and other public airport zoning standards are established in Minnesota Rules Chapter 8800.2400, and are adopted by local airport zoning regulations that are submitted to the Minnesota Department of Transportation (MnDOT) commissioner for review and approval before adoption. Airport safety zones are intended to restrict land uses that may be hazardous to the

operational safety of aircraft using the public airport, and to protect the safety and property of people on the ground in the area near the public airport.

While some of the provisions included in the Minnesota Rules are required by the Federal Aviation Administration (FAA), other provisions go well beyond the federal requirements. In some cases, the Minnesota Rules do not make sense for the community served by a public airport.

Finally, in some cases airports cross multiple municipal jurisdictions. Neither state law nor Minnesota Rules provide powers for joint airport zoning boards. These boards could be useful in resolving interjurisdictional issues involving airport planning, development, funding and zoning.

Response: **The League of Minnesota Cities supports efforts to protect the safety and property of people living and working near public airports. The League also recognizes that the Minnesota Rules related to public airport zoning standards exceed the FAA's and other states' standards and, thus, needlessly infringe on local control. The League supports changes to Minnesota Rules pertaining to airport zoning standards that will more closely align Minnesota's Rules with those in other states, while at the same time retaining local authority to be more restrictive than the Minnesota Rules. The League also supports changes to Minnesota Statutes and Minnesota Rules that would authorize powers for joint airport zoning boards so issues related to funding, staffing, and authority to enforce ordinances can be resolved at the local level.**

HUMAN RESOURCES & DATA PRACTICES

HR-1. Personnel Mandates and Limits on Local Control

Issue: Many state laws increase the cost of providing city services to residents by requiring city governments to provide certain levels of compensation or benefits to public employees, by specifying certain working conditions, or by limiting city governments' ability to effectively manage their personnel resources. For instance, existing state laws limit governments' ability to effectively address incompetence or misconduct of city employees by specifying certain procedures or standards of conduct that cities must follow. Several laws are potentially contradictory and force local governments to choose which one to follow.

Response: **Any new legislation and changes to existing legislation should meet the following goals:**

a) **Recognize the need for local decision-making authority by local elected officials with regard to the terms and conditions of employment for local government employees (e.g., allow local elected officials to determine employee compensation, employee recognition, and to make employee benefit decisions.**
b) **Provide funding that pays the full costs of any mandated employment-related expenditures.**
c) **Avoid and eliminate expensive and time-consuming duplicative legal protections and processes for public employees.**
d) **Eliminate contradictory existing laws regarding public employment.**
e) **Eliminate mandates for local government employers that are not imposed upon the state as an employer.**
f) **Use the collective bargaining process established by state law, rather than legal mandates, to determine benefits for employees covered by collective bargaining agreements.**

HR-2. Earned Sick and Safe Time

Issue: In recent years, there have been legislative proposals to require employers to provide "earned sick and safe time" affording employees one hour of sick and safe time for every 30 hours worked. Cities recognize their employees for their dedication to public service and currently provide a wide variety of excellent benefits to their employees and prioritize the health and well-being of staff. Benefits include paid time off for most staff who are required to be enrolled in the Public Employee Retirement Association (PERA) (Minn. Stat. § 353.01, subds. 2a, 2b). In developing leave and benefit policies, cities must be mindful of the cost to citizens for programs, much of which are driven by staff compensation and benefits.

Response: **To avoid significant cost increases and to provide clarity, the Legislature should use the same eligibility requirements for public employees outlined in state statute for PERA participation if a mandatory sick and sick and safe time program is enacted by the Legislature.**

HR-3. Pay Equity Compliance

Issue: In 1984, the Legislature passed the Local Government Pay Equity Act to eliminate sex-based wage disparities in public employment. The Act requires each local government to submit reports of its pay structure to the state's Pay Equity Compliance Coordinator within the

Department of Management and Budget. The data is then subject to analysis to determine if there are inequities in the city's pay structure. Since its passage, the administrative rules implementing the Act have not substantively changed.

Response: **The League of Minnesota Cities supports the Local Government Pay Equity Act, and seeks to partner with the Legislature and the state's Pay Equity Compliance Coordinator to update and improve the current system so that cities can more efficiently and effectively fulfill the mandated reporting requirements. Local governments and the state should:**

a) **Explore and document problems individual local governments are experiencing, and evaluate whether the problems are widespread and if they can be resolved administratively;**
b) **Evaluate the reporting process, and make recommendations for improvement as needed;**
c) **Review the methodology for analyzing pay equity data; and**
d) **Evaluate the process by which cities receive notification of reporting requirements and compliance issues and make recommendations for improvement as needed.**

HR-4. Public Employment Labor Relations Act (PELRA)

Issue: The League of Minnesota Cities supports the purpose of the Public Employment Labor Relations Act (PELRA) to balance the rights and interests of public employees, public employers, and the general public. However, certain changes are necessary to assist public employers in implementing this law. For example, current definitions of "public employee" are confusing and difficult to manage. In addition, the arbitration process has produced decisions that are contrary to the interests of the public, and the legal standard for overturning arbitration decisions is very difficult to meet. Also, recent interpretations of Minn. Stat. § 179A.25 (independent review of non-union employee grievances) has created uncertainty and confusion in the longstanding judicial process used by courts to review city council administrative decisions, particularly employment termination decisions of non-union employees.

Response: **Minn. Stat. ch. 179A should be modified to:**

a) **Change the definition of "public employee" under PELRA by removing the existing 14-hour/67-day requirement and replace it with a definition in which employees must work an annual average of 20 hours or more per week.**
b) **Exclude temporary or seasonal employees, as well as unpaid volunteers, from the PELRA definition of public employee in Minn. Stat. ch. 179A.**
c) **Provide different options for accessing arbitrators and utilizing the arbitration process in order to "address inequities" between union and management representatives.**
d) **Allow public employers to bypass mandatory arbitration required under PELRA and directly access the district court system in situations where an employee is being terminated for gross misconduct (e.g., sexual harassment, sexual abuse, theft or a felony conviction) that is related to the employee's position with the public employer.**
e) **Repeal Minn. Stat. § 179A.25 or, in lieu of repeal, exclude employment terminations from Minn. Stat. § 179A.25; require a 60-day**

timeframe for filing a petition for review of a grievance under Minn. Stat. § 179A.25; and clarify that decisions of Bureau of Mediation Services (BMS) under this section are non-binding and merely advisory.

HR-5. Implications of Janus v. AFSCME

Issue: Historically, both members and non-members of public sector unions could opt out of paying the portion of dues that explicitly go to the union's political activities. But, until recently, non-members were still required to pay what was called a "fair share" fee, allegedly because even non-members receive the benefits of union representation. Union dues are deducted from employee paychecks by employers based on notification of membership provided by labor unions.

Overruling decades of precedent, in June 2018, the U.S. Supreme Court ruled it is unconstitutional for public employees who object to belonging to a union to be required to pay a fair share fee. (Janus v. AFSCME). Specifically, the Supreme Court held that laws compelling fair share dues from unwilling members violated the First Amendment by requiring these employees to, in effect, pay for speech with which they do not agree, and that affirmative, voluntary consent is required for dues deduction. Given the degree of uncertainty about the implications of the ruling, public employees are seeking information about their constitutional rights regarding labor union membership and associated dues. The Minnesota Public Employment Labor Relations Act defines unfair labor practices ("ULPs") to include dominating or interfering with the formation, existence, or administration of union membership. To avoid a potential allegation that they have engaged in unfair labor practices, if employees seek information about union membership from their employers, employers often refer their employees to union representatives for additional information. The Minnesota Bureau of Mediation Services (BMS) is the state agency charged with providing technical training and information on collective bargaining for the public sector in Minnesota. BMS would be an ideal resource for employees to find critical information about labor union membership, particularly in the wake of the recent Supreme Court ruling.

Additionally, as public sector unions are examining methods to compensate for fair share revenue that may now be lost, laws have been proposed in states outside of Minnesota, which preempt the bargaining process and impose new requirements on public employers. Some of the proposed requirements are designed to help unions market their services to their members or to require the public employers to pay the costs of collective bargaining.

Response: **To ensure that both public employers and public employees successfully navigate the current unknowns following the Janus decision, the League of Minnesota Cities urges BMS to provide and disseminate information to employees about union membership across the state. The League also urges the Legislature to act to protect public employers against:**

a) **ULP charges when providing factual information to employees about union membership;**
b) **ULP charges when requiring unions to provide original documentation of voluntary consent to dues deduction; and**

c) **being forced to pay the direct cost of employee representation by unions.**

HR-6. Public Employment Relations Board

***Issue**:* Dating back to the 1970's, Minnesota had a Public Employment Relations Board (PERB) in place, but over time, its responsibilities were changed and reassigned to another bureau. Until the reemergence of the PERB in 2014, unfair labor practices (ULPs) actions could be brought in Minnesota District Courts through injunctive relief. In 2014, the Legislature recreated PERB to hear ULPs filed by employees, employers and labor unions under the Public Employment Labor Relations Act (PELRA). The board was created in Minn. Stat. ch. 179A and after receiving initial funding, the board has yet to be fully funded or operational. Much of the current statutory language regarding implementation should be amended to ensure the PERB operates successfully and efficiently for both public employees and employers.

Response: **The League of Minnesota Cities supports the structure and process to address ULPs that was utilized before the reestablishment of the PERB in 2014. If the PERB is implemented fully and funded sufficiently, the League of Minnesota Cities encourages the Legislature to make the following changes:**

a) **Create statutory authority for the PERB to establish a fee-based structure for filing ULPs and to pay for hearing officers, with costs to be shared by employers and authorized representatives;**
b) **Allow the PERB to defer to the decisions made by an arbitrator to prevent duplicative litigation on the same issue; and**
c) **Amend the Minnesota Government Data Practices Act and the Open Meeting Law to properly maintain the integrity of the hearing process.**

HR-7. Payment of Arbitration Fees

Issue: Like other employers, cities must sometimes make difficult employment decisions and uphold certain principles in order to best serve the public. In a union environment, grievance arbitration is generally used as a "last-resort" remedy when a difficult employment decision must be made or to uphold an important principle. Legislation has been introduced in the past that would require a city or the union to pay arbitration fees if a reasonable settlement is offered and refused in a grievance situation, and the arbitrator ultimately decides on a less favorable remedy. The legislation would have the impact of discouraging cities from using the grievance arbitration process in a manner that best serves the public good.

Response: **The League of Minnesota Cities opposes legislation that would undermine the grievance arbitration process and discourage cities from using the process in the manner intended. Specifically, the League opposes any legislation that proposes payment of grievance arbitration fees when a settlement is offered and declined.**

HR-8. Essential Employees

Issue: Cities must balance the health, welfare, and safety of the public with the costs to taxpayers. Essential employee status removes the right to strike, but gives the right to mandatory binding arbitration. This status can result in arbitration awards that exceed the city's budget or conflict with the city's compensation policy.

Response: **The Legislature should carefully examine requests from interest groups seeking essential employee status under Minn. Stat. ch. 179A (PELRA). The League of Minnesota Cities opposes legislation that mandates arbitration that increases costs and removes local decision-making authority.**

The League supports a mandate for Final Offer/Total Package arbitration for all essential groups on a trial basis. The League also supports a change in the PELRA law that would strengthen existing language (Minn. Stat. § 179A.16, subd. 7) requiring arbitrators to consider a public employer's obligation to efficiently manage their operations. Specifically, the statute should be amended to require arbitrators to take into consideration any wage adjustments already given to or negotiated with other groups – both union and non-union for the same employer in the same contract year.

HR-9. Re-employment Benefits

Issue: Cities are often required to help pay the benefits of workers who have initially been denied benefits through their employment with the city but later been re-employed by a different employer; sometimes this occurs when the employee has been found to have committee gross misconduct while employed by the city.

Additionally, employers are prohibited from entering into agreements with employees not to contest or appeal payment of unemployment benefits as part of a settlement agreement at termination of employment. Because most cities are "reimbursement employers," the majority of the cost of benefits paid to the employee are at the direct expense of the city. The ability to enter into such an agreement can greatly aid a city in reaching a settlement at a relatively low-cost to the city's taxpayers.

Response: **Cities should not be forced to pay benefits as bae wage employers if the employee is determined to have committed gross misconduct during their employment with the city, even if the employee voluntarily resigns. In addition, cities (as reimbursement employers) should be allowed to enter into agreements with employees to not contest a determination of eligibility for unemployment benefits where the employer and employee mutually agree to this as a term of separation.**

HR-10. Public Employee Defined Benefit Pension Plans

Issue: Public pensions are an important employee benefit that can help cities attract and retain employees. However, unlike salary and other employee benefits that are established by each city, the pension contribution rates and benefit levels are set by the state legislature. Benefit levels and plan costs must be carefully balanced to assure long-term sustainability of the pension plans and affordability to employers and employees. Despite ongoing funding issues, the Legislature and Governor had been unable to reach agreement on sustainability changes to the Public Employees Retirement Association plans.

In 2018, the Legislature enacted a major pension reform package to improve the long-term financial status of the PERA pension plans. The legislation included benefit reductions for active employees, contribution increases for Police and Fire Plan employers and active employees and a modified cost of living adjustment (COLA) for retirees.

Recent adjustments to balance PERA plan costs have largely focused on contribution increases rather than benefit adjustments. On January 1, 2015, the employer and employee contribution rates for the PERA General Plan each increased by 0.25% of salary, resulting in the current employer rate of 7.5 percent of salary and an employee rate of 6.5 percent of salary. For PERA Police and Fire (P&F) employees, the employer contribution was increased to 16.95% and the employee contribution was increased to 11.3% beginning January 1, 2019 and then the employer contribution was increased to 17.7% and the employee contribution was increased to 11.8% beginning January 1, 2020.

For the PERA General Plan, an additional one percent employer contribution is required under Minn. Stat. § 353.27, subd. 3a, which will continue until the actuarial value of the plan assets equal or exceed the liabilities. Employees do not have a similar obligation to help the General Plan reach full funding. When the additional employer contribution was increased to 0.43 percent in 1997, the state instituted a PERA aid program for employers to partially offset the cost of increased employer contributions. However, the PERA aid payment rate is frozen at 1999 levels, while the additional employer contribution has since increased from .43% to 1.0%.

Response: **The League of Minnesota Cities supports the sustainability modifications enacted by the legislature in 2018 and continues to oppose any benefit improvements for retirees or active employees until the financial health of the General Plan and the Police and Fire Plan is restored.**

For the PERA General Plan, any further increases in employer contributions should only be considered by the Legislature after other measures have been considered, including:

a) **An increase in employee contributions so that employees and employers truly bear the same responsibility to bring the pension plans to full funding; or**
b) **The removal of 1) the cap on PERA Pension Aid payments and 2) the sunset of the aid program after FY2020, so the state equalizes the contributions of employees and employers.**

The League also supports:

a) **Modifications to the PERA eligibility guidelines to take into account temporary, seasonal, unique part-time, and student employment situations in cities, particularly in recreational operations. These modifications should include the use of pro-rated service credit, which would make PERA consistent with the other major Minnesota pension plans.**
b) **A comprehensive review of exclusions from pension participation with the goal of simplifying current eligibility guidelines. Such a review should also include a possible revision of current penalties for employers that fail to report covered employees to ensure that these penalties are not overly harsh and punitive.**
c) **The transfer of all school district employees out of the PERA General Plan and into another fund that is more appropriate for school district employees as long as the change would not negatively impact the financial health of the pension funds nor result in employer contribution increases. The continued authority of cities to effectively use retirees in reemployment situations. The League**

supports policy changes which would include an increase in the earnings threshold for such retirees and supports keeping the required break in service at 30 days and opposes suspending payments to retirees.

For PERA Police and Fire, any further increases in employer contributions should only be considered by the Legislature after other measures have been considered, including:

a) An initial increase in the employee contribution of at least 1.0% of salary with subsequent increases split evenly between employee and employer so that the contribution ratio moves toward a more equitable split between employees and employers; or
b) An additional state general fund appropriation to fund the deficiency in police and fire pension aid payments so that the state equalizes the contributions of employers and employees.
c) Increasing the minimum and full retirement ages for new PERA Police and Fire plan participants.
d) Implementing a contribution-based benefit formula that would align benefits payable with contributions made on behalf of an employee in order to address high-five spiking issues.

The League also supports:

a) Maintaining the statutory changes made to Minn. Stat. § 353.01 in 2007 that separate injuries resulting from "hazardous duties" from injuries resulting from "non-hazardous duties" for purposes of police and fire disability retirement benefits.
b) A thorough study by PERA of the current effects of overtime accumulation and outside employment compensation on individual pension benefits and the overall funding of the plan. The study should also include recommendations on whether the overtime or outside employment should be factored into or excluded from high five average wage calculations.
c) Allowing cities, including cities with combination (full-time and paid-on call staff) fire departments, to work with their fire relief associations to determine the best application of fire state aid.

For PERA Corrections Plan the League supports:

a) Maintaining the current definition of covered employees for the PERA corrections plan, which does not include dispatchers due to the substantial differences between the dispatchers and the existing corrections positions covered by this plan.

For all PERA defined benefit plans the League supports:

a) Adjustments to the benefits for active members and retirees to reduce the cost of the plans.
b) Requiring special legislation for individual employee pension benefit increases be initiated or approved by the city council of the impacted city unless the cost of the benefit increase is fully covered by the individual or the legislation addresses a clerical or administrative error.
c) Requiring PERA to collect and consider all employer-provided information, including independent medical examinations and other relevant personnel data and to

broaden the basis for appealing disability determination decisions.

HR-11. Retirement Work Incentives

Issue: Demographic experts warn that as the baby boomers retire, employers will begin to experience a significant labor shortage and lose the substantial expertise and knowledge of a fully-trained workforce. One solution to the coming labor shortage is to provide some incentives for retirees to postpone full retirement with a "phased-in" approach that would allow "knowledge transfer" to take place between the retiree and less-experienced replacement staff.

The Phased Retirement Option (PRO) program was created by PERA for this purpose. The PRO program meets many of the goals of workforce planning. However, cities would benefit from broadening the criteria for participation; currently, only employees age 62 or older can participate. In addition, the program is scheduled to sunset in 2019. The program, as introduced, allows for five one-year renewals, which may be more than is needed to meet the intended purpose.

Response: **The League of Minnesota Cities supports changes to the PRO program (if actuarially neutral for PERA pension plans) that would:**

a) **Broaden the criteria for participation to allow employees to participate at a younger age if such a change can be made without damaging the tax-favored status of the plan.**
b) **Remove the sunset provision to allow the plan to continue past 2019.**
c) **Reduce the number of one-year renewals from five to three.**

In addition, the League supports working with PERA to adjust member pension benefits as they continue to work under a PRO.

HR-12. State Paid Police and Fire Medical Insurance

Issue: Minn. Stat. § 299A.465 requires public employers to continue health insurance benefits for firefighters and peace officers injured in the line of duty. When the law was enacted in 1997, it contained a provision requiring the Department of Public Safety (DPS) to reimburse employers for the full amount of administering this benefit.

By 2002, the fund created to provide this benefit became deficient. Instead of increasing the fund, the 2003 Legislature amended the law to pro-rate reimbursements to cities based on the amount available and the number of eligible applicants. The 2003 law change triggered a significant and unanticipated cost to cities. The cost has increased every year for cities, and the funding for the account has never been increased. Even if the health insurance benefit was discontinued entirely, the costs for existing recipients will substantially increase well into the future due to the growing cost of health insurance.

In 2015, the Legislature expanded the health insurance benefit to include survivors of volunteer firefighters who die in the line of duty. This change increased the number of firefighters eligible for this benefit from 2,000 to 20,000—without increasing funding for the reimbursement account.

Response: **The League of Minnesota Cities supports the following legislative actions to address the funding deficiency in this program:**

a) **The state must fully fund programs that pay for health insurance for police and fire employees injured in the line of duty and dependents of police and fire employees killed in the line of duty as originally required under Minn. Stat. § 299A.465.**
b) **The Legislature must avoid further expansion of eligibility for benefits under Minn. Stat. § 299A.465 unless 1) full funding for benefits is provided by the state; and 2) beneficiaries can be enrolled in a state health insurance plan such as the Public Employees Insurance Program (PEIP).**
c) **Cumulative injuries that occur over time in the job should not qualify a police officer or firefighter for benefits under Minn. Stat. § 299A.465 since these types of cumulative injuries are not unique to the dangers of police officer and firefighter duties.**
d) **The Legislature must clarify that the amount of an employer's contribution under Minn. Stat. § 299A.465 is no greater than that given to active employees in the same job class.**
e) **The Legislature must establish the minimum criteria used to determine ability to work, and set a percentage threshold of disability for eligibility into this program. At a minimum, the Legislature must identify that a workers' compensation determination as to whether the injury is work-related is necessary in order to receive the benefits under Minn. Stat. § 299A.465.**
f) **Employees who receive a police and fire disability retirement benefit and accept another job that offers them group health benefits should be required to pay for their group health benefits with the city should they decide to continue them. The Legislature must amend Minn. Stat. § 299A.465 to reflect that employees are required to inform the city when they become eligible for coverage under another group plan and that failure to do so is grounds for termination from the benefits granted under Minn. Stat. § 299A.465.**

HR-13. Health Care Insurance Programs

Issue: Cities, like other employers in the state, are struggling with the rising costs of health care insurance for their employees. In addition, cities must cope with unfunded mandates imposed on them by the Legislature such as the requirement to pool early retirees with active employees and the requirement to bargain over changes in the "aggregate value" of benefits, even when the city's contribution has not changed.

Response: **The League of Minnesota Cities supports legislative efforts to control health insurance costs while maintaining quality health care services. However, cities have differing local needs and circumstances and must retain the flexibility to provide unique and creative solutions to the rising costs of health care insurance for their employees. The League:**

a) **Opposes legislative action that undermines local flexibility to manage rising health care costs.**
b) **Encourages the Legislature to carefully examine the costs and administrative impacts of any new, mandated insurance-related benefit before imposing it upon city employers.**
c) **Supports changes to Minn. Stat. § 471.6161, subd. 5, that would clarify the intent of the subdivision is to address changes in cost vs. changes in value (e.g., changes in provider**

networks, changes in benefit levels required by an incumbent insurance carrier, changes required for compliance with state and federal laws, including those needed to avoid incurring the federal excise tax known as the "Cadillac Tax".

d) **Supports changes to Minn. Stat. § 471.61 so that the requirement for cities to offer retiree coverage begins on the date the retiree and/or dependents become eligible for federal Medicare coverage.**
e) **Supports a clarification to Minn. Stat § 471.61 and to Minn. Stat. § 471.617 to explicitly alleviate a city's responsibility to comply with group health benefits mandated by state law when the city's employees are covered under a union plan authorized by federal statutes.**
f) **Supports statutory authorization for cities to collect up to a two percent administrative fee from retirees receiving post-retirement health insurance benefits.**
g) **Opposes any mandatory, centralized, statewide health insurance option for active or retired city employees.**
h) **Supports changing Minn. Stat. § 62A.21 to place reasonable limits on health care continuation for former spouses, similar to the Federal COBRA law.**

HR-14. Workers' Compensation

Issue: Rising medical costs are an increasingly serious problem for all employers and insurers, and now represent over half of all loss costs within the workers' compensation system. Medical costs will be a major driver of future workers' compensation premium increases. In addition, the 2013 legislature added post-traumatic stress disorder (PTSD) as a compensable injury and in 2014, a Minnesota Supreme Court decision found that provisions in the Workers' Compensation statute which allow workers compensation benefits for permanent and total disabilities to be offset by disability benefits and pension benefits such as Social Security does not apply to retirement benefits of the Public Employees Retirement Association. In 2018, the Legislature modified Minn. Stat. § 176.011 subd. 15, which defines an occupational disease to add a rebuttable presumption to a diagnosis of PTSD in certain public safety and related personnel. The Minnesota Legislature also regularly considered proposals to expand the heart, lung and infectious disease presumptions for public safety workers, and to make the presumptions more conclusive and difficult to rebut. These types of benefit expansions would further increase municipal workers' compensation costs.

Response: **Legislative action is necessary to address increasing workers' compensation costs, particularly rising medical costs. The League of Minnesota Cities supports use of the Workers Compensation Advisory Council (WCAC) system to consider proposals for changes to the workers' compensation law, and urges the WCAC and the Legislature to approve medical cost containment reforms. The League also supports filling an existing WCAC employer vacancy with a public-sector employer representative or adding a designated public-sector employer representative to the WCAC.**

The League opposes expansion of workers' compensation and related health insurance benefits because of the potential for dramatically increasing costs to cities. Specifically, the League opposes expansion of the heart, lung and infectious disease and PTSD presumptions as well as any expansion of

the law that would require payment of health insurance premiums.

The League also supports continuing the WCRA as the mandatory workers' compensation reinsurer for insurers and self-insurers in Minnesota and supports modifying state statutes to treat PTSD events involving several affected parties as one occurrence for retention purposes, thereby reducing the exposure of self-insured entities and the statewide insurance pools. Such a change would not have any effect on the benefit an individual employee would receive.

The League supports legislation that would disallow the "stacking" of PERA retirement benefits and Workers Compensation benefits due to the fact that some injured employees could receive total compensation from workers' compensation and PERA retirement benefits that would be well above the salary that they had been earning and the fact that the costs would ultimately be passed on to cities and their taxpayers.

HR-15. Drug and Alcohol Testing in the Workplace

Issue: Employer testing of job applicants is governed by Minn. Stat. § 181.950 – 181.957 and is known as the Drug and Alcohol Testing in the Workplace Act (DATWA). It applies to all employers with one or more employees, including cities. The DATWA has not been amended for many years to reflect various and significant changes in drug-testing technology nor policy changes at the federal level.

The DATWA prohibits an employer from terminating an employee for a positive controlled substance test without first providing the employee a chance for rehabilitation and treatment. This law applies to probationary employees as well as those who have completed probation.

Currently, breathalyzer use and saliva swabs are permitted for alcohol testing under federal commercial driver testing laws though Minnesota does not allow for the use of breathalyzers in testing. Use of breathalyzers for employee alcohol testing is a less invasive, less expensive method. In addition, federal commercial driver testing laws address a number of outcomes other than a positive test result, including but not limited to tampering with a sample, providing a substitute sample, providing a sample that is not human urine, providing a sample that is not capable of being tested, etc. State law is silent on these outcomes.

Response: **The League of Minnesota Cities supports the following changes to the DATWA:**

a) **Updates to reflect new issues, such as adding new definitions as needed to reflect current practices;**
b) **Clarification that a positive controlled substance test during probation does not require the employer to provide an employee who has not completed probation a chance for rehabilitation and treatment; and**
c) **Permitting the use of breathalyzers and saliva swabs as acceptable technology for determining alcohol use.**

HR-16. Veterans Preference

Issue: Cities have a long history of recruiting and hiring veterans as they are a natural fit in city government. Across the state, cities are partners in working with and ensuring veterans have a variety of opportunities afforded to them given their sacrifice and service. The purpose of the Minnesota Veteran's Preference Act (VPA)

is to facilitate the transition of veterans from the military to civilian life and to help compensate veterans for their sacrifices of health and time to the community, state and nation. The VPA grants veterans limited preference over nonveterans in hiring and promotion for most state and local government employment to recognize the training and experience they received as a result of serving in the military. It also provides local government employees who are veterans some protection against unfair demotions and dismissals. These preferences and protections are commonly referred to as "veteran's preference" and are codified in Minn. Stat. §§ 43A.11, 197.455, 197.46, 197.48, and 197.481.

Once a veteran has completed an initial probationary period upon hire, they cannot be removed from their position or employment, except for incompetency or misconduct shown after a properly noticed hearing. Currently, a veteran can only be placed on probation upon hire but not following a promotion. It is common practice to place employees on probation following employee promotion making this restriction inconsistent with current practice and procedure.

Termination hearings are held before the local civil service commission or before an arbitrator and Minn. Stat. § 197.46 allows a veteran to choose a hearing before the local civil service commission, or an arbitrator. Members of civil service commissions are chosen for their expertise and experience with employment law. Hiring an arbitrator for a hearing instead of utilizing an established civil service commission is inefficient.

Response: **The League of Minnesota Cities recognizes the important contributions veterans have made and supports giving veterans limited preference in employment. To strengthen and improve the VPA, the legislature should:**

a) **Allow cities to place veterans on probationary periods upon promotion as they do with other employees; and**
b) **Restore the language in Minn. Stat. § 197.46 requiring a hearing to be held before a local civil service commission where one exists.**

HR-17. Military Leave Reimbursement

Issue: Minn. Stat. § 192.26 subd. 1, requires local units of government to provide 15 days of compensation per year to employees who are members of the military for military leave. State laws give preference to hiring veterans for public sector jobs, and, citizen soldiers are a natural fit to also serve as public safety personnel. As such, many public safety personnel are often also members of the military and are required to conduct training and military duties throughout the year.

In addition to providing compensation for mandatory military leave, cities must also ensure that these temporary vacancies are adequately filled by public safety personnel whose training and qualifications are unique to providing public safety. This can result in added overtime costs and may impact public safety service levels.

Government employers honor and recognize the importance of ensuring members of the military are able to fulfill their duties and participate in mandatory training, while also aiming to ensure that public safety service in their community is efficient, seamless, and cost-effective. In response to this issue, there have been recent legislative proposals to reimburse local units of government for

military leave paid to public safety personnel.

Response: **The League of Minnesota Cities supports state funding to ensure that local units of government can maintain quality and cost-effective public safety services in their communities and for their taxpayers while also offering full support for employees who are members of the military. Such state funding could include reimbursement of costs incurred to local units of government related to compensating personnel on military leave as well as reimbursement for costs related to ensuring these temporary vacancies are adequately filled.**

HR-18. Background Checks

Issue: Current law allows criminal justice background checks on active employees (as opposed to applicants for employment) only when such employees are firefighters or work with children. The law governing criminal history background checks on police and other city employees does not specifically allow such checks on active employees. Cities need the ability to be able to conduct criminal history background checks on active employees as well as applicants for employment using the BCA or the BCA database access.

Response: **Cities should be able to conduct, but not be required to conduct, criminal history background checks on active employees using the BCA database. The laws governing background checks for all city employees should be amended to allow for this practice. For those cities that choose to use the BCA to run the criminal history employment background check for them, the fee should be the same as that charged to non-profit organizations.**

HR-19. Tele-Health Exams

Issue: Technology improvements are creating new ways to approach many city functions. Specifically, the increased acceptance of the use of tele-health (audio and video, web-based) exams creates an opportunity for cities to access and use psychologists with specific expertise in public safety as part of the hiring process for police officers. However, the Peace Officers Standards and Training (POST) Board has adopted a position prohibiting the use of tele-health exams for the required psychological oral interview/evaluation prior to hiring.

Response: **The League of Minnesota Cities supports the use of tele-health (audio and video, web-based) exams to meet the requirements of the POST Board for a psychological oral interview/evaluation prior to hiring a police officer candidate.**

HR-20. Critical Incident Stress Debriefing

Issue: Critical Incident Stress Debriefing (CISD) is a process designed to assist first responders deal with the stress and potential mental health issues after experiencing a traumatic incident. CISD can be similar to traditional counseling between a counselor and a group of law enforcement officers, firefighters, or other first responders, or it can involve one-on-one peer counseling between non-licensed counselors, such as first responders who have experienced similar incidents.

CISD data is classified as private under the Minnesota Government Data Practices Act (MGDPA), and Minn. Stat. § 181.973 prohibits a participant in CISD or other peer counseling from disclosing any information shared in counseling sessions without the

permission of the subject. Neither of these protections, however, prohibit the discoverability or admissibility of CISD data in a lawsuit, and federal common law on evidentiary privilege applies to licensed psychotherapists and social workers only. *Jaffee v. Redmond*, 518 U.S. 1 (1996).

CISD is an important tool used to assist first responders, and those in need of CISD services should be allowed to participate in peer counseling without fear of having statements later used against them in court. This undermines the value of CISD and makes it less likely that first responders will seek help.

Response: **The Legislature should amend Minnesota law to exclude any statements or other information from employer-sponsored CISDs from being admissible in court, pursuant to the same guidelines as those established for registered nurses, psychologists, or licensed social workers under Minn. Stat. § 595.02, subd. 1(g).**

Data Practices

DP-1. Data Practices Compliance Costs

Issue: The purpose of the Minnesota Government Data Practices Act (MGDPA) is to protect personal information from indiscriminate disclosure while balancing the right of the public to know what the government is doing. The Act also attempts to balance these rights within a context of effective government operation. The League of Minnesota Cities supports the public policy behind the MGDPA while acknowledging that compliance with the law imposes costs on local taxpayers. Smaller cities struggle with limited staff and resources while larger cities struggle with larger complex databases. The MGDPA must balance the right of citizens to access public data with the cost to municipalities of complying with certain types of data requests.

In 2014, the Legislature imposed additional security requirements on political subdivisions in an attempt to prevent unauthorized individuals from accessing private data. Adequate security measures are important, but they make compliance with the MGDPA more difficult and costly. Although the Legislature has made compliance with the MGDPA a priority, funding for the Data Practices Office of the Department of Administration, the department charged with overseeing the MGDPA, does not reflect the increased need for local government assistance.

Cities continue to receive repetitive, overly broad and far-reaching data requests that require significant staff time to locate government records, redact private data or data unrelated to the request, and assemble documents to be provided in order to comply with requirements to provide access to public government data. Cities are experiencing significant increases in wide-ranging data requests, often utilizing specific word searches through multiple databases. "Word search" requests typically result in a voluminous quantity of data that must be reviewed and redacted, with significant staff cost. Because word searches retrieve even incidental references to the searched term, the search results often contain a significant volume of data that has little informational value. If the requestor does not request copies, the search costs cannot be recovered – even though the requestor dictated the specifics of the search.

Furthermore, in some situations, as with overly broad data requests related to "applicant" lists, staff time and costs are significantly increased and not recoverable for very limited public benefit. The MGDPA

also limits the ability of cities to be reimbursed for responding to requests.

Cities are limited to charging only 25-cents per page for copies of police motor vehicle incident reports, which does not cover the city cost for copying, while the Commissioner of Public Safety is exempt from this restriction—thereby permitting the Department of Public Safety to continue to charge $5 for incident reports that cities are required to submit to the department.

Response: **As the cost of complying with the MGDPA increases, the League supports:**

a) **Providing additional state funding to assist political subdivisions with meeting the increasing complexity of managing government data.**
b) **Providing state funding for statewide data practices training.**
c) **Allowing political subdivisions to charge for the staff time that is required to comply with wide-ranging data requests regardless of whether copies of the data are requested or allowing political subdivisions to charge for actual costs for collection of data when the requestor makes his or her own copy of the data by taking a photo, bringing a copy device, etc.**
d) **Providing a mechanism that would permit cities to challenge whether a data request is reasonable and made in good faith.**
e) **Creating and funding an ombudsperson position in the Data Practices Office to determine reasonableness and proportionality of data practices requests.**
f) **Providing funding to the Data Practices Office to engage in the rulemaking process to establish standards and procedures related to requests and responses to data practices requests that impose significant burdens on government entities.**
g) **Amending the MGDPA to limit what is considered public applicant data to better balance the value of public data with the cost related to data practices compliance.**
h) **Allowing political subdivisions to charge the same amount for copies of motor vehicle incident reports issued by local police and fire departments as the commissioner of public safety.**

The League of Minnesota Cities opposes:

a) **Further increasing the maximum exemplary damages that courts may impose against government entities, including cities, found to have violated the MGDPA; further increasing the maximum civil penalty that may be imposed when a court order is issued to compel a government entity to comply with MGDPA; or any statutory change that would make it a mandatory civil penalty to compel compliance under the MGDPA.**
b) **Repealing of the administrative remedies provisions adopted by the 2010 Legislature to address disputes regarding MGDPA compliance issues.**

DP-2. Records Retention Compliance Costs

Issue: The Official Records Act requires government entities to "make and preserve all records necessary to a full and accurate knowledge of their official activities." In accordance, cities must establish a records retention schedule, and maintain and destroy official records according to this schedule. There are rigorous requirements for any changes to a city's records retention schedule, including getting approval from the statutorily-created Records Disposition

Panel, which strikes an appropriate balance between the government entity's decision-making role in determining retention and disposition of official records with the public's right to know the government entity's official activities.

Response: As the cost of complying with the records management laws increases, the League supports providing additional state funding to assist political subdivisions with meeting the increasing complexity of managing government records.

The League of Minnesota Cities opposes changing the current record management requirements and statutory definitions. If changes are needed, subject matter experts should make recommendations through the records retention schedule process.

DP-3. Updating the Minnesota Government Data Practices Act

Issue: The Minnesota Government Data Practices Act (MGDPA) was first enacted in 1979. Almost 40 years later, times have changed dramatically. In particular, there has been exponential change in technology. In 1979, cities were largely maintaining data in paper form, computers had just become viable for home users, word processing had just become a reality, the first point-and-shoot, autofocus camera came on the market, and the internet was still about a decade on the horizon.

While the MGDPA was originally drafted to be future thinking by contemplating the various forms data could be held – including the concept of storage media – the legislators of the time could not have imagined where technology would be today. For example, the originally-drafted MGDPA made reference to photostatic, microphotographic, or microfilmed records. Minn. Stat. § 13.03, subd. 1. The current law still refers to these same mediums of data, despite cities no longer maintaining data in this manner.

Technology has exploded, and the type of data collected by this new technology has multiplied. In our current reality, the public and government have been frustrated by how best to access government data. In *Webster v. Hennepin County*, 910 N.W. 2d 420 (Minn. 2018), the County was asked to conduct a computer-aided search of all its email accounts over multiple years for 20 separate search terms related to biometrics and facial recognition. The Minnesota Supreme Court found that the County failed to establish procedures to ensure appropriate and prompt compliance with data requests but did not find that the County failed to keep its records in an arrangement and condition to make them easily accessible for convenient use. The Court also did not address if a term search was a valid data practices request or if a request could be unduly burdensome. The lack of direction from the Court on these issues leaves a void.

There are also other advances in technology that are not comprehensively addressed by the MGDPA. While the Legislature has attempted to address technological advancements as they come, it has been in piecemeal ways.

Response: **The Legislature should update the MGDPA to comprehensively address technological changes since the Act was first enacted. Because the MGDPA is a complicated area of law, the Legislature should make changes based on the consensus recommendations from subject matter experts from all levels of government and interested stakeholders, including recommendations on what constitutes as a reasonable data practices**

request and when a data practices request is unduly burdensome.

DP-4. Maintaining Government Data in Large Databases

Issue: The Minnesota Department of Administration Advisory Opinion 10-016 issued in June 2010 maintains that the Minnesota Government Data Practices Act (MGDPA) requires cities to keep records containing public government data so that they can be easily accessible and convenient to use, regardless of how they are kept. Cities maintain that the application of this advisory opinion to large databases in which records are kept in an electronic format forces cities to risk the daily threat of allegations of noncompliance or leaves local government officials confused regarding how to apply the requirement for access to data in circumstances where information technology is utilized to facilitate the management and organization of records and information which often includes public, private, and nonpublic data within individual data sets.

In addition, large databases today contain different forms of data, including video, audio, images, and social media. In responding to data practices requests, responsive data could be stored in multiple data bases. Further, with the advent of cloud-based information systems provided by the private sector, newer databases are not typically designed to be controlled by cities to easily separate public from non-public data.

Response: **The state of current technology requires cities to maintain large databases that are designed to provide secure data storage and maintenance. Those databases are already burdensome and expensive for cities to maintain, but are not available in a form in which public and private data can be easily separated. Requiring cities to design such databases to accommodate extensive data requests under MGDPA is both financially and technologically challenging to achieve.**

The Legislature should address the growing and costly impact on cities of providing access to specific public data housed in large electronic databases. Cities also require discretion in determining that the release of certain incident data could identify an individual whose identity must be protected.

DP-5. Sharing of Student Data with Local Law Enforcement in Emergencies

Issue: Minn. Stat. § 13.32, subd. 3(l), defines education data as private data that must not be disclosed except to the juvenile justice system in cases where information about the behavior of a student who poses a risk of harm is reasonably necessary to protect the health or safety of the student or other individuals. In addition, the federal Family Education Rights & Privacy Act (FERPA) bars schools from disclosing information on student educational records that contains personally identifiable information without consent of a parent or eligible student, with only limited exceptions.

Minn. Stat. § 13.32 does not adequately define who is responsible for making the determination that an emergency or risk of harm exists. As a result, school district officials have interpreted the statute in conjunction with the restrictions in FERPA to require that the determination be made solely by school officials.

Local police officials are often frustrated in their efforts to investigate allegations of

criminal or other illegal activity when school officials refuse, under Minn. Stat. § 13.32, subd. 3(l), and FERPA, to provide information to follow up such complaints or to assist local police in solving crimes that have already taken place.

School boards are responsible to have policies in place that require school officials to report a student who possesses an unlawful firearm to law enforcement or the juvenile justice system. But schools are not allowed to release the name of a student in dangerous weapon reports involving use or possession of such weapons that are made to the Minnesota Department of Education.

Response: **Minn. Stat. § 13.32 should be clarified to allow local law enforcement agencies to work with school officials to jointly make the determination that an emergency or risk of harm exists in order to enable police enforcement actions to be taken in a timely manner.**

DP-6. Disclosure of Victim Data

Issue: Under the Minnesota Government Data Practices Act (MGDPA), the name and address of a victim or casualty of an accident or incident to which a law enforcement agency responds is public government data. In addition, the name and location of the health care facility to which victims or casualties are taken is public government data. The MGDPA allows for a crime victim to prevent the disclosure of public data, but no such provision exists for accident victims. Accident victims and their families can be traumatized by the events that caused their injuries. Publicly disclosing their identities and the location where they are receiving medical care places a burden on families and victims who may be questioned by reporters, solicited by lawyers, and contacted by other members of the community. While there are legitimate public policy reasons to make this information public, the MGDPA provides no discretion for city officials and law enforcement to temporarily withhold victim data when releasing it is not in the best interest of the victims. This not only makes the initial period of recovery more difficult for victims, but erodes the trust between victims and state and local government.

Response: **The Legislature should amend Minn. Stat. § 13.82 to temporarily prohibit the disclosure of victim data if the victim or victim's family specifically requests not to be identified publicly, and the agency or local government reasonably determines that access to the data would cause emotional or physical harm to the individual or otherwise impede the individual's recovery.**

DP-7. Challenges to the Accuracy of Data

Issue: The Minnesota Government Data Practices Act (MGDPA) allows the subject of government data to challenge the accuracy or completeness of data maintained by the government entity. If the government entity denies the challenge, the Act allows the data subject to appeal that determination through a contested case proceeding under the Administrative Procedures Act (APA).

In the human resources context, a performance evaluation is a tool used to document and evaluate employee job performance. Performance evaluations are not discipline; however, some jurisdictions and some union contracts have appeal processes to challenge a performance evaluation. Performance evaluations are normally conducted once a year.

The Minnesota Supreme Court recently held that a public employee could use the MGDPA to challenge the accuracy of

certain information contained in the employee's performance evaluation. *Schwanke v. Minn. Dept. of Admin.*, 851 N.W. 2d 591 (Minn. 2014). While the Court held that "dissatisfaction with a subjective judgment or opinion cannot support a challenge under the [MGDPA]," a data subject can still challenge data that supports the subjective judgment. There is currently no limitation on when a performance evaluation challenge may be brought. Often there is no retention period for the underlying data because it is rarely an official record. Furthermore, the more time that passes, the less likely those with the knowledge of a given performance evaluation may be still employed by the city. It is to everyone's benefit to have the challenge to accuracy of data conducted as soon as possible.

Under *Schwanke*, an invalid challenge to a subjective opinion can no longer be dismissed by the Department of Administration; it can only be dismissed in a contested-case proceeding. In even a frivolous challenge the data subject will have the right to submit evidence and call witnesses at taxpayer expense.

This right of review is in addition to any union grievance process, and can be exercised by an employee before or after such a grievance is undertaken. This process can result in conflicting decisions and has the potential to create a heavy burden on all levels of government, and impose significant costs on taxpayers.

Response: **In light of the *Schwanke* decision, the Legislature should modify the data challenge provision of Minn. Stat. § 13.04, subd. 4, to balance the rights of data subjects to challenge the accuracy and completeness of data with the administrative and financial burdens on local governments and taxpayers.**

DP-8. Law Enforcement Technologies

Issue: To aid law enforcement in work, law enforcement agencies need the flexibility to effectively use all available tools, including technology, in a manner that balances privacy interests of citizens, transparency of their work, and costs related to these technologies. The Legislature has balanced these concerns in the recent License Plate Readers law and the Police-Worn Body Camera law.

License Plate Readers (LPRs) are an important tool that assist law enforcement agencies in locating wanted individuals, recover stolen vehicles, and many other types of investigations. Nevertheless, the use of this technology raises legitimate privacy concerns. In 2015, the Legislature passed compromise legislation regulating the use of LPRs, the classification of LPR data, and the retention period for LPR data that struck a fair balance between the need for robust law enforcement and individual privacy rights.

Police-worn body cameras (or portable recording systems) provide invaluable evidence when investigating crimes and prosecuting criminals, and strengthened trust of citizens in law enforcement by increasing the accountability between peace officers and the public. Different than other kinds of data, body camera data use involves the unique complexities of the sensitive nature in its use in private homes as well as the sheer volume of data in daily use. In 2016, the Legislature contemplated all of these issues and passed compromise legislation regulating use of body cameras, classification of body camera data, retention period for body camera data, release of body camera data, audit requirements, and written policy requirements.

Response: **Cities and/or law enforcement agencies should be allowed to decide whether to utilize technology and be given the flexibility to decide how they are used in the field. The League supports the continued use of License Plate Readers under the terms of the 2015 legislation, and opposes any further restrictions on their use or any reduction in the current 60-day retention period.**

The League supports the continued use of Police-Worn Body Cameras under the terms of the 2016 legislation, and opposes any further restrictions on their use, data classification, retention period, or written policy requirements.

DP-9. Rideshare Data

Issue: As cities partner with private entities to provide greater service to our communities, the data practices implications become increasingly complicated. Cities appreciate the purpose behind the Minnesota Government Data Practices Act, which is to protect personal information from indiscriminate disclosure while balancing the right of the public to know what the government is doing.

Cities are starting to provide rideshare programs to help facilitate transportation for their residents. Along with providing such a service, rideshare data is collected by cities. Rideshare data is sensitive and personally identifiable. Without private classification, participant data would be made available upon request and could be used to identify, contact, and even locate a participant at a given time, which could be a threat to their safety and welfare.

Currently, rideshare data collected by the Minnesota Department of Transportation and Metropolitan Council is classified as private data on individuals. These entities operate much like cities in that they provide publicly-funded transportation services.

On September 5, 2018, a temporary data classification was approved by the Minnesota Department of Administration to temporarily classify this data as private. However, if the Legislature does not act in the upcoming legislative session, this data will be public.

Response: **To protect the privacy of individuals using city rideshare programs, the Legislature should consistently classify rideshare data collected by a city as private data, consistent with the data classification in state law for rideshare programs provided by other governmental entities.**

DP-10. Open Meeting Law

Issue: The Open Meeting Laws allows certain meetings to be held using interactive television provided that: all members of the body can hear and see one another and all discussion and testimony; members of the public can see and hear all discussion, testimony, and votes; at least one member of the body is physically present at the regular meeting location; and each remote location is open and accessible to the public. The Minnesota Department of Administration issued an advisory opinion (13-009) that allowed a city's use of Skype to conduct a remote meeting under Minn. Stat. § 13.02, subd. 1. A "common sense" approach was applied to technology questions, which recognizes the difficulty cities must face when interpreting the Open Meeting Law in light of ever-changing technology.

The Open Meeting Law also allows certain state bodies to conduct meetings via telephone and other electronic means, pursuant to Minn. Stat. § 13D.015. This useful tool should be expanded to local

government to assure that members can attend meetings remotely if attendance at the regular meeting site is not possible. In order to ensure maximum public access, the Legislature should require that such meetings be allowed only if a quorum of members of the body is present at the regular meeting location.

The use of Facebook, Twitter, and other social media creates opportunities for cities to reach more constituents and to share more information faster than ever before. Social media creates new opportunities for citizen participation, and citizens increasingly expect that their elected officials will provide them with information via the internet and social media sites. This expectation is not always consistent with laws that require citizens to attend a meeting in order to participate in local government. The use of social medial by elected officials raises issues of compliance with laws that were drafted before social media existed, and increases the likelihood of unintentional violations. In recognition of these issues, the 2014 Legislature created a social media exemption to the Open Meeting Law, Minn. Stat. § 13D.065, which states that the use of social media by members of a public body does not violate the law so long as the use is limited to exchanges with all members of the general public.

Response: **The League of Minnesota Cities supports the Department of Administration's interpretation of the interactive television provision of the Open Meeting Law, and encourages the Legislature to authorize cities to conduct official meetings by telephone or other electronic means, as allowed by Minn. Stat. § 13D.015, provided that a quorum of members are present at the regular meeting site.**

The League supports the 2014 change to the Open Meeting Law, which grants cities and elected officials reasonable flexibility to use social media to communicate with citizens while maintaining the protections of the Open Meeting Law.

The League opposes any change to the open meeting law that would expand the award of attorney's fees to unintentional violations.

DP-11. Exceptions to the Open Meeting Law

Issue: The purpose of the Open Meeting Law generally requires that all meetings of public bodies must be open to the public. This presumption of openness serves three vital purposes: it prohibits actions from being taken at secret meetings, to assure the public's right to be fully informed, and to afford the public an opportunity to present views to the public body. The League of Minnesota Cities supports the Open Meeting Law, and recognizes the important role it plays in maintaining the public trust and the accountability of elected officials.

The Open Meeting Law must, however, balance the need for public information and the need to protect privacy rights and certain negotiation strategies to protect the use of public resources. Currently, there are seven exceptions to the open meeting laws that authorize the closure of meeting to the public. Under these exceptions, some meetings may be closed at the discretion of the governing body and some must be closed. Three challenges exist with current law.

The first concern is the hiring process for management level positions. While existing law allows a governing body to close a meeting to evaluate the performance of an

individual subject to its authority, the statute doesn't grant the same level of privacy for the city council and prospective applicants. The statute should allow a governing body to close a meeting to interview applicants for employment if there is a quorum present; and, to allow a governing body to close a meeting to discuss the terms of an employment agreement to offer to a candidate to whom a job offer has been extended. This would be consistent with the existing authority for the governing body can to close a meeting to discuss labor negotiations strategy. Allowing a closed meeting so that a council can discuss the results of an interview process for a management-level position will allow council members to express opinions or ask questions they may have concerns about discussing in a public meeting, and preserves the integrity of the interview process of subsequent candidates.

The second concern with existing law is the inability for public bodies to conduct strategic negotiations regarding public/private partnerships. Current law allows the public body to close a meeting to discuss the purchase or sale of property and labor negotiations but does not allow the public body to discuss terms and conditions of an agreement with private and/or non-profit organizations. The ability for public bodies to close meetings in these situations provides public bodies the opportunity to form strategies in the best financial interest of the community. Allowing public bodies to close meetings to discuss public/private partnerships would be consistent with the importance of negotiation regarding purchase or sale of property and labor contracts.

The third concern is how to include city councilmembers wanting to participate in city council meetings but are unable to due to military deployment or serious health issues. While cities want elected officials to participate in city decision-making to their fullest extent, it is also important to protect the public's right to see how government makes decisions. Currently under the interactive television exception to the Open Meeting Law in Minn. Stat. § 13D.02, subd. 1, city councilmembers can remotely participate in city council meetings if they meet certain requirements: (1) all councilmembers, wherever their physical location, can hear and see one another and can hear and see all discussion and testimony presented; (2) members of the public present at the regular meeting location of the body can hear and see all discussion and testimony and all votes of the members of the body; (3) at least one member of the city council is physically present at the regular meeting location; and (4) each location at which a city councilmember is present is open and accessible to the public. City councilmembers who are deployed or cannot attend city council meetings due to serious health issues are unable to meet this last requirement of making their remote location "open and accessible" to the public. Removing this last requirement in these limited situations will preserve the public's ability to hear and see all discussion, testimony, and voting by all participating councilmembers while allowing willing councilmembers to participate in city decision-making.

Response: **The Legislature should amend the Open Meeting Law:**

a) **To allow a governing body or a committee created by a governing body to close a meeting to interview candidates for management-level positions such as city manager, administrator, clerk-treasurer, city attorney, superintendent, or department head, and to close a**

meeting to evaluate and discuss the candidates, and discuss salary and benefit negotiations.

b) **To allow a governing body to close a meeting to discuss negotiation strategies for proposed contracts and/or agreements with private and/or non-profit agencies.**
c) **To allow city councilmembers to participate in city council meetings who are (1) serving in the military and are deployed, on active duty, or at a required drill or (2) cannot be in a public place for medical reasons, without making their remote location open and accessible to the public as otherwise required under Minn. Stat. § 13D.02, subd. 1.**

Such closed meetings should follow the same or similar procedures for conducting closed meetings currently required under the Open Meeting Law.

Federal Employment Law

FED-1. Consolidated Omnibus Budget Reconciliation Act (COBRA)

Issue: The federal Consolidated Omnibus Budget Reconciliation Act (COBRA) law, which requires employers to offer continued health and dental insurance group benefits after an employee terminates, has been interpreted to apply to Employee Assistance Programs (EAPs). The application of COBRA benefits to these programs results in unlikely and impractical outcomes.

Response: **Congress should clarify the intended benefits to which COBRA law should apply, excluding EAP programs.**

FED-2. Flexible Spending Accounts

Issue: Health care costs are rising dramatically and employees need financial relief. Flexible spending accounts provide some relief, but the current "use it or lose it" provision for medical spending discourages employees from participating in this program. In addition, the $5000 annual maximum limit on dependent care accounts has not increased substantially since the program's inception in 1986 and childcare costs continue to rise significantly. According to 2012 data from the Pew Research Center, Minnesota has one of the highest childcare costs in the country with an average cost of $12,000 to $15,000 for infant care per year.

Response: **The League of Minnesota Cities supports legislation that would allow employees to roll unused funds over to the next plan year, or into a tax-qualified retirement plan, or a 457 plan. The League of Minnesota Cities also supports an increase in the annual maximum allowed for dependent care accounts, with a cost of living inflationary increase each year after the initial adjustment.**

FED-3. IRS Regulations on Death Benefits

Issue: Current IRS regulations do not allow any type of death benefit to be included in a post-employment health savings plan and other tax-free funding vehicles. If the employee who owns the savings plan account dies, he or she cannot leave the remaining funds to a designated beneficiary (unless the beneficiary is a spouse or dependent child). If the employee does not have a spouse or dependent child, the funds are typically redistributed among plan

participants. A death benefit provision is an attractive feature for many employee groups.

Response: **IRS regulations should be changed to allow post-employment health savings plans and other tax-free vehicles for both active employees and retirees to include a provision that allows the employee to designate beneficiaries in addition to spouses or children.**

FED-4. Federal Public Safety Collective Bargaining Bill

Issue: Congress is considering a bill that would require all states to establish collective bargaining procedures for all public safety employees. The bill directs the Federal Labor Relations Authority (FLRA) to determine, state by state, whether it meets the bill's requirements with regard to collective bargaining rights for public safety employees. While it appears Minnesota is likely to pass the tests set out by the bill, federal public sector lobbyists have expressed serious concern that the bill is very much open to interpretation. In addition, the bill directs the FLRA to "consider and give weight, to the maximum extent practicable, to the opinion of affected employee organizations."

Response: **The League of Minnesota Cities opposes the federal collective bargaining bill for public sector employees. Public sector collective bargaining should be left to the determination of each state.**

FED-5. Federal Health Care Reform

Issue: Certain provisions of the Patient Protection and Affordable Care Act (commonly referred to as the federal health care reform law or Affordable Care Act (ACA)) are problematic for cities. These issues range from administratively difficult to very costly. Tracking employee hours, particularly hours of seasonal and temporary employees and council members, is burdensome and will require significant administrative time and effort. Because most of these employees will not qualify for coverage under the ACA, the effort does not result in a worthwhile outcome. There are also situations where employees who are currently working more than 30 hours per week in a city will now be eligible for health care coverage by that city, which will drive up city costs significantly, particularly for cities using the "duty crew" concept at fire stations to ensure adequate daytime response. Finally, there are provisions which require the city to offer coverage to full-time students who are already covered by their parents' insurance and do not need the coverage through the city, which results in wasted effort. Furthermore, cities that provide health insurance coverage to their employees should not be subject to the federal excise or so-called Cadillac Tax, which will result in substantial costs to Minnesota taxpayers.

Response: **The League of Minnesota Cities supports the intent of the ACA to provide affordable health care coverage to all Minnesota residents. However, prior to implementation, Congress should:**

a) **Exempt employees under age 26 who are covered by their parents' insurance;**
b) **Exempt (from coverage requirements) employees who work in recreational facilities and programs owned and operated by governmental entities;**
c) **Exempt elected officials from being counted as "employees" for the purposes of the ACA; and**
d) **Revise the provisions of the federal excise "Cadillac Tax" so that it does**

not penalize employers and instead provides incentives to strengthen wellness and disease prevention effort.

IMPROVING FISCAL FUTURES

FF-1. State-Local Fiscal Relations

Issue: Since the 1970s, services provided by Minnesota cities have been largely funded through a combination of property taxes, state aids, and state property tax relief programs. This system of municipal finance has evolved to ensure that municipal services can be funded without excessive local tax burdens.

Over the past decade, the state-local partnership has vacillated with the state budget, challenging the ability of city officials to plan for the future fiscal needs of their communities.

Response: **The League of Minnesota Cities supports a strong state-local fiscal partnership. The state-local fiscal system, and any future modifications, should be consistent with the following principles:**

Accountability. **Cities believe a viable partnership with the state requires cities and the state to communicate effectively with each other and with the public about their roles and responsibilities. Cities and the state must also exercise sound financial stewardship, including maximizing efficiencies in service delivery and other means of cost containment whenever possible.**

Certainty. **Cities need to have more certainty and predictability in all of their available revenue sources, including the property tax and the amount of funding they receive from local government aid and similar programs. The current practice of almost annual adjustments to local government aid (LGA) and similar programs, recent unallotments of the appropriation and the imposition of levy limits do not allow for prudent financial planning and decisions. In addition, the 2011 state government shutdown further decreased the certainty of the system when the Department of Revenue indicated that despite the standing LGA appropriation, the shutdown of many state government operations would prevent the distribution of the LGA.**

Adequacy. **The revenue sources available to cities and the state must raise adequate funds to meet city needs, to fund mandates, and to maintain Minnesota's long-term competitiveness.**

Flexibility. **As cities become increasingly diverse in their characteristics and as existing aid and credit programs have eroded, a "one-size-fits-all" system that limits all cities to the property tax as the major, non-state aid revenue source is increasingly unworkable. Some cities have sufficient property tax base to sustain an adequate service level, but many do not. Cities should have greater access to other tax and revenue sources than currently permitted.**

Equity. **All citizens should receive adequate levels of municipal services at relatively similar levels of taxation. This means that the state should provide financial assistance to cities that have high costs, including costs related to overburden created by non-resident users of city services, low fiscal capacity, or both. State financial assistance should also reduce tax burden disparities among communities and between cities and surrounding areas.**

FF-2. Economic Contributions by Cities

Issue: Cities provide and maintain the physical infrastructure as well as the social and economic infrastructure necessary to support a large share of the state's economic activity. In addition, cities play a major role in statewide economic development activities that assist businesses with expansion and job creation. The importance of cities to the overall vitality of the state's economy is frequently overlooked in state policy discussions.

Response: **To provide lawmakers with information on the economic activity occurring within cities, the Department of Revenue should annually collect and compile information on major state tax collections within each city, in addition to county and regional reports.**

FF-3. State Budget Stability

Issue: In recent years, the Legislature has faced repeated budget deficits. Legislative actions to address these deficits have included permanent reductions in funding to local units of government for programs such as local government aid as well as the full elimination of programs such as the market value homestead credit. In addition, the Legislature has frequently relied on short-term solutions that have only shifted a large share of the deficit problem into the next biennium. These actions merely shift state budget problems to local units of government without permanently addressing the state budget problems.

The legislature has taken steps to reduce state budget volatility. As required under state law, 33 percent of any state general fund budget surplus identified in the November state budget forecast must be directed to the state budget reserve until the account reaches a targeted level.

Response: **To increase the stability of the state budget and avoid or reduce the impact of future state budget deficits, the Legislature:**

a) Must consider all options, including revenue increases, with a particular focus on changes that increase state revenues and improve the stability of the state's revenue stream;
b) Must not further reduce funding for property tax relief programs to cities;
c) Must not accelerate the remittance of sales tax collections by retailers including municipal liquor operations, and should make steps to reverse past accelerations;
d) Must consider the aggregate impact on Minnesota taxpayers of previous budget cuts and tax increases;
e) Must reinstate estimates of inflationary increases to expenditure estimates;
f) Should continue to build at a minimum, a five-percent budget reserve and should establish state budget stability as a state priority. This includes prioritizing state budget stability ahead of sending back tax rebate checks as was done in 2000;
g) Should modify the unallotment statute to place a reasonable statutory limit on the percentage and timing of the state's budget that can be unallotted during a biennium without legislative approval; and
h) Must emphasize long-term budget solutions and budget stability and the continuation of both state and local government operations.
i) The League of Minnesota Cities supports the principle of representative democracy and opposes limiting the Legislature's flexibility in

making financial decisions through new Constitutional amendments.

FF-4. Funding Local Government Aid

Issue: Local government aid (LGA) is an important component in the state's property tax relief system, and a critical tool to help equalize tax base to ensure needs for public services can be met. To avoid undue pressure on the property tax, funding for LGA must keep pace with inflationary pressures. Since 2013, the legislature has restored a total of $107 million in funding for LGA and updated the formula to reflect recent fiscal and demographic data. For 2018 and beyond, the LGA appropriation is frozen at $534.4 million. For 2019, the total unmet formula need (the difference between need and ability to raise revenue) is $814.6 million, leaving the current appropriation $280.2 million below the total unmet need.

During the 2017-18 biennium, several bills were introduced that would have, for example, created offsets to a city's LGA distribution if the city imposed a local sales tax, spent funds for activities related to lobbying or a World's Fair, or would have reduced or eliminated LGA if the city enacted ordinances to ban plastic bags, impose certain local labor laws, ordinances, or policies that restrict city employees from enforcing immigration laws, unauthorized ordinances related to diversion programs. Such changes would have been a significant deviation from the practice of using the formula to distribute LGA and could have jeopardized the long-term stability of the program.

Currently, LGA payments are made to cities on July 20 and December 26 each year. This distribution occurs late in the city fiscal year and can create short-term cash flow challenges for some cities. In 2017the Legislature included a one-time acceleration that will distribute 14.6 percent of each city's 2019 LGA in June.

Response: **In order to reduce pressure on the property tax, and to equalize property tax bases, the League of Minnesota Cities continues to support the existing LGA formula as the appropriate mechanism to distribute LGA resources and opposes artificial limits on any city or group of cities. In addition, the League supports an increase in the LGA appropriation to at least the level that would have been provided prior to the 2003 cuts, including the restoration of the annual inflation adjustment and ongoing appropriation increases to the LGA formula to move toward funding the total unmet need of all cities. The League also supports an acceleration of the annual LGA distribution to assist cities with cash flow needs. Increases to the LGA appropriation should be distributed based on the formula. The League opposes targeted reductions to specific cities as well as reductions or offsets for local policy or expenditure decisions.**

The legislature should avoid creating side-pots or special appropriations through the LGA (Minn. Stat. ch. 477A) program. If special circumstances such as a natural disaster warrant additional state assistance to specific cities, the criteria for the additional aid should be specifically enumerated and the appropriation should be separate and in addition to the appropriation through the general LGA formula.

FF-5. State Charges for Administrative Services

Issue: Currently, some state agencies have wide discretion in setting the fees for special services they provide to local governments.

Response: **State agencies should be required to justify their service fees or for increases in existing service fees and not charge more than what is fair, reasonable, and proportionate to the cost of service. Agencies should give adequate notice of increases to allow local governments to budget for the increases. State agencies should set administrative service fees as close as possible to the marginal cost of providing the service. Local government should be given the option to self-administer or contract with the private sector for the service if the state cannot provide the service at a reasonable cost.**

FF-6. Reporting Requirements

Issue: Budget and financial reporting requirements imposed on cities by the state often result in duplication and additional costs. In addition to the state mandated annual audits under Minn. Stat. §§ 471.697-.698, cities are required to prepare and submit or publish numerous other budget and financial reports including but not limited to:

a) Summary budget reports (Minn. Stat. § 6.745);
b) Treasurers report to the city clerk (Minn. Stat. § 412.141);
c) Statement of tax collections and other income by clerk to the city council (Minn. Stat. § 471.69);
d) Report on outstanding obligations and the purpose for each issue filed with the county auditor (Minn. Stat. § 471.70);
e) Publication of summary budget statement (Minn. Stat. § 471.6965);
f) Publication of statement of liquor store operations (Minn. Stat. § 477A.017);
g) Liquor store audited financial statements (Minn. Stat. § 471.6985);
h) TIF district plan and amendments (Minn. Stat. § 469.175, subd. 4a);
i) TIF district annual disclosure (Minn. Stat. § 469.175, subd. 5);
j) TIF district annual financial report (Minn. Stat. § 469.175, subd. 6);
k) Business subsidy reporting (Minn. Stat. §§ 116J.993-.995);
l) State required financial activity reports (Minn. Stat. § 6.74);
m) Local improvement requirements (Minn. Stat. § 429.031);
n) Development and permit fees report (Minn. Stat. § 326B.145);
o) Utility annual financial statements (Minn. Stat. § 412.381);
p) Housing and redevelopment authority annual financial report (Minn. Stat. § 469.013); and
q) Federal single audit or a program-specific audit (31 U.S.C. § 7502 (a)(1)).

Many cities have expanded the availability of information on their web sites in response to citizen requests and some cities have begun using new tools to assist citizens in understanding the city budget. Expanding state mandated financial reporting requirements could force cities to redirect scarce resources to the state mandate and stifle innovative ways to communicate with citizens.

Response: **Requirements for reporting and advertising financial and budget information should be carefully weighed to balance the need for information with the administrative costs of compiling and submitting this information. In addition, the legislature should direct all state agencies to review existing local government reporting mandates and eliminate redundant or superfluous requirements. To this point, the legislature should consolidate municipal government financial reporting requirements in the Office of State Auditor, include an electronic submission alternative to any remaining paper filing**

requirements and authorize the use of web publication where newspaper publication is currently required.

Finally, the legislature must not increase reporting burdens for local units of government. Any new reporting requirement should have a clearly defined statement of purpose and public need not currently met with existing reports, a sunset date to facilitate a future discussion of the usefulness of the requirement as well as full state funding for the costs associated with a new reporting mandate.

FF-7. Direct Property Tax Relief Programs

Issue: In 2013, the legislature expanded the homeowner property tax refund (PTR) program and renamed it the Homestead Credit Refund program. As a direct taxpayer relief program, the Homestead Credit Refund avoids the problems with the former Market Value Homestead Credit system where the state provided a credit on the homeowner's property tax statement but did not always reimburse cities and counties for the amount of the credit.

Response: **The League of Minnesota Cities supports providing additional, direct property tax relief through an expansion of the Homestead Credit Refund program, the renters' refund program, the targeting program or other programs that provide property tax relief directly from the state to taxpayers. In addition, the League supports the 2013 legislation that requires the Department of Revenue to notify potentially eligible homeowners of the program and would also support legislative modifications to these programs to eliminate the taxpayer filing requirement thereby making the tax relief payments automatic.**

The League opposes property tax credit programs that reimburse local units of government for reduced tax burden such as the former market value homestead credit system due to the fact that the reimbursements to local units of government can be cut while the credit to the taxpayer remains on the property tax statement. In addition, the League opposes reinstituting Limited Market Value, a program that reduces the taxable value of individual properties based on assessor's valuation increase. Limited Market Value creates inequities between similar properties based solely on the valuation increase determined by the assessor.

FF-8. Sales Tax on Local Government Purchases

Issue: The local government sales tax exemption enacted in 2013 and expanded in 2014 does not apply to all city purchases. Some purchases for municipal enterprise operations, such as liquor stores and golf courses are excluded from the exemption. In addition, in order to receive the sales tax exemption on construction materials under current law, cities must bid labor and materials separately and also designate a contractor to be a purchasing agent on behalf of the city. The existing Department of Revenue rules (Minnesota Rules 8130.1200, subp. 3) are complex and the implementation can be so complicated that it can cost cities more money to implement than they will save on the tax exemption. Finally, although cities currently do not pay the motor vehicle sales tax on marked police vehicles or firefighting vehicles, other city vehicles are not exempt from the motor vehicle sales tax.

Response: **In order to ensure that taxpayers receive the full benefit of the local government sales tax exemption:**

a) **The exemption should apply to all purchases made by local units of government;**
b) **The process to receive the exemption for construction materials should be simplified or converted into a refund process; and**
c) **The exemption should be extended to all local government purchases that would otherwise be subject to the motor vehicle sales tax in Minn. Stat. ch. 297B.**

FF-9. Taxation of Electronic Commerce

Issue: The 2018 U.S. Supreme Court decision, *South Dakota v. Wayfair, Inc.*, 585 U.S. ___ (2018), overturned two earlier Supreme Court decisions, *Quill Corp. v. North Dakota*, 504 U.S. 298 (1992) and *National Bellas Hess v. Department of Revenue*, 386 U.S. 753 (1967), that had prevented states from requiring retailers without a physical presence from collecting state and local sales taxes on purchases made by state residents and businesses.

A group of 23 states participating in the Streamlined Sales Tax Project have worked together for more than 18 years to simplify the administration of state and local sales taxes and reduce the administrative burden on retailers. The success of this project was referenced in the *Wayfair* decision.

Despite the Supreme Court's *Wayfair* decision, new legal challenges could be filed by remote retailers or Congress could intervene to address remaining sales tax administration issues including the fact that more than 20 states with sales taxes have not adopted the SSUTP standards.

Response: **Federal tax policy should not place main street businesses at a competitive disadvantage to electronic retailers, must not jeopardize repayment of bonds backed by state and local sales tax revenues, and should ensure stability in state and local revenues. To address the challenges created by the growth of electronic commerce, the League of Minnesota Cities continues to support the multi-state effort to develop a streamlined sales tax system.**

Should Congress intervene, the League would support nation-wide sales tax administration standards based on the model developed by the Streamlined Sales Tax Project. The League will oppose Congressional efforts to reverse remote retailer collection requirements.

FF-10. Local Lodging Taxes

Issue: In 2011, the legislature amended Minn. Stat. § 297A.61 to define accommodation intermediaries and clarified that their services are subject to the state sales tax as part of the tax imposed on lodging. Local lodging taxes collected by the state for local units of government under Minn. Stat. § 469.190, subd. 7, also clearly apply to services provided by these accommodation intermediaries since these taxes are required under Minn. Stat. § 270C.171 to use the definition for tax base contained in the general sales tax statute.

Since 2011, some accommodation intermediaries have not been collecting and remitting locally-administered lodging taxes based on the full cost of the accommodation plus the accommodation intermediary services. There are currently 120 cities and towns that individually or jointly impose lodging taxes for tourism purposes under Minn. Stat. § 469.190. Another five cities impose a lodging tax that is administered locally under special law. Four local lodging taxes are currently administered by the state.

Response: **The League of Minnesota Cities supports legislation that will clarify that all lodging taxes, whether administered by the state or administered locally, apply to the total charges to the customer, including charges for services provided by accommodation intermediaries.**

FF-11. Taxation of Electric Generation Personal Property

Issue: Investor-owned utilities (IOUs) have a longstanding relationship with Minnesota cities. IOUs site baseload power plants in host communities, and in exchange pay personal property tax on attached generation machinery to the cities, counties and school districts hosting the plants. These plants bring jobs to our communities, but they also create nuisances such as air pollution, nuclear waste, noise, vibration, and coal train traffic. They also create security risks and take up land that could be used for other, less disruptive commercial and industrial development. Cities believe personal property taxes paid by IOUs are a fair compensation for the environmental and economic costs of hosting baseload power plants.

IOUs argue that personal property tax relief is important to pass along to their shareholders and ratepayers. However, only a few IOU shareholders and ratepayers actually live in the communities hosting baseload power plants. Further, almost all new power plants receive personal property tax exemptions from the Legislature, while host communities with existing, non-exempt baseload plants will continue to have them for decades to come.

Currently the taxation of electric generation personal property represents the best method for reimbursing host communities for the cost of hosting IOUs. However, a 2015 MN Department of Revenue study on electric generation taxation has generated proposals to change the state system of taxing electric generation which raise equal or greater revenues for host cities.

Response: **Personal property taxes on attached electric generation machinery are a fair way to spread the environmental and economic costs of electric generation power plants among all IOU shareholders and ratepayers. The League of Minnesota Cities supports the continuation of personal property taxes paid by IOUs to host communities for existing and new facilities or a tax system which generates equal or greater revenue for host communities. As the Department of Revenue analyzes methods of utility taxation in its Study of Electric Energy Producing Systems (Session Law 2014, Chapter 308), the League supports the inclusion of these environmental and economic costs in assessing the appropriate property taxes paid to host cities by electric generation facilities.**

FF-12. Electric Generation Taxation Reform

Issue: Currently, electric utilities are subject to a personal property tax on personal property which is part of an electric generating, transmission, or distribution system. This tax has a number of exemptions and exclusions which make a patchwork of taxation statewide. The Department of Revenue issued a report on February 15, 2015 which laid out the details of this tax system, stating, "The utility tax base comprised of these energy producing facilities is not predictable. The unpredictability is a result of law and rule changes that determine the amount of utility tax base available for host communities."

Cities which host Investor Owned Utility base load power plants have faced unpredictability in tax base from both changes to state law regarding the personal property tax on electric generation equipment and from changes in valuation due to the upgrade/depreciation cycle of equipment.

The Minnesota Legislature has introduced a reform to the system of taxing electric generation. It repeals the personal property tax and all of its exclusions and exemptions, and replaces it with an "electric generation tax base" which is subject to local property taxes. This proposal also repeals the personal property tax on transmission and distribution and creates a "Valuation for Electric Transmission Line Tax Base," a "Valuation for Electric Substation Tax Base" and an "Electric Distribution Line Tax Base."

The proposal defines the tax base for electric generation in a new way for electric generation plants which use coal, oil, natural gas, nuclear fission, biomass and flowing water to generate electricity. Under the proposal, the Department of Revenue would annually assess the tax base of electric generation machinery under a set of statutory formulas. The new valuation which replaces the value of electric generating equipment is based on a combination of an individual facility's nameplate capacity, average energy production and amount of nuclear waste storage.

The proposal also replaces the taxable value of electric transmission and distribution with statutory formulas. The Department of Revenue would assess the value of the "electric transmission line tax base" according to the number of miles of electric transmission within the taxing jurisdiction, the value of the "electric substation tax base according to the sum of the capacity of a substation, and the value of the "electric distribution line tax base" according to the number of customers in the taxing jurisdiction that receives an electric distribution.

These new tax bases define the value for purposes of the ad valorem tax of hosting jurisdictions.

Factors such as inflation affect the expenses of host cities, so any proposal to change the system of taxing electric generation should account for changes in value over time, using an independently reported adjustment factor for changing values over time.

Statutory changes to the system of electric generation taxation should not adversely affect host city tax revenues. Any proposal to change the system must include some form of replacement aid which compensates cities for adverse effects due to changing state law on electric generation taxation.

Response: **The personal property tax on electric generation equipment as well as the exemptions, exclusions and sliding scales to that tax represent a patchwork of taxation rules statewide. Changes to state law which replace the personal property tax on electric generation equipment with a tax base valuation based on electric generation capacity, production, nuclear storage, transmission, and distribution will benefit IOU host cities so long as the change comes with a factor to increase the tax base valuation over time and reimbursement to cities for revenues lost due to a change in state law.**

FF-13. Support for Transitioning Communities

Issue: Technological advancements and market forces are rapidly changing the electric generation industry. Investor-owned

utilities (IOUs) in Minnesota are increasing the share of their electric generation portfolios that are made up of renewable generation sources like wind and solar, while planning to decrease the share of electric generation that is derived from baseload power plants that produce energy from coal or nuclear sources. Due to the deep and longstanding relationship IOUs have with some Minnesota cities, the possible retirement of these power plants stands to have a significant disruptive effect on these cities.

Cities that host baseload power plants make significant investments to support those plants, including infrastructure, public safety, and disaster preparedness. To compensate for this, IOUs pay personal property tax on electric generation machinery. For some cities, these revenues can account for over 50% of the city's annual budget. Moreover, IOUs have other significant direct and indirect impacts on host communities. IOUs tend to employ significant numbers of employees at baseload power plants. Those employees are likely to live, work, attend school, and shop in and around the local community. Therefore, the retirement of these plants would have significant negative impacts on these communities.

While the power that is generated at these facilities goes to support the entire state of Minnesota, the impacts of hosting these plants is felt most acutely in these local communities. Therefore, state lawmakers should partner with these communities and support their transition in the event that these baseload power plants are retired by the IOUs.

Response: **The League of Minnesota Cities recognizes that the energy landscape is rapidly changing and supports state policies to replace tax base in communities facing the closure of a baseload power plant, as well as other policies or programs to help those communities replace their local tax base through economic development. The League of Minnesota Cities also support efforts by the state legislature to study, analyze, and design policy solutions to address the unique challenges these communities face.**

FF-14. Taxation of Municipal Bond Interest

Issue: The federal and state laws that grant a tax exemption to bondholders for municipal bond interest lowers borrowing costs for cities and reduces property tax levies. Recent proposed Internal Revenue Service rules would potentially restrict some local government entities such as housing and redevelopment authorities, economic development authorities and port authorities from issuing tax exempt bonds.

Response: **Congress and the state should maintain the tax exemption for municipal bond interest income. Congress should also clarify the law to supersede proposed IRS rules and thereby continue to allow housing and redevelopment authorities, economic development authorities and port authorities to issue tax exempt debt.**

FF-15. Pollution Control Exemption

Issue: Minnesota grants electric utilities and several other industries a property tax exemption for personal and real property that is primarily used for pollution control. Minnesota adopted the property tax exemption that now extends to electrical generation systems, agricultural operations, and wastewater treatment facilities in 1967, before water and air pollution were heavily

regulated by the Environmental Protection Agency and the Minnesota Pollution Control Agency. The language and the purpose of these statutes have evolved through the years. When states first began adopting these tax incentives in the 1960s, they hoped to encourage utilities, industrial plants, and others to install pollution control equipment. Gradually, as regulation increased, states adopted the exemptions to help companies offset the cost of the equipment.

This tax benefit erodes local tax bases. In 2013, more than $1.8 billion of personal and real property for electrical generation was exempted from the market value of utilities. The incentive value of this benefit is low because utility companies are required to install the equipment anyway. In addition, these companies frequently recover the cost of the equipment through rate riders granted by the Public Utilities Commission. Allowing the pollution control equipment exemption places the cost of this equipment on the citizens of the host community, rather than the purchasers of electricity.

Response: **The pollution control exemption places an undue burden on host communities without incentivizing the environmentally responsible behavior that it was originally created to encourage. The League of Minnesota Cities supports narrowing or eliminating the pollution control equipment exemption for investor owned electric generation facilities. The League would also support allowing utilities to continue to recover their costs relating to the pollution control equipment by spreading those costs to electricity users.**

FF-16. Local Elected Officials Authority to Establish Local Budgets

Issue: In 2015, the House omnibus tax bill included a reverse referendum provision that would allow a small number of voters (ten percent of those voting in the last general election) to petition for a referendum on a general city property tax levy increase. The outcome of the election could reverse the decision of the local elected officials on the local budget and property tax levy after months of planning and public hearings.

As recently as the 2013 legislative session, the legislature imposed levy limits on cities over 2,500 population for one year. Levy limits replace local accountability with a state judgment about the appropriate level of local taxation and local services. Additionally, state restrictions on local budgets can have a negative effect on a city's bond rating due to the restriction on revenue flexibility.

Levy limits also fail to account for the decertification of tax increment financing districts. Upon decertification, the property taxes that were formerly collected and used to support the public improvements in the TIF district can no longer be collected at the same rate and used to support ongoing general city operations.

Response: **Local elected officials are elected to make decisions about local budgets and meeting community needs. The League finds that it is inappropriate for the Legislature to undermine local elected officials' decision-making and accountability through the continued imposition of levy limits or by enacting proposals such as a reverse referendum requirement or the "taxpayers' bill of rights." The League of Minnesota Cities**

supports the principle of representative democracy that allows local elected officials to formulate local budgets without state or other restrictions.

FF-17. Tax Hearing and Notification Process

Issue: Cities must set a preliminary levy by September 30, which is the levy used to compute the parcel-specific property tax notification forms. With only a few limited exemptions (e.g., voter-approved levies, levies for natural disasters and levies for certain tort judgments), this preliminary levy, by law, becomes the maximum that cities can levy the following year. As a result, cities may be unable to budget for unforeseen needs that arise after September 30.

The 2009 Legislature eliminated the separate tax hearing requirement and replaced it with a requirement that the public be allowed to speak at a regularly scheduled meeting on the budget and tax levy. These changes erroneously repealed an exception to the tax hearing and notification process for cities adopting their levies at or less than the current rate of inflation.

With the major property tax changes enacted by the Legislature in 2011, city officials have found it difficult to explain to local taxpayers not only the effects of their budget and levy decisions but also the separate effects of the actions of the state Legislature. The 2017 Legislature moved the proposed levy certification date for most instrumentalities of local governments and special taxing districts from September 15th to September 30th.

Response: **Cities should have the authority to increase the final levy from the preliminary levy with the approval of the commissioner of the Department of Revenue, to meet additional, unforeseen and uncontrollable needs, including arbitrator awards resulting from labor negotiations, the impact of new and existing federal or state mandates including administrative rules, or other non-discretionary budget factors.**

The tax hearing and notification law should be carefully reviewed to assure that the legislative intent is reflected in the statutes.

Specifically, the League of Minnesota Cities supports the following:

a) **Modifying Minn. Stat. § 275.065 to clearly and fully exclude cities of population 500 and under from the budget and levy hearing requirements;**
b) **Reinstating the exception to the tax hearing and notification requirements for cities with more than 500 residents with a proposed levy increase below the implicit price deflator (IPD); and**

In order to assist local officials with the challenge of explaining legislative changes to the property tax system, legislators should attend and be encouraged to participate in local government budget hearings in their districts.

FF-18. General Election Requirement for Ballot Questions

Issue: Under current state law, when cities are required to seek voter approval on a ballot question or where statutes allow voters to petition for an election on a council action (reverse referendum), these referenda can generally be held at a general or special election. This flexibility allows cities to respond to local circumstances in a timely manner.

During the 2015 legislative session, the House omnibus tax bill included language that would have required referenda on most ballot questions be restricted to the November general election. If enacted, this requirement could limit the ability of cities to respond to unanticipated events or to undertake projects in a timely and cost-efficient manner.

Response: **Cities should be allowed to conduct elections on ballot questions at a date and time set by the city council and that complies with existing election notification statutes.**

FF-19. Municipal Liquor Store Continuation

Issue: Under Minn. Stat. § 340A.602, any city where a municipal liquor store reports a net loss prior to interfund transfer in any two of three consecutive years, must hold a public hearing to discuss whether the city continues the operation of the liquor store. After the hearing, the city council, or the voters by petition, can require a vote on whether to continue the liquor store operations.

Under recent financial accounting changes required by the Government Accounting Standards Board (GASB), local government employers are required to acknowledge unfunded pension liabilities in their financial reporting. This long-term liability can significantly fluctuate from year-to-year and result in an otherwise profitable municipal liquor store operation being required to conduct a hearing on the continuation of operations.

Response: **The net loss test under Minn. Stat. § 340A.602 should be amended to exclude pension liabilities under the Government Accountings Standards Board Statement No. 68.**

FF-20. City Fund Balances

Issue: As a component of a prudent financial management plan, cities maintain a fund balance composed of cash flow funds, savings for projects, and rainy day reserves to maintain high level bond ratings and to minimize borrowing costs. Although the size of a city's fund balance should be determined through local financial needs and local preferences, some cities are being criticized for maintaining "excessive" reserves.

The Office of the State Auditor (OSA) report measures city fund balances on December 31, shortly after the city receives its largest sources of revenue from the property tax and state aid distributions. Measuring at this time, however, yields a picture of a high fund balance even though the city will spend down these funds to cash flow the next five to six months of its operations.

Response: **The state should respect local decisions on adequacy of local fund balances. The League of Minnesota Cities opposes any attempt to divert local reserves to benefit the state budget.**

FF-21. Local Option Sales Tax and City Revenue Diversification

Issue: Under current state law, the property tax is the only generally accessible form of local tax revenue for cities. Even with the restoration of $107 million in LGA funding since 2013, state aid funding remains below the 2002 funding level. Allowing cities to diversify their revenue stream would help prevent rapid additional future reliance on the property tax.

The basic public finance rationale for diversification of local tax systems is rooted in the fact that economists generally agree

that there is no perfect tax. Each tax has unique strengths and weaknesses and the more intensively any single tax type is used, the more obvious its shortcomings become. For example, the property tax is generally regarded as being very stable throughout the economic cycle and it is considered to be a relatively easy tax to administer and enforce. However, when property tax burdens become too high, there may be negative consequences for other public policy objectives such as business development and home ownership.

In addition to avoiding the problems created by excessive reliance on any single tax, a balanced and diversified revenue system for Minnesota cities may create a more favorable business climate and provide for greater stability of revenues to the recipient government unit throughout the course of the economic cycle.

Under Minn. Stat. § 297A.99, the Legislature has created a set of local sales tax rules and a defined process by which cities and other political subdivisions can impose a general local option sales tax. Although the statutory process requires the city council to adopt a resolution supporting the local sales tax and also requires the city to seek voter approval of the sales tax at a general election, the process continues to require the final authorization of the local sales tax by the Legislature through the passage of a special law. In 2017, the legislature granted local sales tax authority to seven additional cities.

Response: **Cities should be able to diversify their sources of revenues. The League of Minnesota Cities continues to support a statutory change that will allow a city to enact a local sales tax for public improvements and capital replacement costs, including but not limited to those specified in the 2017 legislation:**

a) Convention or civic centers;
b) Public libraries;
c) Parks, trails, and recreational facilities;
d) Overpasses, arterial and collector roads, or bridges, on, adjacent to, or connecting to a Minnesota state highway;
e) Railroad overpasses or crossing safety improvements;
f) Transportation infrastructure improvements, including construction, repair of roadways, bridges and airports;
g) Flood control and protection;
h) Water quality projects to address groundwater and drinking water pollution problems;
i) Court facilities;
j) Fire, law enforcement, or public safety facilities; or
k) Municipal buildings.

Local sales taxes would follow the process outlined in Minn. Stat. § 297A.99 but without the need for the approval by the Legislature and governor through the passage of special legislation. The League supports allowing the referendum to be conducted at either a general or a special election.

State law should also be modified to generally authorize any city to impose other types of taxes such as a local payroll tax or an entertainment tax with the adoption of a supporting resolution by the city council and after approval by the voters at a general or special election.

In addition, Minn. Stat. § 469.190 should amended to allow cities to impose up to a five percent local lodging tax and to allow cities to modify the uses of their local lodging tax revenues to meet local needs. Cities should also have general authority to create utilities, similar to the storm

sewer utility authority, in order to fund local services where benefit or usage of the service can be measured.

FF-22. City Franchise Authority

Issue: Under Minn. Stat. ch. 216B and Minn. Stat. § 301B.01, a city may require a public utility furnishing gas or electric utility services or occupying streets, highways or other public property within a municipality to obtain a franchise to operate within the community. In addition, cable system operators are required to obtain a franchise under Minn. Stat. ch. 238.

Under a franchise, the city may require the utility to pay a fee to the municipality to raise revenue or to defray increased municipal costs, such as maintenance and reconstruction costs, accruing as a result of utility operations, or both.

State law currently allows the franchise fee to be based upon gross operating revenues or gross earnings of the utility from its operations in the municipality. In this manner, all utility users within the municipality contribute to the public costs associated with the utility operation. In the absence of franchise fees, municipal costs resulting from utility operations are currently being funded by property tax payers.

Many cities also have policies related to utility company services and products that could be supported under conditions of a franchise agreement, such as local renewable energy and energy efficiency programs. Current statutes do not explicitly provide city authority to include those types of performance conditions in a franchise agreement.

Under current law, cities are permitted to engage citizens when discussing a new or renewed franchise fee arrangement in the manner that best fits the community. A recent legislative proposal would have added a prescriptive notification and reverse referendum requirement to the process of imposing or renewing a franchise agreement with a gas or an electric utility.

Response: **Municipal authority to collect franchise fee revenues from utilities is an important and equitable mechanism to offset the costs of maintaining public right-of-way and to generate a return on a publicly held asset. Municipal franchise authority must be preserved and should be expanded to allow city policy priorities to be addressed through conditions in franchise agreements that have the cost covered by local ratepayers, where appropriate, and can be accomplished within the local franchise boundaries. The League opposes adding a one-size-fits-all notification requirement and a reverse referendum procedure to the gas and electric franchise fee process. In addition, in situations where a local provider decides to sell their operations, the city must have the right of first refusal to purchase the assets of the utility.**

FF-23. Utility Valuation Transition Aid

Issue: In 2007, the Minnesota Department of Revenue revised its rules regarding the valuation of electric and natural gas utility property. This change in the rules resulted in valuation changes for utility property that dramatically reduced the amount of revenue that local governments will collect in property tax from these utilities.

Recognizing that the communities that host these utilities bear extraordinary burdens connected with stress on local infrastructure, public safety, and public nuisance due to the presence of these facilities in their

communities, the Legislature created the Utility Valuation Transition Aid program. This program compensates host communities that have lost more than 4 percent of their net tax capacity as a result of Department of Revenue's rule changes.

Currently the taxation of electric generation personal property represents the best method for reimbursing host communities for the cost of hosting IOUs. However, a 2015 MN Department of Revenue study on electric generation taxation has generated proposals to change the state system of taxing electric generation which raise equal or greater revenues for host cities.

Response: **The League of Minnesota Cities supports the continuation of the Utility Valuation Transition Aid program and opposes any efforts to change statutory language or to divert promised funds away from host communities for any purpose unless statutory language replaces promised funds with equal or greater revenue to host communities. If the Legislature does determine that it is necessary to re-allocate the funds in the Utility Valuation Transition Aid program for another purpose, the League supports other legislative efforts that would compensate the host communities for the economic and environmental costs of hosting these facilities through reimbursement from the investor owned utilities. These other efforts could include, but are not limited to, increasing the class rate on utility property to the extent that it would offset the negative effects of the utility valuation rule change.**

FF-24. State Assistance for Property Tax Refunds for State-Assessed Property

Issue: State law requires certain property, including pipelines, railroad, utility property be assessed for property taxation purposes by the Minnesota Department of Revenue. When companies challenge the valuation of these properties, local units of government may be required to refund excess taxes, which in some cases, can create financial hardship for local units of government and their taxpayers.

Response: **The state should establish a program to provide financial compensation to all units of local government for court ordered property tax refunds where the state has determined values.**

FF-25. Transition for Property Acquired by Tax-Exempt Entities

Issue: When an existing taxable property is acquired by a tax-exempt entity other than a city or a city development authority or otherwise becomes tax exempt and removed from the tax base, the taxes formerly paid by the property owner are shifted to other, remaining taxable properties within the jurisdiction. When the acquired property is a large percentage of the tax base of a city or other local unit of government, the shift in taxes can be substantial.

Response: **To avoid immediate, large tax burden shifts when an existing taxable property is acquired by an entity qualifying for a Minnesota property tax exemption other than a city or a city development authority or overwise becomes tax exempt, state law should require the new owner to continue to pay the property taxes with a five-year phase-out of taxable value or the state legislature should create a program that provides a state-paid transition aid paid over a period of time to local units of government that experience tax exempt acquisitions, paid over a period of time.**

FF-26. Payments for Services to Tax-Exempt Property

Issue: Taxable property in many cities is being acquired by nonprofit and government entities. Converting the property to tax-exempt status can lead to serious tax base erosion without any corresponding reduction in the service needs created by the property.

In 2013, legislation was introduced that would have broadly exempted non-profit property from paying user fees or service charges for any service funded in part with property taxes over the previous five years. Under certain circumstances, this proposal could have potentially exempted non-profits from paying for even utility charges.

Response: **Cities should have the authority to collect payments from statutorily-exempt property owners to cover costs of service similar to the authority provided under the special assessment law. The League of Minnesota Cities opposes legislation that would exempt non-profits from paying for user fees and service charges that help fund services these organizations use.**

FF-27. Fire Protection Districts

Issue: Fire protection districts have the potential to reduce duplication of equipment purchases and services, and to improve uniformity of service delivery throughout a region. One obstacle to establishing fire protection districts is the absence of statutory authority to establish fire taxing districts. The Legislature has granted authority for special taxing districts to provide services such as watershed management and emergency medical services. Despite growing funding and fire protection staffing challenges, this authority does not currently exist for providing fire protection services.

Response: **The League of Minnesota Cities recognizes that some regions of the state could sustain or improve fire protection services if fire protection districts were authorized. The League supports authority for local units of government to establish fire protection districts provided that 1) participation in a district is a local decision, and 2) fire taxing districts must be governed by elected officials representing the participating entities. With elected local official participation, state-imposed levy limits on fire protection districts are unnecessary.**

FF-28. Housing Improvement Areas and Special Service Districts Petitioned by Business

Issue: In 1996, cities were granted general authority under Minn. Stat. §§ 428A.11-.21 to use Housing Improvement Areas (HIAs) in order to finance housing improvements for condominium and townhome complexes. Several cities around the state have used this tool, and found it to be a useful mechanism for maintaining older association homes.

The 2013 Legislature also granted HIA authority to a county Community Development Authority (CDA). As part of that authority, the CDA is required to gather local approval before creating an HIA.

In 1996, the Legislature also gave cities the general authority to create Special Service Districts (SSDs) under Minn. Stat. §§ 428A.01-.101. Cities around the state have used this tool to provide an increased level of service to commercial or industrial areas, commonly in areas of retail concentration. SSDs are established at the request of local businesses, who ultimately pay for and benefit from the increased level of service. A SSD may be established

anywhere in a city but only business property (i.e. commercial, industrial, utility, or land zoned for commercial or industrial use) will be subject to the service charge. Some special services have included street and sidewalk cleaning, snow and ice removal, lighting, signage, parking, parking enforcement, marketing and promotion, landscaping, and security. A SSD may be established only by petition and the city adopts an ordinance to establish it. Minn. Stat. §§ 428A.09-10 establishes procedures for the business owners in the SSD to veto or end the SSD. The 2013 legislature extended the sunset for both tools for 15 years, making it set to expire on June 30, 2028. In 2017, the House considered legislation that was ultimately unsuccessful to repeal the general SSD authority for cities. There are currently over 15 cities that have established SSDs around the state.

As cities work to develop and/or redevelop commercial, industrial, and residential areas, new ways of paying for and providing increased levels of service should be available to local entities. Use of Special Service Districts in mixed-use development is one tool that could be available for this purpose.

Response: **The Legislature should give cities permanent authority to create HIAs and SSDs. The League of Minnesota Cities supports the authority for cities to work with their business communities to establish SSDs and opposes efforts to restrict general authority of the tool.**

The League also supports the potential use of SSDs for mixed-use districts that include residential and commercial/industrial properties. The law should be reviewed to determine to what extent mixed-use properties can and should contribute to a Special Service District from which they will benefit. The League would support legislation that expands SSDs to include mixed-use development to the extent it balances the benefits and obligations of residential properties within the district.

If the Legislature grants multi-jurisdictional entities the authority to create HIAs, creation of an HIA must require local approval.

FF-29. Tax-Forfeited Properties and Local Special Assessments

Issue: Special assessments are a charge, authorized by the Legislature and state law, imposed on properties for a particular improvement that benefits those selected properties. Cities follow complex, time-consuming statutory special assessment procedures to specially assess the appropriate amount of the local infrastructure improvements to those properties.

If a property with validly attached special assessments goes into tax-forfeiture, the county auditor cancels all of the local special assessments due and remaining unpaid on each parcel, which is authorized in Minn. Stat. § 282.07. Therefore, the city loses the funds previously budgeted and planned for to pay for the local improvements. To underline this point, the funds have already been expended and if not collected, result in losses to the city.

When tax-forfeited land returns to private ownership, and the parcel benefitted from an improvement for which the city canceled special assessments because of the forfeiture, the city may assess or reassess the parcel. But cities must go through the same cumbersome notice and hearing procedures in order to re-attach the assessments.

Response: **The Legislature should remove cancellation of local special assessments from state law, allowing cities to receive the funding validly assessed and counted on to fund local infrastructure improvements.**

FF-30. Distribution of Proceeds from the Sale of Tax-Forfeit Property

Issue: When properties go into tax forfeiture all levels of government lose tax revenue that would otherwise support the services they provide. It is always in the best interest of taxpayers to return these properties to the tax rolls as quickly as possible.

Although the tax forfeiture process is controlled by the county, and counties have a legitimate need to be reimbursed for reasonable administrative costs, the city often has more at stake financially in terms of costs fronted to facilitate development (e.g., assessments for public infrastructure and unpaid development or utility fees). While the tax forfeit procedure provides a process for the repayment of special assessments, it does not require the repayment of unpaid utility charges or unpaid building and development fees. Further, due to large assessments that some cities are left with, it may not be practical to sell a tax-forfeited property subject to a special assessment, and city taxpayers may be forced to absorb the sunk costs of a project in order to sell the property.

State statutes governing the apportionment of the proceeds from the sale of tax forfeit property allow counties to first recover administrative costs related to the tax forfeiture process before subsequent allocations are made for special assessments and hazardous waste cleanup associated with the property. State law is unclear whether the proceeds from a tax forfeiture transaction should be used to reimburse the county only for the expenses associated with the transacted parcel, or if the proceeds can be used to reimburse the county for administrative costs associated with other parcels that were not transacted. When the latter allocation method is employed by a county, the transaction proceeds can be disproportionately applied to county administrative costs resulting in a lower allocation of remaining proceeds to cover existing special assessments, hazardous waste cleanup costs and ultimately the final allocation of residual tax forfeit sale proceeds to cities.

In addition, counties are allowed to use 30 percent of the amount remaining after the deduction for administrative expenses and the repayment of special assessments for forest development projects and then 20 percent of any remaining proceeds for county parks and recreation projects. The structure of the distribution of the proceeds frequently results in cities receiving a very small percentage of the initial forfeit sale proceeds. As a result, cities may not recoup even a portion of the unpaid taxes or special assessments owed on a property.

In most cases, cities and counties work collaboratively to ensure that properties are returned to the tax rolls quickly to benefit all taxpayers. However, when consensus is not reached, the tax forfeiture statutes place cities at a disadvantage and can disproportionately burden the taxpayers of the city in which the properties are located.

Response: **The League of Minnesota Cities believes the tax forfeiture statutes should be reviewed and amended as necessary to ensure that the needs of city and county taxpayers are properly balanced. Specifically, the League supports changes in the distribution of**

the proceeds from the sale of tax forfeit property contained in Minn. Stat. § 282.08 to elevate the priority for repayment of unpaid charges for electricity, water and sewer charges certified pursuant to Minn. Stat. § 444.075 subd. 3(e), and any unpaid fees prescribed pursuant to Minn. Stat. § 462.353 subd. 4(a), to require those unpaid charges and fees to be repaid immediately after unpaid special assessments.

The proceeds from the sale of a tax forfeited parcel should be used to pay the assessments and administrative and development costs for the transacted parcel. Minn. Stat. § 282.09 should be amended to prevent the proceeds from the sales of a tax forfeited parcel to be used to pay excessive administrative costs or the costs for other parcels in the county until the city is fairly reimbursed for unpaid assessments and development costs of the transacted parcel.

Before the final distribution of any remaining proceeds from the sale of tax forfeited land are distributed to cities, counties, and school districts, Minn. Stat. § 282.08(4)(i) and (ii) give counties the right to take up to half of those proceeds for county forest development and county park and recreation areas. The League also supports the elimination of these separate statutory apportionments while allowing counties to use their designated 40 percent share of the remaining proceeds for these uses.

FF-31. State Hazard Mitigation and Response Support

Issue: Cities in Minnesota are exposed to extreme weather events such as winds, flooding, fires, and drought and are facing the severe financial consequences of the clean-up, repairs, and community social and economic recovery, even though damages may be deemed "not of such severity and magnitude" as to qualify for federal assistance.

Response: **The League of Minnesota Cities calls on our legislators and state executive agencies charged with hazard mitigation planning to address not only a response to extreme weather events but to also put into place a proactive strategy to minimize or mitigate the financial consequences. At a minimum, this effort should offer a reasonable loan funding program that is easily accessible by cities, businesses and homeowners to financially recover and rebuild, with the ultimate goal of preserving jobs, industries, and communities.**

The state response should allow for the use of new technology and best management practices for any reconstruction of infrastructure to lessen the impact of future disasters and to mitigate the effects of disasters resulting from future extreme weather events.

FF-32. Library Funding

Issue: State law requires that local governments maintain a minimum level of funding for public library services. This is collectively known as "state-certified levels of library support," or more commonly known as, "maintenance of effort (MOE)" and is described in Minn. Stat. § 134.34.

A majority of public libraries in Minnesota belong a regional library system, which is the entity that receives library funding from the Minnesota Department of Education. Six of the 12 regional library systems are structured as a federated system where the individual libraries or library systems operate autonomously from the regional

library system but they can utilize certain services such as inter-library loan distribution, digital card cataloging, which capitalize on economies of effort from partnering with the other libraries in the regional system. The MOE for any city that taxes separately for library services is now set at 90% of the amount established in 2011 (see Minn. Stat. § 275.761). In 2011, it was calculated using a formula that included payments made in the form of the library employee salaries, payments toward operating the facility, purchasing materials from the library, and other operating costs, adjusted net tax capacity, and several other factors. The other half of the state's public library systems are consolidated systems, where the regional library system runs the libraries through a joint powers agreement with counties and participating cities. The regional library system has a board and hires the director. A city that participates in the regional system will have an MOE (calculated as described above). The city MOE may include dollars provided directly to the regional library system or operating dollars provided to support building costs (i.e. city-provided maintenance services).

In the metropolitan area, the seven county library systems and one city library system belong to the Metropolitan Library Services Agency (MELSA), the metro area regional library system. Most of the cities that operate libraries independently from their county library system belong to MELSA as affiliates of their county library system. The funding of libraries in MELSA may be from a county levy, a city levy, a city library fund from the general city levy or a combination.

Most libraries not only serve city residents, but also serve people that reside outside of city limits who, in some cases, are not fully contributing to the upkeep, maintenance or operations of the library through property tax levies. While counties do contribute to municipal libraries, this support falls well short of the per capita amounts contributed by city residents.

City officials support libraries and believe that a system of equitably funded libraries is needed. One approach that has been previously approved by the Legislature is providing for funding through regional tax levies designated as "library districts." A district would have the authority to levy for public library services in lieu of their member cities and counties. Under Minn. Stat. § 134.201, the Great River Regional Library System and the East Central Regional Library System already have authority to create "library districts."

Some cities also contribute a supplemental amount of funding separate from MOE requirements, usually to pay for building maintenance costs. When the state calculates the required MOE for each local unit of government, local building costs are included in city MOE requirements and all monies cities contribute to a library building, except capital, are taken into account. The MOE requirement is a mandate on cities that does not allow for local decision making. However, it provides a stable source of funding to protect the investment in library resources and services around the state. There are some groups that are advocating for a restoration of the MOE to levels at least as high as the 2010 level.

Response: **The League of Minnesota Cities supports equitable funding for local libraries to allow for local budget decision making. Changes to the maintenance of effort by the Legislature should be as follows:**

a) **The required annual payment should reflect the amount the city itself pays toward maintenance, upkeep, and**

capital improvements to the library in that year.

b) **If the MOE reduction in Minn. Stat. § 275.761 is restored to a level at least as high as the 2010 level, it should be phased in over three years.**
c) **Any relief provided to the county MOE requirement should not result in additional funding requirements to cities.**

The authority for library systems to create library taxing districts should be expanded statewide.

The Legislature should allow municipal libraries the ability to charge non-residents for membership and\or other services without the loss of any State or Federal aids.

FF-33. Park and Library Land Tax Break

Issue: As the price for land increases, it is becoming more difficult for cities and other local units of government to compete with developers to save and secure land and easements that are deemed appropriate for park, library, trail, and green spaces.

Response: **The state should amend the tax laws to provide tax incentives for property owners who sell land and easements to local units of government when the land is to be used for park, library, trail or green space purposes.**

FF-34. Increasing Safe School Levy Authority

Issue: Strong partnerships between schools and local law enforcement are critical to school safety. Police School Resource Officers (SROs) are valued professionals in school communities and provide support, safety and security for students, staff and the public. Further, SROs can provide regular opportunities for informal, positive interactions between students and police personnel.

Under Minn. Stat. § 126C.44, the Safe Schools Levy allows school districts to levy for costs associated with student and staff safety based on student enrollment numbers. Some eligible expenses include police liaison services; drug abuse prevention programs; gang resistance education training; school security; crime prevention; and implementation of student and staff safety measures.

Using Safe Schools Levy authority, local school boards may raise additional resources for school safety and security. Almost every Minnesota school district currently levies the full amount of $36 per pupil. This amount does not cover the full cost of providing this important service, and local law enforcement agencies are not being fully compensated for providing SROs.

Response: **The League supports increasing the maximum Safe Schools Levy from $36 per pupil up to $60 per pupil to ensure schools and communities are able to continue providing safe schools programming**

FF-35. Equitable Funding of Community Education Services

Issue: Under Minn. Stat. § 124D.20, school districts are authorized to levy for community education programs that can include youth recreational activities. However, state statute limits the total amount of revenue that can be raised by the school district to fund community education programs and this limit has not been sufficiently increased in recent years. In many instances, cities participate in the funding of these programs and with the

statutory limit on the amount school districts can levy, the increased cost of these programs is increasingly falling on cities and their property taxpayers. In areas where the school district is significantly larger than the city, the burden of funding these programs is falling disproportionately on city taxpayers while the programs benefit the entire school district.

Response: **The League of Minnesota Cities supports a statutory increase in the community education revenue authorization for school districts. Increasing the amount of the community service revenue available to school districts would provide a steady source of revenue, which would be assessed against all properties in the school district, not just against properties in the city.**

FF-36. Street Reconstruction Bond Approval

Issue: Under Minnesota law, financing the maintenance of streets can be a challenge for city councils. Minn. Stat. § 475.58 subd. 3b, authorizes a city council, by two-thirds vote, to approve the issuance of bonds to finance street reconstruction or bituminous overlays without voter approval. The two-thirds council approval requirement is further subject to a reverse referendum process whereby a number equal to five percent of those voting in the last municipal general election can petition for a referendum to approve the issuance of the bonds.

Response: **Street maintenance is one of the essential functions of cities in Minnesota. The laws governing issuance of bonds to maintain streets should be amended to allow the approval of the bonds by a simple majority of the council. The existing reverse referendum process assures that taxpayers could trigger a referendum on the issuance of bonds if they can meet the five percent petition threshold.**

FF-37. Special Assessment Election Requirements

Issue: City councils are best situated to recognize the need to replace infrastructure and when to schedule the replacement projects. Cities are often only able to carry out these and other vital improvements by issuing bonds and assessing some amount of the cost to property owners.

Issuing bonds to finance most local improvement projects requires a special election unless the city can legally collect at least 20% of the project costs through special assessments. As a legal limit, cities cannot collect special assessments from any property greater than the increase in fair market value bestowed to that property by the improvement (the "special benefit test"). On occasion, the increase in property values as a result of the improvement can fail to add up to the 20% threshold necessary to finance projects without requiring a special election.

Response: **In order to facilitate the financing public infrastructure projects, the threshold for requiring voter approval for issuance of improvement bonds under Minn. Stat. § 429.091 should be reduced to 15 percent. This change would provide more flexibility for cities with their construction/bonding/ assessment decisions while still providing value to the property owner.**



League of Minnesota Cities
145 University Avenue West
St. Paul, MN 55103-2044

TEL: (651) 281-1200
(800) 925-1122
FAX: (651) 281-1299
WEB: www.lmc.org

City of Brooklyn Center 2019 Legislative Agenda

January 2019

Administration

- BCLG 01-2019 (Official Notifications / Information Access) – The City of Brooklyn Center supports the State eliminating outdated and unnecessary publication requirements that are no longer relevant or representative of the City's technological capabilities.

Justification – Currently the State has laws mandating the City establish an "official" or "qualified" newspaper for formal city notifications. The law specifies that cities designate only "one" newspaper, it must be printed in English and if it is a daily newspaper it must be distributed at least five days each week, etc. While the notification standards established in 1949 were well intended, they may not be complete or applicable to contemporary methods of communication or cost efficient.

- BCLG 02-2019 (Election Judge Recruitment and Retention) – The City of Brooklyn Center supports efforts by the State to amend regulations to eliminate the party balance requirement of appointed and hired staff administering absentee balloting prior to Election Day and for city special elections, as well as, authorize college students to get time off from classes if they have been appointed to serve as an election judge.

Justification – City elections are non-partisan and govern elections in a non-partisan manner. One of the City's strategic priorities is "community engagement across all segments of the City". The City desires to engage as many residents as possible in the election process.

Housing and Development

- BCLG 03-2019 (Group Homes and Housing with Services Establishments) - The City of Brooklyn Center requests the Legislature to examine the impacts of the established regulations, which limit the ability of municipalities to regulate group homes and housing with services establishments to determine if regulations are having a disproportionate effect on low-income communities and communities of color.

Justification our experience is that single-family affordable housing neighborhoods are attractive locations to investors seeking to profit from the establishment Group Home and Housing with Services. The concentration of these homes in low-income neighborhoods reduces home ownership opportunities and wealth accumulation for residents and the concentration of theses business can change the character of the neighborhood.

- BCLG 04-2019 (Building Officials) – The City of Brooklyn Center supports efforts of the State to increase its efforts to train new and diverse building officials, and provide sufficient education to help local officials administer and enforce construction regulations.

Justification – The City has established city priorities related to resident economic stability and a value of diversity and inclusion. There is a shortage of building officials in the State and greater shortage of building officials of color. Sufficient funding and support by the state would permit the City and other cities to have access to a broader pool of candidates for building official in the future.

Business and Economic Development

- BCLG 05-2019 (Youth Tax Credit) – The City of Brooklyn Center supports efforts by the State to create an internship to work tax credit for organizations hosting young workers in Brooklyn Center. This type of tax credit program exists now, but is targeted to Greater Minnesota.

Justification – One of the City's strategic priorities is "Resident Economic Stability". This program would provide an incentive for businesses to participate in the BrookLynk Program of the Brooklyn Bridge Alliance.

- BCLG 06-2019 (Workforce Readiness) – The City of Brooklyn Center supports efforts of the State to fully fund Minnesota Job Skills Partnership and other workforce training programs. The City also supports the State providing flexible funding to local workforce councils and pursuing creative programming and funding. Finally, the City supports efforts to design and implement programs designed to address youth employment and workforce readiness.

Justification – One of the City's strategic priorities is "Resident Economic Stability". This program would provide an incentive for businesses to participate in the BrookLynk Program of the Brooklyn Bridge Alliance. This effort would also, support the City's strategic priority of "Resident Economic Stability".

- BCLG 07-2019 (Tax Increment Financing - TIF) – The City of Brooklyn Center supports efforts of the State to increase the ability of TIF to facilitate redevelopment and housing activities; allow term extensions for redevelopment districts, which are taking longer to develop; amend Minn. Stat. § 469.1763, subdivision 3 to eliminate the "Five-year Rule" for districts that are taking longer to develop; and modify the housing district income qualification level requirements to allow the levels to vary according to individual communities.

Justification – The City would benefit by having the ability to extend the term for its redevelopment districts, which could have a positive impact on the financial stability and effectiveness of the districts.

- BCLG 08-2019 (Land Recycling and Redevelopment) – The City of Brooklyn Center supports the creation of a "land assembly grant or loan program" to assist cities and economic development authorities assemble small parcels for redevelopment. In addition, the City supports efforts by

the State to amend the definition of redevelopment district under TIF Act to include the obsolescence and incompatible land use.

Justification – Due to the City being a fully developed city, the City would benefit from more resources and greater flexibility of existing economic development tools to redevelopment deteriorated, obsolete and vacant structures and contaminated land.

Financial

- BCLG 09-2019 (Metro Area Fiscal Disparities) - Brooklyn Center was once a net contributor to the Fiscal Disparities pool. Today as a net recipient, Fiscal Disparities is a major factor contributing to the fiscal stability of the City and our taxpayers. Without Fiscal Disparities, the property tax burden in Brooklyn Center would escalate dramatically, perhaps more than 25%. We strongly encourage continued legislative support for Metro Area Fiscal Disparities.

- BCLG 10-2019 (Sales Tax Exemption Simplification) - We advocate for a way to simplify the utility of the current sales tax exemption for construction materials. The process for using the current sales tax exemption on construction is so complicated, risky, and burdensome to contractors and cities that we are aware of no city that has decided to use this exemption. In Brooklyn Center, we estimate savings of $300-$400 thousand annually for our neighborhood street and utility construction projects if the sales tax exemption was viable.

- BCLG 11-2019 (Property Tax Relief) – The City of Brooklyn Center supports efforts of the State increase property tax relief for property owners experiencing high tax burdens due to property tax shifts.

Justification – The City has experienced significant shifts in tax capacity growth from commercial to residential properties throughout the years of the most recent economic recession. As a result, residential property owners have endured a tax shift burden. We expect this trend to continue for the coming years as housing values continue to recover and commercial and industrial market values normalize.

- BCLG 12-2019 (Local Government Aid - LGA) – The City of Brooklyn Center supports the existing LGA funding formula as an appropriate mechanism to distribute LGA and opposes special funding using LGA funds.

Justification – LGA has been cut for many years. The City's budget stability continues to be dependent on LGA funding. Any changes in the formula or siphoning of funds from the overall pool for special projects may be detrimental to the City's financial stability.

Law Enforcement & Public Safety

- BCLG 13-2019 (T-21 Raising the Age for Purchasing Tobacco Products to Age Twenty One) - The City of Brooklyn Center supports a legislative change to increase the law age of tobacco product purchases to twenty-one.

Justification - Brooklyn Center along with several Cities throughout the State of Minnesota has adopted *local ordinance regulations increasing the legal age to purchase tobacco products to 21 because overwhelming evidence demonstrates the younger a person is when they begin smoking the more likely they will become addicted and suffer physically resulting from this addiction. Likewise, vaping and other caffeine delivery devises should be regulated, as there is growing evidence that they too are addicting and physically harmful to young people.*

- BCLG 14-2019 (Juveniles in Municipal Jails) – The City of Brooklyn Center supports efforts by the State to clarify state statute that would allow juveniles to be held for questioning and booking in the City jail for up to six hours.

Justification – The City would have more of an opportunity and time to work with a juvenile to resolve or remedy their situations prior to being transported to Hennepin County Jails should the state increase the max time juveniles may be held in a licensed municipal jail.

- BCLG 15-2019 (21st Century Policing) – The City of Brooklyn Center supports action by the State to increase funding for peace officer training, peace officer wellness activities, and grants to the cities to deploy technologies such as dash and body worn cameras, all of which align with the President's Task Force 21st Century Policing Report.

Justification - The City initiated efforts to implement 21st Century Policing soon after the report was published. The City continues to develop and train peace officers in accordance with the report. Funding support from the State would help leverage and stretch the use of City resources. To date the City has taken on the expense of such efforts at the City's expense.

Transportation

- BCLG 16-2019 (MVLST Funding) - The City of Brooklyn Center supports including Hennepin County in the distribution of motor vehicle lease sales tax (MVLST).

Justification - Hennepin County residents contribute substantially to the MVLST but State Law excludes the county from receiving funding from this transportation source. If included, Hennepin County would receive $10.7 million annually for roads, bridges, and pedestrian and bikeway projects. The rationale to exclude Hennepin and Ramsey counties from receiving

MVLST formula funds was based on enabling of new taxing authority through the creation of the Counties Transit Improvement Board (CTIB). With CTIB's dissolution in 2017, this rationale for excluding Hennepin and Ramsey counties from receiving MVLST Formula funds has ceased to exist.

- BCLG 17-2019 (Transportation Funding) – The City of Brooklyn Center supports the State providing more funding, including bonding, for improvements to all components of the transportation system. The City specifically supports The Blue Line Light Rail Extension. In addition the City's highest State transportation priority is the much needed improvements to and conversion of TH 252 to a freeway with the addition of MnPASS lanes.

Justification – The City has various transportation needs ranging from constructing highway overpasses to upgrading Trunk Highway 252 to a freeway, as well as, transit related needs. Additional funding by the legislature would permit the City to access various funding sources from the Minnesota Department of Transportation for city projects. Improvements and conversion of Trunk Highway 252 to a freeway would benefit city residents and regional travelers with improved safety and less congestion on a corridor that lays claim to 2 of the top 10 and 5 of the top 100 intersections in statewide crash cost rankings.

MEMORANDUM - COUNCIL WORK SESSION

DATE: 1/28/2019

TO: Curt Boganey, City Manager

THROUGH: N/A

FROM: Curt Boganey, City Manager

SUBJECT: Request to Provide a City Phone to the Mayor

Recommendation:

- *Consider a request from Mayor Elliott to receive a City funded phone for City Business*

Background:

Mayor Elliott has made a request to have the City provide a phone to him for business use. Mayor Elliott will provide further explanation for this request at the Council Meeting.

The estimated cost of providing a smart phone $929.00 in the first year and $180. in year two and beyond. It is assumed the phones will be replaced after three (3) years.

There would be no direct phone cost to provide a feature phone that only allows calling and texting. The additional service plan cost is estimated to be $15 per month.

Policy Issues:

1. Does approval of this request serve a public purpose of sufficient value to the City to justify the expenditure?
2. Should all Councilmembers receive the same City resource?

MEMORANDUM - COUNCIL WORK SESSION

DATE: 1/28/2019

TO: Curt Boganey, City Manager

THROUGH: N/A

FROM: Barb Suciu

SUBJECT: Pending Items

Recommendation:

- Cities United Membership
- Livable Wages
- Affordable Housing Recommendations
- On-Street Parking Conditions
- First Saturday Market discussion
- Future Use of EDA Properties
- Public Subsidy Policy discussion with Ehlers Consulting - 2/25, 3/11

Background: