

**A G E N D A**  
**CITY COUNCIL MEETING**  
**TUESDAY, SEPTEMBER 6, 2022**  
**5:30 P.M.**  
**COUNCIL CHAMBERS**

Call to Order.

Pledge of Allegiance.

Roll Call.

(mot) 1. Adoption of Agenda.

(mot) 2. Approving minutes from August 15, 2022

3. Recognitions and Awards.

City Art Purchase Award

KSMQ Public Television Day Proclamation

Mower County Historical Society Week Proclamation

Welcoming Week Proclamation

(mot) 4. \*Consent Agenda

Licenses:

Exempt Gambling (raffle): Austin Area Chamber of Commerce on October 6, 2022

Food: Hormel Historic Home, 208 4<sup>th</sup> Avenue NW

Food: Sudanese Community Market, 501 1<sup>st</sup> Street NW

Mobile Business: Hopper's Mini Donuts, White Bear Lake

Mobile Business: The Iowa Grill, Mason City

Temporary Food: Smokin Tailgate, 400 13<sup>th</sup> Street NE

Temporary Liquor: Austin Area Commission for the Arts on September 23, 2022

Temporary Liquor: Austin Area Commission for the Arts on October 29, 2022

Temporary Liquor: Austin Area Commission for the Arts on December 10, 2022

Temporary Liquor: St. Augustine's Catholic Church on September 24-25, 2022

Claims:

a. Pre-list of bills

b. Financial, Investment and Credit Card Reports.

Event Applications:

Hormel Community Concert on September 15-16, 2022

Welcoming Week concert at the Library on September 16, 2022

Welcoming Family Night on September 20, 2022

**PUBLIC HEARINGS**

5. I-90 Bridge replacement project municipal consent public hearing.  
(no Council action needed at this time)

(res) 6. Reviewing a five-year tax abatement request from Nicholas and Brianne Erickson.  
a. Approve or deny tax abatement.

**PETITIONS AND REQUESTS:**

- 7. Reviewing an ordinance for the regulation of edible cannabinoids.
  - (mot) a. For preparation of the ordinance.
  - (ord) b. For adoption of the ordinance.
  - (res) c. For summary publication of the ordinance.
  - (res) d. Adopting a fee for the license.
- (mot) 8. Approving holiday pay for the Environmental Education Outreach Coordinator.
- (res) 9. Setting public hearings for October 3, 2022 on fall assessments.
- (res) 10. Approving a resolution encouraging the Minnesota Legislature to hold a special session.
- (mot) 11. Authorizing the annual fall yard waste program.
- (res) 12. In support of the bridge investment program discretionary grant application for the I-90 Austin bridges improvement and mobility project.
- (res) 13. Accepting donations to the City of Austin.
- 14. Reviewing Lansing Township annexation ordinances.
  - (mot) a. For preparation of the ordinances.
  - (ord) b. For adoption and publication of the first Lansing Township annexation ordinance.
  - (ord) c. For adoption and publication of the second Lansing Township annexation ordinance.

**CITIZENS ADDRESSING THE COUNCIL**

**REPORTS AND RECOMMENDATIONS:**

City Administrator  
City Council

- (mot) Adjourn to **Monday, September 19, 2022** at 5:30 pm in the Council Chambers.

\*All items listed with an asterisk (\*) 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 council member or citizen so requests in which event the item will be removed from the general order of business and considered in its normal sequence on the agenda.



M I N U T E S  
CITY COUNCIL MEETING  
August 15, 2022  
5:30 PM  
Council Chambers

MEMBERS PRESENT: Mayor King. Council Members Paul Fischer, Rebecca Waller, Michael Postma, Joyce Poshusta, Geoff Baker and Council Member-at-Large Jeff Austin

MEMBERS ABSENT: Council Member Jason Baskin

STAFF PRESENT: City Administrator Craig Clark, Director of Administrative Services Tom Dankert, Police Chief David McKichan, Human Resources Director Trish Wiechmann, Public Works Director Steven Lang, Fire Chief Jim McCoy, Planning and Zoning Administrator Holly Wallace, Park and Rec Director Dave Merrill, City Attorney Craig Byram, Library Director Julie Clinefelter, and City Clerk Ann Kasel

APPEARING IN PERSON: Austin Daily Herald, Elizabeth Wefel, Bonnie Reitz, Tom Stiehm Dani Heiny

Mayor King called the meeting to order at 5:30 p.m.

Moved by Council Member Fischer, seconded by Council Member Waller, approving the agenda. Carried.

Moved by Council Member Fischer, seconded by Council Member Poshusta, approving Council minutes from August 1, 2022. Carried.

#### AWARDS AND RECOGNITIONS

Mayor King read a proclamation declaring August 26, 2022 Our Austin, Our America day. Dani Heiny thanked the City for the honor and stated the portraits have been made into a book. The book will be debuted at the Austin Artworks Festival.

Elizabeth Wefel from the Coalition of Greater Minnesota Cities provided an update to the Council of the organization's activities. She noted that the Coalition gave Mayor King an award for being active in the Coalition.

#### CONSENT AGENDA

Moved by Council Member Fischer, seconded by Council Member Postma, approving the consent agenda as follows:

Licenses:

Cigarette (transfer): One Stop Food Mart, 902 12<sup>th</sup> Street SW  
Exempt Gambling (raffle): Life Mower County on October 16, 2022  
Exempt Gambling (raffle): Austin Morning Lions Club on October 28, 2022  
Food: Bakereach, LLC, 1906 8<sup>th</sup> Street NE, Suite D  
Food (transfer): One Stop Food Mart, 902 12<sup>th</sup> Street SW  
Gas Station (transfer): One Stop Food Mart, 902 12<sup>th</sup> Street SW  
Mobile Business: Yarn Mobile, 109 1<sup>st</sup> Avenue SE – Suite 4

Claims:

a. Pre-list of bills

Event Applications:

KSMQ 50<sup>th</sup> Anniversary Party on September 17, 2022  
River Rats Car Show on August 20, 2022

Carried.

PUBLIC HEARING

A public hearing was held for a five-year tax abatement request from Cedar City Builders, LLC. City Administrator Craig Clark stated the applicant is proposing to build a single-family home at 1310 18<sup>th</sup> Street NE valued at \$395,000. Mr. Clark recommended approval of the abatement.

Moved by Council Member Postma, seconded by Council Member Fischer, adopting a resolution approving a five-year tax abatement request from Cedar City Builders, LLC. Carried 6-0.

PETITIONS AND REQUESTS

City Clerk Ann Kasel presented the primary election results stating Jeff Austin and Oballa Oballa will be moving to the November general election. She noted City voter turnout was 31% and she thanked the team of election judges for their great work.

Moved by Council Member Fischer, seconded by Council Member Postma, adopting a resolution certifying the August 9, 2022 primary election results. Carried 6-0.

Director of Administrative Services Tom Dankert requested the Council approve the 2023 Hormel Foundation grant requests. The Council ranked them in the following order at the August 1, 2022 work session:

1. CHIP II Program \$200,000
2. (tie) Business Encouragement/Enhancement Partnership \$100,000
2. (tie) Jay C. Hormel Nature Center Education Programs \$45,000
4. (tie) Delivering the Data: Hotspot Data Plans 2023 \$61,000
4. (tie) East Side Lake Trail \$120,000
6. Fire Prevention and Education \$5,000

Moved by Council Member-at-Large Austin, seconded by Council Member Poshusta, approving the 2023 Hormel Foundation Grant request rankings. Carried.

Public Works Director Steven Lang stated the City has plans to build a 10 unit T-Hangar at the Austin Municipal Airport. SEH, Inc. has provided a proposal in the amount of \$80,700 for design services for the project. He recommended awarding the contract to SEH, Inc.

Moved by Council Member Fischer, seconded by Council Member Poshusta, adopting a resolution approving a proposal with SEH, Inc. for an Airport T-Hangar design. Carried 6-0.

Public Works Director Steven Lang reviewed post construction storm water management and salt storage ordinance updates. He stated as part of the City's storm water permit renewal it is required to create a salt storage ordinance and update the post construction storm water ordinance.

Moved by Council Member Fischer, seconded by Council Member Postma, for preparation of the ordinances. Carried.

Moved by Council Member-at-Large Austin, seconded by Council Member Waller, for adoption and publication of the storm water management ordinance. Carried 6-0.

Moved by Council Member-at-Large Austin, seconded by Council Member Fischer, for adoption and publication of the salt storage ordinance. Carried 6-0.

City Administrator Craig Clark requested the Council authorize the Mayor to sign a letter of support for federal funding for the I-90 bridge projects that will be completed in future years.

Moved by Council Member Postma, seconded by Council Member Poshusta, authorizing the Mayor to sign a letter in support of funding for the I-90 bridge projects. Carried.

Moved by Council Member Fischer, seconded by Council Member Postma, adopting a resolution accepting donations to the City of Austin. Carried 6-0.

Moved by Council Member Fischer, seconded by Council Member Poshusta, adopting a resolution declaring the property at 1019 8<sup>th</sup> Avenue NE a hazardous structure. Carried 6-0.

Moved by Council Member Fischer, seconded by Council Member Postma, granting the Planning and Zoning Department the power to contract for the removal of junk and/or illegally stored vehicles at 808 1<sup>st</sup> Avenue NW. Carried.

Moved by Council Member Fischer, seconded by Council Member Postma, granting the Planning and Zoning Department the power to contract for the removal of junk and/or illegally stored vehicles at 909 3<sup>rd</sup> Avenue NW. Carried.

## CITIZENS ADDRESSING THE COUNCIL

Tim Sorgine advocated for the legalization of cannabis.

## REPORTS

Parks and Recreation Director Dave Merrill stated there will be a deer hunt meeting on August 18<sup>th</sup> at 6 p.m. at the Nature Center.

Mr. Merrill recognized Steve Turner for the fantastic operations of the pool, Jackson Marsh and Molly Garry for being the pool managers for the summer and Timothy Bachmeier, who brought up concerns about swings in Northwest Park.

Library Director Julie Clinefelter stated there will be a children's writing workshop on August 20<sup>th</sup> and the flocking flamingoes are back as a fundraiser for the Library.

Council Member Postma thanked the team of election judges and crew for a great election. Also, the Austin Artworks Festival will take place August 27-28<sup>th</sup>.

Moved by Council Member-at-Large Austin, seconded by Council Member Fischer, adjourning the meeting to September 6, 2022. Carried.

Adjourned: 6:10 p.m.

Approved: September 6, 2022

Mayor: \_\_\_\_\_

City Recorder: \_\_\_\_\_

From the Office of the Mayor



500 Fourth Avenue NE  
Austin, Minnesota 55912-3773  
Phone: 507-437-9965  
Fax: 507-434-7197  
[www.ci.austin.mn.us](http://www.ci.austin.mn.us)

# Proclamation

**WHEREAS:** *KSMQ Public Television was founded in 1972 as an educational broadcast training facility that ran ninety minutes of programming daily; and*

**WHEREAS:** *KSMQ became one of Minnesota's first public, nonprofit television stations while partnering with Austin Public Schools and Austin Teachers College; and*

**WHEREAS:** *In 2005, KSMQ became an independent community license holder; and*

**WHEREAS:** *In 2016, KSMQ began raising funds to build its broadcast building and chose to remain headquartered in Austin, Minnesota, raising \$5.1 million; and*

**WHEREAS:** *KSMQ will be moving to the Broadcast Center at 107 W. Oakland Ave. on September 16, 2022; and*

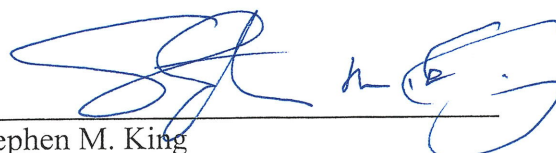
**WHEREAS:** *Today, the station has blossomed into a professional television outlet that brings quality public broadcasting to over 700,000 television viewers in 20 counties; and*

**WHEREAS:** *KSMQ supports providing access to knowledge and culture, extending education, and offering a variety of viewpoints and sensibilities.*

**NOW, THEREFORE, I, Stephen M. King, Mayor of the City of Austin, Minnesota, do hereby proclaim Saturday, September 17, 2022 to be**

**KSMQ PUBLIC TELEVISION DAY**



  
\_\_\_\_\_  
Stephen M. King  
Mayor

From the Office of the Mayor



500 Fourth Avenue NE  
Austin, Minnesota 55912-3773  
Phone: 507-437-9965  
Fax: 507-434-7197  
[www.ci.austin.mn.us](http://www.ci.austin.mn.us)

# Proclamation

**WHEREAS:** *The Mower County Historical Society's mission is: to discover, collect, preserve, and share the history of Mower County; and*

**WHEREAS:** *The Mower County Historical Society is the only organization dedicated to the preservation of Mower County History; and*

**WHEREAS:** *The Mower County Historical Society was founded in September of 1947; and*

**WHEREAS:** *The Mower County Historical Society has been observing its Diamond Jubilee in 2022; and*

**WHEREAS:** *The Mower County Historical Society is made up of dedicated volunteers and staff; and*

**WHEREAS:** *The Mower County Historical Society celebrates Fall Harvest each September.*

**NOW, THEREFORE,** *I, Stephen M. King, Mayor of the City of Austin, Minnesota, recognize the importance of the preservation of history and do hereby proclaim the week of September 19-26, 2022, to be Mower County Historical Society Week.*

## MOWER COUNTY HISTORICAL SOCIETY WEEK



A handwritten signature in blue ink, appearing to read "S. King", written over a horizontal line.

Stephen M. King  
Mayor



City of Austin



500 Fourth Avenue N.E.  
Austin, Minnesota 55912  
Phone: 507-437-9940  
[www.ci.austin.mn.us](http://www.ci.austin.mn.us)

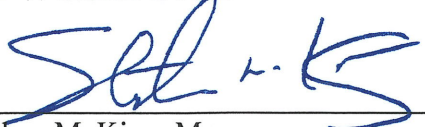
## *Proclamation*

- WHEREAS:** The City of Austin proudly recognizes the Welcoming Week national event occurring September 9 through September 18, 2022; and
- WHEREAS:** This will be a special week in Austin, with a series of events, hosted with collaborations within the business community, civic groups, other units of government and other community organizations, that will bring diverse communities together to celebrate their unity and strong connection with each other, while recognizing the benefits of welcoming newcomers to our community; and
- WHEREAS:** Fostering a welcoming environment and treating all individuals with compassion and respect, regardless of their background, enhances Austin's cultural fabric, economic growth and overall prosperity for current and future generations; and
- WHEREAS:** It is vital to recognize the efforts of newcomers in Austin because they have influenced our past and help to shape our present; and
- WHEREAS:** Austin is a community that values the fresh perspectives and ideas contributed by people of diverse backgrounds and experiences and is committed to providing a welcoming environment in which all residents have opportunities to strive, grow and succeed; and
- WHEREAS:** Austin is committed to ensuring a welcoming and neighborly atmosphere in our community, where all people are accepted and encouraged to participate fully in civic life and feel like they belong; and
- WHEREAS:** Austin is stronger and greater when we work together toward core American values that afford everyone the right to life, liberty and the pursuit of happiness.
- FURTHER:** The City of Austin, Minnesota does hereby recognize, that today and during Welcoming Week 2022, the value of ensuring that Austin is Where We Belong; and encourages all residents and institutions to greet and bring their neighbors together to participate in one or more of the Welcoming Week events taking place within our community.

**NOW, THEREFORE,** I, Stephen M. King, Mayor of Austin, do hereby proclaim September 9 through September 18, 2022 as



**WELCOMING WEEK 2022**

  
Stephen M. King, Mayor

# Community Festival Event Permit



**Permit Type:** Community Festival

**Permit Number:** 2022-127

Applicant Information		Organization Information	
<b>Primary Name</b>	Savile Lord	<b>Organization Name</b>	Hormel Foods
<b>Primary Phone</b>	507-434-6420	<b>Organization Address</b>	1 Hormel Place, Austin, MN 55912
<b>Primary Cell</b>	202-423-4988	<b>Organization City</b>	Austin
<b>Primary Email</b>	sclord@hormel.com	<b>Organization State</b>	MN
<b>Alternate Name</b>	Rick Williamson	<b>Organization Zipcode</b>	55912
<b>Alternate Phone</b>	507-434-6401		
<b>Alternate Cell</b>			
<b>Alternate Email</b>	rmwilliamson@hormel.com		

Permit Information			
<b>Event Title</b>	Community Concert		
<b>Event Type</b>	Music concert	<b>Approximate Number of Participants</b>	2,000
<b>Event Start Date</b>	September 15, 2022	<b>Event Start Date</b>	September 16, 2022
<b>Description of Event and Expected Volume</b>	Symbiotic will be setting up the stage and providing sound. Chayce is from 6:00-7:30 and Phillip is from 8:00-9:30.		
<b>Event Start Time</b>	07:00	<b>Event End Time</b>	23:45
<b>Alcoholic Beverages Available</b>	No	<b>Licensed Establishment(s) Serving Alcohol</b>	
<b>Location of Alcohol Services</b>		<b>Types of Alcohol being Served</b>	
<b>Traffic Control Barricades Needed for Street/Lane Closure?</b>	Yes	<b>Will Traffic Control Barricades be Provided by Applicant or City?</b>	City
<b>Portion of Street Width Being Used</b>			

Engineering Department					
<b>Determination</b>	Approved	<b>Date of Approval</b>	August 24, 2022	<b>Approved By</b>	Mitch Wenum
<b>Comments</b>	City to provide barricades in locations as requested				

Police Department					
<b>Determination</b>	Approved	<b>Date of Approval</b>	August 25, 2022	<b>Approved By</b>	David McKichan
<b>Comments</b>					

City Clerk					
<b>Determination</b>	Approved	<b>Date of Approval</b>	August 24, 2022	<b>Approved By</b>	Ann Kasel
<b>Comments</b>	No alcohol or food trucks are approved as part of this permit.				

<b>Final Determination</b>	Under Review
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*Disclaimer: The City is only reviewing and approving activities and installations intended to occur within the ROW and not in any way approving or providing comment on any activity that may occur on private property, the Permittee or Registrant is solely responsible for any and all entries, activities, or installations upon private property.*





DRAWN BY  
Judd Kleinman

PROJECT  
Homel Summer  
Concert Series



a

01





DRAWN BY  
Judd Kleinman

PROJECT  
Homel Summer  
Concert Series



a

02



# Street/Special Event Permit



**Permit Type:** Street or Special Event

**Permit Number:** 2022-128

Applicant Information		Organization Information	
<b>Primary Name</b>	Julie Clinefelter	<b>Organization Name</b>	Austin Public Library
<b>Primary Phone</b>	507-396-5011	<b>Organization Address</b>	323 4th Ave Ne
<b>Primary Cell</b>	507-219-9939	<b>Organization City</b>	Austin
<b>Primary Email</b>	jclinefelter@selco.info	<b>Organization State</b>	MN
<b>Alternate Name</b>		<b>Organization Zipcode</b>	55912
<b>Alternate Phone</b>			
<b>Alternate Cell</b>			
<b>Alternate Email</b>			

## Permit Information

<b>Event Title</b>	Welcoming Week concert at the library		
<b>Event Description</b>	Concert at the library to celebrate Welcoming Week		
<b>Event Start Date</b>	September 16, 2022	<b>Event Start Date</b>	September 16, 2022
<b>Approximate Number of Participants</b>	100		
<b>Event Start Time</b>	17:00	<b>Event End Time</b>	19:00
<b>Portion of Street Width Being Used</b>	Our parking lot		
<b>Traffic Control Barricades Needed for Street/Lane Closure?</b>	No	<b>Will Traffic Control Barricades be Provided by Applicant or City?</b>	

Engineering Department			
<b>Determination</b>	Approved	<b>Date of Approval</b>	August 29, 2022
		<b>Approved By</b>	Mitch Wenum
<b>Comments</b>			

Police Department			
<b>Determination</b>	Approved	<b>Date of Approval</b>	August 29, 2022
		<b>Approved By</b>	David McKichan
<b>Comments</b>			

City Clerk			
<b>Determination</b>	Approved	<b>Date of Approval</b>	August 29, 2022
		<b>Approved By</b>	Ann Kasel
<b>Comments</b>	Food trucks are licensed and approved.		

<b>Final Determination</b>	Approved
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# Street/Special Event Permit



**Permit Type:** Street or Special Event

**Permit Number:** 2022-130

Applicant Information		Organization Information	
<b>Primary Name</b>	Angie Jannsen	<b>Organization Name</b>	Sumner School
<b>Primary Phone</b>	507-460-1100	<b>Organization Address</b>	805 8th AVE NW
<b>Primary Cell</b>		<b>Organization City</b>	Austin
<b>Primary Email</b>	angie.jannsen@austin.k12.mn.us	<b>Organization State</b>	MN
<b>Alternate Name</b>	Renee Gogolewski	<b>Organization Zipcode</b>	55912
<b>Alternate Phone</b>	507-460-1100		
<b>Alternate Cell</b>			
<b>Alternate Email</b>	renee.gogolewski@austin.k12.mn.us		

## Permit Information

<b>Event Title</b>	Welcoming Family Night		
<b>Event Description</b>	We are having a fun night for Sumner Families. We will have 2 food trucks and activities for the families at our school.		
<b>Event Start Date</b>	September 20, 2022	<b>Event Start Date</b>	September 20, 2022
<b>Approximate Number of Participants</b>	200		
<b>Event Start Time</b>	17:00	<b>Event End Time</b>	18:30
<b>Portion of Street Width Being Used</b>	We are using our playground area, so no need to use the street.		
<b>Traffic Control Barricades Needed for Street/Lane Closure?</b>	No	<b>Will Traffic Control Barricades be Provided by Applicant or City?</b>	

Engineering Department			
<b>Determination</b>	Approved	<b>Date of Approval</b>	August 29, 2022
<b>Approved By</b>	Mitch Wenum		
<b>Comments</b>			

Police Department			
<b>Determination</b>	Approved	<b>Date of Approval</b>	August 29, 2022
<b>Approved By</b>	David McKichan		
<b>Comments</b>			

City Clerk			
<b>Determination</b>	Approved	<b>Date of Approval</b>	August 30, 2022
<b>Approved By</b>	Ann Kasel		
<b>Comments</b>	Food trucks are licensed and approved.		

<b>Final Determination</b>	Approved
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City of Austin  
500 Fourth Avenue N.E.  
Austin, Minnesota 55912-3773



Steven J. Lang, P.E.  
City Engr./Public Works Dir.  
507-437-9949  
Fax 507-437-7101  
slang@ci.austin.mn.us

## Memorandum

**To:** Mayor & Council  
**From:** Steven J. Lang, P.E.  
**Date:** August 31, 2022  
**Subject:** I-90 Bridge Replacement Project  
Municipal Consent Public Hearing

As part of the I-90 Bridge Replacement Project, MnDOT has made a request for City approval of the final design layouts of the project (Municipal Consent). The municipal consent process is detailed out in State Statute and additional information is available at the following MnDOT webpage: <http://www.dot.state.mn.us/project-development/subject-guidance/municipal-consent/process.html>

As part of the Municipal Consent process the City is tasked with completing the following:

The deadlines (per MN Statute 161.164) for the City's responsibilities regarding municipal consent of the attached layout are as follows, based on a submittal date of the final layout to the City of Austin [7/14/2022]:

- Within 15 days of receiving the final layout, schedule a public hearing; July 18th (4 days)
- Within 60 days of receiving the final layout, conduct the public hearing; Sept. 6th (54 days)
- Provide at least 30-days' notice of the public hearing; Yes
- Within 90 days of the public hearing, approve or disapprove the layout by resolution. Dec. 5th (90 days)

MnDOT will attend the public hearing to present the final layout and answer questions, as required by statute.

A public hearing has been scheduled for this meeting to consider the following:

- MnDOT presentation of the project details and final design concepts;
- Accept public input on the project;
- Council questions/discussion on the merits of the project.



The following materials are attached for your consideration:

- 1) MnDOT/SRF presentation (*separate document*)
- 2) MnDOT request for Municipal Consent submittal letter, 07/14/2022
- 3) Good faith estimate of costs
- 4) MnDOT staff approved layouts
  - a. Oakland Avenue West
  - b. 14<sup>th</sup> Street NW
  - c. 4<sup>th</sup> Street NW
  - d. 21<sup>st</sup> Street NE
- 5) Construction limits layouts
- 6) Environmental review documentation (*separate document*)
- 7) Noise Evaluation
  - a. Memorandum Mayor & Council, I-90 Noise Study
  - b. SRF Traffic Noise Analysis Determination (*separate document*)
- 8) Cedar River bridge hydraulics
  - a. Email to Mayor & Council, floodplain impacts during construction
  - b. SEH memo review of hydraulic for new bridge design when compared with downstream flood levee design

No Council action is required at the conclusion of the public hearing. Council has 90-days from the public hearing to pass a resolution approving or disapproving the layouts. If no action is taken by Council within 90-days the layouts are deemed approved. It would be my goal to bring this back for Council action at the Sept. 19<sup>th</sup> meeting, or soon thereafter. If you have any questions, please contact me.



## Minnesota Department of Transportation

District 6

2900 48<sup>th</sup> St. NW

Rochester, MN 55901

July 14, 2022

Steven J. Lang, P.E.

City Engineer/Director of Public Works

City of Austin

500 Fourth Avenue N.E.

Austin, MN 55912-3773

RE: Request for City Approval (Municipal Consent) of the Final Layouts for SP 5080-170

Dear Mr. Lang:

MnDOT is proceeding with plans to complete State Project 5080-170, I-90 Austin Bridges Improvement Project. In accordance with Minnesota Statute 161.164, I am submitting for City approval the project's Final Layouts, identified as Layout No. 1B, S.P. 5080-170 (staff approved 3/28/2022) , and Layout No. 1C, S.P. 5080-170 (staff approved 3/21/2022).

The City's approval (municipal consent) is required for this project because it requires acquisition of permanent rights of way (select interchange locations). Municipal consent of MnDOT projects is described in Minnesota Statutes 161.162 through 161.167 (attached).

Approval or disapproval of the final layout is by resolution of the City Council. (A sample resolution is attached). However, if the City neither approves nor disapproves the final layout within 90 days of the public hearing, the layout is deemed approved (per MN Statute 161.164).

The deadlines (per MN Statute 161.164) for the City's responsibilities regarding municipal consent of the attached layout are as follows, based on a submittal date of the final layout to the City of Austin [7/14/2022]:

- Within 15 days of receiving the final layout, schedule a public hearing; **July 18th (4 days)**
- Within 60 days of receiving the final layout, conduct the public hearing; **Sept. 6th (54 days)**
- Provide at least 30-days' notice of the public hearing; **Yes**
- Within 90 days of the public hearing, approve or disapprove the layout by resolution. **Dec. 5th (90 days)**

MnDOT will attend the public hearing to present the final layout and answer questions, as required by statute.

An Equal Opportunity Employer



## Project Purpose

The project area consists of a five-mile-long, two-lane divided highway within the City of Austin. Project area bridges were constructed in 1958 and 1959 and structures are nearing the end of their useful life. Bridges need repair or are functionally obsolete. The bridges below have been identified by MnDOT as having deteriorated elements in need of attention.

The proposed project involves rehabilitation of two bridges, replacement of seven bridges, and reconstruction of four interchanges:

Other needs that will be addressed include improving safety, walkability, and bike-ability.

## Project Description

The project area consists of a five-mile-long, two-lane divided highway within the City of Austin. Description of the work at various locations along the I-90 corridor in Austin are shown in the table below.

Bridge No.	Bridge Work Type	Additional Activity Description
9183	Replace	Reconstruct TH 105/Oakland Avenue interchange roadways and construct pedestrian accommodations
50803	Replace	Reconstruct TH 218 North/14th Street NW interchange into a tear drop roundabout configuration with pedestrian accommodations
50804	Remove	New interchange at 14th will just have one bridge
9180	Replace	Reconstruct 4th Street NW interchange into a single-point interchange with pedestrian accommodations and stormwater facilities
6868	Replace	I-90 WB bridge over Cedar River
6869	Replace	I-90 EB bridge over Cedar River
9178	Rehabilitate	Re-deck of WB I-90 bridge over 6th
9179	Rehabilitate	Re-deck of EB I-90 bridge over 6th
9201	Replace	Reconstruct TH 218 South/21st Street NE interchange roadways and construct pedestrian accommodations

## Planned Project Schedule

The current construction phasing would have the Austin bridges completed as follows:

Stage "0":

Temporary median crossover work only

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Letting 5/2023. Construction Late Summer – Fall 2023;  
Traffic impact will be minimal (single lane closures expected on I-90).  
All bridges crossings and ramps expected to remain open.

## Stages 1-2:

Main Bridge work, Includes TH105/CSAH 46/Oakland Ave. bridge; US218N/14th St. interchange; 4th St. interchange; I-90 over Cedar River bridges; I-90 over 6th Bridge (repair only); US 218S/21st St. bridge

Letting October 2023.

Begin Construction – Spring 2024.

Work is anticipated to continue through fall 2026, with minimal to no work occurring over the wintertime periods.

Traffic impacts will be significant. I-90 will be down to a single lane in each direction for significant periods of time.

Ramps to/from I-90 at select interchanges may be closed for periods of time.

Bridge crossings will be closed for significant periods of time.

## City's Estimated Project Costs

Some project costs are the City's responsibility, as detailed in MnDOT's cost participation policy. (See the policy and the *Cost Participation and Maintenance with Local Units of Government Manual* at MnDOT's website: <http://www.dot.state.mn.us/policy/financial/fm011.html>).

Attached is MnDOT's current estimate of the City's costs for S.P. 5080-170. It also shows MnDOT's estimated cost share for the identified elements.

As shown on the attached, the City of Austin's total cost participation for SP 5080-170 is estimated to be between \$650,000 and \$700,000.

## City's Maintenance Responsibilities

MnDOT will own the following bridges :

• Bridge #50013 - TH105/CSAH 46 over I-90	No Cost
• Bridge #50011 - US 218N/14thSt. over I-90	\$ 90,000
• Bridge #50014 - 4 <sup>th</sup> St./CSAH 45 over I-90	\$160,262
4th Street Extension - Construction	\$309,000
- Design	\$ 75,000

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City Welcome Sign	\$150,000
Inflationary factor	\$136,546
• Bridge #s 50812/50813 – I-90 over Cedar River	No Cost
• Bridge #'s 6178/6179 – I-90 over 6 <sup>th</sup> St. (repair only)	No Cost
• Bridge #50012 - US 218S/21 <sup>st</sup> St. over I-90	No Cost
<b>TOTAL</b>	<b>\$920,809</b>

MnDOT is responsible for all structure related maintenance involving the bridge structure and deck for each bridge listed above. The City of Austin will be responsible for the minor maintenance of the sidewalks or trails on the bridges. Minor maintenance includes snow removal, sweeping, crack repair, and other minor items. If the approach roadway(s) to a bridge are under local jurisdiction (i.e. 4<sup>th</sup> Street), the local unit of government will be responsible for all non-structural maintenance activities on the entire bridge (e.g. snow and ice removal for the roadway, bridge deck, and shoulders in addition to sidewalks and trails).

Lighting and aesthetic features will likely require some amount of city maintenance responsibility and will be developed further as plan details are finalized.

For a full explanation of standard maintenance participation, please refer to section II.C.4 in the *Cost Participation and Maintenance Responsibilities with Local Units of Government Manual* (see weblink above).

Please feel free to contact me if you have any questions about this submittal.

Sincerely,

Jai J. Kalsy, P.E.  
Project Manager  
MnDOT District 6  
2900 48<sup>th</sup> St. NW  
Rochester, MN 55901  
e-mail: [jai.kalsy@state.mn.us](mailto:jai.kalsy@state.mn.us)

Attachments:

Final Layouts for SP 5080-170, Layouts 1B & 1C  
MN Statutes 161.162 – 161.167  
Construction Limits Map (w/ existing and proposed right-of-way lines)  
Estimated Project Costs  
Sample City Resolution  
Engineering Report (Draft Programmatic Categorical Exclusion Environmental Document)

cc: Dave Nelson, SRF  
File

An Equal Opportunity Employer





# SP 5080-170 I-90 AUSTIN BRIDGE PROJECT

CITY OF AUSTIN, MNDOT DISTRICT 6, MOWER COUNTY

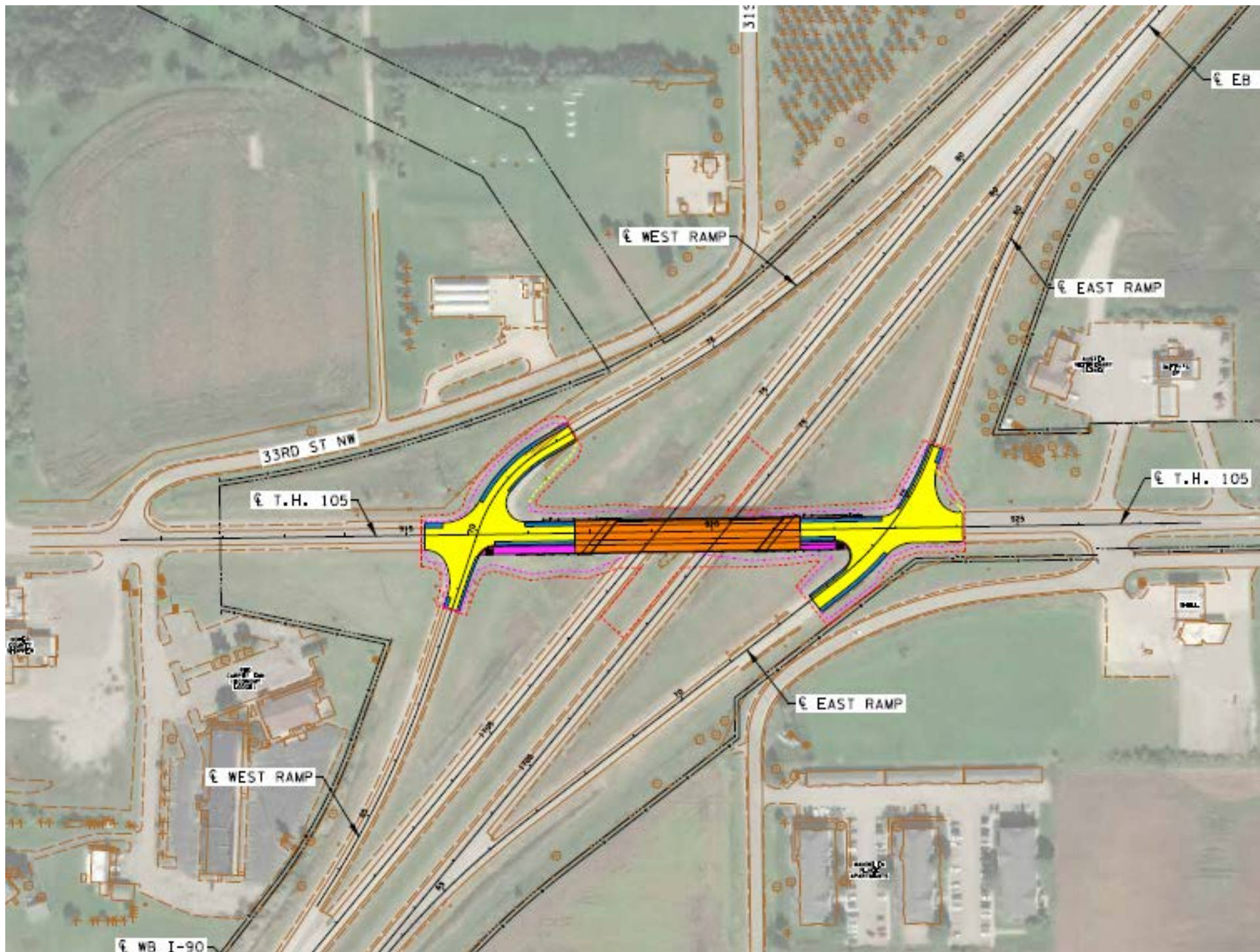
CITY OF AUSTIN - GOOD FAITH COST ESTIMATE							
ITEM DESCRIPTION	ESTIMATED COST			ESTIMATED AESTHETICS COST	<sup>(1)</sup> AESTHETICS ALLOWANCE SPLIT	ESTIMATED CITY COST	NOTES
	BRIDGE	WALL	OTHER				
TH 105 Bridge	\$3,893,313			\$141,000	\$272,532	\$0	7% of total bridge cost going towards bridge aesthetics.
14th Street/TH 218 North Bridge	\$2,637,580			\$275,000	\$184,631	\$90,000	7% of total bridge cost going towards bridge aesthetics.
4th Street Bridge	\$4,373,573			\$262,000	\$300,000	\$0	7% of total bridge cost going towards bridge aesthetics.
4th Street Retaining Walls		\$1,291,228			\$64,561	\$76,262	5% of total retaining wall cost go towards wall aesthetics.
Monotube Single Point Signal System			\$500,000			\$84,000	Local participation is 1/3 for single point signal, split between City and County legs - City participation for 1 leg is 1/6 of total estimated cost
4th St Extension (Construction)			\$309,000			\$309,000	100% City cost
21st Street/TH 218 Bridge	\$2,435,318			\$110,600	\$170,472	\$0	7% of total bridge cost going towards bridge aesthetics.
City Welcome Sign			\$150,000			\$150,000	100% City cost
<b>SUBTOTAL CONSTRUCTION</b>						\$709,262	
Inflation factor @ 4.5% per year from 2021 to 2025			0.1925			\$136,546	
4th St Extension (Design)			\$75,000			\$75,000	100% City cost
<b>TOTAL</b>						\$920,809	

<sup>(1)</sup> MnDOT Cost share policy: Level B

7% not to exceed \$300k per bridge

5% covered for walls separate from the bridge allotment

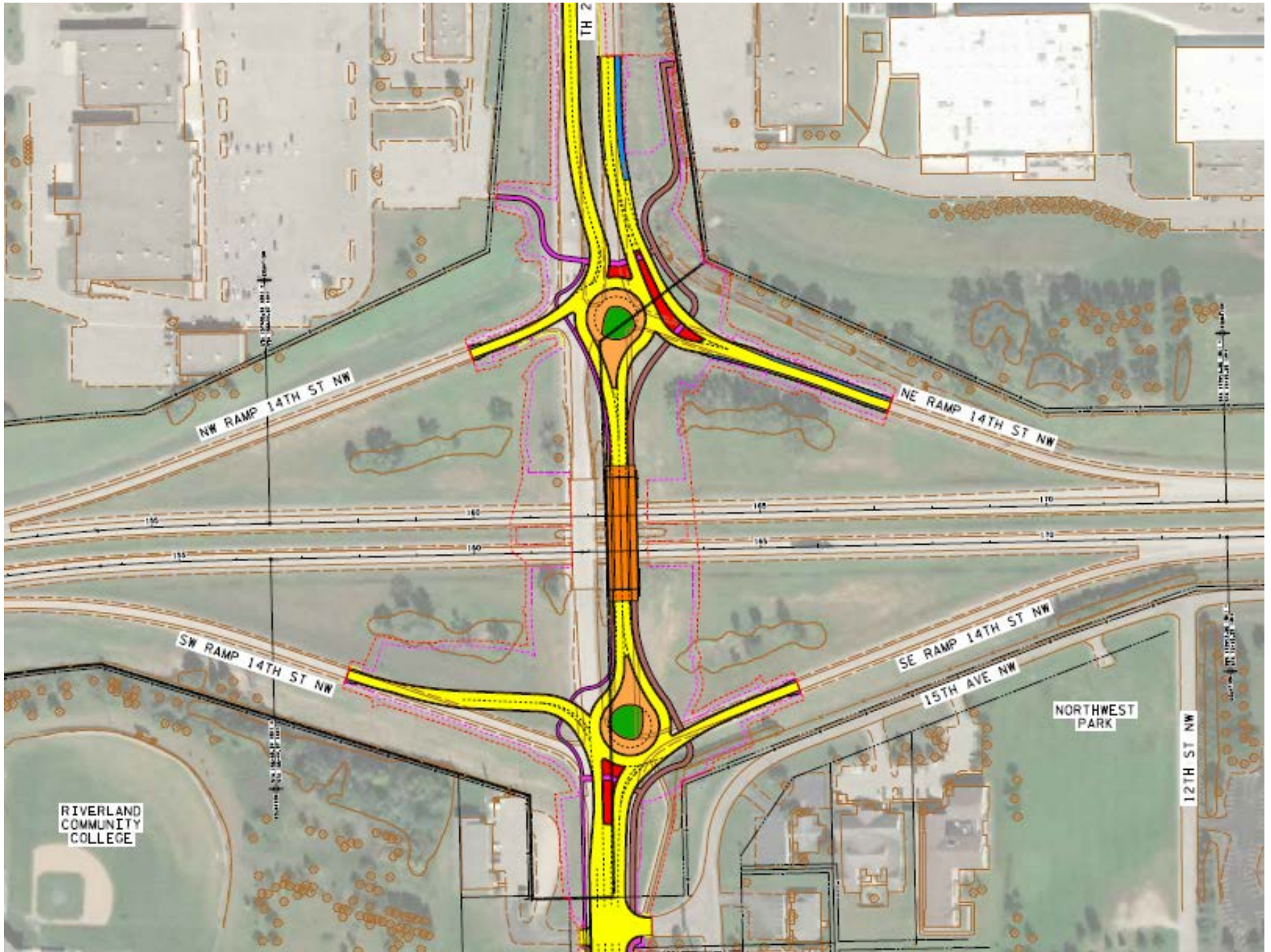






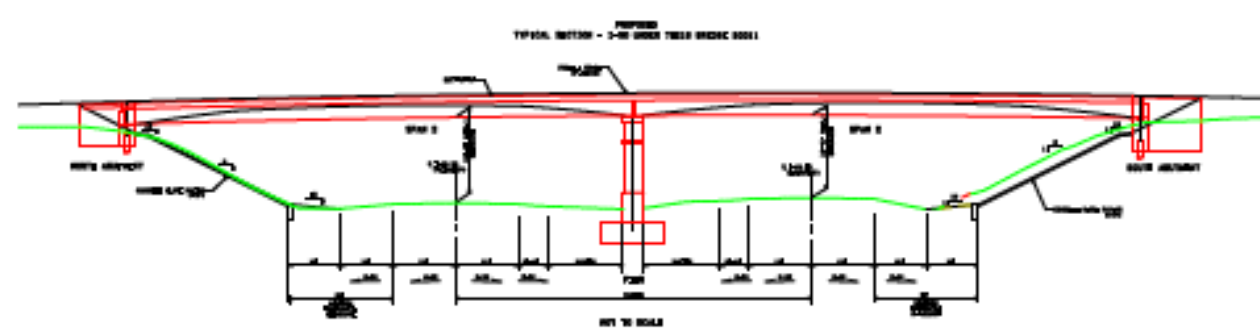
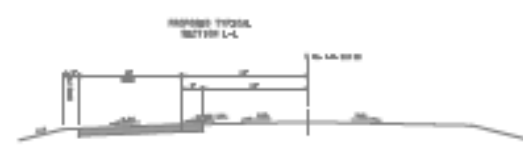
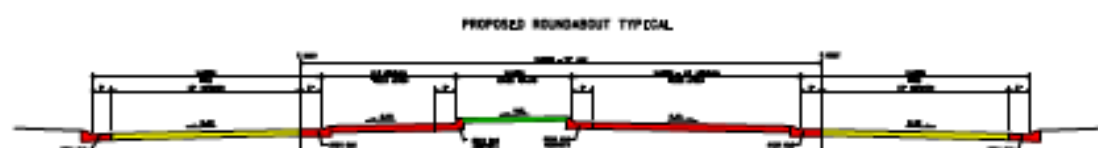
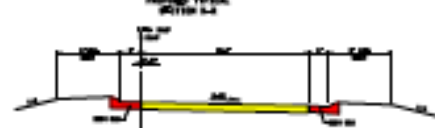
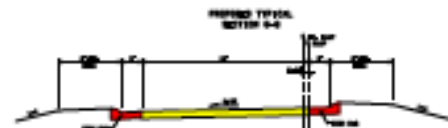
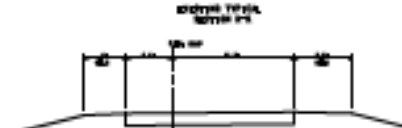
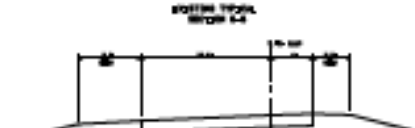
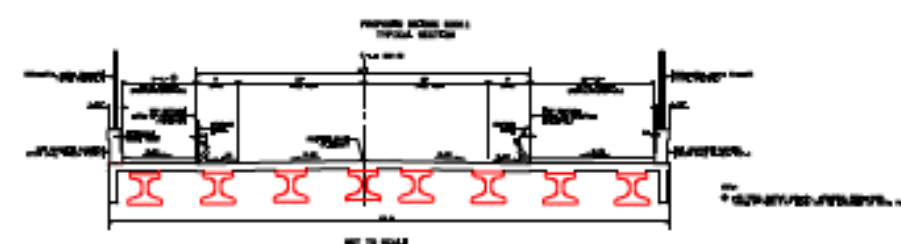
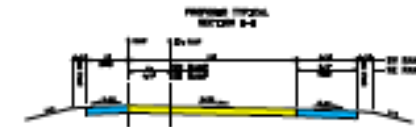
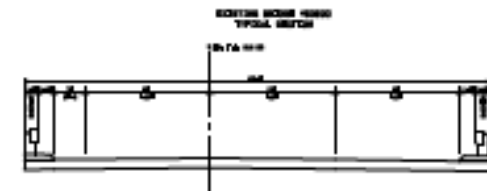
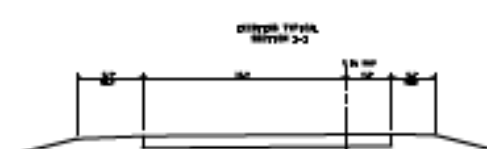
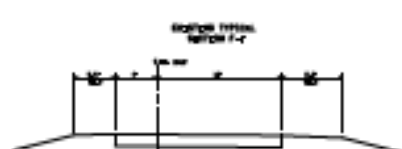
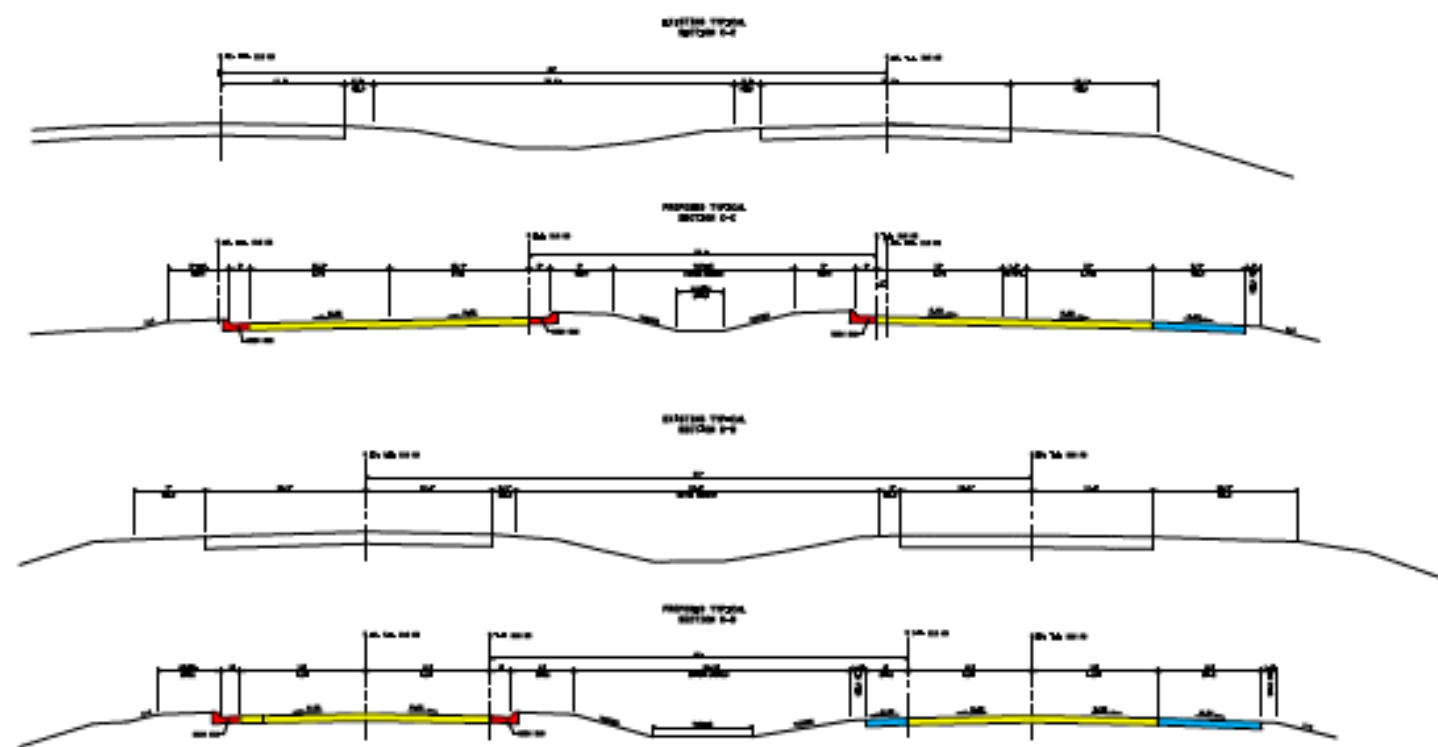
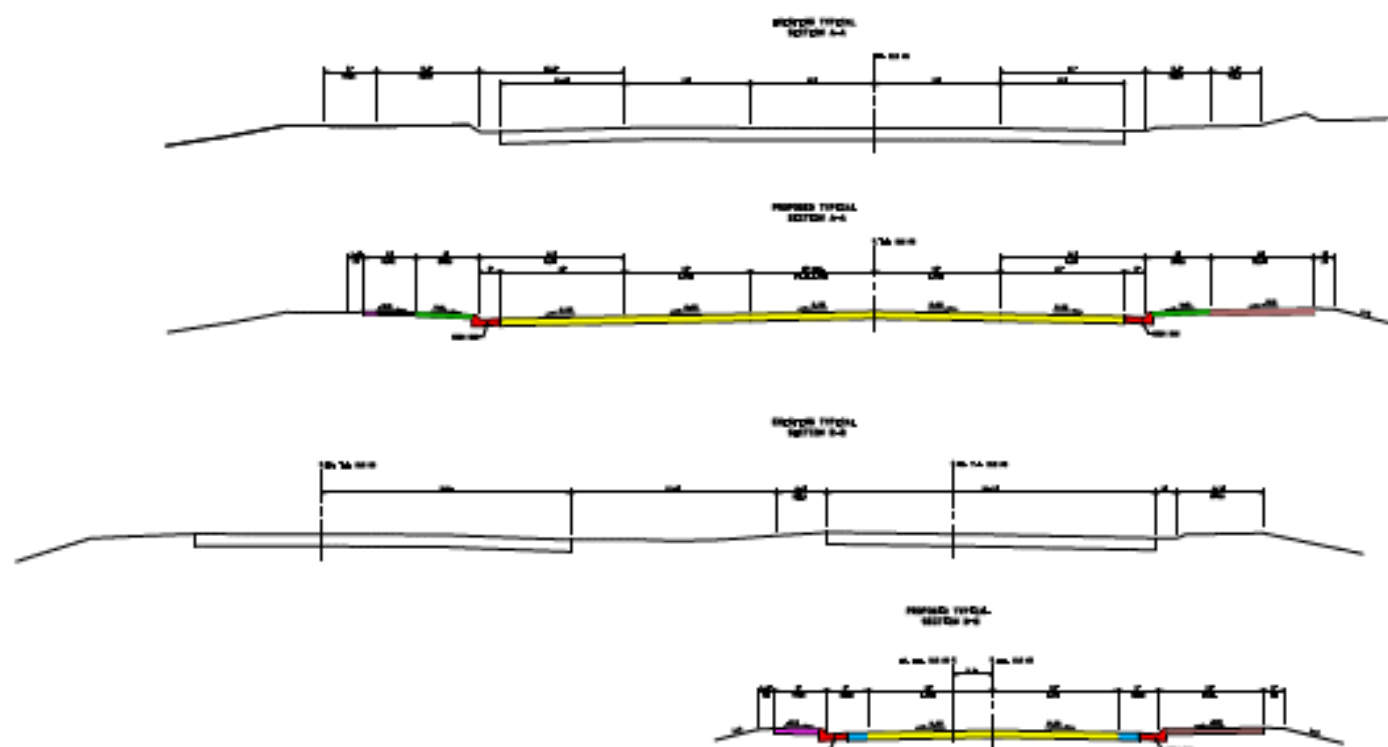




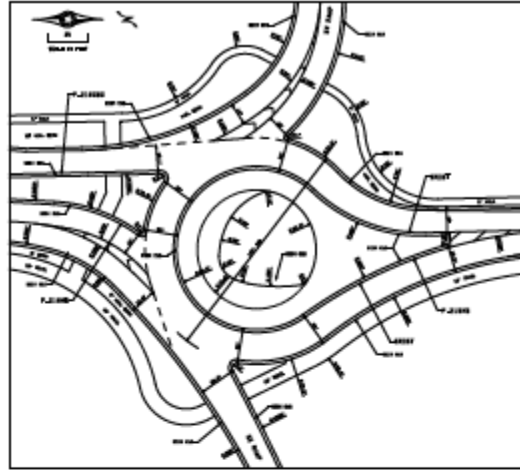




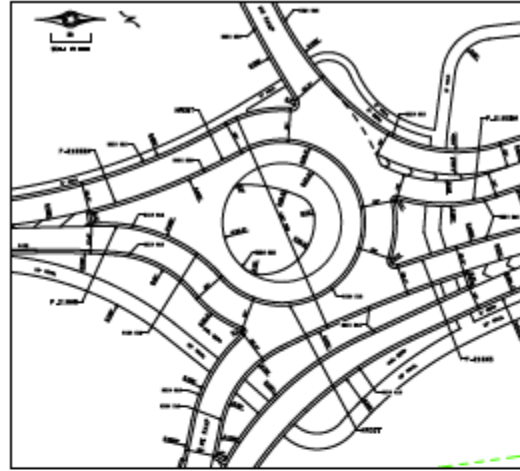




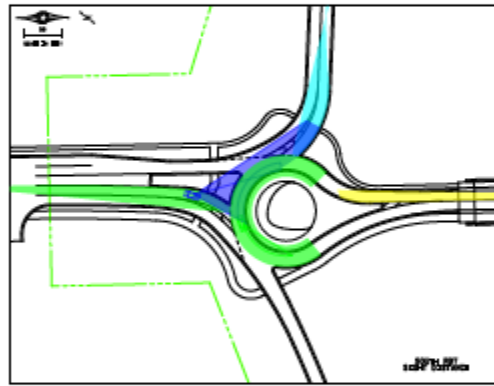




TH218 SOUTH RBT - DIMENSIONS



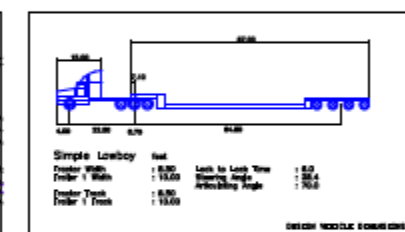
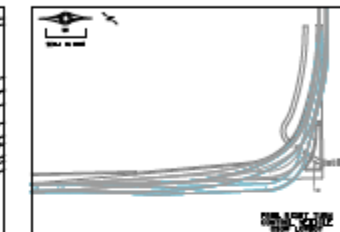
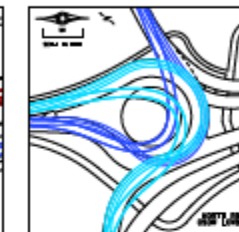
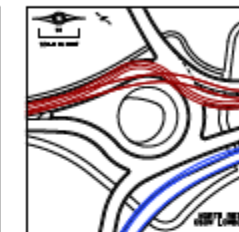
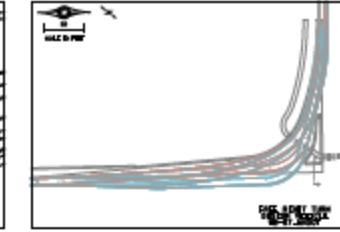
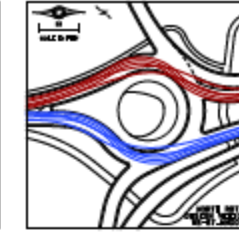
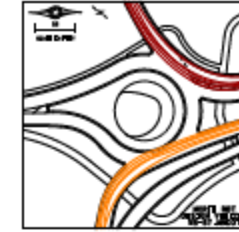
TH218 NORTH RBT - DIMENSIONS



INSET A - ALIGNMENT



INSET B - ALIGNMENT



APPROACH	CURVE	RADIUS (FT)	E (FT/FT)	SPEED (MPH)
NB US 218	R1	261	2.0	29.5
	R2	78	-2.0	17.1
	R3	*	2.0	33.1
	R4	55.5	-2.0	15.1
	R5	196	2.0	26.4
EB SW RAMP	R1	213	2.0	27.3
	R2	80	-2.0	17.3
	R3	*	2.0	33.1
	R4	55.5	-2.0	15.1
	R5	128	2.0	22.4
SB US 218	R1	162	2.0	24.5
	R2	123	-2.0	20.3
	R3	*	2.0	34.8
	R4	55.5	-2.0	15.1
	R5	100	2.0	20.4

ALL SPEEDS ARE BASED ON NCHRP 672 EQUATIONS.  
\* MEASURED AS V2+ACCELERATION

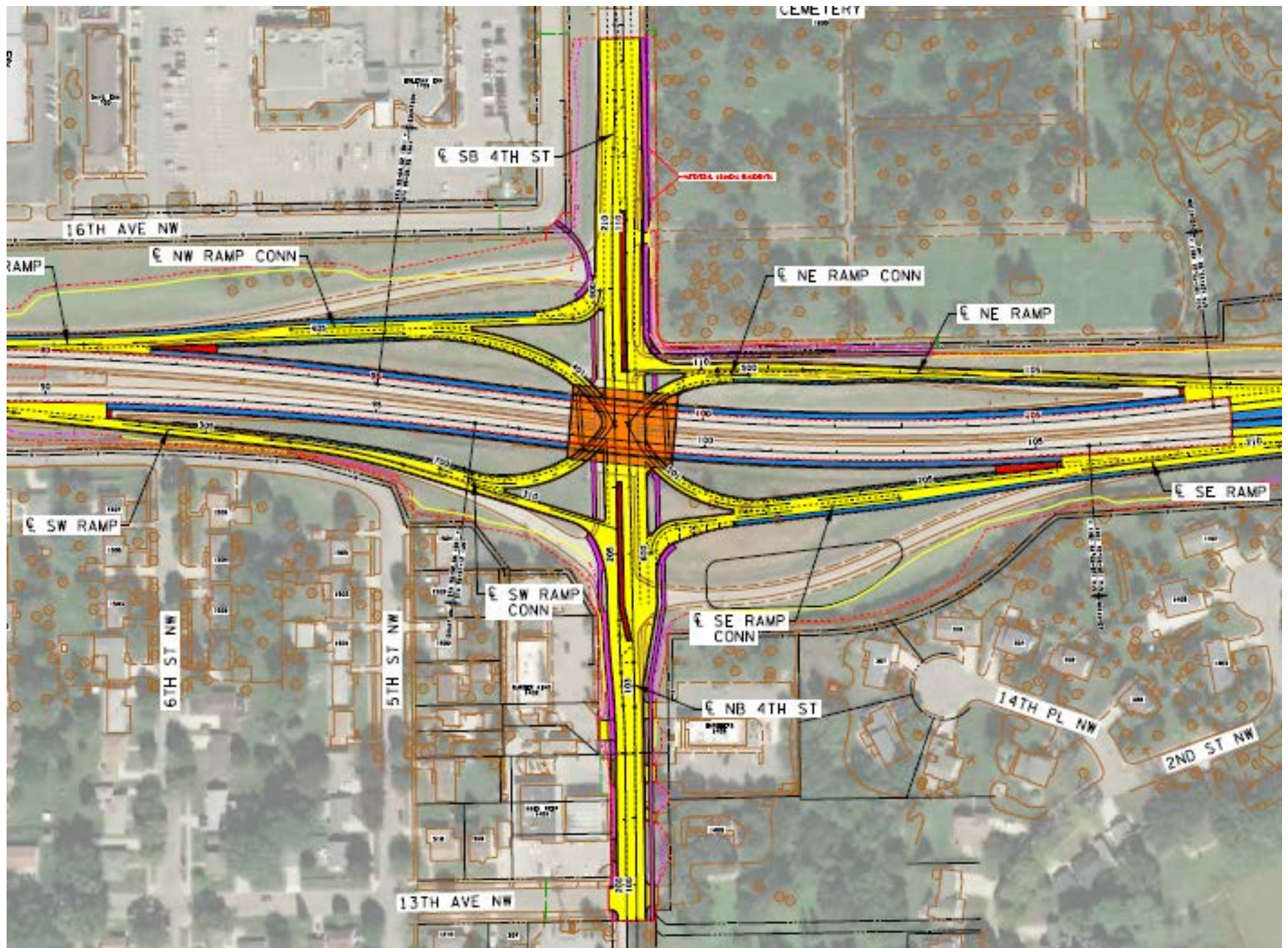
APPROACH	CURVE	RADIUS (FT)	E (FT/FT)	SPEED (MPH)
NB US 218	R1	154	2.0	24.1
	R2	82	-2.0	17.5
	R3	*	2.0	33.2
	R4	55.5	-2.0	15.1
	R5		2.0	
SB US 218	R1	252	2.0	29.1
	R2	134	-2.0	20.9
	R3	*	2.0	35.2
	R4	55.5	-2.0	15.1
	R5	127	2.0	22.3
WB NE RAMP	R1	133	2.0	22.8
	R2	50	-2.0	14.6
	R3	*	2.0	31.8
	R4	55.5	-2.0	15.1
	R5	138	2.0	23.1

ALL SPEEDS ARE BASED ON NCHRP 672 EQUATIONS.  
\* MEASURED AS V2+ACCELERATION

	NB US 218	EB SW RAMP	SB US 218
"SPEED DIFFERENCE (CONSECUTIVE V1-V2)"	12.4	10.0	4.2
"SPEED DIFFERENCE (V1 W/ CONFLICTING V5)"	3.1	4.9	4.2
"SPEED DIFFERENCE (V1 W/ CONFLICTING V4)"	14.4	12.1	9.4

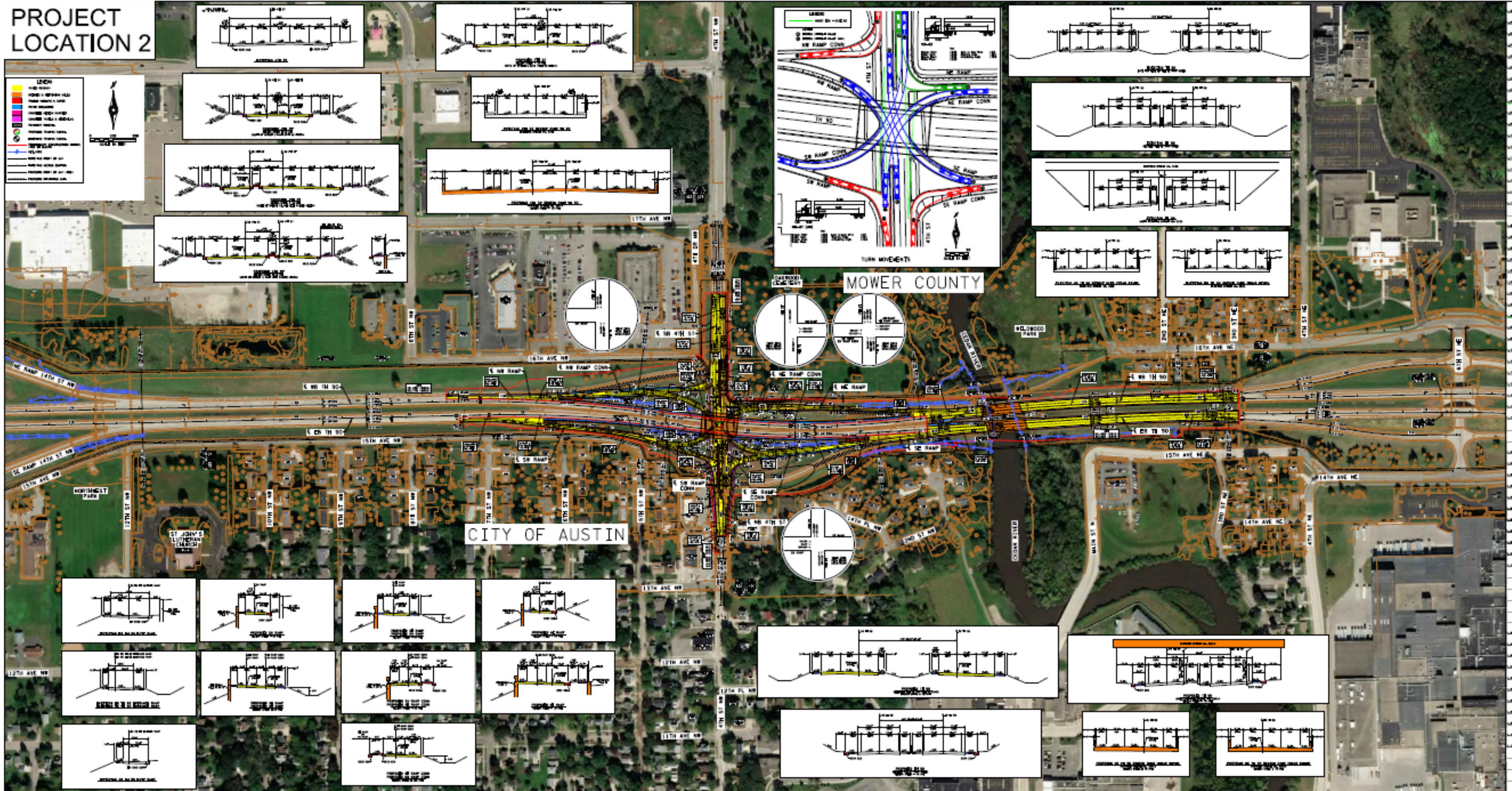
	NB US 218	SB US 218	WB NE RAMP
"SPEED DIFFERENCE (CONSECUTIVE V1-V2)"	6.6	8.2	8.2
"SPEED DIFFERENCE (V1 W/ CONFLICTING V5)"		6.8	0.3
"SPEED DIFFERENCE (V1 W/ CONFLICTING V4)"	8.9	14.0	7.6







## PROJECT LOCATION 2









**LEGEND**

- EXISTING ROADWAY
- PROPOSED ROADWAY
- PROPOSED DRIVE & UTILITY LAYOUT
- PROPOSED DRIVEWAY
- PROPOSED SIDEWALK
- PROPOSED LANDSCAPE LIGHTS
- PROPOSED STREET LIGHTS
- PROPOSED UTILITIES
- PROPOSED DRIVEWAY
- PROPOSED DRIVEWAY

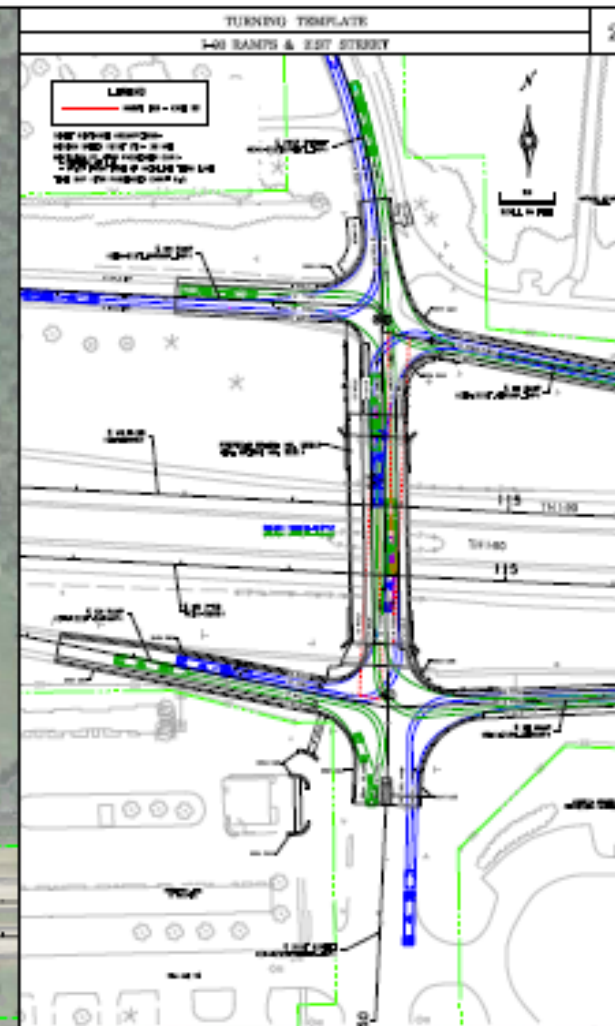
**FINAL**  
3/15/2022  
ISTHMUS ENGINEERING

# TH 218 / I-90 INTERCHANGE

MOWER COUNTY

INSET #2

CITY OF AUSTIN



21ST STREET

TRAFFIC  
← →

NW RAMP

TRAFFIC  
→

SW RAMP

TRAFFIC  
→



City of Austin  
500 Fourth Avenue N.E.  
Austin, Minnesota 55912-3773



Steven J. Lang, P.E.  
City Engr./Public Works Dir.  
507-437-9949  
Fax 507-437-7101  
slang@ci.austin.mn.us

## Memorandum

**To:** Mayor & Council  
**From:** Steven J. Lang, P.E.  
**Date:** August 24, 2022  
**Subject:** I-90 Bridge Replacement Project  
Noise Study

---

When Interstate 90 was construction through Austin in 1959 it bisected neighborhoods as it meandered through the northern side of the community. Since then, areas around the interstate have continued to develop and fill in with both commercial and residential development. When MnDOT initiates a project, such as the I90 Bridge Replacement Project through Austin, they utilize criteria to determine if the project meets the threshold for a noise study. The following criteria are used for a Type 1 (23 CFR 772.5) analysis to determine if a noise study is warranted:

- 1) The construction of a highway on new location; or
- 2) (i) The physical alteration of an existing highway where there is a substantial horizontal alteration. A project halves the distance between the traffic noise source and the closest receptor between the existing condition to the future build condition; or  
(ii) The physical alteration of an existing highway where there is substantial vertical alteration. A project that removes shielding, therefore exposing the line-of-sight between the receptor and the traffic noise source. This is done by either altering the vertical alignment of the highway or by altering the topography (not including the addition or removal of vegetation) between the highway traffic noise source and the receptor; or
- 3) Bridge replacement projects that satisfy item (2) above; or
- 4) The addition of a through-traffic lane that functions as HOV lane, contraflow lane, High-Occupancy Toll Lane, bus lane, or truck climbing lane; or
- 5) The addition of an auxiliary lane, except for when the auxiliary lane is a turn lane; or
- 6) The addition or relocation of interchange lanes or ramps added to a quadrant to complete an existing partial interchange; or
- 7) Restriping existing pavement for the purpose of adding a through traffic lane or an auxiliary lane; or
- 8) The addition of a new or substantial alteration of a weigh station, rest stop, ride-share lot, or toll plaza.

Criteria 2(i), 2(ii) and 3 are the items that generally apply to our project. MnDOT has reviewed these criteria for each bridge replacement and determined that these projects do not meet the threshold for a noise study. Here is a snippet from the MnDOT evaluation:

### Type 1 (23 CFR 772.5) Analysis

Table 3 includes the Type 1 Project (23 CFR 772.5) analysis for the reconstruction of the 4<sup>th</sup> Street interchange.

**Table 3. 4<sup>th</sup> Street Interchange**

23 CFR 772.5 Conditions	Responses
(1) The construction of a highway on new location; or,	The proposed reconstruction of the 4 <sup>th</sup> Street interchange does not include construction of a highway on a new location.
(2)(i) The physical alteration of an existing highway where there is a substantial horizontal alteration. A project that halves the distance between the traffic noise source and the closest receptor between the existing condition to the future build condition; or,	<p>The 4<sup>th</sup> Street bridge would be replaced along the existing 4<sup>th</sup> Street alignment.</p> <p>The tight diamond interchange with traffic signals includes construction of turn lanes and a center median on 4<sup>th</sup> Street south of I-90. The existing curb line on the west side of 4<sup>th</sup> Street would be maintained. Construction of the turn lanes and center median moves the northbound 4<sup>th</sup> Street alignment to the east, closer to a restaurant/bar (Hardee's).</p> <p>The distance from the façade of the restaurant to northbound 4<sup>th</sup> Street under existing conditions is approximately 59 feet. The distance from the façade of the restaurant to northbound 4<sup>th</sup> Street under Build conditions is 46 feet. The project would not halve the distance between northbound 4<sup>th</sup> Street and the adjacent restaurant.</p> <p>The proposed 4<sup>th</sup> Street interchange does not include a substantial horizontal alteration.</p>
(2)(ii) The physical alteration of an existing highway where there is a substantial vertical alteration. A project that removes shielding, therefore exposing the line-of-sight between the receptor and the traffic noise source. This is done by either altering the vertical alignment of the highway or by altering the topography (not including the addition or removal of vegetation) between the highway traffic noise source and the receptor; or,	<p>The proposed reconstruction of 4<sup>th</sup> Street south of I-90 and replacement of the 4<sup>th</sup> Street bridge would increase the vertical profile of the roadway by approximately 0.8 feet. There is no change in vertical profile along 4<sup>th</sup> Street north of I-90.</p> <p>Commercial receptors along 4<sup>th</sup> Street south of I-90 are at the same elevation as the roadway. Residential receptors in the southeast and southwest quadrants of the I-90/4<sup>th</sup> Street interchange are at the same elevation or greater than 4<sup>th</sup> Street. There are no existing berms or elevated topography between 4<sup>th</sup> Street, the 4<sup>th</sup> Street interchange ramps, and nearby receptors. The proposed project will be designed to match existing topography.</p> <p>Because there is no shielding between nearby receptors and 4<sup>th</sup> Street, increasing the 4<sup>th</sup> Street vertical profile by approximately 0.8 feet will not expose the line-of-sight between nearby receptors and the highway.</p> <p>The proposed reconstruction of the 4<sup>th</sup> Street interchange does not include a substantial vertical alteration and would not remove shielding from adjacent receptors.</p>
(3) Bridge replacement projects that satisfy item (2), above; or,	See the responses to (2)(i) and (2)(ii) above.

If Council believes that a noise study is warranted, the city will need to initiate a study to determine noise levels, apply for State grant funding and develop plans & specifications for the project. If we focus on the Pasture Heights neighborhood, located on the south side of I90 between 4<sup>th</sup> Street NW and the Cedar River, we would estimate the following costs:

- \$35,000 Noise Study
- \$1M-\$1.5M Noise Wall Construction (1200 lf @ 20 ft)
- \$200K-\$300K Engineering
- \$1.285M-\$1.835M Total Project

MnDOT has a “Greater Minnesota Standalone Noise Barrier Program” to provide a pathway for outstate communities to become eligible for state-funded noise barrier projects. It is a competitive application process, in which, applications are accepted annually between Oct. 1 through Dec. 31. If the project meets MnDOT’s Noise Policy standards for a stand-alone noise barrier, local authorities must agree to contribute 10% of the total costs of the construction. In addition, local authorities will also be responsible for the construction contract costs, which is typically 8% of the local authority’s share of the construction costs. [\\$250K-\\$350K, Local Share \(18%\)](#)

The local share could be funded using any of the following:

- 1) Assessments, benefitting property owners pay all costs
  - a. Estimated 25 benefitting properties
  - b. Benefit decreases as you move away from the Interstate
  - c. Assessment of \$10K-\$20K depending upon benefit
- 2) Tax levy, costs spread out amongst all city residents
- 3) Fund 49, local street fund, funding using assessments, tax levy and other proceeds

Typically traffic noise is most noticeable when the noise generator is at the same elevation as the receptor. How does the Pasture Heights neighborhood compare with other residential neighborhoods....see attached photos of these neighborhoods:

- 1) Pasture Heights Addition, 1,200 lf noise wall
- 2) Carlotto Addition, 2,400 lf noise wall
- 3) Wildwood Park Addition, 1,000 lf noise wall

These photos below show there are other areas of I90 through Austin with potentially similar noise concerns. Please review the information in preparation of further discussion at the upcoming hearing to be held at the Council Meeting on Tuesday, September 6<sup>th</sup>. Please feel free to contact me if you have any questions.



Pasture Heights Addition  
South side of I90, 4<sup>th</sup> St. NW to Cedar River

Aerial View

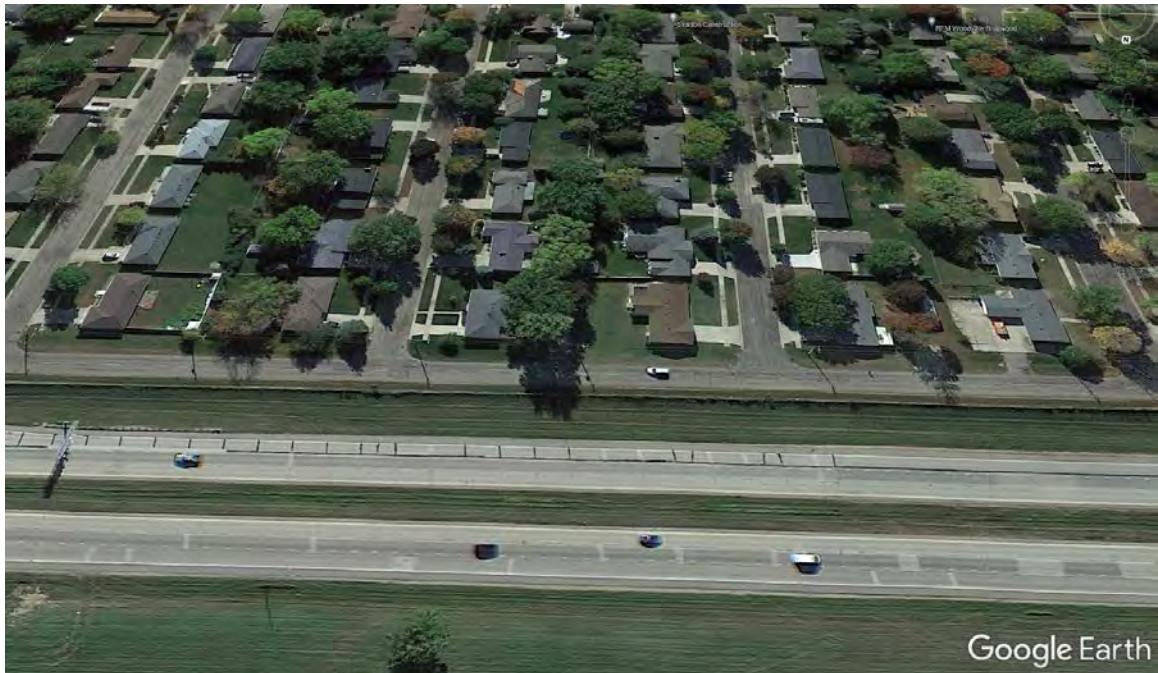


Side View



Carlotto Addition  
South side of I90, 4<sup>th</sup> St. NW to 12<sup>th</sup> St. NW

Aerial View



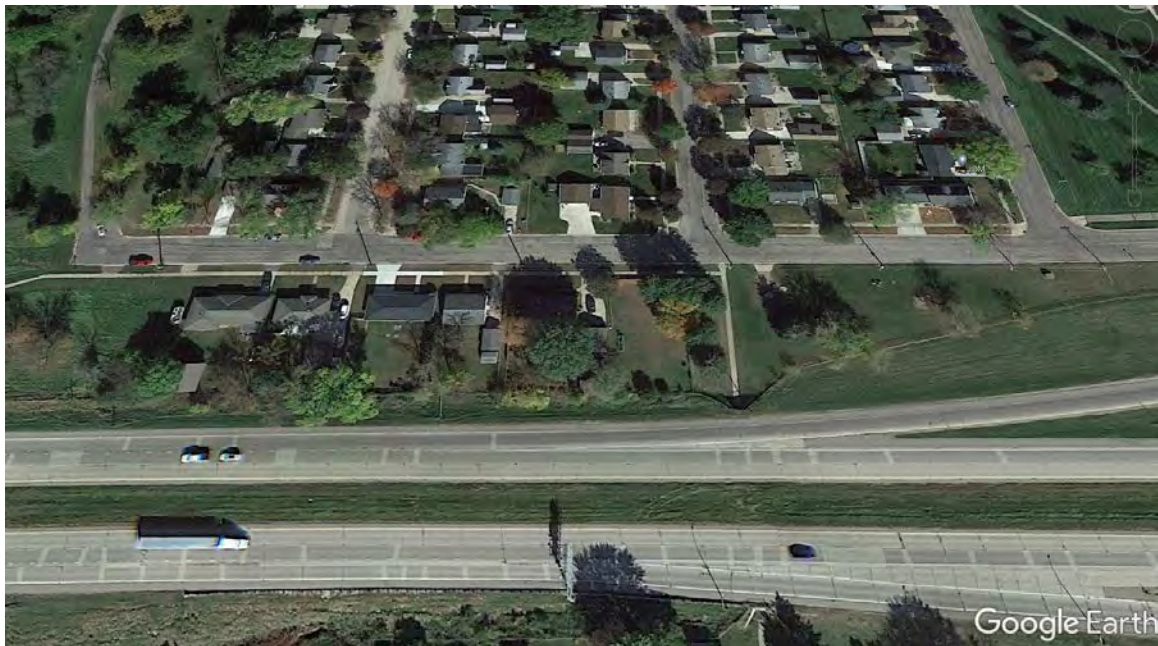
Side View





Wildwood Park  
North side of I90, 1<sup>st</sup> St. NE to 4<sup>th</sup> St. NE

Aerial View



Side View





## Steven Lang

---

**From:** Steven Lang  
**Sent:** Wednesday, August 17, 2022 7:41 AM  
**To:** Council Members  
**Cc:** Mitch Wenum (MitchW@ci.austin.mn.us)  
**Subject:** I90 Cedar River Bridge Reconstruction

Mayor & Council,

As part of the Cedar River Bridge replacement over I90, contractors will need to construct new piers in the river. In order to build in the water, the contractor will need to construct a coffer dam. A coffer dam is a water tight encloser placed in the water. The water is pumped out and allows workers to construct the bridge piers in the river bed below normal water line of the river....photos below.

These coffer dams have the potential to displace the normal flow of water. If we were to have a flood during construction, this displacement of water would likely cause an increase of water levels upstream of the bridge construction. It is estimated that for a 100-yr flood, water surface elevations would increase by 0.5 ft upstream. We are working with MnDOT to minimize the risk of a flood occurring during construction. One option is to only allow the coffer dam during the months of October through March when history of flooding is less likely. Another option is to work with property owners upstream to determine if a 0.5 ft increase creates any adverse impacts and if so, develop a way to mitigate those potential impacts. We will continue to work with MnDOT to find a solution to allow bridge construction while minimizing the flood impact risk.

I bring this to your attention, because this will likely be brought up at the public hearing on September 6<sup>th</sup> and I wanted to provide you with some background on the topic. Please let me know if you have any questions prior to the meeting. Thanks





**Steven J. Lang, P.E.**  
**City Engr./Dir. Public Works**  
City of Austin  
500 Fourth Avenue N.E.  
Austin, Minnesota 55912-3773



## MEMORANDUM

TO: Steven Lang, PE – City Engineer / Director of Public Works  
City of Austin

FROM: Brad Woznak, PE,PH,CFM (Lic. MN,WI,IA,NE,CO,SD,IN)  
SEH

DATE: February 1, 2022

RE: Replacement of I-90 Bridge over Cedar River - Review

We have reviewed the Draft Memorandum, dated January 20, 2022, for the hydraulic analysis of the proposed Interstate Highway 90 over the Cedar River prepared by SRF Consulting Group, Inc. The intent of the review is to evaluate the provided information for the potential impacts to the City's flood mitigation system, since the I-90 bridge is immediately upstream.

### REVIEW

In general, the analysis summary and results appear compliant with NFIP regulations and of a level of detail typical for analyzing a proposed crossing such as this, however a purely steady state analysis such as this, does not fully demonstrate the potential project effects on the downstream City of Austin FEMA accredited levee system.

The summary results for XS 16760 (upstream of I-90) do depict slight reductions in headwater elevation for the 50-, 100-, and 500-year events, which generally means that the proposed bridge is more hydraulically efficient and ultimately could pass more flow (and higher peak flow rates) downstream at similar or lower elevations than that of the existing structure.

The low chord of the I-90 bridge is proposed to be raised (minimally) to meet State water trail requirements for freeboard under various design events. A potential concern with this is the ability to pass additional floating debris downstream which could accumulate between the I-90 bridge and the 4<sup>th</sup> Avenue Dam, within the area of the City's levee system, resulting in additional risk to debris dams and resulting sudden water level increases.

In general, the main overall concern to the City's flood mitigation system is that the loss of freeboard could potentially affect a FEMA accredited levee system and result in increased risk to the area behind the levee. Based on the small magnitude of proposed changes and resulting headwater decrease for both the 100-year and 500-year events, the potential effects and impacts may be minimal but should be analyzed and quantified to the maximum extent practicable.

### RECOMMENDATIONS

We would recommend including an analysis of the existing versus proposed hydraulic capacity of the I-90 bridge along with an evaluation on the potential affects on the downstream levee system. Providing the

Memorandum  
February 1, 2022  
Page 2

existing versus proposed bridge rating curves along with the expected discharge capacity changes would aid in the determination of the potential effects on the City of Austin Levee system.

We would also recommend an evaluation of the potential for debris passage with the existing versus proposed structures to ensure any debris jam risks are not passed on to the downstream City of Austin levee system.

btw

Attachment

[https://sehincazure-my.sharepoint.com/personal/bwoznak\\_sehinc\\_com/documents/documents/1project/austn/i-90 review/seh i-90 review.docx](https://sehincazure-my.sharepoint.com/personal/bwoznak_sehinc_com/documents/documents/1project/austn/i-90%20review/seh%20i-90%20review.docx)





## Memorandum

SRF No. 13678.00

**TO:** Jai Kalsy, PE  
Principal Project Manager  
MnDOT District 6

**FROM:** Eric Roerish, PE  
Collin Smith, Engineer

**DATE:** DRAFT - January 20, 2022

**SUBJECT:** REPLACEMENT OF BRIDGE #6868/6869 (NEW BRIDGE #50812/50813) ON INTERSTATE HIGHWAY 90 – HYDRAULIC ANALYSIS OF PROPOSED BRIDGE CROSSINGS OF CEDAR RIVER

### Introduction

SRF Consulting Group, Inc. has completed a hydraulic analysis of the Interstate Highway 90 (I-90) crossing over Cedar River in Austin, MN. The crossing is in the south half of Section 34, Township 103N, Range 18W. The crossing will be replaced in-kind, with minor roadway profile adjustments at the location of the crossing. This memorandum discusses the hydraulic analysis of the proposed bridge replacement for I-90 and includes the Hydraulic Data Summary Sheet, Risk Assessment, and 'No-Rise' Certification.

### Existing Conditions Modeling

At the I-90 crossing, the Cedar River is flowing north to south. The Cedar River at this location is a State Water Trail. The existing conditions consist of two 3-span bridges 162' in length, each bridge carrying a separate direction of traffic across the river. Each bridge has two piers. The piers for east bound and west bound traffic align, so hydraulically there are two piers modeled at a width of 3.33'. The lowest low chord of the two existing I-90 bridges is 1200.12'.

There is also a pedestrian bridge approximately 35' upstream of the I-90 crossing. The piers for the pedestrian bridge also align with the I-90 piers. The pedestrian bridge low chord elevation is 1200.51'. No work is proposed on the pedestrian bridge.

The immediate upstream reach (600') is a well-defined channel with heavily vegetated overbanks. The edges of the floodplain are primarily wooded. The downstream reach is also well-defined and is occasionally confined through the City of Austin, MN by flood walls. The water level through the project reach is controlled by a dam located approximately 6,500' downstream of the I-90 bridge crossing.

The river and adjacent area are shown in published Flood Insurance Rate Map (FIRM) Map Number 27099C0186D which was revised to reflect a LOMR effective February 22, 2017, following modification to levees in the City of Austin. This information is compiled in Flood Insurance Study (FIS) 27099CV000A. These documents are attached to the end of this memorandum. The Cedar River through the project site is a

FEMA Zone AE with a designated Floodway and Flood Fringe. Immediately north of I-90 there are homes shown to be in the Floodway Fringe and areas of shallow flooding.

The regulatory FEMA model (AUSTN04\_Jan2016.prj) was received on August 31, 2020 from MnDNR. This model was made effective by FEMA on February 2, 2017.

The Corrected Effective model, generated to assess the current I-90 bridges and the proposed replacements, incorporates several updates to the Effective model. The updates include:

- Addition of cross-sections between RS16935 and RS30900 imported from the upstream Effective HEC2 model (AUSTN04.dat) received from MnDNR.
- The addition of the existing pedestrian bridge upstream of the I-90 crossing.
- Addition of cross-sections using project-specific survey data to accommodate the pedestrian bridge.
- Update of existing cross-sections upstream, downstream, and at the I-90 bridges using 2008 bathymetric survey data received from MnDOT on April 8, 2021.
- The modification of Manning's n values for consistency with adjacent cross sections and site conditions.
- The modification of the existing I-90 bridge abutment geometry and the pier skew to match record drawings.

Based on the hydraulic modeling analysis of the existing I-90 bridges using the Corrected Effective model, there is 1.40' of free board between the water surface and the low chord of the bridge during the 100-year flood event.



## Proposed Conditions Analysis Results

The proposed crossing of the Cedar River at I-90 is similar to the existing condition and includes two 3-span bridges **172'** in length, each bridge carrying a separate direction of traffic across the river. Piers in the proposed condition are shifted to align with the pedestrian bridge piers hydraulically. Each bridge has two square-nosed piers. The piers for eastbound and westbound traffic align so hydraulically there are two piers modeled at a width of 3.83'. The goal of the design is to provide three feet of freeboard in the 50-year event (State Water Trail requirement) and a minimum of one foot of freeboard in the 100-year event. The elevation of the low chord at its lowest point, 1200.78' on the west end of the bridge, was used to compute freeboard. A profile adjustment along I-90 was incorporated to raise the low chord and achieve this elevation. The extent to which the profile can be raised is limited by other constraining elements.

Headwater elevations at the location of the proposed crossing were collected from HEC-RAS Section 16760, which is located about 12 feet upstream of the proposed crossing under I-90.

@ Section 16760:	50-Year	100-Year	500-Year
Existing HW Elevation	1198.05	1198.72	1201.35
Proposed HW Elevation	1198.04	1198.71	1201.24
Proposed HW Increase	-0.01	-0.01	-0.11
Proposed Freeboard (ft)	2.74	2.07	-0.46

Based on the results displayed above, the proposed bridge replacement will meet the design goals, **will improve the conditions and functionality of this crossing, and will comply with FEMA and MnDNR requirements** for 'No-Rise' Certification (attached). While the 50-year freeboard calculated above is only 2.74', the bridges are sloped and approximately half of the span provides 3.0' freeboard for the 50-year event. Per discussions with Peter Leete, Transportation Hydrologist (DNR-MnDOT Liaison), the project meets the intent of the goal and no further modifications are required. The hydraulic data summary sheet (attached) contains all the standard hydraulic information for the design and other events.

Scour computations were completed for the proposed conditions using methods presented in Hydraulic Engineering Circular No. 18. Scour computations show a total 100-year scour depth of 16.5 feet (7.2 feet from contraction scour and 9.3 feet from pier scour). The 500-year scour computations show a total scour depth of 21.3 feet (11.6 feet from contraction scour and 9.7 feet from pier scour). The Live-Bed method and CSU method were most appropriate and were used to determine contraction and pier scour respectively.

The proposed scour code for this bridge is N (Stable Scour in Footing/Pile) as defined by the MnDOT Hydraulic Guidelines. Bridge foundations are determined to be stable for calculated scour conditions; calculated scour depth from the scour prediction equations is within limits of footing or piles.

## Permit Coordination

Permit coordination is ongoing and to be completed after watershed district, City, DNR, FEMA, and MnDOT draft memo review. To date, extensive coordination with DNR FEMA group and MnDOT Bridge Hydraulics has occurred for model updates, data and output review, and scour computations.

## Construction Staging

Design and coordination ongoing. Specific construction techniques, water surface profile requirements, and access locations will be determined within the next 6 months.

### CRS/EDR

Attachments (6):  
FIS DATA  
MnDNR LOMC Guide  
Hydraulic Data Summary Sheet  
HEC-RAS Results  
Risk Assessment  
'No-Rise' Certification

ATTACHMENTS REMOVED  
(SEE ORIGINAL DOCUMENT)

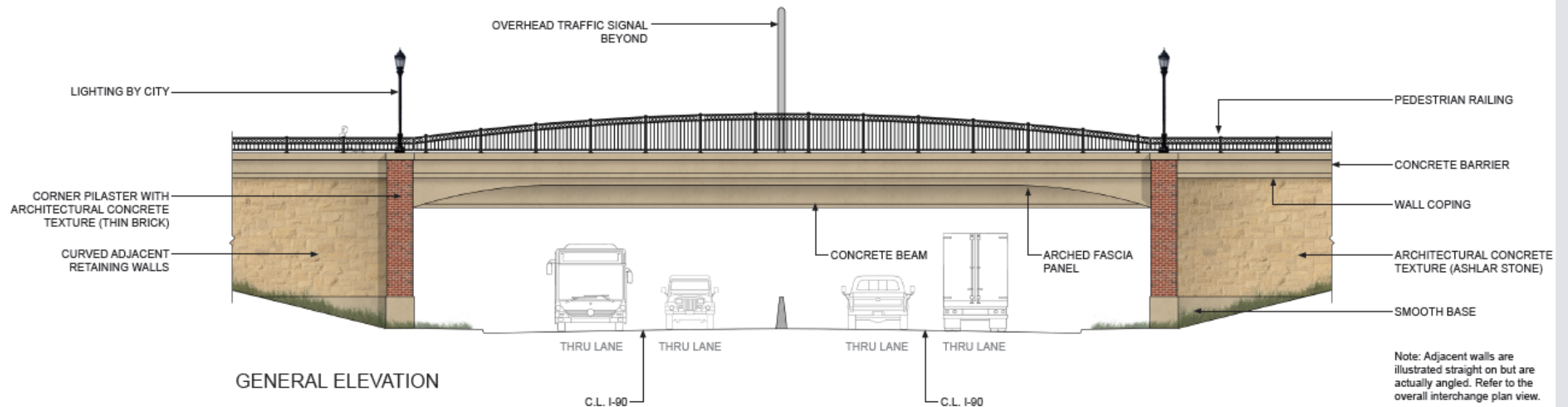
cc: Solomon Woldeamlak, MnDOT  
Salam Murtada, MnDNR  
Todd Piepho, MnDNR

pn:\srf-pw.bentley.com:srf-pw\Documents\Projects\13000\13678\09\_WaterResources\Doc\_WTR\13678\_HydraulicMemo.docx



# Austin I-90 Bridges Project

Municipal Consent Hearing  
September 6, 2022





# Agenda

## » Design Reviews

- Oakland Avenue (TH 105)
- 14<sup>th</sup> Street (US 281N)
- 4<sup>th</sup> Street
- 21<sup>st</sup> Street (US 218S)

## » Construction Phasing and Traffic Control



Jai Kalsy, MnDOT Project Manager  
Dave Nelson, SRF Project Manager



# Design Reviews





# Oakland Avenue (TH 105)



- » Bridge Replacement
- » New Trail on Bridge
- » Ramp Intersection Improvements

LEGEND	
	PAVED ROADWAY (NEW CONSTRUCTION)
	PAVED SHOULDERS
	PAVED DRIVEWAYS
	SIDEWALK
	SHARED USE PATH
	BRIDGE
	CURB & GUTTER/RAISED MEDIAN
	GRASS
	CONSTRUCTION LIMITS
	TRAFFIC MOVEMENTS



# 14<sup>th</sup> Street (US 218 N)



- » Eliminates traffic signals and improves safety
- » Allows traffic to flow on 14th during construction

- » Designed for large tractor/trailer rigs
- » Sufficient capacity for future growth

mndot.gov

LEGEND	
	PAVED ROADWAY & DRIVEWAYS
	BRIDGES
	RAISED MEDIANS & CURBS
	PAVED SHOULDERS
	SHARED USE PATH
	CONCRETE TRAILS & SIDEWALKS



# 4<sup>th</sup> Street

- » Bridge and Ramp Replacement
- » River Bridge Replacement

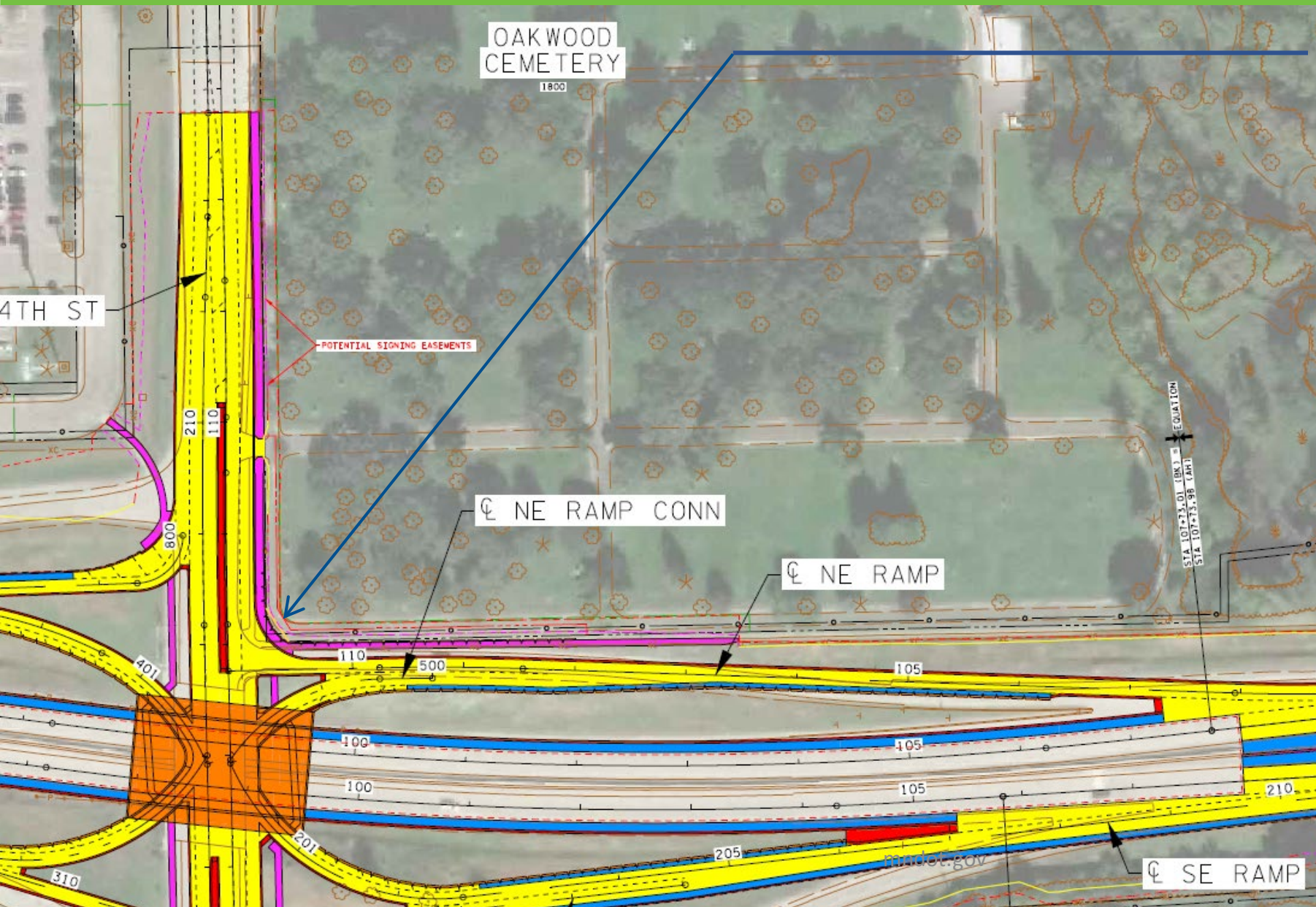
- » One Traffic Signal in Center of Bridge
- » Maximizes Traffic Flow
- » Walkways on both sides of 4th

## LEGEND

- PAVED ROADWAY (NEW CONSTRUCTION)
- PAVED SHOULDERS
- PAVED DRIVEWAYS
- SIDEWALK
- SHARED USE PATH
- BRIDGE
- CURB & GUTTER/RAISED MEDIAN
- GRASS
- CONSTRUCTION LIMITS
- TRAFFIC MOVEMENTS

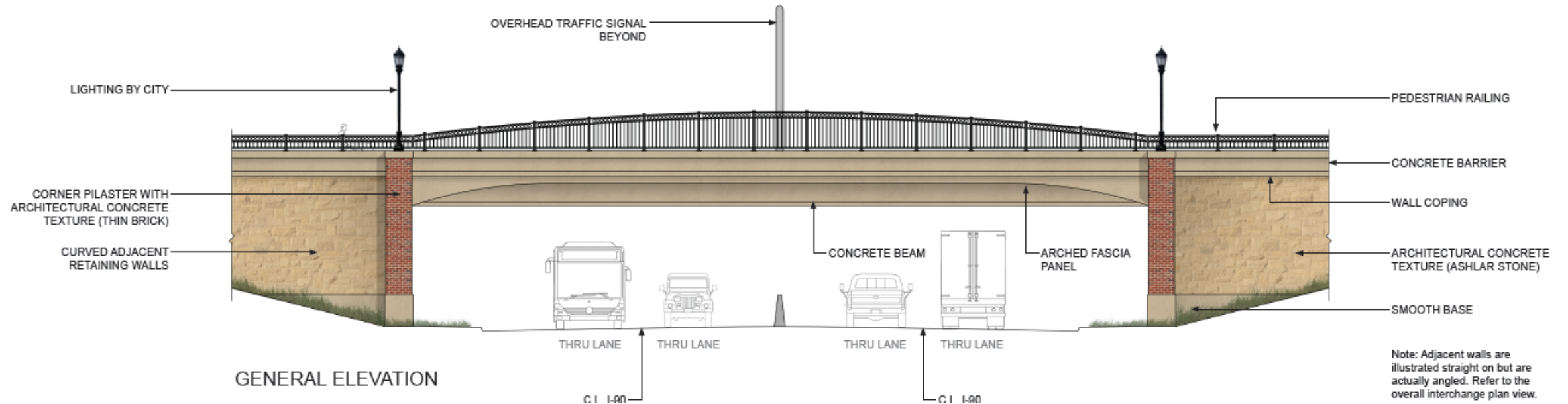
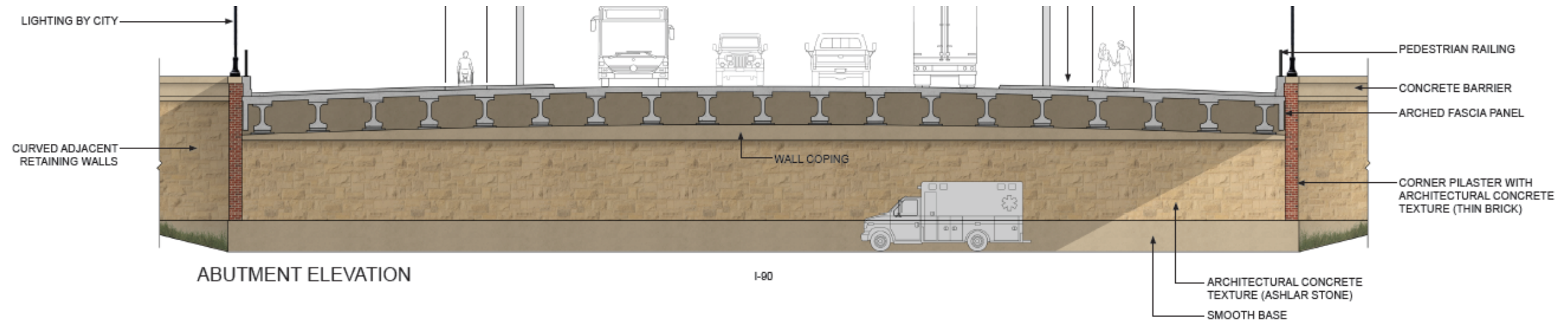


# 4<sup>th</sup> Street



- » Small Right of Way need
- » ADA work and turning movement

# Bridge and Wall Aesthetics – 4<sup>th</sup> Street

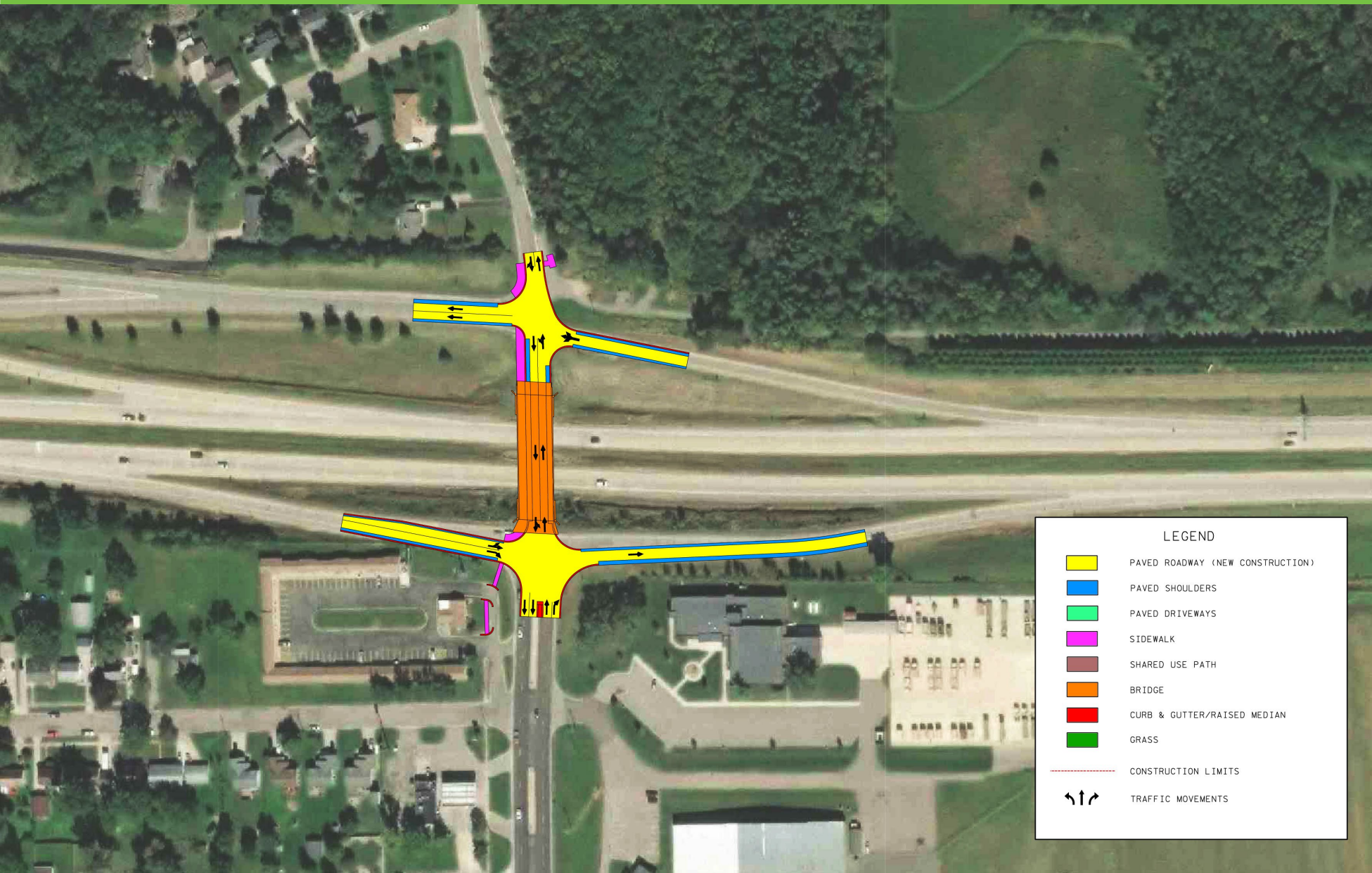


Note: Adjacent walls are illustrated straight on but are actually angled. Refer to the overall interchange plan view.



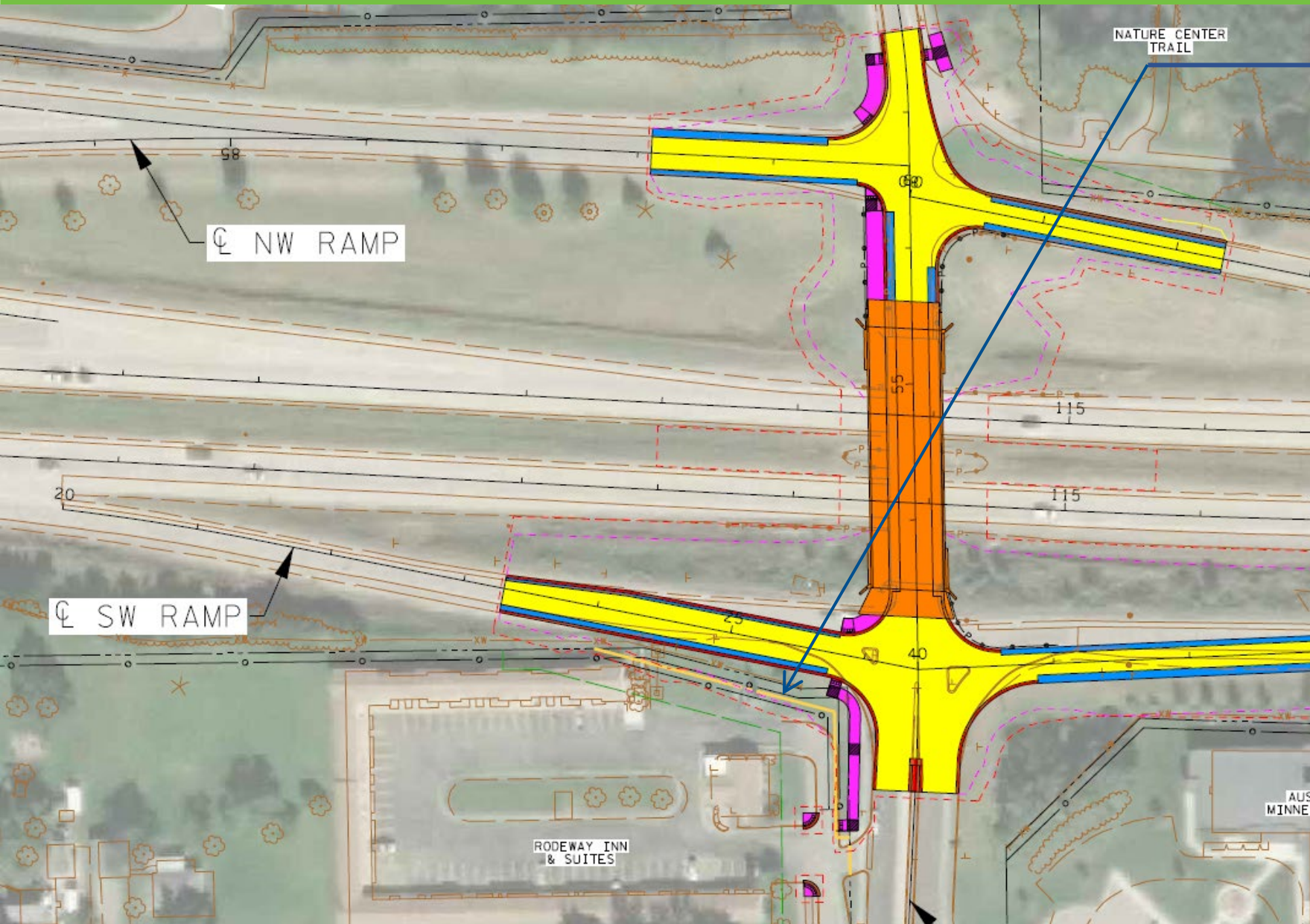
# 21<sup>st</sup> Street (US 218 S)

- » Bridge Replacement
- » New Trail on Bridge
- » Improved Ramp Intersections





# 21<sup>st</sup> Street (US 218 S)



- » Right of Way Need
- » ADA work
- » Improved Ramp Operations



# Construction Phasing and Traffic Control





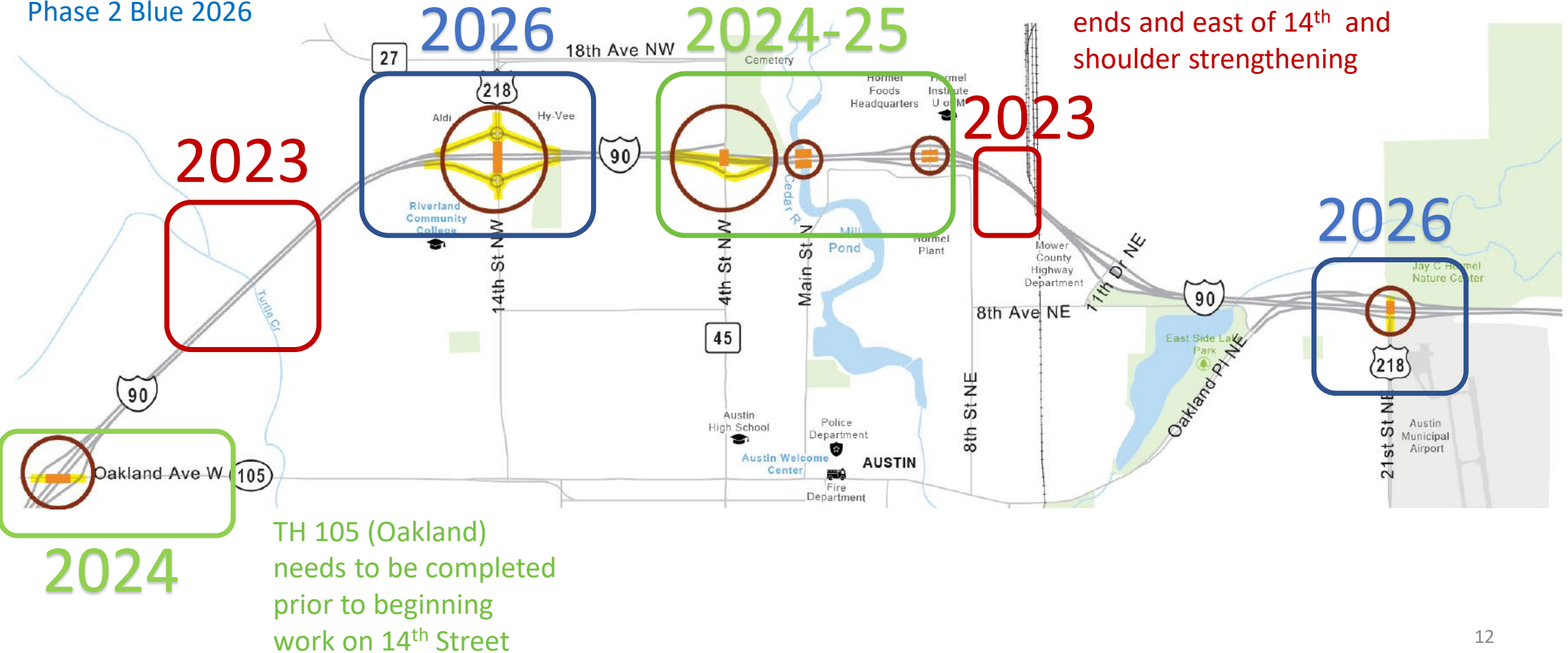
# I-90 Corridor Work Phases in SP 5080-170

X-overs Auburn Summer 2023

Phase 1 Green 2024-2025

Phase 2 Blue 2026

Cross-Over construction at both ends and east of 14<sup>th</sup> and shoulder strengthening





Thank you!

» MnDOT Project  
Manager

- Jai Kalsy
- [jai.kalsy@state.mn.us](mailto:jai.kalsy@state.mn.us)





## HOUSING TAX ABATEMENT APPLICATION

(Application Period 8-1-16 through 12-31-2022)

Property Owner / Applicant: Nicholas and Brianne Erickson

Current Address: 17603 177th St W Faribault MN 55021

Telephone: 507-440-6028

E-Mail: brianne.n.erickson@ampf.com

Has applicant ever defaulted on property taxes? ☒ Yes ☐ No If Yes, provide details on separate page(s).Are property taxes current? ☒ Yes ☐ NoProposed Project: ☒ New Construction ☐ Replacement of housing unitProject Type: ☒ Single Family ☐ Duplex ☐ Multi-familyProject Address:  
3302 6th St NE, Austin MN 55912Project Legal Description:  
RESIDENTIAL SubdivisionName NORTH MEADOWS THIRD Lot 003 Block 001 SubdivisionCd 34508  
AUSTIN MN 55912 OLD # 08.082.0030

Parcel Number: 34.508.0030

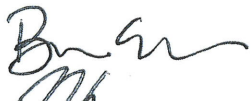

Estimated Project Valuation: \$ \$400,000

Applicant Statement:

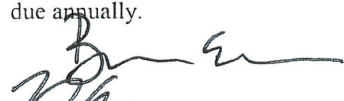

(Please provide a statement as to why you are requesting an abatement of property taxes.)

wanting to build larger home to provide space to accommodate family + home office given abatement is available wanted to utilize program

Attach building plans, site map, parcel information and parcel number. (Include letter of consent from property owner if subject to purchase agreement or include a copy of the purchase agreement.)

I / We as applicant(s) for the Housing Tax Abatement certify that **no construction** has begun or will begin **prior to the taxing authority's decision** on my/our application. For the purposes of this provision, construction shall include the installation of footings, slab, foundation, posts, walls or other portions of a building. Site preparation, land clearing or the installation of utilities shall not constitute construction.Construction  
Certification
 5/23/22  
 5/23/22  
 Signature of Applicant(s) Date

I / We as applicant(s) for the Housing Tax Abatement submit this application having read the policy and understand the provisions as outlined including, but not limited to, the potential of a partial abatement in year one, construction must commence within one year of the approval, assessors cannot be refused access to the property for assessment purposes and the abatement is awarded following full payment of real estate taxes due annually.

 5/23/22  
 5/23/22  
 Signature of Applicant(s) Date

FOR OFFICE USE ONLY: ELIGIBLE / APPLICABLE APPROVALS

Mower County

Date:

☐ City or ☐ Township of

Date:

School District of

Date:

**Disclaimer:** Each taxing entity makes its own decision on approval or denial of application for tax abatement. Applications must comply with all requirements of the policy/program as outlined in the policy/program guidelines and build within allotted timeframe or tax abatement offer will be automatically terminated. Building cannot start until such time as all taxing entities have approved and written authorization is provided.

Please submit completed application with attachments to:

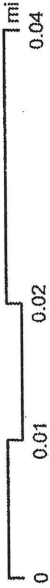
 Mower County Administration  
 201 1<sup>st</sup> Street NE, Suite 9, Austin MN 55912  
 507-437-9549  
 Office Hours: M-F 8 a.m. – 4:30 p.m.  
 deniseb@co.mower.mn.us



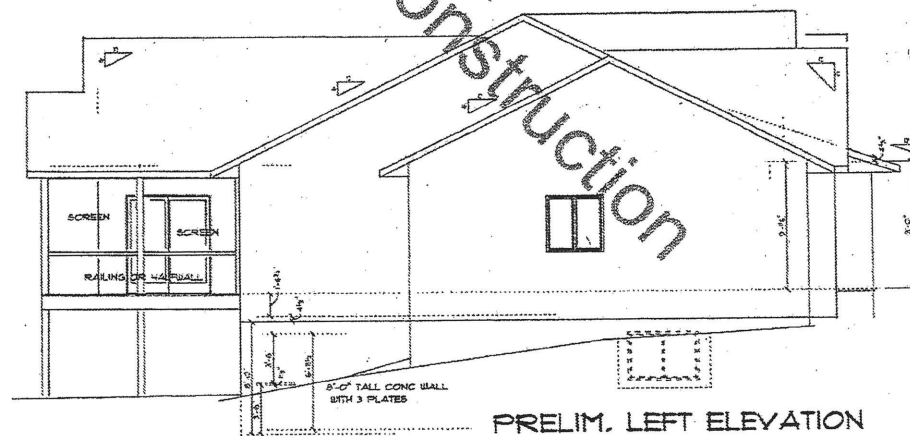
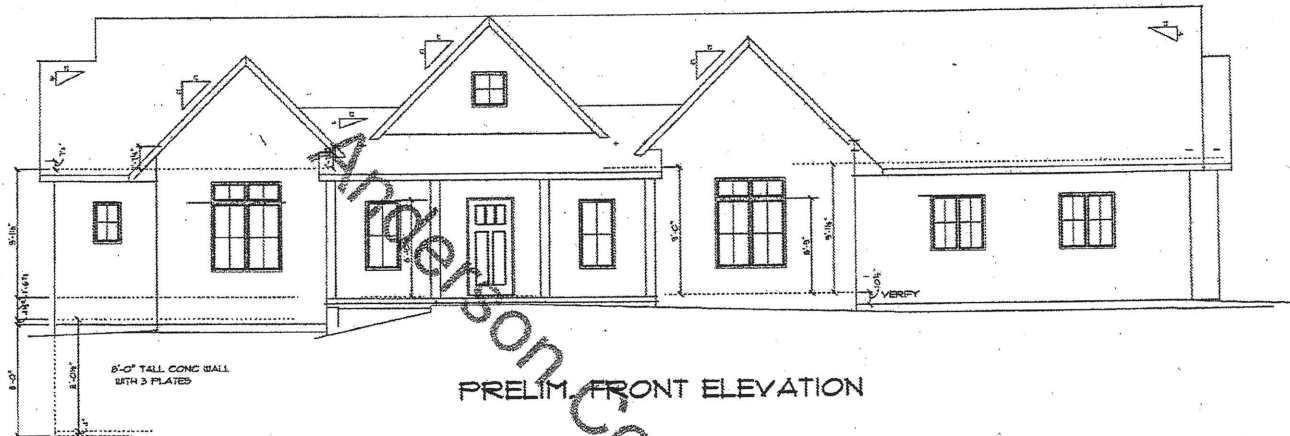


# Mower County Public GIS

Date/Time: 2/14/2022 11:26 AM

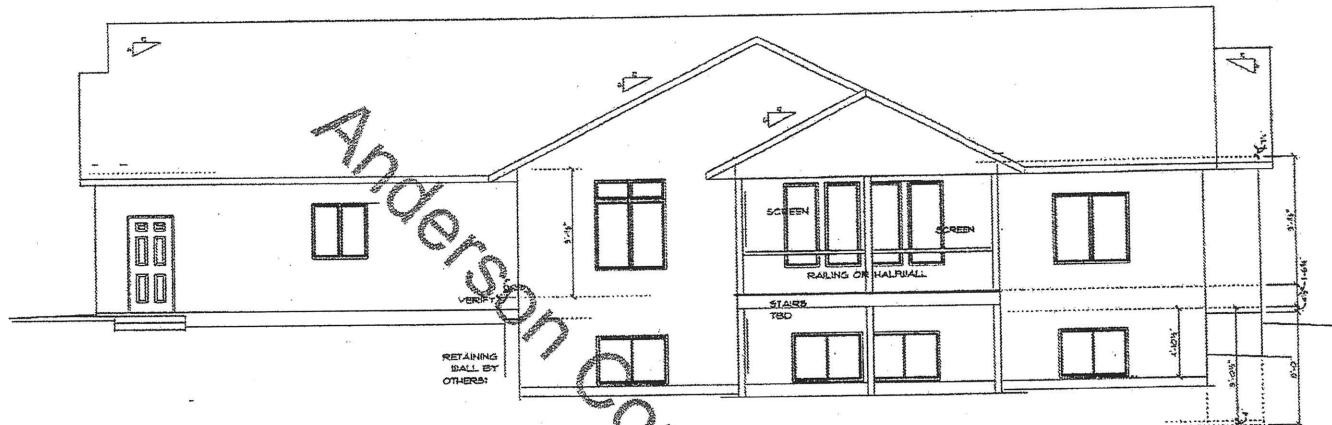


DISCLAIMER: Mower County, MN, makes no representation or warranty, express or implied, with respect to the use or reuse of the data provided hereon, regardless of its format or the means of its transmission. THE DATA IS PROVIDED "AS IS" WITH NO GUARANTEE OR REPRESENTATION ABOUT THE ACCURACY, CURRENTCY, SUITABILITY, OR FITNESS FOR ANY PURPOSE. Mower County, MN, is not responsible for any direct, indirect, special, incidental, compensatory or consequential damages or third party claims resulting from the use of this data, even if Mower County, MN, has been advised of the possibility of such potential loss or damage. This data may not be used in states that do not allow the exclusion or limitation of incidental or consequential damages.

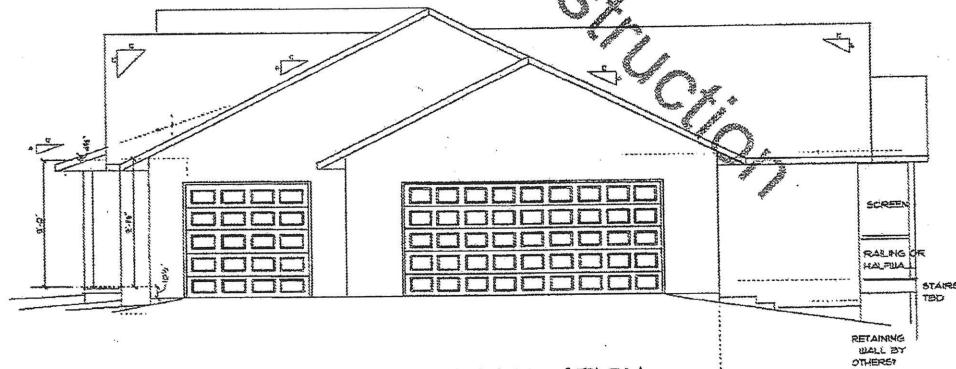


4/8  
7/26/22



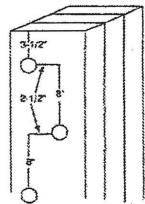
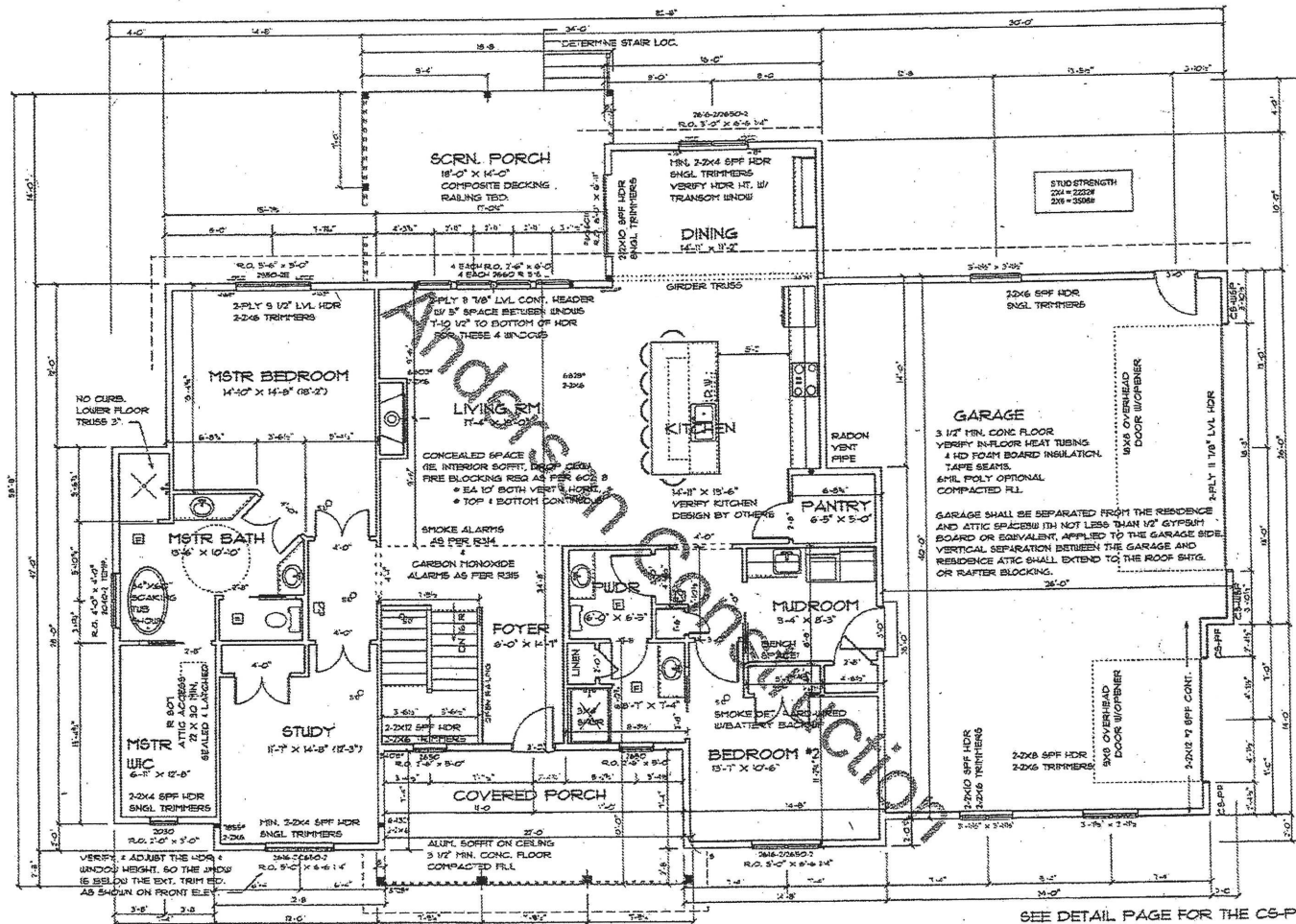


PRELIM. REAR ELEVATION



PRELIM. RIGHT ELEVATION

1/8"  
7/26/22



THREE 2"x6" LAMINATIONS WITH  
TWO ROWS OF 30d COMMON WIRE  
NAILS (D=0.207, L=4-1/2")

# YP NAILING SCHEDULES FOR BUILT-UP COLUMNS

ATTIC ACCESS PANEL  
5/8" TYPE X GYP SCREWED TO 3/4" PLYWOOD BACKER  
HINGED IN PLACE BY LATCHING DEVICE  
PANEL TO OPEN LESS THAN 90 DEGREE

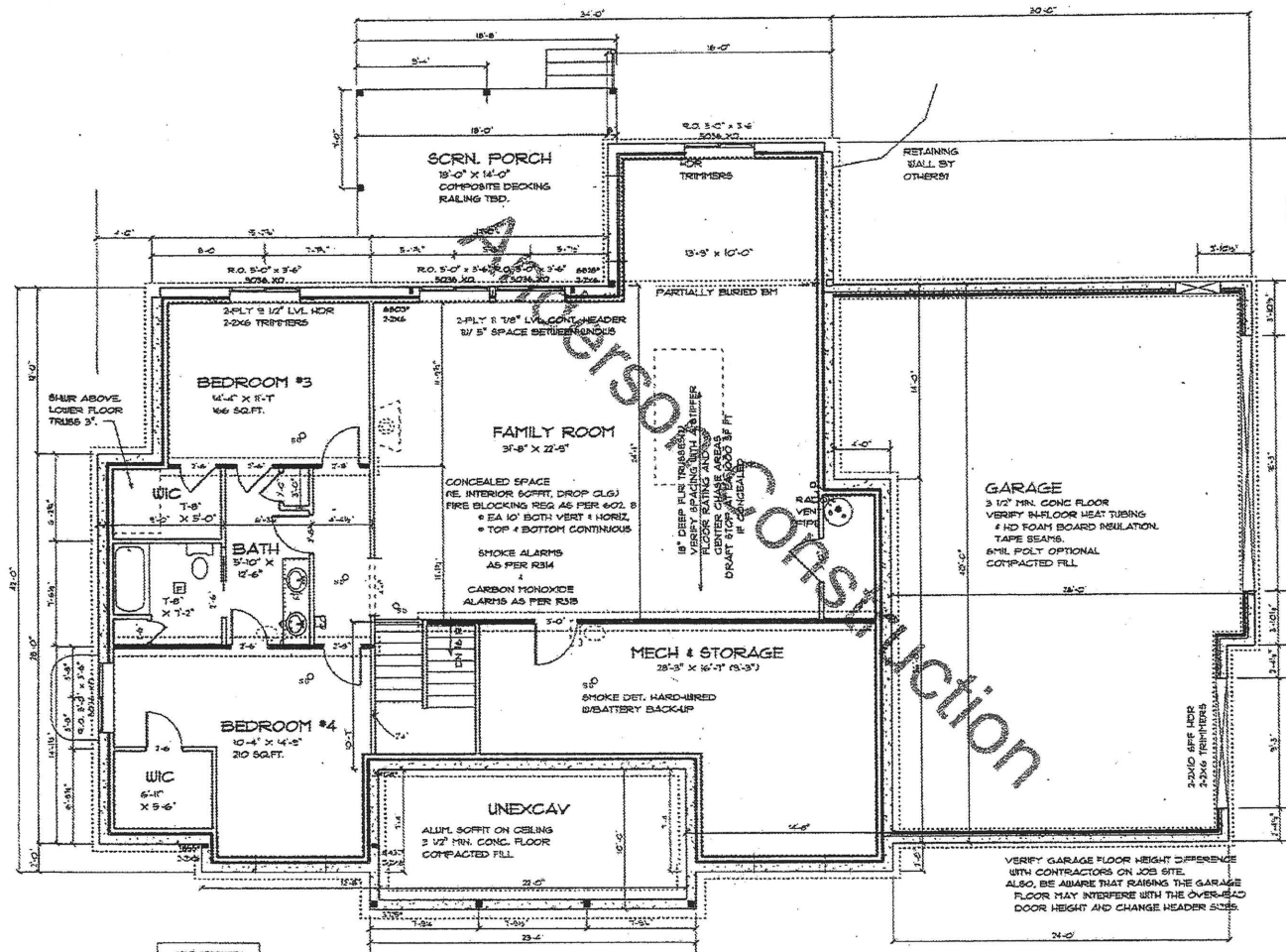
22 X 30 MINIMUM ACCESS  
HINGES MOUNTED TO  
PLYWOOD BACKER  
TYPICAL ROOF TRUSS  
2 X - BOTTOM CHORD

## FLOOR PLAN

2260 SQ.FT.

1/8  
7/26/22





GARAGE SHALL BE SEPARATED FROM THE RESIDENCE AND ATTIC SPACES WITH NOT LESS THAN 1/2" GYP BOARD OR EQUIVALENT, APPLIED TO THE GARAGE. VERTICAL SEPARATION BETWEEN THE GARAGE AND RESIDENCE ATTIC SHALL EXTEND TO THE ROOF OR Rafter BLOCKING.

1/8"  
7/26/22

**CITY OF AUSTIN  
COUNTY OF MOWER  
STATE OF MINNESOTA**

**NOTICE OF PUBLIC HEARING  
ON TAX ABATEMENT REQUEST**

NOTICE IS HEREBY GIVEN that the City Council (the "Council") of the City of Austin, Mower County, Minnesota, will hold a public hearing on Tuesday, September 6, 2022 at 5:30 p.m. to consider a tax abatement request from Nicholas and Brianne Nelson, pursuant to Minnesota Statutes 469.1813 and 116J.993 through 116J.995. The request is to abate 100% of the City's portion of real estate taxes related to the new residential improvements on the subject property for a period of 5 years. The estimated amount of the abatement is \$10,280. The subject property is located at 3302 6<sup>th</sup> Street NE, Austin, Minnesota and is legally described as:

Lot 3, Block 1, North Meadows Third Addition, City of Austin, County of Mower

The public hearing will be held in the City Council Chambers, at City Hall, 500 4<sup>th</sup> Avenue NE, Austin, Minnesota. All interested persons are invited to attend and be heard. Those unable to attend are invited to send written comments, prior to the hearing, to: City Administrator, City of Austin, 500 4<sup>th</sup> Avenue NE, Austin, Minnesota 55912.

Publish: August 27, 2022



## **RESOLUTION NO.**

### **RESOLUTION APPROVING TAX ABATEMENT FOR CERTAIN PROPERTY PURSUANT TO MINN. STAT. 469.1813**

**WHEREAS**, the Austin Home Initiative's purpose is to provide incentives to encourage the construction of new owner occupied and residential housing units within the City of Austin for the public benefit including, but not limited to, capturing future taxes from units that would not have otherwise been constructed and increasing housing inventory to support local business growth.

**WHEREAS**, Minnesota Statute 469.1813 gives authority to the City of Austin to grant an abatement of taxes imposed by the City if certain criteria are met; and

**WHEREAS**, in addition to the statutory requirements, the City of Austin has adopted the Austin Home Initiative guidelines which must be met before an abatement of taxes will be granted for residential development; and

**WHEREAS**, Nicholas and Brianne Erickson are the owners of certain property within the City of Austin legally described as follows:

Lot 3, Block 1, North Meadows Third Addition to the City of Austin, County of Mower

**WHEREAS**, Nicholas and Brianne Erickson have made application to the City of Austin for the abatement of taxes as to the above-described parcel; and

**WHEREAS**, Nicholas and Brianne Erickson have met the statutory requirements outlined under Minnesota Statute 469.1813 Subdivision (1) and Subdivision 2(i) as well at the Austin Home Initiative guidelines for abatement;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Austin, Minnesota:

The City of Austin does hereby grant an abatement of the City of Austin's share of real estate taxes upon the above-described parcel for the construction of a single family dwelling on the subject property.

The tax abatement will commence with the receipt of the Certificate of Occupancy, or not more than one year following approval of the taxing authority's resolution, whichever is first, and shall continue for five years.

The City shall provide the awarded abatement payments following the payment of due real estate taxes annually. Payments shall be made to the owner of record at the time of the payment.

The tax abatement shall be limited to the increase in property taxes resulting from the improvement of the property. Land values are not eligible and will not be abated.

The abatement shall be null and void if construction is not commenced within one year of the approval of this resolution or if the real estate taxes are not paid on or before the respective payment deadlines annually.

Passed by a vote of yeas and nays this 6th day of September, 2022.

Yeas

Nays

ATTEST:

APPROVED

---

City Recorder

---

Mayor



## § 6.34 TOBACCO and EDIBLE CANNABINOID PRODUCTS.

Subd. 1. *Purpose and intent.*

- A. *Tobacco.* Because the city recognizes that many retailers sell tobacco, tobacco products, tobacco related devices, electronic delivery devices, and nicotine and lobelia delivery products to persons under the age of 21; and because sales to persons under the age of 18 are violations of both state and federal laws; and because studies, which the city hereby accepts and adopts, have shown that youth use of any commercial tobacco product has increased to 26.4% in Minnesota; and because nearly 90% of cigarette users begin smoking before they have reached the age of 18 years, and that almost no one starts smoking after age 25; and because commercial tobacco use has been shown to be the cause of several serious health problems which subsequently place a financial burden on all levels of government; this section shall be intended to regulate the sale of tobacco, tobacco products, tobacco related devices, electronic delivery devices, and nicotine and lobelia delivery devices for the purpose of enforcing and furthering existing laws, to protect youth and young adults against the serious effects associated with the use and initiation of commercial tobacco products and to further the official public policy of the state in regard to preventing young people from starting to smoke as stated in M.S. § 144.391, as it may be amended from time to time.
- B. *Edible Cannabinoid Products.* The rapid introduction of newly legalized Edible Cannabinoid Products (defined below), presents a significant potential threat to the public health, safety, and welfare of the residents of the City of Austin, and particularly to youth. It is vital to take reasonable steps to mitigate this threat and reduce exposure of young people to the products and the marketing of the products. The United States Surgeon General has issued an advisory to alert the public to the known and potential harms to developing brains posed by the increasing availability of highly potent tetrahydrocannabinol in multiple, concentrated forms, and the reasons for concerns with the increasing use of such chemicals by pregnant women, adolescents, and youth. The National Academies of Science, Engineering and Medicine notes that the growing acceptance, accessibility, and use of tetrahydrocannabinol and its derivatives have raised important public health concerns, while the lack of aggregated knowledge of tetrahydrocannabinol' health effects has led to uncertainty about the impact of its use. Nearly 33-million Americans ages 12 and older reported using cannabis in the past 30 days, and nearly 50-million Americans reported use in the past year. Ninety percent of adult use is recreational. These statistics are increasing. Cannabis use during adolescence, especially products high in tetrahydrocannabinol, or heavy use in lower doses, is associated with suicide attempts, high school drop-outs, and a higher likelihood of use of other illicit drugs and experiencing mental health impairment. The perception of risk from cannabis consumption has been falling steadily increasing the likelihood of first-time use. Vaping of marijuana by youth age 18-22 doubled between 2017 and 2018. In 2018, national marijuana use among full-time college students reached a 35-year high. Nationally, there have been significant increases in cannabis use amount those age 12 and older, but especially among those age 18-22, and cannabis use rates by youth age 18-22

are higher in states with legal adult-use cannabis than in non-legal states. Use during pregnancy has risen substantially between 2000 and 2014, increasing the risk of low birth weight. In 2016, far more 11<sup>th</sup> grade students in Minnesota reported using marijuana in the past 30 days than those reporting cigarette smoking. In 2017, the National Academies of Sciences, Engineering and Medicine reviewed the available scientific evidence on the health effects of cannabis and cannabis-derived products, and while noting substantial evidence of therapeutic effectiveness of medicinal cannabis for a limited number of indications, noted evidence of association of cannabis use with harm in a wide range of areas. This study found “substantial evidence” to support the following conclusions: (a) Initiation of use at an earlier age or more frequent use is a risk factor for the development of problem cannabis use; (b) maternal cannabis smoking during pregnancy is associated with low birth weight in offspring; (c) Cannabis use is associated with increased risk of motor vehicle crashes; (d) Cannabis use increases the risk of development of schizophrenia and other psychoses, with the highest risk among the most frequent users; (e) Long-term cannabis smoking is associated with worse respiratory symptoms and more frequent chronic bronchitis episodes; and (f) increases in cannabis use frequency are associated with developing problem cannabis use. This study found less conclusive, but still worrisome, emerging evidence for a wide range of other harms, including impaired academic achievement and educational outcomes, development of substance use disorders, suicide completion, high blood pressure and increased unemployment, among others. The findings of this study and other research lead us to conclude that (a) legalization of adult-use cannabis/tetrahydrocannabinol should be carried out cautiously, in such a way as to prevent undue exposure of youth and expansion of problem use; (b) that unfettered expansion and diversification of products and of marketing are not prudent; and that, (c) like tobacco and alcohol, cannabis/ tetrahydrocannabinol use may pose significant risks to public health, especially when initiated early in life. Minnesota has recognized the danger of cannabis use among youth by prohibiting the sale of Edible Cannabinoid Products to those under age 21 (Minn. Stat. § 151.72, subd. 3(c)) and by requiring that edibles be packaged without appeal to children and in child-resistant containers (Minn. Stat. § 151.72, subd. 5a(b)). Many years of alcohol and tobacco retailing, which are likely to have parallels in Edible Cannabinoid Product retailing, have demonstrated that Minnesota retailers continue to sell alcohol and tobacco to underage consumers, as evidenced by the following: (a) Among minors nationwide who smoked cigarettes in 2011, 14% percent had obtained their own cigarettes by buying them in a store or gas station; and (b) 14.5% of minors nationwide who used alcohol in the past 30 days in 2012 had obtained the alcohol themselves in an alcohol retail outlet. The density of tobacco retailers, particularly in neighborhoods surrounding schools, has been associated with increased youth smoking rates. Multiple studies have found that the density of tobacco retailers near schools was positively associated with the prevalence of students reporting smoking. A recent study found that higher dispensary density in states with legal cannabis laws was



associated with higher likelihood of youth ages 14-18 experimenting with cannabis vaping and edibles. Home delivery of alcohol products has been associated with increased rates of purchase by minors. Unintentional exposure to marijuana by children under age 10 resulting in seeking care at poison centers in Colorado increased by 34% between 2009 and 2016, including increases from the two years before to the two years after legalization. Children and young people are particularly influenced by cues suggesting tobacco smoking is acceptable, which holds relevance for tetrahydrocannabinol consumption once legalized. Young people are much more likely to use candy - and fruit-flavored tobacco and alcohol products than similar non-flavored products. The U.S. Food and Drug Administration and the U.S. Surgeon General have stated that flavored tobacco products are considered to be “starter” products that help establish smoking habits that can lead to long-term addiction and similar findings are expected for tetrahydrocannabinol consumption once legalized. The federal Family Smoking Prevention and Tobacco Control Act (FSPTCA), enacted in 2009, prohibited candy and fruit-flavored cigarettes, and in 2020 FDA guidance prioritized enforcement against flavored e-cigarettes largely because these flavored products were marketed to youth and young adults, and younger smokers were more likely to have tried these products than older smokers; and similar findings are expected for flavored tetrahydrocannabinol products. Edible Cannabinoid Products have become increasingly common and are available in a variety of flavors and forms that appeal to children and young adults, including cotton candy, lollipops, gummy bears, brownies, chocolate chip cookies, “pot” tarts, Rice Krispies™ bars, and bubble gum, apple, cherry, chocolate, grape, peach, strawberry, and vanilla flavors. The potency of cannabis and cannabis products has increased dramatically over the past decades from 4% tetrahydrocannabinol (THC) to 15-30+% THC in flower and up to 90% or more in extracted products, and growing evidence clearly supports greater risk from these products. Daily use of cannabis products over 10% THC has been associated with fivefold higher odds of developing psychosis, and such daily use has greatly increased in the past decade amongst youth. The U.S. Centers for Disease Control and Prevention has reported that electronic cigarette use among middle and high school students dramatically increased from 2017 to 2018, up 78% among high schoolers and 48% among middle schoolers. Use of similar devices for consumption of cannabis by youth has been rapidly increasing in Minnesota with 18.2% of high school students reporting they have used an e-cigarette device to vape marijuana. While the sale of Edible Cannabinoid Products has been legalized in Minnesota, it continues to be a Schedule I prohibited substance federally and therefore presents special challenges in multiple federally regulated spheres including banking, broadcasting and immigration. Youth exposure to advertising of products such as alcohol, tobacco and food has been shown to create positive attitudes, brand identification, and an increased likelihood of initiation and use of these products. The City Council finds that a local regulatory system for Edible Cannabinoid Product retailers is appropriate to ensure that retailers comply with the cannabis laws and business standards of the

City of Austin to protect the health, safety, and welfare of our youth and most vulnerable residents. The City of Austin has the opportunity to be proactive and make decisions that improve compliance among Edible Cannabinoid retailers with laws prohibiting the sale or marketing of cannabis products to underage persons. Research has demonstrated that local tobacco retail ordinances dramatically reduce youth access to cigarettes, and therefore provide a useful model for preventing sales to youth of cannabis products. A review of U.S. jurisdictions with strong tobacco retailer licensing ordinances showed that youth cigarette and e-cigarette use was lower than in jurisdictions with weaker tobacco retailer licensing ordinances. A requirement for an Edible Cannabinoid Product Retailer Permit will not unduly burden legitimate business activities of retailers who sell or distribute Edible Cannabinoid Products to adults, but will allow the City of Austin to regulate the operation of lawful businesses to discourage violations of state and local cannabis-related laws. The City of Austin has a substantial interest in promoting compliance with state and local laws intended to regulate sales and use of Edible Cannabinoid Products and promoting compliance with laws prohibiting sales of such products to underage persons. Low prices are known to facilitate use of tobacco by minors and while prices of Edible Cannabinoid Products should not be so high as to promote illicit sales, they should also not be artificially lowered through discounting or depressed by overproduction. Research demonstrates that youth are particularly price sensitive and responsive to changes in price, and in the case of tobacco, when cigarettes cost more, fewer adolescents start smoking, and similar findings are expected for Edible Cannabinoid Products. It is the intent of the City Council, in enacting this ordinance, to ensure responsible Edible Cannabinoid Product retailing, allowing legal sale and access, without promoting increases in use, and to discourage violations of cannabis-related laws, especially those which prohibit or discourage the marketing, sale or distribution of cannabis and cannabis products to youth under 21 years of age.

Subd. 2. *Definitions.* Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- A. **COMPLIANCE CHECKS.** The system the city uses to investigate and ensure that those authorized to sell licensed products are following and complying with the requirements of this section. Compliance checks conducted under this section must involve persons at least 17 years of age, but under the age of 21, who, with the prior written consent of a parent or guardian if the person is under the age of 18, attempt to purchase ~~tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products~~ licensed products under the direct supervision of a law enforcement officer or an employee of the licensing authority. The age requirements for persons participating in compliance checks under this section shall not affect the age requirements in federal law for persons participating in federally required compliance checks of these locations.



- B. *ELECTRONIC DELIVERY DEVICE.*** Any product containing or delivering nicotine, lobelia, or any other substance, whether natural or synthetic, intended for human consumption through the inhalation of aerosol or vapor from the product. Electronic delivery device shall include, but is not limited to, devices manufactured, marketed, or sold as e-cigarettes, e-cigars, e-pipes, vape pens, mods, tank systems, or under any other product name or descriptor. Electronic delivery device shall include any component part of a product, whether or not marketed or sold separately. Electronic delivery device shall not include any product that has been approved or certified by the U.S. Food and Drug Administration for sale as a tobacco-cessation product, as a tobacco-dependence product, or for other medical purposes, and is marketed and sold for such an approved purpose.
- C. *EDIBLE CANNABINOID PRODUCT.*** A product or substance defined as an “Edible Cannabinoid Product under Minnesota Statutes § 151.72 (2022).
- D. *LICENSED PRODUCTS.*** The term that collectively refers to any tobacco, tobacco-related device, electronic delivery device, or nicotine or lobelia delivery product. This term also includes any lawful Edible Cannabinoid Product.
- E. *LOOSIES.*** The common term used to refer to single or individually packaged cigars or cigarettes, or any other licensed product that has been removed from its intended retail packaging and offered for sale. *LOOSIES* does not include individual cigars with a retail price, after any discounts are applied and before any sales taxes are imposed, of at least \$4 per cigar.
- F. *MINOR.*** Any natural person who has not yet reached the age of 18 years.
- G. *MOVEABLE PLACE OF BUSINESS.*** Any form of business operated out of a kiosk, truck, van, automobile, or other type of vehicle or transportable shelter and not a fixed address store front or other permanent type of structure authorized for sales transactions.
- H. *NICOTINE OR LOBELIA DELIVERY PRODUCT.*** Any product containing or delivering nicotine or lobelia intended for human consumption, or any part of such a product, that is not a tobacco or an electronic delivery device as defined in this section. Nicotine or lobelia delivery product does not include any product that has been approved or otherwise certified for legal sale by the U.S. Food and Drug Administration as a tobacco-cessation product, a tobacco-dependence product, or for other medical purposes, and is being marketed and sold solely for that approved purpose.
- I. *RETAIL ESTABLISHMENT.*** Any place of business where licensed products are available for sale to the general public. The phrase shall include but not be limited to grocery stores, tobacco products shops, convenience stores, gasoline service stations, bars, and restaurants.
- J. *SELL or SALE.*** Any transfer of goods for money, trade, barter or other consideration, including any provision of goods for free as part of a sale of other goods or services.
- K. *SELF-SERVICE MERCHANDISING.*** Open displays of licensed products in any manner where any person shall have access to the licensed products, without the assistance or intervention of the licensee or the licensee’s employee. The assistance or intervention shall

entail the actual physical exchange of the tobacco, tobacco product, or tobacco related device between the customer and the licensee or employee. The phrase shall not include vending machines.

- L. **SMOKING.** Inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated product containing, made, or derived from nicotine, tobacco, marijuana, or other plant, whether natural or synthetic, that is intended for inhalation. Smoking also includes carrying or using an activated electronic delivery device.
- M. **TOBACCO or TOBACCO PRODUCTS.** Any products containing, made, or derived from tobacco that is intended for human consumption, whether chewed, smoked, absorbed, dissolved, inhaled, sorted, sniffed, or ingested by any other means or any component, part, or accessory of a tobacco product, including, but not limited to, any substance or item containing tobacco leaf, cigarettes; cigars; pipe tobacco; snuff, fine cut or other chewing tobacco; cheroots; stogies; perique; granulated, plus cut, crimp cut, ready-rubbed, and other smoking tobacco; snuff flowers; cavendish; shorts; plug and twist tobaccos; dipping tobaccos; refuse scraps, clippings, cuttings, and sweepings of tobacco; and other kinds and forms of tobacco leaf prepared in such manner as to be suitable for chewing, sniffing, or smoking or both for chewing and smoking. **TOBACCO PRODUCTS** excludes any tobacco product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product, as a tobacco dependence product, or for other medical purposes, and is being marketed and sold solely for such an approved purpose.
- N. **TOBACCO RELATED DEVICES.** Any tobacco product as well as a pipe, rolling papers, wraps or other device intentionally designed or intended to be used with tobacco products. Tobacco related device includes components of tobacco-related devices or tobacco products, which may be marketed or sold separately. Tobacco related devices may or may not contain tobacco.
- O. **VENDING MACHINE.** Any mechanical, electric or electronic, or other type of device which dispenses licensed products upon the insertion of money, tokens or other form of payment directly into the machine by the person seeking to purchase the tobacco, tobacco product or tobacco related device.

Subd. 3. *License.*

- A. *License required.* No person shall sell or offer to sell any licensed product without first having obtained a license to do so from the city. There shall be a separate license for selling Tobacco Products/Tobacco Related Devices, and for selling Edible Cannabinoid Products. Each such license shall identify the premises upon which the licensed products will be sold. All sales of licensed products shall occur within the licensed premises. Every licensee under this Section shall be responsible for the acts or omissions regulated under this Section.
- B. *Application.* An application for a license to sell licensed products shall be made on a form provided by the city. The application shall contain the full name of the applicant, the applicant's



residential and business addresses and telephone numbers, the name of the business for which the license is sought, and any additional information the city deems necessary. Upon receipt of a completed application, the City Clerk shall forward the application to the City Council for action at its next regularly scheduled City Council meeting. If the City Clerk shall determine that an application is incomplete, he or she shall return the application to the applicant with notice of the information necessary to make the application complete.

- C. *Action.* The City Council may either approve or deny the license, or it may delay action for a reasonable period of time as necessary to complete any investigation of the application or the applicant it deems necessary. If the City Council shall approve the license, the City Clerk shall issue the license to the applicant. If the City Council denies the license, notice of the denial shall be given to the applicant along with notice of the applicant's right to appeal the City Council's decision.
- D. *Term.* All licenses issued under this section shall be valid for one calendar year from the date of issue.
- E. *Revocation or suspension.* Any license issued under this section may be revoked or suspended as provided in Subd. 13.
- F. *Transfers.* All licenses issued under this section shall be valid only on the premises for which the license was issued and only for the person to whom the license was issued.
- G. *Moveable place of business.* No license shall be issued to a moveable place of business. Only fixed location businesses shall be eligible to be licensed under this section.
- H. *Display.* All licenses shall be posted and displayed in plain view of the general public on the licensed premise.
- I. *Renewals.* The renewal of a license issued under this section shall be handled in the same manner as the original application. The request for a renewal shall be made at least 30 days but no more than 60 days before the expiration of the current license.
- J. *Issuance as privilege and not a right.* The issuance of a license issued under this section shall be considered a privilege and not an absolute right of the applicant and shall not entitle the holder to an automatic renewal of the license.
- K. *Right to Inspect Licensed Premises.* All premises licensed under this Section shall, at all times, be open to inspection by any police officer to determine whether or not this Section and all other laws are being observed. All persons, as a condition to being issued the license, consent to the inspection by such officers and without a warrant for searches and seizures. It is unlawful for any licensee, or agent or employee of a licensee, to hinder or prevent a police officer from making inspection.

Penalty, see Subd. 13.

Subd. 4. *Fees.* No license shall be issued under this section until the appropriate license fee shall be paid in full. The fee for a license under this section shall be as established from time to time by council resolution, as it may be amended from time to time.

Penalty, see Subd. 13.

Subd. 5. *Basis for denial or license.*

- A. Grounds for denying the issuance or renewal of a license under this section includes but is not limited to the following:
  - 1. The applicant is under the age of 21 years.
  - 2. The applicant has been convicted within the past five years of any violation of a federal, state, or local law, ordinance provision, or other regulation relating to licensed products.
  - 3. The applicant has had a license to sell licensed products revoked within the preceding 12 months of the date of application.
  - 4. The applicant fails to provide any information required on the application, or provides false or misleading information.
  - 5. The applicant is prohibited by federal, state, or other local law, ordinance, or other regulation from holding a license.
- B. However, except as may otherwise be provided by law, the existence of any particular ground for denial does not mean that the city must deny the license.
- C. If a license is mistakenly issued or renewed to a person, it shall be revoked upon the discovery that the person was ineligible for the license under this section.

Subd. 6. *Prohibited sales.* It shall be a violation of this section for any person to sell or offer to sell any licensed product:

- A. To any person under the age of 21 years.
  - 1. Licensees must verify by means of government-issued photographic identification that the purchaser is at least 21 years of age. Verification is not required for a person over the age of 30. That the person appeared to be 30 years of age or older does not constitute a defense to a violation of this subsection.
  - 2. Notice of the legal sales age and age verification requirement must be posted prominently and in plain view at all times at each location where licensed products are offered for sale. The required signage, which will be provided to the licensee by the county, must be posted in a manner that is clearly visible to anyone who is or is considering making a purchase.
- B. By means of loosies.



- C. Containing opium, morphine, jimson weed, bella donna, strychnos, cocaine, marijuana, or other deleterious, hallucinogenic, toxic or controlled substances except nicotine and other substances found naturally in tobacco or added as part of an otherwise lawful manufacturing process. It is not the intention of this provision to ban the sale of lawfully manufactured cigarettes or other tobacco products. It is further not the intention of this provision to ban the sale of lawfully manufactured and packaged Edible Cannabinoid Products as allowed under state law.
- D. By any other means, to any other person, or in any other manner of form prohibited by federal, state or other local law, ordinance provision, or other regulation.

Penalty, see Subd. 13.

Subd. 7. *Vending machines.* It shall be unlawful for any person licensed under this section to allow the sale of licensed products by the means of a vending machine unless persons under the age of 21 are at all times prohibited from entering the licensed establishment.

Penalty, see Subd. 13.

Subd. 8. *Self-service sales.* It shall be unlawful for a licensee under this section to allow the sale of licensed products by any means where by the customer may have access to those items without having to request the item from the licensee or the licensee's employee and whereby there is not a physical exchange of the licensed products between the licensee or his or her clerk and the customer. All licensed products shall either be stored behind a counter or other area not freely accessible to customers, or in a case or other storage unit not left open and accessible to the general public. Any retailer selling licensed products at the time this section is adopted shall comply with this section within 90 days following the effective date of this section.

Penalty, see Subd. 13.

Subd. 9. *Responsibility.* All licensees under this section shall be responsible for the actions of their employees in regard to the sale of licensed products on the licensed premises, and the sale of an item by an employee shall be considered a sale by the license holder. Nothing in this section shall be construed as prohibiting the city from also subjecting the clerk to whatever penalties are appropriate under this section, state or Federal law, or other applicable law or regulation.

Penalty, see Subd. 13.

Subd. 10. *Compliance checks and inspections.* All licensed premises shall be open to inspection by the city police or other authorized city official during regular business hours. From time to time, but at least once per year, the city shall conduct compliance checks. In accordance with state law, the city will conduct at least one compliance check that involves the participation of a person between the ages of 17 and 20 to enter the licensed premises to attempt to purchase licensed products. Prior written consent from a parent or guardian is required for any person under the age of 18 to participate in a compliance check. Persons used for the purpose of compliance checks will be supervised by law enforcement or other designated personnel.

Penalty, see Subd. 13.

Subd. 11. *Other illegal acts.* Unless otherwise provided, the following acts shall be a violation of this section:

- A. *Illegal sales.* It shall be a violation of this section for any person to sell, give, or otherwise furnish or provide any licensed product to any person who is under the age of 21.
- B. *Illegal possession.* It shall be a violation of this section for anyone under age 21 to have in his or her possession any Edible Cannabinoid Product. This division B. shall not apply to minors lawfully involved in a compliance check.
- C. *Illegal use.* It shall be a violation of this section for anyone under age 21 minor to consume otherwise use any Edible Cannabinoid Product.
- D. *Illegal procurement.* It shall be a violation of this section for any person under the age of 21 to purchase or attempt to purchase or otherwise obtain any Edible Cannabinoid Product. It shall be a violation of this section for any person to purchase or otherwise obtain those items on behalf of a person under age 21. It shall further be a violation for any person to coerce or attempt to coerce a person under the age of 21 to illegally purchase or otherwise obtain or use any licensed product. This division D. shall not apply to minors lawfully involved in a compliance check.
- E. *Use of false identification.* A person under the age of 21 years who purchases or attempts to purchase tobacco, tobacco-related devices, or electronic delivery devices and who uses a driver's license, permit, Minnesota identification card, or any type of false identification to misrepresent the person's age, shall only be subject to an alternative civil penalty, in accordance with subd 13.B.3. It shall be a violation of this section for any person under the age of 21 to attempt to disguise his or her true age by the use of a false form of identification, whether the identification is that of another person or one on which the age of the person has been modified or tampered with to represent an age older than the actual age of the person.
- F. A business establishment that offers for sale Edible Cannabinoid Products shall ensure that all packages of the products are displayed and offered for sale only:
  - i. Behind a checkout counter where the public is not permitted;
  - ii. Inside a locked display case; or
  - iii. Within six feet of an unobstructed view of an attended checkout counter.
- G. No person may sell an Edible Cannabinoid Product to a person under the age of 21 years.
- H. No person may sell an Edible Cannabinoid Product in a package or container that is labelled or packaged in a manner inconsistent with Minnesota Statutes § 151.72 (2022).
- I. No sale of any Edible Cannabinoid Product may be made on Sundays, except between the hours of 11:00 a.m. and 6:00 p.m., or before 8:00 a.m. or after 10:00 p.m. on Monday through Saturday,



or on Thanksgiving Day, or on Christmas Day (December 25), or after 8:00 p.m. on Christmas Eve (December 24).

Penalty, see Subd. 13.

Subd. 12. *Exceptions and defenses.*

- A. *Religious, spiritual, or cultural ceremonies or practices.* Nothing in this section shall prevent the providing of tobacco, tobacco products, or tobacco related devices to a person under the age of 21 as part of an indigenous practice or a lawfully recognized religious, spiritual, or cultural ceremony or practice.
- B. It shall be an affirmative defense to the violation of this section for a person to have reasonably relied on proof of age as described by state law.

Subd. 13. *Violations and penalty.*

A. *Violations.*

- 1. *Notice.* Upon discovery of a suspected violation, the alleged violator shall be issued, either personally or by mail, a citation that sets forth the alleged violation and which shall inform the alleged violator of his or her right to be heard on the accusation.
- 2. *Hearings.* If a person accused of violating this section so requests, a hearing shall be scheduled, the time and place of which shall be published and provided to the accused violator. A hearing may also be requested to challenge any confiscation of licensed products as "contraband" as defined under state law.
- 3. *Hearing officer.* The city official designated by the City Council shall serve as the hearing officer.
- 4. *Decision.* If the hearing officer determines that a violation of this section did occur or that confiscation was proper, that decision, along with the hearing officer's reasons for finding a violation and the penalty to be imposed under division B. of this section, shall be recorded in writing, a copy of which shall be provided to the accused violator. Likewise, if the hearing officer finds that no violation occurred or finds grounds for not imposing any penalty, those findings shall be recorded and a copy provided to the acquitted accused violator.
- 5. *Appeals.* Appeals of any decision made by the hearing officer shall be filed in the District Court for the city in which the alleged violation occurred.
- 6. *Misdemeanor prosecution.* Nothing in this section shall prohibit the city from seeking prosecution as a misdemeanor for any alleged violation of this Section.
- 7. *Continued violation.* Each violation, and every day in which a violation occurs or continues, shall constitute a separate offense.

B. *Administrative penalties.*

1. *Licensees.* If a licensee or employee of a licensee sells, gives, or otherwise furnishes ~~tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products~~ any licensed product to a person under the age of 21 years, or violates any other provision of this section, the licensee shall be charged an administrative penalty of \$300 for the first violation. An administrative penalty of \$600 must be imposed for a second violation at the same location within 36 months after the initial violation. For a third or any subsequent violation at the same location within 36 months after the initial violation, an administrative penalty of \$1,000 must be imposed, and the licensee's authority to sell ~~tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products~~ licensed products at that location must be suspended for not less than seven days and may be revoked. No suspension, revocation, or other penalty may take effect until the licensee has received notice, served personally or by mail, of the alleged violation and an opportunity for a hearing before a person authorized by the licensing authority to conduct the hearing. A decision that a violation has occurred must be in writing.
2. *Other individuals.* An individual who sells, gives, or otherwise furnishes ~~tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products~~ licensed products to a person under the age of 21 years may be charged an administrative penalty of \$50. No penalty may be imposed until the individual has received notice, served personally or by mail, of the alleged violation and an opportunity for a hearing before a person authorized by the licensing authority to conduct the hearing. A decision that a violation has occurred must be in writing.
3. **Alternative penalties for subd. 11.E.** Law enforcement and court system representatives shall consult, as applicable, with interested persons, including but not limited to parents, guardians, educators, and persons under the age of 21 years, to develop alternative civil penalties for persons under the age of 21 years who violate this section. Consulting participants shall consider a variety of alternative civil penalties including but not limited to tobacco-free or drug free education programs, community service, court diversion programs, and tobacco cessation or drug cessation programs, and for persons under the age of 18 years, notice to schools and to parents or guardians. Alternative civil penalties developed under this subdivision shall not include fines or monetary penalties.
4. *Misdemeanor.* Nothing in this section shall prohibit the city from seeking prosecution as a misdemeanor for any violation of this section.
5. *Statutory penalties.* If the administrative penalties authorized to be imposed by M.S. § 461.12, as it may be amended from time to time, differ from those established in this section, then the statutory penalties shall prevail.



**RESOLUTION NO.**

**RESOLUTION APPROVING THE PUBLICATION OF  
A SUMMARY ORDINANCE**

WHEREAS, the Council has considered the length of the Ordinance amending Section 6.34 of the Code of the City of Austin and the expense related to the publication of said ordinance pursuant to Minn.Stat. 412.191, Subd. 4; and

WHEREAS, the Council has considered whether a summary of the Ordinance would serve the public interest by clearly informing the public of the intent and effect of the Ordinance and has determined that a Summary would so serve the public interest; and

WHEREAS, the Council has considered the attached "Summary" of the Ordinance and has determined that it clearly informs the public of the intent and effect of the ordinance and conforms with the requirements described in Minn.Stat. 331A.01, subd. 10; and

WHEREAS, by vote of four-fifths of the members of the council the City is statutorily empowered to publish the Summary rather than publishing the entire Ordinance;

BE IT RESOLVED, as follows:

- A. The City shall publish the attached Summary of the Ordinance instead of publishing the entire Ordinance and said publication shall be published in a body type no smaller than brevier or eight-point type.
- B. The City shall post a copy of the entire Ordinance at the City's Public Library for public inspection;
- C. The City shall provide the public, on request, a copy of the Ordinance either at the City's Office located at 500 4<sup>th</sup> Avenue NW, Austin, Minnesota 55912, or by US Mail or email as determined by the requesting party.
- D. The City shall not charge a fee for provision of such copy.

Passed by the Austin City Council this 6th day of September, 2022

YEAS

NAYS

ATTEST:

APPROVED:

\_\_\_\_\_  
City Recorder

\_\_\_\_\_  
Mayor

**SUMMARY OF ORDINANCE NO. \_\_\_\_\_**

**ORDINANCE AMENDING AUSTIN CITY CODE  
SECTION 6.34 TO ACCOMMODATE THE ISSUANCE OF LICENSES FOR  
AND THE ENFORCEMENT OF REGULATIONS PERTAINING TO  
EDIBLE CANNABINOID PRODUCTS**

**SUMMARY FOR PUBLICATION PURSUANT TO MINN.STAT. § 412.191.subd. 4.**

**A full copy of the Ordinance is available for pickup at the City Clerk's Office  
located at 500 4<sup>th</sup> Avenue NE, Austin, MN 55912,  
or a copy may be requested to be mailed by USPS by calling 507-437-9940.**

The City Council of the City of Austin, Minnesota, recently adopted revisions to § 6.34 of the Austin City Code of Ordinances for the purposes of creating and issuing licenses for the sale of Edible Cannabinoid Products, as defined under Minnesota Statutes § 151.72, and establishing and enforcing regulations related to the sale of those Products. The changes to said § 6.34 are reasonably summarized as follows:

§ 6.34, Subd. 1, now includes a new Para. B describing the scientific, public policy, and other grounds for regulating the retail sale of Edible Cannabinoid Products.

§ 6.34, Subd. 2, now includes minor revisions to accommodate the addition of the new Edible Cannabinoid Products license to the prior compliance checks, introducing the definition of "Edible Cannabinoid Product" (identical to state statute), and clarifying the definition of "Sell or Sale" of the product to include giving product away as an incentive to purchase other products.

§ 6.34, Subd. 3, now includes minor revisions to create the new License for retail sale of Edible Cannabinoid Products that is separate and distinct from the prior License for retail sale of Tobacco Products and Tobacco Related Devices. The new license is subject to the same requirements as the Tobacco license.

§ 6.34, Subd. 6, now includes minor revisions to clarify that the existing prohibition against selling "marijuana" products is not intended to apply to lawfully manufactured and packaged Edible Cannabinoid Products in compliance with the amended ordinance

§ 6.34, Subd. 11, now includes minor revisions clarifying what constitutes an "illegal sale," and adding the following offenses related to underage persons and Edible Cannabinoid Products: "illegal possession," "illegal use," and "illegal procurement." Further amendments add the offense of using false identification to purchase licensed products. Further, retailers of Edible Cannabinoid Products are required to secure their inventory of Edible Cannabinoid Products by placing them either behind a checkout counter where the public is not permitted; inside a locked display case; or within six feet of an unobstructed view of an attended checkout counter. All Edible Cannabinoid Products must comply with Minnesota Statutes § 151.72. Finally, the sale of Edible Cannabinoid Products is limited to Sundays between the hours of 11:00 a.m. and 6:00 p.m., or Mondays through Saturdays between the hours of 8:00 a.m. and 10:00 p.m.. Sales are prohibited Thanksgiving Day, Christmas Day, and after 8:00 p.m. on Christmas Eve.

§ 6.34, Subd. 13, now includes minor revisions to include a method for challenging any confiscation of licensed products deemed "contraband" under state law, and to clarify that the former enforcement mechanisms for Tobacco Products now apply to Edible Cannabinoid Products.



Passed by the Austin City Council this 6th day of September, 2022

YEAS

NAYS

ATTEST:

APPROVED:

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City Recorder

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Mayor



## Hemp-Derived Cannabinoid Products Guidance August 24, 2022

### INTRODUCTION

Pursuant to Minnesota Statutes section 214.108, the Board of Pharmacy is authorized to provide guidance to licensees about the application of the statutes and rules that the Board enforces. Such guidance is not binding in any court or other adjudicatory body. While the comments below are recommendations that do not have the force of law, some of the comments state the actual requirements of various statutes and rules. Please see Minnesota Statutes section 151.72 for the statutory requirements to manufacture, dispense, and sell Hemp-Derived Cannabinoid products in Minnesota.

This document has been approved by the Minnesota Board of Pharmacy and offers guidance to wholesalers, manufacturers, retailers, and other interested parties that are seeking to comply with Minnesota Statutes section 151.72. You may also review the Board's Hemp-Derived Cannabinoid Products Frequently Asked Questions (FAQ) document, which is also available on the Board's Web site. In addition to the Board's regulatory authority under Minnesota Statutes section 151.72, other state and federal agencies, including the Minnesota Departments of Agriculture and Health and the U.S. Food and Drug Administration, may have regulatory authority.

***Note, the Board cannot provide legal advice.*** Individuals or companies involved in the manufacture, distribution, or sale of such products are encouraged to seek the advice of appropriate consultants and legal counsel. Individuals or companies should also review the recently enacted updates to Minnesota Statutes section 151.72.

### GENERAL REQUIREMENTS

#### *What is Permissible to Sell under 151.72*

Only products that meet all the requirements of Minnesota Statutes section 151.72 are permissible to sell under Minnesota law.



Depending on the substances involved, products that do not meet all the requirements of that section may be misbranded or adulterated. It is a misdemeanor-level crime to sell misbranded or adulterated products. (See Minn. Stat. §§ 151.29 and 151.30). Products that do not meet all the requirements of Minnesota Statutes section 151.72 may also be schedule 1 controlled substances, depending on the substance and quantity involved. It can be a felony-level crime to sell or possess controlled substances. (See Minn. Stat. §§ 152.02 – 152.025).

Even if products fully meet all the requirements of Minnesota Statutes section 151.72, they may still be illegal to sell under federal law. The United States Food and Drug Administration (FDA) has provided information about the legality of substances derived from hemp on the FDA's [FAQ webpage](#).

### Geographical Considerations

Products containing substances derived from hemp that are shipped **into** Minnesota from **outside** of the state must meet all the requirements of Minnesota Statutes section 151.72. Likewise, products containing substances derived from hemp that are manufactured **within** Minnesota even if they are intended for sale **outside** of Minnesota must meet all the requirements of Minnesota Statutes section 151.72. Additionally, the Board reminds manufacturers, wholesalers, and retailers located within Minnesota to **not** ship, sell, or deliver products into another state where the product would be prohibited by that state's law.

### Hemp Considerations

The hemp used to derive the cannabinoids that are used to manufacture products must meet the requirements of Minnesota Statutes chapter 18K and Minnesota Rule 1565.

## **PRODUCT GUIDANCE**

### *Application of Minnesota Statutes section 151.72's Tetrahydrocannabinol (THC) Limits*

Minnesota Statutes section 151.72 applies to **all** cannabinoid products including edible and nonedible cannabinoid products.

**Edible cannabinoids** are defined in section 151.72, subdivision 1(c), as products that are intended to be eaten, or consumed as a beverage, by humans, that contain a cannabinoid in combination with food ingredients, and are not drugs. Accordingly, to be considered an edible cannabinoid, ***no claim can be made or implied*** that the product can prevent, treat, or cure a disease, or alter the structure or function of a human or animal body. A product for which such claims are made would fall under the definition of the word "drug" found in Minnesota Statutes section 151.01, subdivision 5, and would be regulated as a drug. (See Minn. Stat. chs. 151 & 152.)

Minnesota Statutes section 151.72 contains three limitations on the amount of THC an edible cannabinoid product may contain. Please note that these limitations apply to all THC combined in a cannabinoid product regardless of whether the product contains more than one type of THC. The three limitations are as follows:

- 1) Edible cannabinoid products must not contain more than five (5) milligrams of any and all THC's per single serving.
- 2) Edible cannabinoid products must not contain more than a total of fifty (50) milligrams of any and all THC's per package.
- 3) Edible cannabinoid products must not contain more than 0.3% of any and all THC's. This limitation applies to any and all units, whether servings, packages, or other.

**In addition to the limitations described above for edible cannabinoids, all cannabinoid products, regardless of the route of administration, must not contain more than 0.3% of any and all THC's.**

Examples include, but are not limited to tablets, capsules, solutions, tinctures, or other products meant for oral administration/ingestion; creams, lotions, ointments, salves, or other products meant for topical administration; products meant to be inhaled, smoked, vaped, sprayed into nostrils, or insufflated (sniffed); and hemp flowers and buds.

Cannabinoid products that exceed the THC limitations described above may not be manufactured or sold in Minnesota and may subject the manufacturer and seller to criminal enforcement.

#### Other Substances Derived from Hemp

The Board is aware of products that contain other substances derived from hemp. ***No intoxicating substances derived from hemp, other than tetrahydrocannabinols within the specified limits, can be legally sold in Minnesota.***

#### Combining Hemp-Derived Cannabinoids with Over-the-Counter Drug Ingredients

The FDA has warned companies that products that contain cannabinoids derived from hemp, that are combined with over-the-counter drugs, would be unapproved new drugs, making them illegal to sell under federal law.

#### Manufacturing Edible Cannabinoids

As noted above, edible cannabinoids must not contain more than 0.3% of all THC's combined **and** must not contain more than five (5) mg of all THC's combined per single serving and fifty (50) mg of all THC's combined per package.

Food ingredients that will be combined with substances derived from hemp, to make an edible cannabinoid product, must meet requirements for food manufacturing. Prior to being combined with substances derived from hemp, food ingredients fall under the definition of "food" found in Minnesota Statutes section 34A.01, subdivision 4, and are under the jurisdiction of the Minnesota



Department of Agriculture. Additional information can be found at the [Minnesota Department of Agriculture Manufactured Food Regulations website](#).

Minnesota Statutes section 151.72, subdivision 5a, states that an edible cannabinoid product must not “be made by applying an extracted or concentrated hemp-derived cannabinoid to a commercially available candy or snack food item.” The Board interprets the word “applying” to include adding the cannabinoid to a commercially available food product in any manner. Accordingly, edible cannabinoid products cannot be made by combining an extracted or concentrated hemp-derived cannabinoid with a commercially produced candy, snack food item, or other food.

Minnesota Statutes section 151.72 only allows for the sale of manufactured and prepackaged products that contain substances derived from hemp. It does not allow for food service or other food preparation activities using products which contain substances derived from hemp. Accordingly, products that contain substances derived from hemp cannot be added to foods or beverages by restaurants, bars, or other businesses that prepare food and beverages for onsite or take-away consumption.

Prior to licensing in Minnesota, alcoholic beverages must adhere to the federal requirements under the U.S. Department of Treasury Alcohol, Tobacco, Tax and Trade Bureau (TTB), which require the submission and approval of the formulation and brand labels. For more information, visit the [TTB’s hemp policy for alcoholic beverages webpage](#).

## TESTING GUIDANCE

The minimum statutory testing standards, as set forth in Minnesota Statutes section 151.72, subdivision 4(a)(1),(2), and (3), are now in effect and apply to all manufacturers.

Products that do not meet all the requirements of that section may be misbranded or adulterated. As noted above, it is a misdemeanor-level crime to sell misbranded or adulterated products. (See Minn. Stat. §§ 151.29 and 151.30). Products that do not meet all the requirements may also be schedule 1 controlled substances, depending on the substance and quantity involved. As noted above, it can be a felony-level crime to sell or possess controlled substances.

### Applying the Testing Requirements

The testing requirements found in Minnesota Statutes section 151.72, subdivision 4, apply to the product itself, they do **not** apply to the hemp from which cannabinoids and THC’s are derived. A manufacturer of a product regulated under Minnesota Statutes section 151.72 must submit representative samples of **each** batch or lot of the products that will be sold to consumers to an independent, accredited laboratory in order to certify that the product complies with requirements

in that section. A certificate of analysis for the hemp from which a cannabinoid is derived, or for an extract that is used to make the product sold to the consumer, does **not** meet the testing requirement. A manufacturer's internal testing results **cannot** be used to establish compliance with these requirements.

The testing required by Section 151.72 must be completed and certified **before** a manufacturer's product is offered for sale in Minnesota. Manufacturers are required to provide the Board with test results certifying their product complies with Section 151.72, upon request.

#### Laboratory Requirements

Minnesota Statutes section 151.72, subdivision 4, states that "[t]esting must be consistent with generally accepted industry standards for herbal and botanical substances." It is the responsibility of the manufacturer to identify an independent, accredited laboratory that is capable of conducting the required testing. The Minnesota Department of Health, Office of Medical Cannabis (OMC), has a process in place to approve laboratories. The Board considers the laboratories approved by the OMC to be acceptable for conducting the testing required under Minnesota Statutes section 151.72, to the extent the product is derived from hemp. Laboratories must be accredited to ISO/IEC 17025:2017 standards by an accreditation organization.

## **PACKAGING AND LABELING GUIDANCE**

Packaging and labeling must comply with the requirements of Minnesota Statutes section 151.72, subdivision 5.

#### Child-Resistant Packaging

One of the requirements is that packaging be child-resistant. Packages that have been certified as child-resistant under the requirements of the Poison Prevention Packaging Act (PPPA) at 16 CFR 1700.15(b)(1) will meet this requirement. Additional information can be found at the [Consumer Product Safety Commission website](#).

When investigating packaging complaints, the Board may take into consideration whether the packaging meets the child-resistant requirements, adopted by other states, for the packaging of hemp-derived products.

The requirement that packaging be child-resistant does not apply to an edible cannabinoid product that is intended to be consumed as a beverage.

#### Targeting or Appealing to Children

Edible cannabinoid products must not be marketed to or target children. Such products **must not** bear the likeness or contain characteristics of persons, animals, or fruit that appeal to children.



Such products also **must not** be modeled after a brand of products primarily consumed by or marketed to children.

Deceptive Packaging

Edible cannabinoid products **must not** be packaged in a way that resembles the trademark, characteristic, or product-specialized packaging of a commercially available food product. Edible cannabinoid products also **must not** be packaged in a container that includes a statement, artwork, or design that could reasonably mislead any person to believe the package contains anything other than an edible cannabinoid product.

## Law Enforcement Hemp-Derived - THC Inspection Checklist

Please complete for each business/location inspected. (7/28/2022)

Business Name		Street Address	City	State	Zip Code
Date	Name and Title of Employee				

### Inspection Details

#### All cannabinoid products sold for human or animal consumption

- ☐ If possible, **view a sales transaction** to confirm that the store is properly verifying age on all transactions. If it is not possible to view a transaction, confirm the process the store uses to verify no tetrahydrocannabinol (THC) sales are to anyone under 21.
- ☐ **Check products for cannabinoids that are not allowed.** No other substance extracted or otherwise derived from hemp may be sold for human consumption if it is intended for health benefit (e.g., relieve pain, induce sleep, etc.) or intoxication.
  - Allowable substances include all hemp-derived THC and cannabidiol (CBD). Permissible amounts of THC are subject to statutorily defined quantity limits and whether the product is an edible or nonedible (discussed further below).
- ☐ **Check products labeling** to confirm all labeling is correct and appropriate.
 

The label information below may be provided on an outer package or may be provided using a small scannable barcode or matrix that links to a page on the manufacturer's website and contains all the required information. The information must be prominently and conspicuously placed on the label or displayed on the website in terms that can be easily read and understood by the consumer.

  - The name, location, contact phone number, and website of the manufacturer of the product.
  - The name and address of the independent, accredited laboratory used by the manufacturer to test the product.
  - An accurate statement of the amount or percentage of cannabinoids found in each unit of the product meant to be consumed.

### Edible Cannabinoids

**Edible cannabinoids are defined as products that are intended to be eaten, or consumed as beverages by humans, contain a cannabinoid in combination with food ingredients, and are not drugs**

- ☐ **Check products labeling** to confirm all labeling is correct and appropriate.
 

Labels *must include* the following information:

  - The amount or percentage of THC in each serving.
    - NOTE: *Edible cannabinoid products must not contain more than 5 milligrams of any tetrahydrocannabinols (THC) combined per single serving, or more than a total of 50 milligrams of all THC combined per package. Furthermore, products must not contain more than 0.3% of any THC.*
  - If an edible cannabinoid is intended for more than a single use, each serving must be indicated by scoring, wrapping, or other indicator of individual serving size.



## LAW ENFORCEMENT HEMP-DERIVED THC INSPECTION CHECKLIST

- A full list of ingredients, including identification of any major food allergens declared by name.
- The following statement **“Keep the product out of reach of children.”**
- A statement stating that the **“product does not claim to diagnose, treat, cure, or prevent any disease and has not been evaluated or approved by the United States Food and Drug Administration (FDA) unless the product has been so approved.”**

Edible products *must NOT* include:

- The likeness or contain cartoon-like characteristics of a real or fictional person, animal, or fruit that appeals to children.
- Imitations of any brand of products primarily consumed by or marketed to children.
- Any packaging that in a way resembles the trademarked, characteristic, or product-specialized packaging of any commercially available food product.
- Any statement, artwork, or design that could reasonably mislead any person to believe that the package contains anything other than an edible cannabinoid product.
- Any claim that the product may be used or is effective for the prevention, treatment, or cure of a disease or that may be used to alter the structure or function of human or animal bodies, unless that claim has been approved by the FDA.

- ☐ **Review product packaging.** An edible cannabinoid product must be prepackaged in packaging or a container that is tamper-evident, and opaque at the final point of sale to a customer. The edible cannabinoid packaging is required to be child resistant. If you suspect the packaging is not child resistant, you may have to contact the manufacturer and request a Child Resistant Certificate. The requirement that packaging be child-resistant does not apply to an edible cannabinoid product that is intended to be consumed as a beverage and which contains no more than a trace amount of any tetrahydrocannabinol.

### Nonedible Cannabinoids

Examples of nonedible cannabinoids include, but are not limited to tablets, capsules, solutions, tinctures, or other products meant for oral administration/ingestion; creams, lotions, ointments, salves, or other products meant for topical administration; products meant to be inhaled, smoked, vaped, sprayed into nostrils, or insufflated (sniffed); and hemp flowers and buds.

- ☐ **Check products labeling** to confirm all labeling is correct and appropriate (*continued from page 1*).

Labels *must include* the following information:

- The serving size.
  - NOTE: *Nonedible cannabinoid products must not contain more than 0.3% of any THC.*
- A statement stating that the **“product does not claim to diagnose, treat, cure, or prevent any disease and has not been evaluated or approved by the United States Food and Drug Administration (FDA) unless the product has been so approved.”**

**Keep this Inspection Checklist for your records.**

Violations may be reported to the Minnesota Board of Pharmacy through a complaint form found at [Hemp-Related/Edible Cannabinoid Complaints](https://mn.gov/boards/pharmacy/public/hemprelatedcomplaints.jsp) (<https://mn.gov/boards/pharmacy/public/hemprelatedcomplaints.jsp>) If submitting a complaint, detailed information is strongly encouraged (e.g., photos of product, manufacturer information, retailer information, etc.).

Minnesota Board of Pharmacy  
335 Randolph Ave., Suite 230  
St. Paul, MN 55102

Board Fax: 651-215-0951  
Board Email: [pharmacy.board@state.mn.us](mailto:pharmacy.board@state.mn.us)

**RESOLUTION NO.**

**RESOLUTION ESTABLISHING FEE  
FOR EDIBLE CANNABINOID PRODUCTS**

**WHEREAS**, pursuant to Austin City Code Section 6.04, the City Council must by resolution fix and determine fees for licenses and other operations.

**NOW, THEREFORE, BE IT HEREBY RESOLVED** that the City Council of the City of Austin sets the following fee to be effective September 5, 2022:

Edible Cannabinoid License	\$1,000.00
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Passed by a vote of Yeas and Nays this 6th day of September, 2022.

YEAS

NAYS

ATTEST:

APPROVED:

\_\_\_\_\_  
City Recorder

\_\_\_\_\_  
Mayor



**City of Austin**  
**500 4<sup>th</sup> Avenue NE**  
**Austin, MN 55912**  
**507-437-9940**  
**www.ci.austin.mn.us**



**Tricia Wiechmann**  
**Human Resources Director**  
**507-437-9942**  
**twiechma@ci.austin.mn.us**

**MEMORANDUM**

**TO:** Mayor & Council

**FROM:** Tricia Wiechmann  
Human Resources Director

**RE:** Holiday Time Addition

**DATE:** August 31, 2022

As discussed, and approved at the August 15 work session, the City will now include paid holiday time off, for the grant funded Environmental Education Outreach Coordinator (EEOC) position. The paid holidays will be in addition to the pro-rated vacation and sick leave pay that it already receives. The terms in which the pro-rated vacation and sick leave are received, will not change.

Upon approval by the City Council, the EEOC position will be credited with 32 hours of paid holiday time, to be used in 2022. Consistent with past practice and City policy, holidays are use them or lose them and are not allowed to be carried over from year to year or allowed to be used in advance of earning the holiday or in advance of when the holiday occurs.

Beginning in 2023, the EEOC position will be credited with 88 hours of paid holiday time, to be used under the same terms and conditions as outlined above, consistent with regular permanent fulltime employees.

City of Austin  
Ann M. Kasel, City Clerk



500 Fourth Avenue N.E.  
Austin, Minnesota 55912-3773  
Phone: 507-437-9943  
[www.ci.austin.mn.us](http://www.ci.austin.mn.us)

## MEMORANDUM

**To:** Mayor and City Council  
**From:** Ann M. Kasel  
**Re:** Setting Assessment Hearings  
**Date:** August 24, 2022

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Attached is a resolution for the fall assessment hearings. The resolution will set the assessment hearings for October 3, 2022 at 5:30 p.m. for the following items:

- Snow removal
- Junk removal
- Weed removal and grass mowing
- Tree assessments
- Miscellaneous sidewalk and driveway projects
- Forfeited property reassessments
- Administrative Citations
- Unpaid Vacant Fees
- Hazardous Housing Mitigation
- Unpaid Sewer Bills
- Other unpaid City billings

Each property owner will be mailed notice of the hearing and a notice will be published in the Austin Daily Herald.

Please let me know if you have any questions.



## **RESOLUTION NO.**

### **RESOLUTION SETTING HEARING ON PROPOSED ASSESSMENTS**

**WHEREAS**, by resolution passed by the Council, the City Clerk is directed to prepare proposed assessments on the cost of the following projects:

2022 snow removal  
2022 junk removal  
2022 weed and grass removal  
Tree Removal  
Miscellaneous sidewalk and indrive projects  
Forfeited Property reassessments  
Administrative citations  
Vacant property fees  
Hazardous Housing Mitigation  
Unpaid Sewer bills  
Other unpaid City billings

**AND, WHEREAS**, the City Clerk has notified the Council that such proposed assessments have been completed and filed in the office for public inspection.

**NOW, THEREFORE, BE IT RESOLVED, BY THE CITY COUNCIL OF AUSTIN, MINNESOTA:**

1. A hearing shall be held on the 3rd day of October, 2022 in the City Hall Council Chambers at 5:30 pm to pass upon such proposed assessments, and at such time and place all persons owning property affected by such improvements will be given an opportunity to be heard with reference to such assessments.
2. The City Clerk is hereby directed to cause a notice of hearing on proposed assessments to be published once in the official newspaper at least two weeks prior to the hearing, and shall state in the notice the total cost of the improvement. The City Clerk shall cause mail notice to be given to the owner of each parcel described in the assessment roll not less than two weeks prior to the hearing.
3. The owner of any property so assessed may pay his or her assessment at any time prior to certification of the assessment on such property with interest accrued to the date of payment to the City, except that no interest shall be charged if the entire assessment is paid within 30 days from the adoption of the assessments. He or she may at any time thereafter pay to the City the entire amount of the assessment remaining unpaid with interest accrued to December 31 of the year in which such payment is made.

Passed by a vote of yeas and nays this 6th day of September, 2022.

YEAS

NAYS

ATTEST:

APPROVED:

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City Recorder

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Mayor

City of Austin  
500 Fourth Avenue NE  
Austin, Minnesota 55912-3773



Phone: 507-437-9940  
[www.ci.austin.mn.us](http://www.ci.austin.mn.us)

## City of Austin Resolution on Special Session

City of Austin

State of Minnesota

WHEREAS, the people of Minnesota have critical infrastructure needs, including the replacement and upgrade of aging drinking water systems, sewage treatment, roads, and bridges that cannot be delayed, and

WHEREAS, without additional funding through a bonding bill, cities will have to drastically raise water rates or taxes on residents and businesses to pay for necessary infrastructure projects made even more expensive due to inflation, and

WHEREAS, the Minnesota Legislature failed to pass a bonding bill in the 2022 legislative session, and

WHEREAS, the City of Austin is in the process of awarding a \$105 million contract for a Waste Water Treatment Plant update, and

WHEREAS, the City of Austin has requested a \$20 million state bond for the upgrades to the Waste Water Treatment Plant, and

WHEREAS, due to the Minnesota State Legislature's inability to pass a bonding bill, the \$20 million was not awarded, and

WHEREAS, the city has been preparing for this project for years and has been increasing sewer user fees with a 25% increase in 2018, followed by a 7% increase in 2019, 2020, 2021, and 2022, and

WHEREAS, the implication to City of Austin residents and businesses to pay for the Waste Water Treatment Plant construction is now an additional 15% increase in 2023 for their sewer user fees, 10% increase in 2024, and 7% increase in 2025 and 2026, and

WHEREAS, in total, from 2018 rates, this will cumulatively result in a **137% increase** to sewer user fees over the course of a 9-year period for City of Austin residents and businesses, and

WHEREAS, other Minnesota cities have previously received State bonding allocations

City of Austin  
500 Fourth Avenue NE  
Austin, Minnesota 55912-3773



Phone: 507-437-9940

[www.ci.austin.mn.us](http://www.ci.austin.mn.us)

for upgrading their Waste Water Treatment Plants, and

BE IT RESOLVED that the City Council of Austin, Minnesota urges through this Resolution to Governor Walz to declare a special session and to its lawmakers to work in a bipartisan way to pass a bonding bill and a tax bill that includes an LGA increase; and

BE IT FURTHER RESOLVED that this resolution be transmitted to Representative Patricia Mueller, Senator Gene Dornink, Speaker of the House Melissa Hortman, Senate Majority Leader Jeremy Miller, House Minority Leader Kurt Daudt, Senate Minority Leader Melissa López Franzen, and Governor Tim Walz.

Adopted: \_\_\_\_\_

Attest: \_\_\_\_\_



City of Austin  
500 Fourth Avenue N.E.  
Austin, Minnesota 55912-3773



Steven J. Lang, P.E.  
City Engr./Public Works Dir.  
507-437-9949  
Fax 507-437-7101  
slang@ci.austin.mn.us

## Memorandum

**To:** Mayor and City Council  
**From:** Steven J. Lang  
**Subject:** Fall Yard Waste Program  
**Date:** August 30, 2022

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The City of Austin provides for an annual fall yard waste program. The City established the Cook Farm as the city wide designation site. This program is well utilized by the public.

We would propose the following for 2022:

- Cook Farm would be the only City of Austin sponsored site available for yard waste
- Site would be available from September 17, 2022 – November 27, 2022
- Site would be open 7 days a week from dawn to dusk
- Site would be limited to the following yard waste:
  - Leaves
  - Grass
  - Plants from gardens and flowers
- Compost from previous years yard waste would be available to the public

This program is funded through the revenues generated by the lease at the Austin Waste Transfer Station. The City of Austin and Mower County split the cost of advertising for this service.

If you have any questions, please contact me.

**RESOLUTION NO.**

**RESOLUTION OF SUPPORT FOR BRIDGE INVESTMENT PROGRAM  
DISCRETIONARY GRANT APPLICATION FOR THE I-90 AUSTIN BRIDGES  
IMPROVEMENT & MOBILITY PROJECT**

WHEREAS, the Bridge Investment Program “BIP” Discretionary Grant Opportunity provides dedicated, discretionary funding for bridge replacement, rehabilitation, preservation, and protection projects that (1) improve the safety, efficiency, and reliability of the movement of people and freight over bridges, (2) improve the condition of bridges in the United States, and (3) to provide financial assistance that leverages and encourages non-Federal contributions from sponsors and stakeholders involved in the planning, design, and construction of eligible projects; and

WHEREAS, the FY 2022 BIP funding will be implemented, as appropriate and consistent with law, in alignment with the priorities of section 11118 of the Bipartisan Infrastructure Law (BIL), enacted as the Infrastructure Investment and Jobs Act (Pub. L. 117-58, Nov. 15, 2021), established the Bridge Investment Program (BIP) which is codified at 23 U.S.C. § 124; and

WHEREAS, the United States Department of Transportation is soliciting applications for \$2.36 billion in FY 2022 BIP funds, authorized by the Bipartisan Infrastructure Law, of which up to \$20 million will be made available for planning projects, and up to \$2.34 billion up will be made available for the capital projects; and

WHEREAS, eligible projects for BIP include projects to replace, rehabilitate, preserve, or protect one or more bridges on the National Bridge Inventory under 23 U.S.C. § 144(b) (See 23 U.S.C. § 124(a)(1)(A)), and bridge bundling and culverts (23 U.S.C. § 124(a)(1)(B)); and

WHEREAS, eligible projects for BIP must meet statutory project eligibility and must specifically address United States Code (U.S.C.) requirements of (1) how the bridge will be maintained, and (2) accommodations for bicyclists and pedestrian; and

WHEREAS, the minimum award for BIP funds under Bridge Project category is \$2.5 million and a maximum award amount of no more than 80 percent of the total eligible project costs; and

WHEREAS, Minnesota Department of Transportation (MnDOT) is seeking funds to replace or rehabilitate ten bridges along Interstate 90; reconstruct associated roadway improvements; and to construct a network of multimodal trails and sidewalks; and

WHEREAS, the project aligns with the Department’s strategic goals by restoring bridges to a state of good repair while doing so within the existing right-of-way and minimizing the need for relocations, improving transportation safety, reducing surface transportation-related greenhouse gas emissions, increasing resilience to climate change, delivering equitable transportation options and access, constructing multimodal connections that will remove the existing barrier in regional connectivity, and promoting competitiveness of the U.S. economy; and

WHEREAS, the project is identified in the City of Austin's Capital Improvement Plan; and

WHEREAS, the City of Austin will provide funding towards the local match and partner with MnDOT to contribute to the overall local match and project funding as identified in the BIP application, which includes the use of funding programmed for maintenance, secured funding through other grant programs, and additional program funding as applicable; and

NOW THEREFORE BE IT RESOLVED, that the City of Austin supports and approves the application towards FY 2022 BIP Discretionary Grant for MnDOT's I-90 Austin Bridges Improvement & Mobility Project.

Passed by a vote of Yeas and Nays this 5th day of September, 2022.

YEAS

NAYS

ATTEST:

APPROVED:

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City Recorder

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Mayor



RESOLUTION NO.

ACCEPTING DONATIONS TO THE CITY OF AUSTIN

WHEREAS, the City has received gift as follows:

Gift	Donor	For
\$1,500	Country Financial	Police Weight Room

NOW THEREFORE, BE IT RESOLVED that the Austin City Council accepts said gifts to the City of Austin.

Passed by a vote of yeas and nays this 6th day of September, 2022.

YEAS

NAYS

ATTEST:

APPROVED:

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City Recorder

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Mayor

City of Austin 500 Fourth  
Avenue N.E.  
Austin, Minnesota 55912-3773



To: Mayor and City  
Council  
Planning & Zoning Department  
507-437-9950 Fax 507-437-7101

**Memorandum**

**From:** Holly Wallace, Planning & Zoning Administrator

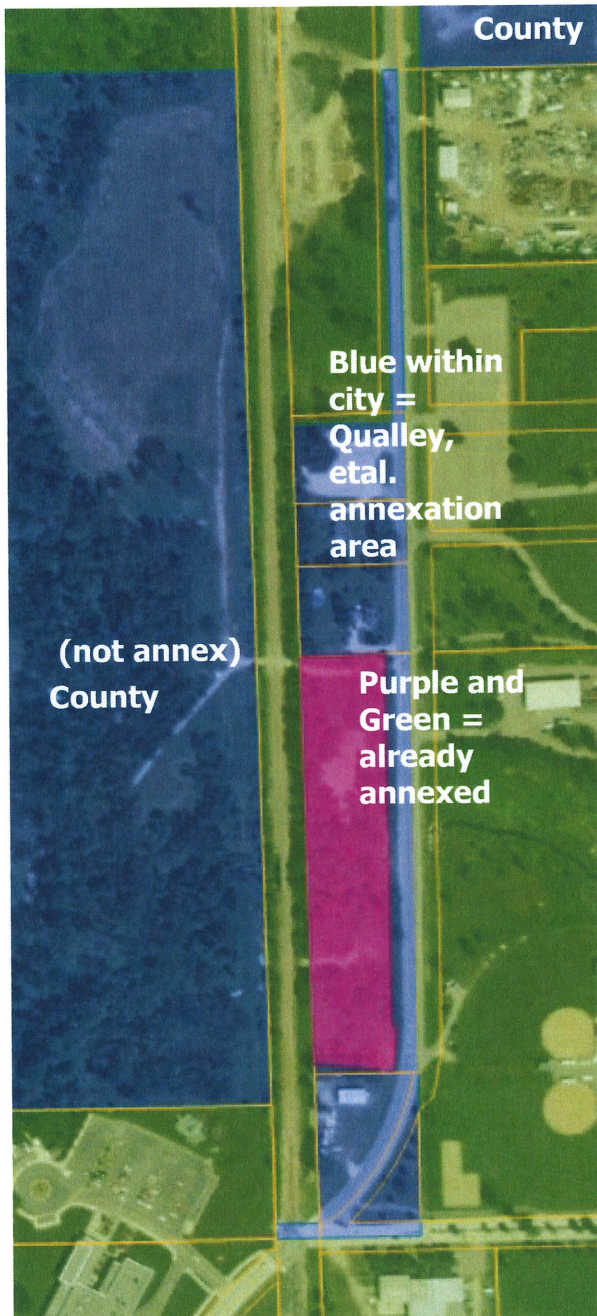
**Date:** September 1, 2022

**Re:** Annexation of Windrift/Qualley, Hoy, Cunningham and O'Leary sliver (with some public ROW)

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This annexation is by ordinance, as the properties described are wholly within the city. The area consists of approximately 12 acres, which includes four privately owned parcels as well as some public right of way. Gaps between parcels and various divisions of property have arisen as adjacent areas were annexed. This annexation will allow the property owners access to city sewer as well as improve continuity in planning and jurisdictional issues in the area.

The O'Leary sliver is 1.65 acres in the public ROW along the East side of 14<sup>th</sup> St NE which was determined to be owned by Hormel Corp at one time and was recently transferred to the city. City owned parcels may be annexed by ordinance as well, but under a separate subdivision of State Statute, which is why it is included as a separate ordinance. This will allow the city to improve the street if needed.



**Justin Roberts**  
**Research Analysis Specialist**  
Corporate Data Group Lead &  
State Highway Map Cartographer  
Geographic Information & Mapping  
MnDOT Central Office: 3<sup>rd</sup> Floor – North  
[Justin.Roberts@state.mn.us](mailto:Justin.Roberts@state.mn.us) | (651) 366-3850



**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF AUSTIN, MINNESOTA, ANNEXING  
PROPERTY LOCATED IN LANSING TOWNSHIP, MOWER COUNTY, MINNESOTA,  
PURSUANT TO MINNESOTA STATUTES 414.033, SUBD. 2 (2), PERMITTING  
ANNEXATION BY ORDINANCE.**

WHEREAS, the territory described below is not presently within the corporate limits of any incorporated city, and

WHEREAS, the area proposed for annexation is completely surrounded by land within the municipal limits and

WHEREAS, the area proposed for annexation is described as follows:

*"All of the area east of the west right-of-way line of the Chicago, Milwaukee, St. Paul, and Pacific Railroad within the east ½ of the SW ¼ of Section 26, Township 103, Range 18, Mower County, not presently within the city"*

WHEREAS, the area proposed for annexation is approximately 12 acres in size; and

WHEREAS, the reason for the proposed annexation is an immediate and future need to connect to city services and the area is wholly within the city; and

WHEREAS, the nature of the area proposed for annexation is residential and commercial, and includes public right of way; and

WHEREAS, the area proposed for annexation is not included in any area that has already been designated for orderly annexation pursuant to Minnesota Statutes § 414.0325, nor in any other proceeding currently pending before the Office of Administrative Hearings - Municipal Boundary Adjustment Unit; and

WHEREAS, the City of Austin held a public hearing pursuant to Minnesota Statutes § 414.033 Subd. 2b, on September 6, 2022, following thirty (30) days written notice by certified mail to the Town of Lansing and to all landowners within and contiguous to the area legally described (herein or attached exhibit), to be annexed; and

NOW THEREFORE, the city council of the City of Austin hereby ordains as follows:

1. The city council hereby determines that the property as hereinafter described is wholly within the City of Austin, Minnesota and is not included within any other municipality.
2. None of the property is now included within the limits of any city, or in any area that has already been designated for orderly annexation pursuant to Minnesota Statutes §414.0325.
3. The corporate limits of the City of Austin, Minnesota, are hereby extended to include the following described property, and it being necessary and appropriate that the same be annexed within the corporate limits of said City of Austin, Minnesota, described as follows:

*“All of the area east of the west right-of-way line of the Chicago, Milwaukee, St. Paul, and Pacific Railroad within the east ½ of the SW ¼ of Section 26, Township 103, Range 18, Mower County, not presently within the city”*

A copy of the corporate boundary map showing the parcel to be annexed and its relationship to the corporate boundaries of the City of Austin is attached hereto as Exhibit A.

4. That the area legally described includes one residential parcel with one resident. The area to be annexed is 12 acres more or less.

5. There will be no change in electrical provider.

6. The real estate described, which is not public right of way, shall be zoned “R-2” Residential Office District. This zoning designation is consistent with the city’s comprehensive land use plan and future land use map.

7. The City of Austin, pursuant to Minnesota Statutes § 414.036, that with respect to the property taxes payable on the area legally described (herein or attached exhibit), hereby annexed, shall pay the Town of Lansing as follows:

The Township shall retain its share of property taxes for 2022. The City shall provide reimbursement of 50% in 2023 and 50% in 2024, which shall be the final year of such reimbursement.

8. That pursuant to Minnesota Statutes § 414.036 with respect to any special assessments assigned by the Town to the annexed property and any portion of debt incurred by the Town prior to the annexation and attributable to the property to be annexed, but for which no special assessments are outstanding, for the area legally described (herein or attached exhibit) there are no known special assessments or debt incurred by the Town on the subject area for which reimbursement is required. If any special assessments or debt are incurred by the Town on the subject area, the amounts shall be provided to the City within 90 days following the effective date of this ordinance and shall be paid to the Town in equal installments in 2023 and 2024.

9. That the City Clerk-Treasurer of the City of Austin is hereby authorized and directed to file a copy of this ordinance with the Municipal Boundary Adjustment Unit of the Office of the Administrative Hearings, the Minnesota Secretary of State, the Mower County Auditor, Mower County Recorder and the Lansing Township Clerk.

10. That this ordinance shall be in full force and effect and final upon the dates this ordinance is approved by the Office of Administrative Hearings.

PASSED AND ADOPTED by the City Council of the City of Austin, Minnesota, this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

ATTEST:

\_\_\_\_\_

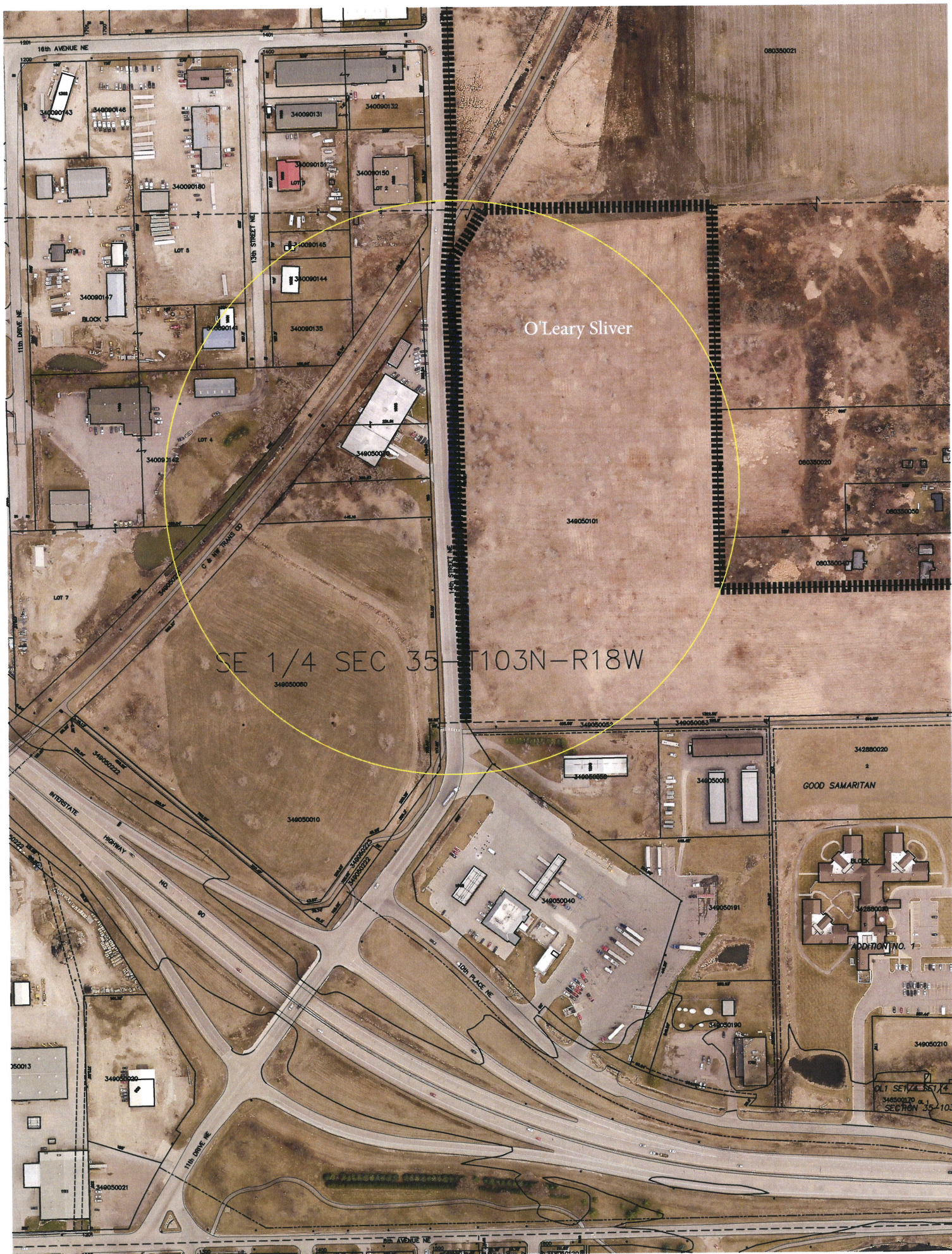
City Recorder

APPROVED:

\_\_\_\_\_

Mayor







**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF AUSTIN, MINNESOTA, ANNEXING  
PROPERTY LOCATED IN LANSING TOWNSHIP, MOWER COUNTY, MINNESOTA,  
PURSUANT TO MINNESOTA STATUTES 414.033, SUBD. 2(1), PERMITTING  
ANNEXATION BY ORDINANCE.**

WHEREAS, said property is unincorporated, is wholly within the city and is owned by the City of Austin;  
and

WHEREAS, the City of Austin was not required to hold a public hearing pursuant to Minnesota Statutes § 414.033, Subd. 2(b), as the land is owned by the city, nor was written notice required to be mailed to the Township of Lansing; and

WHEREAS, the city council reviewed the annexation;

NOW THEREFORE, the city council of the City of Austin hereby ordains as follows:

1. The city council hereby determines that the property as hereinafter described is wholly within the city and is urban or suburban in nature or about to become so and said land is currently owned by the City of Austin.
2. None of the property is now included within the limits of any city, or in any area that has already been designated for orderly annexation pursuant to Minnesota Statutes §414.0325.
3. The corporate limits of the City of Austin, Minnesota, are hereby extended to include the following described property, said land within the City of Austin and already owned by said City of Austin and it being necessary and appropriate that the same be annexed within the corporate limits of said City of Austin, Minnesota, described as follows:

See attached Exhibit "A"

4. That the area legally described herein is vacant and will not affect the population of the city. The area to be annexed includes 1.65 acres in Lansing Township.
5. The parcel is part of the public right of way.
6. The City of Austin will make no cash payment to Lansing Township pursuant to Minnesota Statutes § 414.036, since the land being annexed is City owned.
7. That pursuant to Minnesota Statutes § 414.036, there are no special assessments assigned by the town to the annexed property.
8. That the City Clerk-Treasurer of the City of Austin is hereby authorized and directed to file a copy of this ordinance with the Municipal Boundary Adjustment Unit of the Office of the Administrative

Hearings, the Minnesota Secretary of State, the Mower County Auditor, Mower County Recorder and the Lansing Township Clerk.

9. That this ordinance shall be in full force and effect and final upon the dates this ordinance is approved by the Office of Administrative Hearings.

**Exhibit A**  
**Legal Description**

All that portion of the Northwest Quarter of the Southeast Quarter of Section 35, Township 103 North, Range 18 West, Mower County, Minnesota, lying east of the following described parcel:

The following portion of the Northwest Quarter of the Southeast Quarter of said Section 35: Beginning at the Southeast corner of said Quarter-Quarter Section; thence West 66.0 feet along the South line of said Quarter-Quarter Section; thence Northerly 845.94 feet at a deflection angle of 88° 53' right; thence Northerly 235.11 feet at a deflection angle of 0° 40' left, to the Southeasterly right-of-way line of the former Chicago Great Western Railway Company; thence Northeasterly 112.02 feet at a deflection angle of 36° 06' right, along said railroad right-of-way line; thence Southerly 326.0 feet at a deflection angle of 143° 54' right; thence Southerly 847.42 feet at a deflection angle of 0° 40' right, to the point of beginning containing 1.65 acres. Said parcel having been previously described as "Tract B" in the Deed of Dedication from Geo. A. Hormel & Company to the City of Austin dated September 19, 1966, and recorded in the office of the Mower County Recorder on September 23, 1966, as document number 279218.