

A G E N D A
CITY COUNCIL MEETING
MONDAY, SEPTEMBER 19, 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 September 6, 2022

3. Recognitions and Awards.

Joan Hanson, Executive Director Mower County Senior Center

(mot) 4. *Consent Agenda

Licenses:

Edible THC: Apollo Superette, 901 West Oakland Avenue

Edible THC: Apollo III, 3011 West Oakland Avenue

Edible THC: Austin Tobacco, 1004 18th Avenue NW, Suite C

Edible THC: Superior Cannabis, 125 North Main Street

Massage Therapist: Serena Hubbell, 1101 Oakland Ave West

Claims:

- a. Pre-list of bills
- b. Investment Report.

Event Applications:

Homecoming Parade on September 23, 2022

Fire Station Open House on October 12, 2022

PETITIONS AND REQUESTS:

(mot) 5. Appointing Alexander Stoltz as the Honorary Council Member through December 5, 2022.

(res) 6. Adopting a proposed tax levy and budget for 2023 and setting the Truth In Taxation hearing for December 7, 2022.

7. Reviewing an amended sidewalk café ordinance.

(mot) a. For preparation of the ordinance.

(ord) b. For adoption and publication of the ordinance.

8. Reviewing liquor ordinances.

(mot) a. For preparation of the ordinances.

(ord) b. For adoption and publication of the first liquor ordinance. (misc. provisions)

(ord) c. For adoption and publication of the second liquor ordinance. (arena sales)

- (res) 9. Accepting donations to the City of Austin.
- (res) 10. Approving the City of Austin as the fiscal agent for the Community Band.
- (mot) 11. Authorizing \$47,600 of 2022 contingency funds for pool repairs and reallocating 2022 CIP funds for a pool security system.
- (res) 12. Approving a contract with Austin MN Junior Hockey, LLC.
- (res) 13. Providing municipal consent for the I-90 Austin Bridges Improvement Project.
- (res) 14. Accepting a MnDOT Airport grant for taxiway joint repair project.
- (res) 15. Accepting a MnDOT Airport grant for a taxilane project.
- 16. Reviewing a fence appeal from Madlain Vander.
 - (mot) a. Approve or deny fence appeal.
- 17. Granting the Planning and Zoning Department the power to contract for the removal of junk and/or illegally stored vehicles at the following locations:
 - (mot) a. 600 11th Street NE, Alavarez-Babastro Property.
 - (mot) b. 1011 4th Street SE, Nystel Property.

CITIZENS ADDRESSING THE COUNCIL

HONORARY COUNCIL MEMBER COMMENTS

REPORTS AND RECOMMENDATIONS:

City Administrator
City Council

- (mot) Adjourn to **Monday, October 3, 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
September 6, 2022
5:30 PM
Council Chambers

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

MEMBERS ABSENT:

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

APPEARING IN PERSON: Austin Daily Herald, Mary Ann Wolesky, Laura Helle, Bonnie Reitz, Jai Kalsy, Dave Nelson, Gary Quednow, Representative Patti Mueller, Doris Hoy, Helen Jahr, Chris Grev, Kelly Bahl

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

Moved by Council Member Baskin, seconded by Council Member Postma, approving the agenda with additions. Carried.

Moved by Council Member Baskin, seconded by Council Member Waller, approving Council minutes from August 15, 2022. Carried.

AWARDS AND RECOGNITIONS

Mary Ann Wolesky stated the Art Festival event was a success and she thanked the City for their help with the event.

Laura Helle echoed that the event was a success and she thanked the volunteers for their time to make a successful event.

Bonnie Rietz presented the City Art Purchase Award. The piece was selected by Council Members Fischer and Poshusta and it will be placed at the Nature Center.

Mayor King read a proclamation declaring September 17, 2022 as KSMQ Public Television Day.

Mayor King read a proclamation declaring September 19 – 26, 2022 as Mower County Historical Society Week.

Mayor King read a proclamation declaring September 9 – 18, 2022 as Welcoming Week.

CONSENT AGENDA

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

Licenses

Exempt Gambling (raffle): Austin Area Chamber of Commerce on October 6, 2022
Food: Hormel Historic Home, 208 4th Avenue NW
Food: Sudanese Community Market, 501 1st Street NW
Mobile Business: Hopper's Mini Donuts, White Bear Lake
Mobile Business: The Iowa Grill, Mason City
Temporary Food: Smokin Tailgate, 400 13th 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

Carried.

PUBLIC HEARINGS

A public hearing was held for the municipal consent design aspects of the I-90 bridge replacement project. Public Works Director Steven Lang stated the public hearing is for the Council to review the project details and final design concepts, accept public input on the project and have discussion on the merits of the project. He stated there is no action needed at the meeting. A resolution will be passed at a future meeting. Mr. Lang reviewed the costs for the project noting that the City adopted a visual quality manual for the bridges and the City would be responsible for any costs over 7% of the bridge. The project will be bid in 2023 so the costs may change.

Mr. Lang noted that there may be a noise study for a part of the project for the homes that are along the freeway. The area does not meet the criteria for a MnDOT paid study.

Jai Kalsy, MnDOT representative, stated he is the design manager for the I-90 bridge project. He stated MnDOT will be communicating with the City and Council throughout the project.

Dave Nelson reviewed the I-90 bridge reconstruction designs. He began with the Oakland Avenue bridge noting that the big improvement will be a pedestrian trail on the south side of the bridge which will connect to the new City trail.

The 14th Street bridge will be replaced and two roundabouts will be placed on each side of the bridge to accommodate traffic volume growth in the NW area of town.

The 4th Street bridge will be replaced with a single point intersection stoplight in the middle of the bridge. He noted that this design does a nice job with high-capacity traffic flow. A small area of right-of-way will need to be purchased from the cemetery as part of the project. The river bridges will also be replaced as part of this project.

The 21st Street bridge will be replaced with a standard type bridge. A small area of right-of-way will need to be taken from the motel for drainage. There will also be a trail installed in front of the motel.

Mr. Nelson reviewed the timing for the project noting the bridge work would begin in 2023 and run through 2026. Cross overs will be installed in 2023 to prepare for the construction projects. The Oakland Avenue bridge will be the first project and that will need to be completed prior to work on the 14th Street bridge. He stated there will be a website dedicated for the project that the public can visit for updates.

Council Member Baker noted the sound issue from the freeway. He stated some of the areas next to the freeway are non-livable. He would like to use some of the aesthetic funding to improve the sound issues.

Mr. Kalsy stated MnDot has looked at the noise issue and stated the level of noise did not trigger a noise study. However, he stated MnDot is looking for alternatives to mitigate noise.

Gary Quednow, 1407 2nd Street NW, stated he lives very near the freeway and noted the last noise study was done in the 1950's. Mr. Quednow stated his home has received damage from the snow plows clearing the freeway. He requested a noise study to be completed.

Mayor King noted it is the job of the Council to look at the entire City. He stated he sees both sides of the noise issue and there are significant concerns the City needs to look at.

Representative Patti Mueller stated she had an opportunity to visit the property and she has asked MnDot if the rules set up are more favorable to a metro area and questioned if a rural area would ever qualify for a noise study. She encouraged the Council to advocate for their constituents.

There were no additional public comments.

A public hearing was held for a five-year tax abatement request from Nicholas and Brianne Erickson. The proposed home is located at 3302 6th Street NE and has a proposed value of \$400,000. City Administrator Craig Clark stated the application is in conformance with the City's tax abatement policy.

Council Member Baker questioned the property tax default answer on the application.

There were no public comments.

Moved by Council Member Baker, seconded by Council Member-at-Large Austin, approving a five-year tax abatement for Nicholas and Brianne Erickson, subject to the property owners having no tax default. Carried 7-0.

PETITIONS AND REQUESTS

The Council reviewed an ordinance for the regulation of edible cannabinoids. Police Chief David McKichan stated the ordinance provides licensing, regulation and inspection for the edible cannabinoid products. The State recently adopted a law allowing the sale of THC products with the product delta-9 without State regulation. The products cannot be sold to anyone under 21.

Moved by Council Member Postma, seconded by Council Member Waller, adopting a resolution for preparation of the ordinance. Carried.

Moved by Council Member Fischer, seconded by Council Member Waller, adopting a resolution for adoption and publication of the ordinance. Carried 7-0.

Moved by Council Member Baskin, seconded by Council Member Waller, adopting a resolution for summary publication of the ordinance. Carried 7-0.

Moved by Council Member Baskin, seconded by Council Member Waller, adopting a fee for the edible cannabinoids license. Carried 7-0.

The addition of holiday pay was discussed for the Environmental Outreach Coordinator.

Council Member-at-Large Austin asked if Labor Day was included in the holiday pay for the Nature Center position.

Human Resources Director Trish Wiechmann stated Labor Day is not included.

Moved by Council Member-at-Large Austin, seconded by Council Member Waller, approving holiday pay for the Environmental Education Outreach Coordinator, retroactive to September 1, 2022. Carried.

Moved by Council Member-at-Large Austin, seconded by Council Member Waller, setting public hearings for October 3, 2022 on fall assessments. Carried 7-0.

City Administrator Craig Clark stated the Coalition of Greater Minnesota Cities suggested the City adopt a resolution requesting a special session.

Moved by Council Member Fischer, seconded by Council Member Postma, approving a resolution encouraging the Minnesota Legislature to hold a special session. Carried 7-0.

Public Works Director Steven Lang requested the Council authorize the fall yard waste program beginning on September 17, 2022 through November 27, 2022 at the Cook Farm site. The site would be open from dawn to dusk and would accept leaves, grass and plants from gardens and flower pots.

Moved by Council Member-at-Large Austin, seconded by Council Member Poshusta, authorizing the annual fall yard waste program. Carried 7-0.

Moved by Council Member Baskin, seconded by Council Member Fischer, adopting a resolution in support of the bridge investment program discretionary grant application for the I-90 Austin bridges improvement and mobility project. Carried 7-0.

Moved by Council Member Baskin, seconded by Council Member Poshusta, adopting a resolution accepting donations to the City of Austin. Carried 7-0.

Planning and Zoning Administrator Holly Wallace reviewed two annexation ordinances regarding properties in Lansing Township. Ms. Wallace stated the properties are wholly within the City limits and property owners will gain access to City services. She noted there is a business that needs to be hooked up to City sewer shortly.

Moved by Council Member Postma, seconded by Council Member Baskin, for preparation of the ordinances, with the change at number 6 of the first ordinance.

Moved by Council Member Fischer, seconded by Council Member Postma, for adoption and publication of the first Lansing Township annexation ordinance. Carried 7-0.

Moved by Council Member Baker, seconded by Council Member Postma, for adoption and publication of the second Lansing Township annexation ordinance. Carried 7-0.

Doris Hoy noted that she did not ask to be annexed into the City of Austin and does not want city services. She asked what the timeline was for hooking into the City.

Ms. Wallace stated if the properties are compliant, they can remain on their septic systems but if the property is determined to be non-compliant then they would need to hook into the City system.

Moved by Council Member Postma, seconded by Council Member Poshusta, appointing Geoff Smith to the Arts and Culture Committee, term expiring December 31, 2023. Carried.

CITIZENS ADDRESSING THE COUNCIL

Helen Jahr, Park and Recreation Chair, stated that the Park Board's Council representative asked to be on the agenda but was denied so she addressed the Council under the public forum portion of the meeting. She stated the Park and Rec Director's job position was changed without the knowledge of the park board. The board would like the language to be changed back to reporting to the Park Board.

Mayor King stated he received an e-mail from Council Member Waller to add an agenda item regarding the job position to the Council meeting. Mayor King asked Parks and Recreation Director Dave Merrill if the issue had been discussed with the Park Board and Mr. Merrill stated it had not. Mayor King stated that was the reason it was not placed on the meeting because it needed to be placed on the Park and Recreation board.

Council Member-at-Large Austin asked how job descriptions get changed without board knowledge.

Chris Grev, Park and Rec Board Member, stated it is important for the full Council to hear the Park Board's concerns. She stated the board has requested to be on the agenda for 18 months and have been denied. She stated the job description needs to go back to the way it was previously written. She invited the Council to attend the Park and Rec Board meeting. She stated she is frustrated and doesn't know where to go.

Council Member Baskin stated there have been many Park and Rec issues recently and he would like to use the mediation by the League of Minnesota Cities for the issues.

Council Member Baker asked if the job compensation materially changes if the position reports to the Park Board or if the position reports to the city administrator.

Ms. Wiechmann stated it does not.

Council Member Baker stated the matter is simple and would like to move to change the position description.

Mayor King stated he has concerns about the ramifications of the changes and the position should be similar to the other department heads.

Ms. Grev stated the Park Board is governed by the City Charter and there is some disagreement as to who the Park Director reports to.

Council Member-at-Large Austin stated in previous years, the Council took the Park Board's recommendations straight to a Council meeting.

Mayor King stated the Park Board should have their meeting and then the Council and address it at a future work session.

Kelly Bahl, 505B 24th Avenue NW, stated she moved to Austin for the Nature Center. She expressed her concerns about her position being discussed at a public level.

REPORTS

Council Member Baskin welcomed the students and teachers back to the school year.

Council Member-at-Large Austin thanked the Austin Area Arts Commission for the festival and encouraged people to attend welcoming week events.

Council Member Baker confirmed the job description issue will be on the next work session.

Council Member Postma thanked City staff for their work at the Arts Festival.

Mayor King stated he had a nice time at the NuTek opening.

Moved by Council Member-at-Large Austin, seconded by Council Member Baskin, adjourning the meeting to September 19, 2022. Carried.

Adjourned: 7:40 p.m.

Approved: September 19, 2022

Mayor: _____

City Recorder: _____



Street/Special Event Permit

Permit Type: Street or Special Event

Permit Number: 2022-131

Applicant Information		Organization Information	
Primary Name	Emily Hovland	Organization Name	Austin High School
Primary Phone	612-508-1343	Organization Address	301 3rd St NW
Primary Cell	612-508-1343	Organization City	Austin
Primary Email	emily.hovland@austin.k12.mn.us	Organization State	MN
Alternate Name	Katie Carter	Organization Zipcode	55912
Alternate Phone			
Alternate Cell			
Alternate Email	katie.carter@austin.k12.mn.us		

Permit Information

Event Title	Homecoming Parade		
Event Description	Homecoming parade for Austin High School.		
Event Start Date	September 23, 2022	Event Start Date	September 30, 2022
Approximate Number of Participants	200		
Event Start Time	16:00	Event End Time	17:00
Portion of Street Width Being Used	We will need the roads closed during the event.		
Traffic Control Barricades Needed for Street/Lane Closure?	No	Will Traffic Control Barricades be Provided by Applicant or City?	

Engineering Department					
Determination	Approved	Date of Approval	September 1, 2022	Approved By	Mitch Wenum
Comments					

Police Department					
Determination	Approved	Date of Approval	September 6, 2022	Approved By	David McKichan
Comments					

City Clerk					
Determination	Approved	Date of Approval	September 2, 2022	Approved By	Ann Kasel
Comments					

Final Determination	Approved
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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.



Street/Special Event Permit

Permit Type: Street or Special Event

Permit Number: 2022-132

Applicant Information		Organization Information	
Primary Name	Jim McCoy	Organization Name	Austin Fire Department
Primary Phone	507-433-3405	Organization Address	122 1st Avenue NE
Primary Cell	507-438-1661	Organization City	Austin
Primary Email	jimm@ci.austin.mn.us	Organization State	MN
Alternate Name		Organization Zipcode	55912
Alternate Phone			
Alternate Cell			
Alternate Email			

Permit Information

Event Title	Fire Station Open House		
Event Description	Block Street for Fire Station Open House		
Event Start Date	October 12, 2022	Event Start Date	October 12, 2022
Approximate Number of Participants	300		
Event Start Time	16:00	Event End Time	20:00
Portion of Street Width Being Used	The whole street of 1st Street NE in front of the station from 1st Avenue and 1st Street NE to Oakland Avenue East and 1st Street NE.		
Traffic Control Barricades Needed for Street/Lane Closure?	Yes	Will Traffic Control Barricades be Provided by Applicant or City?	City

Engineering Department					
Determination	Approved	Date of Approval	September 7, 2022	Approved By	Mitch Wenum
Comments	City to provide barricades in locations as requested				

Police Department					
Determination	Approved	Date of Approval	September 7, 2022	Approved By	David McKichan
Comments					

City Clerk					
Determination	Approved	Date of Approval	September 7, 2022	Approved By	Ann Kasel
Comments					

Final Determination	Approved
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RESOLUTION NO. _____

**PROPOSED PROPERTY TAX LEVY AND
ADOPTING A PROPOSED BUDGET FOR TAXES
PAYABLE IN 2023**

WHEREAS, the City of Austin is required by state law to certify a proposed property tax levy to the County Auditor of Mower County on or before September 30, 2022; and

WHEREAS, the City of Austin is required by state law to select dates between November 25 and December 28 for budget and tax levy hearings.

NOW, THEREFORE, BE IT RESOLVED:

1. That the proposed tax levy for 2023, collectable in 2023, is **\$8,283,000**.
2. That the proposed budgets for the City of Austin are as follows:

Proposed 2023 General Fund budget	\$ 20,065,846
Proposed 2023 Recreation Programs Fund budget	\$ 133,186
Proposed 2023 Library Fund budget	\$ 1,280,621
Proposed 2023 Fire PERA budget	\$ 33,000
Proposed 2023 Tax Increment Debt Service Fund budget	\$ 405,184
Proposed 2023 Capital Improvements Revolving Fund budget	\$ 2,456,000
Proposed 2023 Sewer User Fund budget	\$ 8,041,733
Proposed 2023 Waste Transfer Station Fund budget	\$ 72,066
Proposed 2023 Port Authority Fund budget	\$ 1,039,005
Proposed 2023 Storm Sewer Maintenance budget	\$ 1,046,250
Proposed 2023 Central Garage Fund budget	\$ 2,429,901
Proposed 2023 MIS Replacement Fund budget	\$ 238,764
Proposed 2023 Fire Fleet Replacement Fund budget	\$ 221,500
Proposed 2023 Risk Management Fund budget	<u>\$ 2,349,391</u>
 Total	 <u>\$ 39,812,447</u>

3. The date of the public hearing is Wednesday December 7, 2022 at 6:00 p.m.

BE IT FURTHER RESOLVED, that a certified copy of this resolution be given to the County Auditor of Mower County, Minnesota.

Passed by a vote of Yeas and Nays this 19th day of September, 2022.

YEAS

NAYS

ATTEST:

APPROVED:

City Recorder

Mayor

City of Austin
Ann M. Kasel, City Clerk



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MEMORANDUM

To: Mayor & Council
 From: Ann M. Kasel, City Clerk
 Re: Ordinance Changes
 Date: September 8, 2022

There are three proposed ordinances on the Council meeting.

The first ordinance is for the modification of the sidewalk café ordinance. The Council discussed this at the August 15, 2022 work session and voted to remove the food requirement from the ordinance. Additional language was added to allow all types of liquor license holders to be eligible to apply for this license.

The second ordinance modifies a number of subdivisions in Chapter 5 of the City code.

Section 5.62, Subd. 8 & 10 are being modified to conform with recent Minnesota State Law changes which allow baseball teams or managers of baseball stadiums to hold on-sale wine licenses. This law was changed at the State level due to the unavailability of 3.2 beer. We have made contact with the Marcusen Park Baseball Association and they do not plan on utilizing this type of license at this time. However, we want to keep our code up to date and harmonious with State Law.

Section 5.65 Subd. 4 is the Sunday on-sale provision which would allow Sunday on-sale license holders to serve at 8:00 a.m. This was discussed and approved at the September 6, 2022 work session.

Sections 5.81 and 5.81 are being modified to conform with recent Minnesota State Law changes which allowed breweries to sell different sizes and amounts of off-sale containers. We have made contact with the breweries in town and they do not plan on changing their operations at this time but if they do, our code would be up to date.

The third ordinance allows for liquor sales in Packer Arena. The City code was drafted prior to Packer Arena being constructed so it specifically referred to Riverside Arena. The changes would allow events with alcoholic beverages to take place at Packer Arena.

Please contact me if you have any questions or need any additional information prior to Monday's meeting. Mr. Dankert will be handling this item in my absence at the meeting.

ORDINANCE NO.

**AN ORDINANCE OF THE CITY OF AUSTIN,
MINNESOTA AMENDING CHAPTER 6.59 OF THE CITY CODE
SIDEWALK CAFE**

The Council of the City of Austin does ordain:

Section 1. Austin City Code Chapter 6, Sections 6.59, Subd. 1, 6.59 Subd. 2 (I), and 6.59 Subd. 2. (J) are hereby repealed.

Section 2. A new Section 6.59 Subd. 1 is hereby enacted and should read as follows:

§ 6.59 Subd. 1

Subd. 1. *Permit required.* Any establishment in the city which is licensed by the City of Austin pursuant to § 6.47 to sell food for consumption on designated premises or holds an on-sale liquor, wine, or beer license, brewer tap room license, or brew pub on-sale license may apply to the City Council by and through the City Clerk's Office for a special permit to conduct a portion of such licensed business in a sidewalk cafe or by use of a vending cart on a part of the public way immediately adjoining the licensed premises.

Section 3. A new Section 6.59 Subd. 2 (J) is hereby enacted and should read as follows:

§ 6.59 Subd. 2 (J)

Subd 2 (J). No food or alcoholic beverages are allowed to be consumed or sold for consumption on the permitted area between the hours of 10:00 p.m. and 8:00 a.m. of any day.

Passed by a vote of yeas and nays this 19th day of September, 2022

YEAS

NAYS

APPROVED:

Stephen M. King, Mayor

ATTEST:

Tom Dankert, City Recorder

ORDINANCE NO.

**AN ORDINANCE OF THE CITY OF AUSTIN,
MINNESOTA AMENDING CHAPTER 5 OF THE CITY CODE**

The Council of the City of Austin does ordain:

Section 1. Austin City Code Chapter 5, Section 5.62 Subd. 8, Section 5.65, Subd. 4, Section 5.81 and Section 5.82 are hereby repealed.

Section 2. A new section 5.62 Subd. 8 is hereby enacted and shall read as follows:

§ 5.62 SUBD 8.

Subd. 8. On-sale wine licenses shall be granted to restaurants, as defined in this chapter. For purposes of this section, however, the restaurant shall have appropriate facilities for seating not less than 30 guests at one time

Section 3. A new section 5.62 Subd. 10 is hereby enacted and shall read as follows:

§ 5.62 SUBD 10.

Subd. 10. On-sale wine licenses may be granted to the owner of a summer collegiate baseball team or baseball team competing in a league established by the Minnesota Baseball Association, or to a person holding a concessions or management contract with the owner, for beverage sales at a ballpark or stadium located within the municipality for the purposes of summer collegiate league baseball games, town ball games, and any other events at the ballpark or stadium. A license issued under this paragraph authorizes sales on all days of the week to persons attending baseball games and any other events at the ballpark or stadium. This license may be issued in conjunction with an on-sale malt liquor license.

Section 4. A new Section 5.65 subd. 4 is hereby enacted and shall read as follows:

§ 5.65 SUBD 4.

The sale of liquor by an on-sale licensee on Sundays is allowed between the hours of 8:00 a.m. on Sundays and 1:00 a.m. on Mondays. Establishments serving liquor on Sunday must obtain a special license under Subd. 1 above.

Section 5. A new Section 5.81 is hereby enacted and shall read as follows:

§ 5.81

Per M.S. 340A.28 and M.S. 340A.29 a license shall be issued for off-sale of malt liquor at a brewer's licensed premises that had been produced and packaged by the brewer. A separate license is required under each statute.

Section 6. A new Section 5.82 is hereby enacted and shall read as follows:

§ 5.82

Per M.S. 340A.28 and M.S. 340A.29, a Sunday growler off-sale license shall be issued for off-sale of malt liquor at a brewer's licensed premises that has been produced and packaged by the brewer on Sundays. A separate license is required under each statute.

Passed by a vote of yeas and nays this 19th day of September, 2022

YEAS

NAYS

APPROVED:

Stephen M. King, Mayor

ATTEST:

Tom Dankert, City Recorder

ORDINANCE NO.

**AN ORDINANCE OF THE CITY OF AUSTIN,
MINNESOTA AMENDING CHAPTER 5 OF THE CITY CODE
ARENA LIQUOR SALES**

The Council of the City of Austin does ordain:

Section 1. Austin City Code Chapter 5, Sections 5.01, Subd. 20, 5.32, Subd. 13, 5.32 Subd. 14, 5.32 subd. 15, 5.32 Subd. 16 and 5.32 Subd 17. are hereby repealed.

Section 2. A new Section 5.01 Subd. 20 is hereby enacted and should read as follows:

§ 5.01 Subd. 20

Any structure commonly used as an indoor sports, convention, or cultural facility, owned by the City.

Section 3. New Sections 5.32, Subd. 13, 5.32 Subd. 14, 5.32 subd. 15, 5.32 Subd. 16 and 5.32 Subd 17. are hereby enacted and should read as follows:

§ Section 5.32, subd. 13:

Subject to the limitation described in Subd. 15 below, and pursuant to the provisions of Laws of Minnesota 1979, Chapter 7, and more generally Minnesota Statutes § 340A.4040, an on-sale licensee is authorized to provide and dispense by sale, or otherwise, liquor at an Arena when engaged to do so by a permittee hosting an event at the Arena. This provision is limited to events that are conventions, banquets, conferences, meetings, and social affairs conducted on the premises of an Arena. When so engaged, a licensee may only dispense liquor to members or guests attending the event. The permittee and the licensee shall jointly provide sufficient security mechanisms and personnel to maintain order and provide adequate public safety to all participants and patrons of any such event. The City may, through its Chief of Police, set minimum security expectations as part of the permitting process.

§ Section 5.32, subd. 14:

No on-sale licensee shall sell or otherwise dispense liquor at an Arena unless the on-sale licensee shall have first filed with the City Recorder a public liability insurance policy, or certificate thereof, which provides for coverage of all activities and operations of the on-sale licensee at the Arena in the same amounts as the city's then current public liability policy and which names the city as an additional insured. No such policy or certificate shall be deemed filed until first approved by the City Attorney as to compliance with this section.

§ Section 5.32, subd. 15:

Pursuant to Minnesota Statutes § 340A.404, no liquor may be sold or otherwise dispensed to any person attending or participating in a youth amateur athletic event at the Arena, for persons 18 years of age or younger. Liquor may be sold or dispensed at the Arena only by a person employed by an on-sale licensee for such purpose and only at such location as is authorized by the Arena manager. All other laws and City Code provisions governing the time when liquor may be sold shall apply to such sales at the Arena, except that in each instance more restrictive time limitations may be prescribed by the Arena manager. No liquor shall be sold or otherwise dispensed at the Arena after 1:00 a.m. on Sunday.

§ Section 5.32, subd. 16:

In addition to all other fees, charges and rentals, an on-sale licensee who sells or otherwise dispenses liquor at an Arena shall pay the city 9% of all receipts received by the on-sale licensee for the sales for use of the Arena and incidental expenses. No more than seven days after an event at which the sales occur, the on-sale licensee shall give the city an accounting of the total amount of the sales and shall then pay the city the appropriate fee. An on-sale licensee shall furnish and use cash registers in the conduct of the business at the Arena or such other method of accounting for sales as the Council may prescribe.

§ Section 5.32, subd. 17:

The Mayor, City Administrator, Parks and Rec Director, or Chief of Police may direct that the sale or dispensation of liquor at an Arena be stopped at any time when the same is being done in violation of law or City Code provisions, or when it shall appear that the action is necessary to protect persons, property or the interests of the city.

Passed by a vote of yeas and nays this 19th day of September, 2022

YEAS

NAYS

APPROVED:

Stephen M. King, Mayor

ATTEST:

Tom Dankert, City Recorder

RESOLUTION NO.

ACCEPTING DONATIONS TO THE CITY OF AUSTIN

WHEREAS, the City has received gift as follows:

Gift	Donor	For
\$75	MBT Bank	Fire Department
\$850	Neddersen Family	Memorial Bench
\$850	Williams Family	Memorial Bench
\$250	Disabled American Vets	Family Fun Night
\$850	McAlaster Family	Memorial Bench

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 19th day of September, 2022.

YEAS

NAYS

ATTEST:

City Recorder

APPROVED:

Mayor

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



Phone: 507-437-9940

www.ci.austin.mn.us

MEMO

TO: Mayor and City Council

FROM: Tom Dankert *TD*

DATE: September 19, 2022

SUBJECT: Community Band Fiscal Sponsorship Agreement
U:\Word2022\Miscellaneous\Community Band Sponsorship Agreement - 2022.doc

Since 2013 the City of Austin has been acting as the fiscal host for the Community Band such that they can then be eligible for contributions from the Southeastern Minnesota Arts Council (SEMAC). In the past these grants amounted to \$5,000 annually and are an important part of the fundraising efforts for the summer Concerts in the Park program.

Starting in 2019, SEMAC started requiring applicants to have an official Fiscal Sponsorship Agreement to be eligible to apply for their grant funds.

The attached agreement is the same one that was approved in 2021 (for the 2022 season) and accepted by SEMAC, so we believe it will meet the requirements again for the 2023 grant season.

If Council agrees, I would request approval of a resolution authorizing Tom Dankert to sign the Fiscal Sponsorship Agreement with the Community Band in order to apply for SEMAC grants.

If you have any questions, please do not hesitate to give me a call at 437-9959.

FISCAL SPONSORSHIP AGREEMENT

The City of Austin, Minnesota, a municipal corporation, (Fiscal Sponsor) agrees to be the vehicle through which grant funds are allocated by the State of Minnesota may legitimately pass to the the Austin Community Band (Grantee) from the Grantor, Southeastern Minnesota Arts Council (SEMAC).

The Fiscal Sponsor agrees that:

1. Its governing board has officially approved sponsorship of the Austin Community Band concerts and activities and the that the Grantee's actions fall within the scope of its mission.
2. The Authorizing Official has reviewed the grant application to SEMAC, signified by inclusion of this signed agreement with the grant application.
3. The Authorizing Official will receive the grant funds from SEMAC and disburse them to the Grantee.
4. The Authorizing Official will read and approve the final report, signified by inclusion of a statement to the effect with the submitted report.
5. The Fiscal Sponsor will monitor the expenditure of grant funds, and will return any unused funds to SEMAC.

The Grantee agrees to:

1. Carry out the grant activity in compliance with the description, personnel, budget and dates as set forth on the grant application.
2. Conduct the grant activity in a manner which is exclusively charitable, literary, or educational as defined in Section 501(c)(3) of the Internal Revenue Code. Further, no part of this grant may be used to influence legislation or intervene in any political campaign.
3. Seek prior approval from the Fiscal Sponsor should any changes to the grant activity become necessary. Ultimate approval of such changes as wells the final report still rest with SEMAC.

Both parties agree to:

1. Maintain all financial records relating to the grant activity according to generally accepted accounting principles, retain records as long as required by law, and make records available to auditors as required by law.
2. Designate the undersigned individuals to act as authorizing officials of the grant activity. These officials shall act as principal coordinators of the business of the grant activity and shall have the authority to sign requests and disbursements.
3. Reflect all grant activities, to the extent required, on their State and Federal tax returns and financial reports.
4. Comply with any termination conditions imposed by SEMAC if the Agreement is terminated.

Signed and dated by Thomas Dankert, designated by the Fiscal Sponsor, and Roger Boughton, designated by Grantee.

DATED: _____

Thomas Dankert

DATED: _____

Tim Davis

RESOLUTION NO.

**AUTHORIZING THE EXECUTION OF AN AGREEMENT
WITH THE COMMUNITY BAND**

WHEREAS, the City Council for the City of Austin has previously approved for the City to be the fiscal agent for the Community Band; and

WHEREAS, the City has done this for a number of years so that the Community Band can be eligible for additional grants from the State of Minnesota; and

WHEREAS, the State is requiring the Community Band have an official fiscal sponsorship agreement to be eligible for grant funds; and

WHEREAS, the Community Band would like to enter into a fiscal sponsorship agreement with the City of Austin.

NOW THEREFORE BE IT RESOLVED THAT the City of Austin, Minnesota is authorized to enter into a fiscal sponsorship agreement with the City of Austin and Tom Dankert shall be authorized to execute said agreement on behalf of the City.

Passed by a vote of yeas and nays this 19th day of September, 2022.

YEAS:

NAYS:

ATTEST:

APPROVED:

City Recorder

Mayor



PARKS, RECREATION, FORESTRY DEPARTMENT & ARENAS

500 4TH Avenue NE Austin, Minnesota 55912

507-433-1881

Dave Merrill, Director

www.ci.austin.mn.us

MEMORANDUM

TO: Austin City Council

FROM: Dave Merrill

DATE: 9/15/2022

RE: FALL 2022 POOL IMPROVEMENTS

The Parks, Recreation and Forestry Department with the support and endorsement of the Park and Recreation Board is requesting the following financial adjustments to the 2022 budget for the completion of necessary pool repair, maintenance and upgrade projects.

Use of Fund Balance \$47,600

Contracted repair, preparation, painting and caulk of 3 pool vessels by Paintball LLC, Albert Lea, MN. Paintball, LLC does all the pool maintenance work for the City of Albert Lea and has been vetted by their Parks & Recreation Department. These paint repairs should last for 4-6 years. It is imperative to complete this project this Fall to avoid potential weather or logistical delays in the Spring and potentially detrimental Winter conditions impacting the compromised pool surfaces.

Reallocation of 2022 CIP Funds

Savings from completed CIP (See below) will be adequate to fund a comprehensive security camera monitoring system. Estimated cost: \$16,500

CIP Savings

Todd Park Coolers	\$7500
Spash Pad Boiler	\$7000
Divewell Boiler	\$3250
Total:	\$17750

The need for this system has arisen from thefts or property, vandalism and conduct issues during all hours. The need for security cameras has been identified by many citizens through multiple reporting mechanisms.

The completion of this project in the Fall will allow monitoring of the facility during the off season. The timing will allow shared labor costs with the pool speaker upgrade project. Supplemental external funding has been requested from other civic organizations from this project. If these funds have a significant impact additional savings will be applied to other CIP for 2022.

Savings from partially completed or scaled-down CIP such as Road/Path Maintenance and ADA walks/paths will allow for the reconfiguring of fencing and gates in and around the pool. Estimated cost: \$9500. This project will create additional patron space on deck, allow for more efficient maintenance access and provide for an overall better customer experience.

These projects are part of a larger improvement plan to the municipal pool designed to increase safety, cleanliness, efficiency and the overall image of the facility and operations.



PARKS, RECREATION, FORESTRY DEPARTMENT & ARENAS
 500 4TH Avenue NE Austin, Minnesota 55912
 507-433-1881
 Dave Merrill, Director
www.ci.austin.mn.us

MEMORANDUM

TO: Austin City Council
 FROM: Dave Merrill
 DATE: 9/14/2022
 RE: 2022-2023 Austin Bruins usage contract

The Parks, Recreation and Forestry Department with the support and endorsement of the Park and Recreation Board is requesting the approval of the 2022-2023 usage contract with the Austin Bruins.

Below are the notable changes from the previous contract.

- The monthly (Sept-March) payment increased \$257 to make the total \$6800 per month. The rates for April games and practices did not change. They're still at \$111.00/hr.
- Language was added to reflect a good-faith effort to work together for the common good of operations and the experience.

“LESSEE shall be responsible for assisting with maintaining the general positive cleanliness, appearance and function of common areas, restrooms, and stands/bleachers during and following each event.

This is a matter of courtesy and professionalism rather than contractual obligation.”

The gist of this is that we should all be working together to make things better and/or to keep things from being a negative experience for fans/guests. While Arena staff will be responsible for cleaning messes for example, we can all take responsibility for mitigating them or avoiding them.

- The hourly rate for post-game skates was removed and replaced with a commitment to honoring the 8 dates that have already been submitted, but limited to 1 hour per skate. Requests to add more dates will incur an hourly rate charge of \$138/hr.

Rental Agreement
Austin Riverside Arena

This agreement made and entered into this 23rd day of August, 2022, between the City of Austin, Minnesota, a municipal corporation under the laws of Minnesota, herein called LESSOR, and Austin MN Junior Hockey LLC, herein called LESSEE:

RECITALS

WHEREAS, the LESSEE desires to have a NAHL junior hockey team rent space in the City of Austin; and

WHEAEAS, the LESSOR is willing to rent space and ice-time to the NAHL junior hockey team owned by the LESSEE;

WITNESSETH: The LESSOR and the LESSEE, in consideration of the rents, covenants, and agreements hereinafter specified, do agree as follows:

- I. The LESSOR grants and LESSEE accepts a lease for the use of the Riverside Arena, located in Austin, Minnesota, for hockey practices and games as scheduled, commencing September 1, 2022 and terminating May 10, 2023. Said contract may be extended for additional seasons as agreed upon by LESSOR and LESSEE.
- II. The LESSOR agrees to provide:
 - A. Building facilities, locker room and storage space area, appropriate ice conditions, utilities, maintenance service for all ice hockey practice sessions, games, locker room area, seating area, other team functions and in addition necessary scoring equipment for all hockey games on game dates. See attached **Exhibit A** – space map designating leased areas and functions.
 - B. In case Riverside arena or any part thereof is destroyed or partially destroyed by fire or other casualty not arising from the fault or negligence of Lessor, Lessee or those employed by either, Lessor shall repair the damage within a reasonable period of time, due allowance being made for delays beyond control of Lessor, and rent shall abate proportionately to the extent that the premises are not tenantable, but in the event the damage shall be so extensive that building and/or premises cannot be substantially restored within ninety (90) days, either Lessor or Lessee shall have the option to terminate this Lease upon thirty (30) days' written notice to the other from date of damage, whereupon this Lease shall terminate and Lessee shall pay rent up to date of damage, and thereafter both Lessor and Lessee shall be free and discharged of all further obligations hereunder.
 - C. LESSEE shall have exclusive rights to dasher board advertising in the main area of Riverside Arena. All advertising content must be approved by LESSOR. LESSEE agrees to pay \$1,000 to LESSOR for the rights to sell advertising in the ice but must put

in the AHS logo at no cost to them. Proceeds and costs from dasher board advertising belong to LESSEE exclusively.

D. During LESSEE events, food concession rights and revenues are the property of LESSEE and LESSEE is solely obligated for all risks and costs associated therewith. At all other times, food concession rights and revenues shall remain the property of LESSOR, and its authorized concessionaires. LESSEE shall ensure that all concession areas, equipment and the tools are left in the same condition at "opening" when concession areas are closed after LESSEE's events, normal wear and tear excepted. Basic trash receptacles and dumpsters are provided by LESSOR, however, any additional charges, fees, or services resulting from LESSEE's activities or events shall be LESSEE's sole responsibility.

III. It is understood and agreed that all personnel required for the operation of LESSEE'S hockey team at the Riverside Arena including but not limited to the following positions shall be provided by LESSEE at his sole cost and expense.

A. Personnel:

1. Ticket Sellers
2. Ticket Takers
3. Ushers
4. Concessionaires
5. Public Address Announcer
6. Other electronic operators
7. Scoring and Scoreboard Operators
8. Security – sufficient to maintain order and provide adequate safety to all participants and patrons. Lessor may establish minimum security requirements.
9. Facility maintenance during and following events and activities
10. Game Officials
11. Team Doctor or Certified Trainer

B. The parties acknowledge and agree that this lease covers a limited number of dates and times for use of the Riverside Arena by the LESSEE. The Riverside arena will also be used by the Austin Public School, Austin Youth Hockey, and Riverside Figure Skate Club. Therefore on or before the first day of August of each year during the term of this lease LESSEE shall submit to LESSOR the LESSEE schedule of dates and hours for scheduled games and practice sessions. If any of LESSEE'S scheduled dates and times conflict with those requested by the other users of the Riverside Arena the following priority schedule will be observed:

- NAHL practice – Monday – Friday; available times from 10:00 AM- 3:00 PM
Morning ice-time may be provided on mutually agreed dates and times
LESSEE shall pay \$138 per hour for such morning ice-time.
- NAHL games – Friday and Saturday evenings (game blocks 4 hours) (game nights ice will not be available to others after 6 PM.)
LESSEE shall pay \$138 per hour for any ice-time beyond the 4-hour block.

- Public Skate – After regularly scheduled NAHL games LESSEE may allow a public skate period of up to but not to exceed 1 hour. This agreement covers up to but not to exceed 8 game dates. If allowed, LESSEE shall pay \$138 per hour for such public skate period in excess of 8 dates. This does not apply to “Paint the Town Pink” which shall be subject to the four-hour block above.
- NAHL games scheduled during the week will be considered however should not conflict with any Austin High School games.
- Austin High School games – Tuesday, Thursday, Saturday morning/afternoon before 6 PM, hours to be determined.
- Monday through Friday during the hockey season, normal practice (high school) hours shall be 3:30 PM to 6:15 PM. On Bruins game day's teams must be off the ice by 6 PM, this includes Saturday games.
- Austin High School section game dates and hours to be determined.
- Riverside Figure Skating Club – Sunday Noon- 5 PM & Monday 6:30 PM to 9 PM, show dates in March TBD.
- Austin Youth Hockey – all other available hours, tournament schedule to be considered.

IV. For the 2022-2023 season, LESSEE shall pay LESSOR rent under this agreement on the first of each month beginning September 1, 2022, and terminating March 1, 2023, in the monthly amount of \$6,800.00.

- Payments are due by the 10th of each month.
- Game dates in excess of 28 will be billed at \$146.00 per hour, tax incl.
- The first day of practice each year would be the day after Labor Day.
- Practice hours in excess of 270 will be billed at \$111.00 per hour, tax incl., during the season from September to March.
- April practice ice will be billed at \$111.00 per hour, tax incl.
- April games blocks will be 4-hour blocks at \$111.00 per hour, tax incl.
- If summer ice is ever available cost to be negotiated for camps etc.

V. This agreement shall remain in full force and effect during its term.

VI. LESSEE agrees to abide by all policies of the LESSOR and require all participants of their program to be properly insured.

VII. LESSEE shall hold LESSOR harmless from and indemnify LESSOR against any and all liability, damage, loss and expense arising or resulting from the acts or omission of or caused by LESSEE or LESSEE'S employees, servants, agents, guests, assigns, subtenants, visitors or licensees in, upon or about the demised premises, the Arena or the adjacent areas, including all common areas or arising out of or related to the use and occupancy of the demised premises or the business or activity conducted with respect hereto, including injuries to person and Austin Bruin's property stored or used in the Arena. For the purposes of this provision, “LESSOR” includes the City of Austin, its officers, employees, agents, and representatives. Further “indemnify” includes holding harmless from and against all low, cost, expense, and liability whatsoever (including LESSOR's costs of defending

against the foregoing, including attorney's fees, court fees, and any other cost of litigation) whether asserted by LESSEE or any third-party.

- VIII. LESSEE hereby agrees to furnish LESSOR with evidence of Public Liability Insurance in the form of a Certificate of Insurance to include an "additional insured endorsement" premises leased to the named insured in favor of the LESSOR, with minimum coverage of \$500,000 per claimant and \$1,500,000 per occurrence.
- IX. It is agreed that the personnel used or supplied by LESSOR pursuant to this agreement shall be and remain employees or agents of LESSOR and under no circumstances are such personnel to be considered employees or agents of LESSEE.
- X. LESSEE not deface, injure, or damage, nor shall LESSEE make no changes or alterations in, on, or to Riverside Arena or its grounds, unless approved in writing by the City of Austin. LESSEE shall not have the use of, or access to any portion of LESSOR'S premises not specifically authorized. Any damage to the premises, interior or exterior, occurring as a result of LESSEE's use of the premises will be repaired at the expense of LESSEE unless caused solely by the negligence of LESSOR.

LESSEE shall be responsible for assisting with maintaining the general positive cleanliness, appearance and function of common areas, restrooms, and stands/bleachers during and following each event. This is a matter of courtesy and professionalism rather than contractual obligation.

Unless specifically provided for in this Lease, LESSOR shall be responsible for general building maintenance, janitorial services, ice resurfacing, and routine operation and maintenance of the premises. LESSOR shall keep the foundations, exterior walls, roof and other items which may be considered structural in nature in good repair but shall not be otherwise obligated to repair or replace any parts of the premises. LESSOR shall furnish electricity, water, heat and sewer service at LESSOR's expense. All other utilities, including but not limited to telephone service and internet for LESSEE's use shall be LESSEE's responsibility.

LESSEE shall not permit to be done on the premises or grounds anything that would constitute a nuisance. LESSEE shall, at its own expense, keep the portions of the premises over which they have exclusive use, including equipment, fixtures, and appliances located thereon in good repair and in good sanitary condition.

LESSEE shall be responsible for providing necessary ticket sellers, ticket takers, announcers, parking lot attendants, officials, goal judges, and score keepers. LESSEE shall have no less than one adult supervisory person on duty for all activities conducted under this Agreement. LESSEE shall be responsible for the sound system and playing of all music before, during and after events.

LESSEE shall provide security for all games sufficient to maintain order and provide adequate safety for all people attending games. LESSEE shall comply with reasonable security requests made by LESSOR from time to time.

- XI. All exclusive contracts with the LESSOR including supplies, products, and advertising shall be honored by LESSEE.
- XII. Payments under this agreement are due by the tenth of each month in which they are invoiced.

IN WITNESS WHEREOF, the parties hereto have executed this agreement on the _____ day of _____, 2022.

LESSOR: City of Austin

CITY MAYOR

CITY ADMINISTRATOR

LESSEE: Craig Patrick

Craig
NAHL LEAGUE TEAM REP

LESSEE: Mike Cooper

NAHL LEAGUE TEAM REP

RESOLUTION NO.

**APPROVING LEASE AGREEMENT WITH AUSTIN MN
JUNIOR HOCKEY, LLC**

WHEREAS, the City of Austin has a lease contract with Austin MN Junior Hockey, LLC (Austin Bruins) for use of Riverside Arena; and

WHEREAS, the Lessee, requests a new lease running through the 2023 playing season.

NOW, THEREFORE, BE IT RESOLVED that the City Council consents to the lease attached as Exhibit A and authorizes the Mayor and City Recorder to sign said lease.

Passed by a vote of yeas and nays this 19th day of September, 2022.

YEAS

NAYS

APPROVED:

ATTEST:

Mayor

City Recorder

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. 14th Street NW
 - c. 4th Street NW
 - d. 21st 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. 19th meeting, or soon thereafter. If you have any questions, please contact me.

I request Council action to pass a resolution approving or denying of the proposed layouts.



Minnesota Department of Transportation

District 6
2900 48th 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

An Equal Opportunity Employer



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/14th St. over I-90	\$ 90,000
• Bridge #50014 - 4 th St./CSAH 45 over I-90	\$160,262
4th Street Extension - Construction	\$309,000
An Equal Opportunity Employer	- Design
	\$ 75,000

4th Street Extension - Construction

- Design

An Equal Opportunity Employer



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 th St. (repair only)	No Cost
• Bridge #50012 - US 218S/21 st St. over I-90	<u>No Cost</u>
TOTAL	\$920,809

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. 4th 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 48th St. NW
Rochester, MN 55901
e-mail: 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

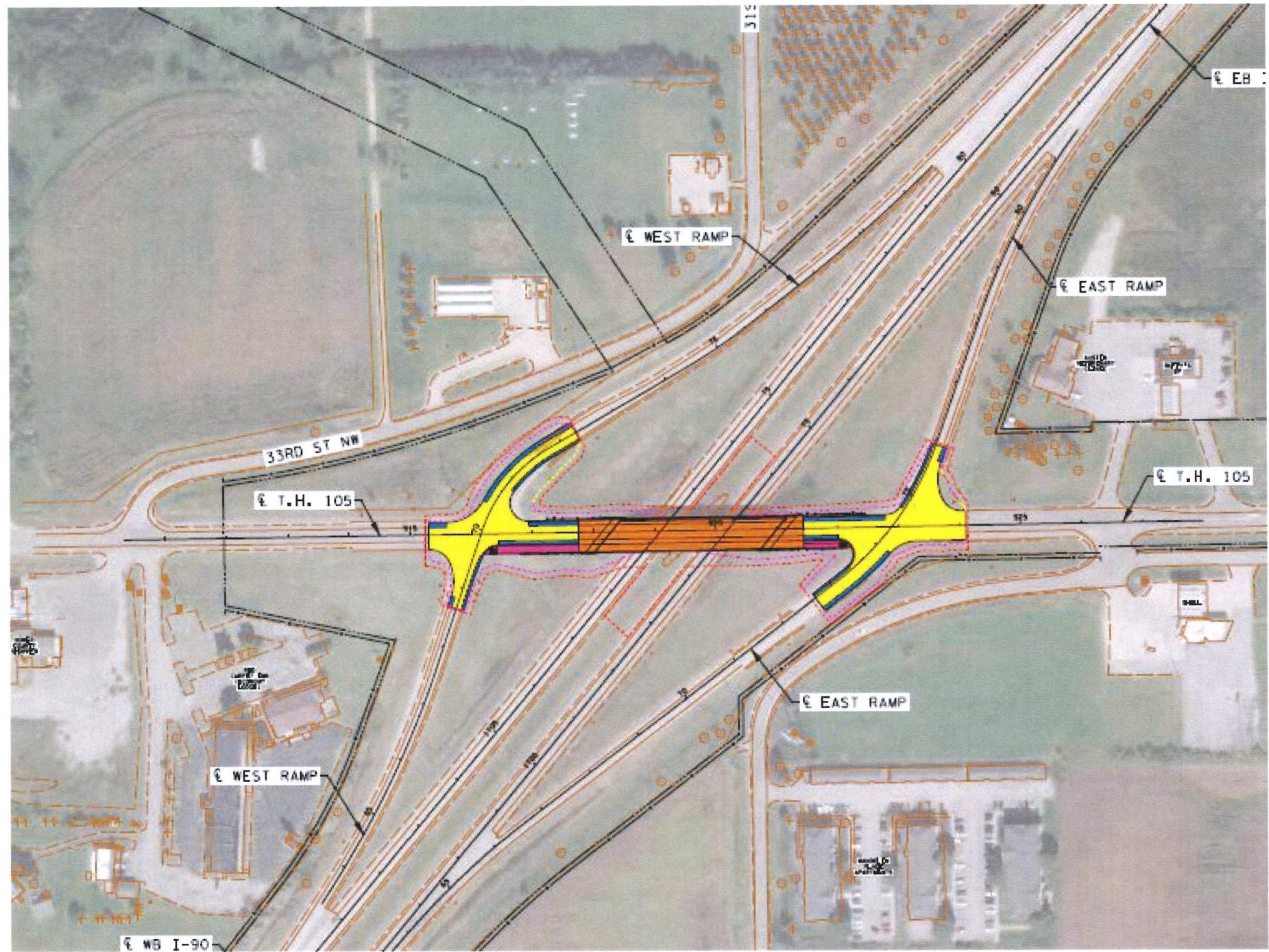
CITY OF AUSTIN, MN DOT DISTRICT 6, MOWER COUNTY

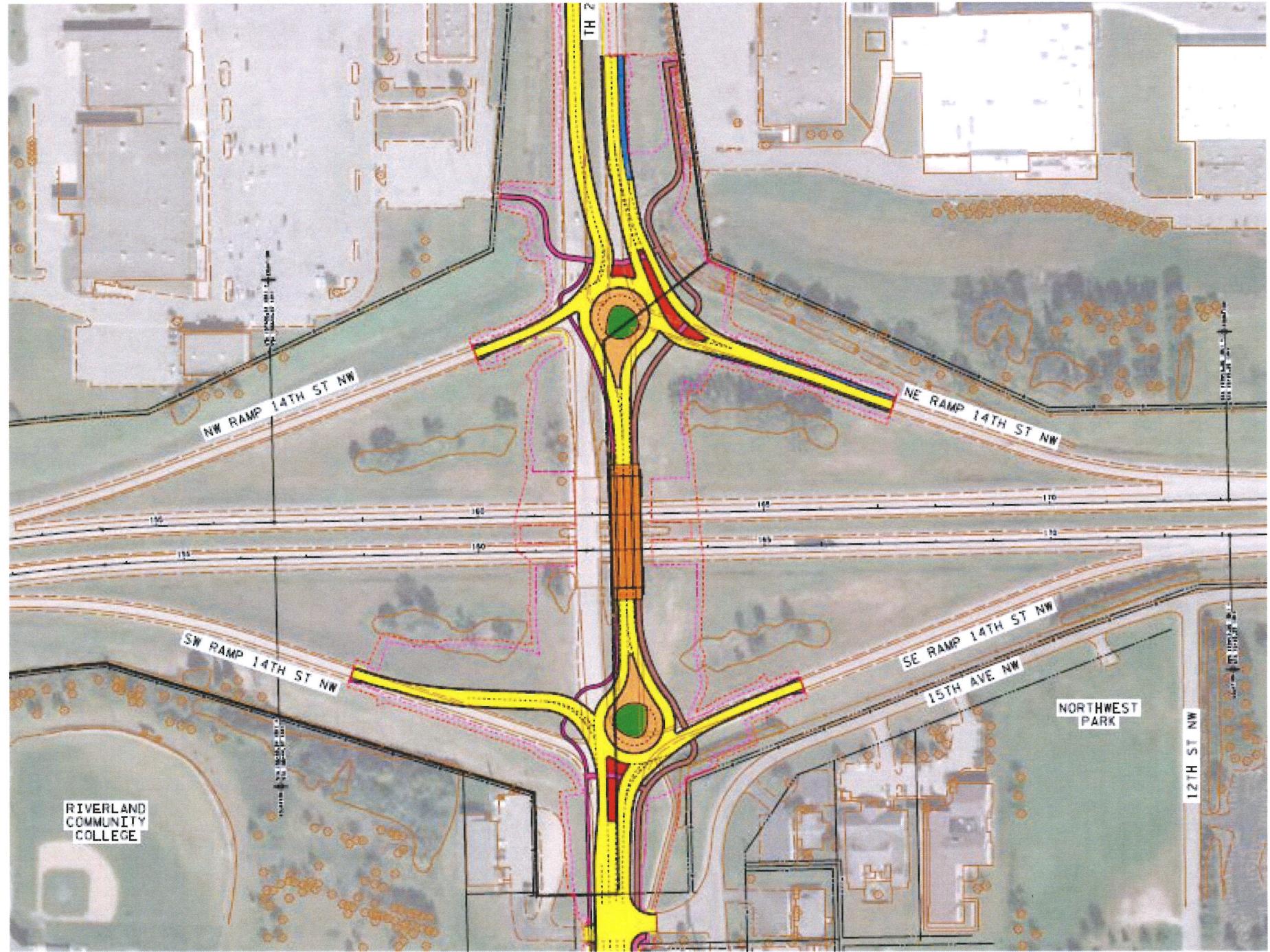
CITY OF AUSTIN - GOOD FAITH COST ESTIMATE

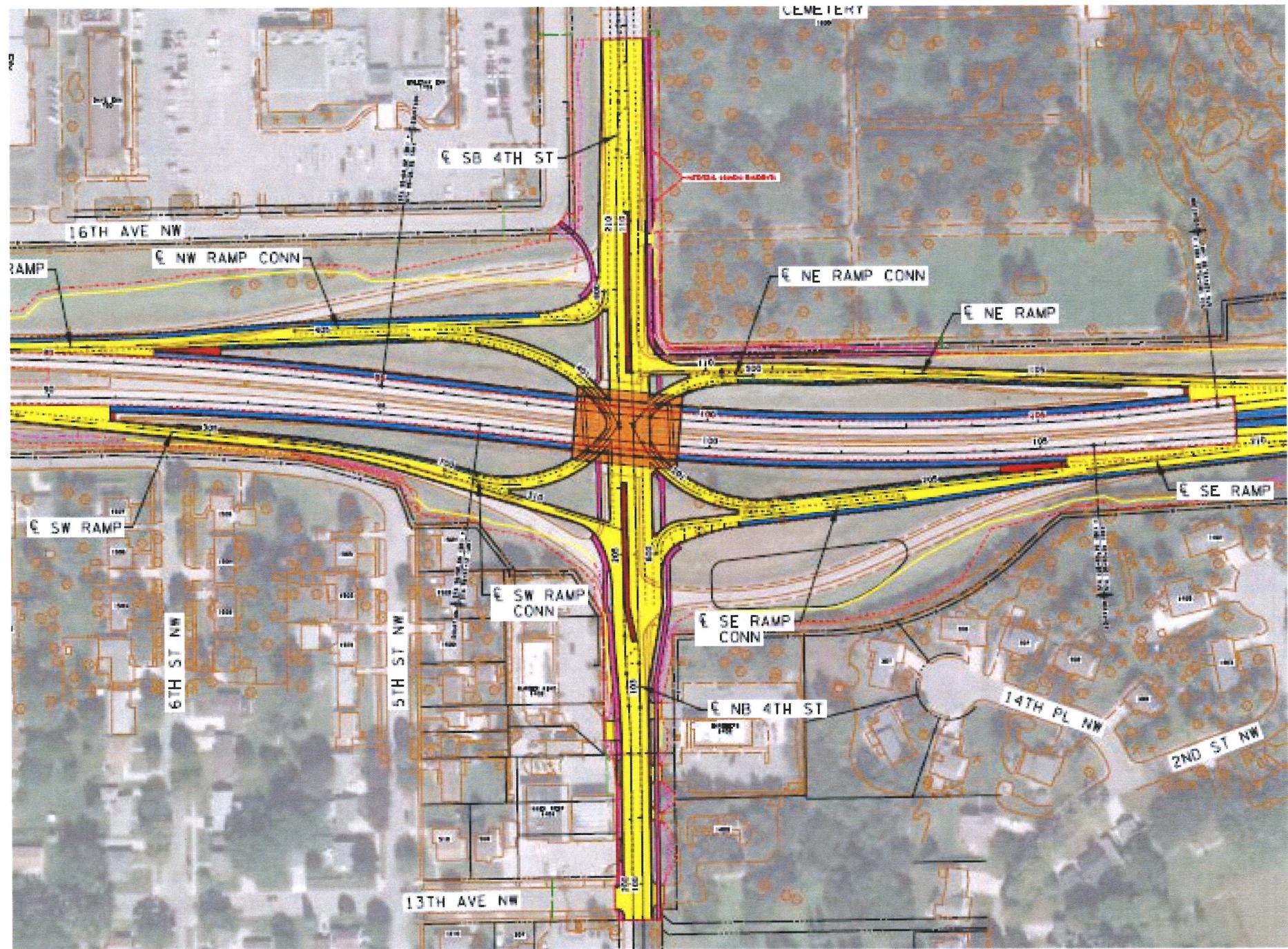
ITEM DESCRIPTION	ESTIMATED COST			(1) AESTHETICS ALLOWANCE SPLIT	ESTIMATED CITY COST	NOTES
	BRIDGE	WALL	OTHER			
TH 105 Bridge	\$3,893,313			\$141,000	\$272,532	\$0 7% of total bridge cost going towards bridge aesthetics.
14th Street/TH 218 North Bridge	\$2,637,580			\$275,000	\$184,631	\$90,000 7% of 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	\$76,282 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
SUBTOTAL CONSTRUCTION						\$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
TOTAL						\$920,809

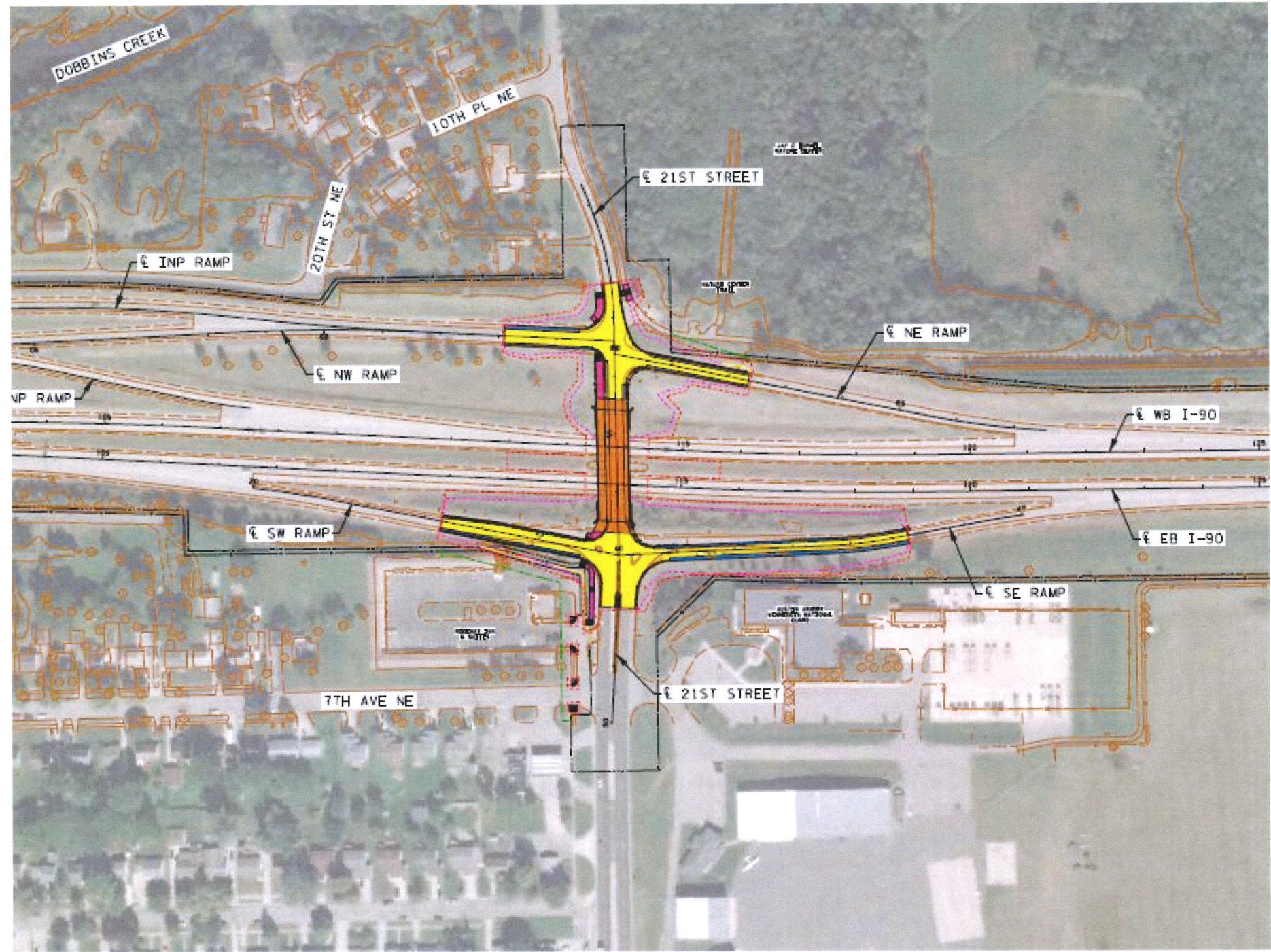
(1) MnDOT Cost share policy: Level B

7% not to exceed \$300k per bridge
 5% covered for walls separate from the bridge allotment









RESOLUTION NO. _____
Resolution for Layout Approval

At a Meeting of the City Council of the City of Austin, held on the 19th day of October, 2022, the following Resolution was offered by _____ and seconded by _____ to wit:

WHEREAS, the Commissioner of Transportation has prepared a final layout for State Project 5080-170 on Trunk Highway 90 from _____ to _____ within the City of Austin for bridge improvements; and seeks the approval thereof, as described in Minnesota Statutes 161.162 to 161.167: and

WHEREAS, said final layout is on file in the District 6 Minnesota Department of Transportation office, Rochester Minnesota, being marked as Layout No. 1B, S.P. 5080-170 (staff approved 3/28/2022), and 1C, S.P. 5080-170 (staff approved 3/21/2022).

NOW, THEREFORE, BE IT RESOLVED that said final layout for the improvement of said Trunk Highway within the corporate limits be and is hereby approved.

Upon the call of the roll the following Council Members voted in favor of the Resolution:

The following Council Members voted against its adoption:

ATTEST:

Mayor _____

Dated September 19, 2022

City Recorder _____

State of Minnesota

County of Mower

City of Austin

I do hereby certify that the foregoing Resolution is a true and correct copy of a resolution presented to and adopted by the Council of the City of Austin, Minnesota at a duly authorized meeting thereof held on the 19th day of September, 2022, as shown by the minutes of said meeting in my possession.

(SEAL) _____

City Clerk

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 Lang, PE
Date: September 15, 2022
Subject: Taxiway Joint Repair, CP 22314
 AIP Project No. 3-27-0007-020-2022

The City of Austin has developed a Taxiway Joint Repair project for the Austin Municipal Airport. The project has been developed to include the following:

<u>Project Cost Summary</u>	Federal	State	Local
	90%	0%	10%
2021 Airfield Lighting	\$123,110		\$13,680

The Federal dollars are disbursed through the State Aeronautical department. Even though we are not receiving any money from the State, we would request Council approval the state grant as the pass-through entity covering 0% of the project costs. If you have any questions, please contact me.



**STATE OF MINNESOTA
STATE AIRPORTS FUND
GRANT AGREEMENT**

This agreement is between the State of Minnesota, acting through its Commissioner of Transportation ("State"), and the **City of Austin** ("Grantee").

RECITALS

1. Minnesota Statutes Chapter 360 authorizes State to provide financial assistance to eligible airport sponsors for the acquisition, construction, improvement, marketing, maintenance, or operation of airports and other air navigation facilities.
2. Grantee owns, operates, controls, or desires to own an airport ("Airport") in the state system, and Grantee desires financial assistance from the State for an airport improvement project ("Project").
3. Grantee represents that it is duly qualified and agrees to perform all services described in this agreement to the satisfaction of the State. Pursuant to [Minn.Stat. §16B.98](#), Subd.1, Grantee agrees to minimize administrative costs as a condition of this agreement.

AGREEMENT TERMS

1 Term of Agreement, Survival of Terms, and Incorporation of Exhibits

- 1.1 **Effective Date.** This agreement will be effective on August 10, 2022, or the date the State obtains all required signatures under [Minn. Stat. §16B.98](#), Subd. 5, whichever is later. As required by [Minn. Stat. §16B.98](#) Subd. 7, no payments will be made to Grantee until this agreement is fully executed. Grantee must not begin work under this agreement until this agreement is fully executed and Grantee has been notified by the State's Authorized Representative to begin the work.
- 1.2 **Expiration Date.** This agreement will expire on December 31, 2026, or when all obligations have been satisfactorily fulfilled, whichever occurs first.
- 1.3 **Survival of Terms.** All clauses which impose obligations continuing in their nature and which must survive in order to give effect to their meaning will survive the expiration or termination of this agreement, including, without limitation, the following clauses: 8. Liability; 9. State Audits; 10. Government Data Practices and Intellectual Property; 11. Workers Compensation; 12. Publicity and Endorsement; 13. Governing Law, Jurisdiction, and Venue; and 15 Data Disclosure.
- 1.4 **Plans, Specifications, Descriptions.** Grantee has provided the State with the plans, specifications, and a detailed description of the Project **SP A5001-57**, which are on file with the State's Office of Aeronautics and are incorporated into this Agreement by reference.
- 1.5 **Exhibits: Exhibit 'A' – City of Austin Grant Request Letter; Exhibit 'B' – Credit Application**

2 Grantee's Duties

- 2.1 Grantee will complete the Project in accordance with the plans, specifications, and detailed description of the Project, which are on file with the State's Office of Aeronautics. Any changes to the plans or specifications of the Project after the date of this Agreement will be valid only if made by written change order signed by the Grantee and the State. Subject to the availability of funds, the State may prepare an amendment to this Agreement to reimburse the Grantee for the allowable costs of qualifying change orders.
- 2.2 If the Project involves construction, Grantee will designate a registered engineer to oversee the Project work. If, with the State's approval, the Grantee elects not to have such services performed by a registered engineer, then the Grantee will designate another responsible person to oversee such work.
- 2.3 Grantee will notify State's Authorized Representative in advance of any meetings taking place relating to the Project.
- 2.4 Grantee will comply with all required grants management policies and procedures set forth through [Minn. Stat. §16B.97](#), Subd. 4 (a) (1).
- 2.5 **Asset Monitoring.** If Grantee uses funds obtained by this agreement to acquire a capital asset, the Grantee is required to use that asset for a public aeronautical purpose for the normal useful life of the asset. Grantee may not sell or change the purpose of use for the capital asset(s) obtained with grant funds under this agreement without the



prior written consent of the State and an agreement executed and approved by the same parties who executed and approved this agreement, or their successors in office.

2.6 Airport Operations, Maintenance, and Conveyance. Pursuant to Minnesota Statutes Section 360.305, subdivision 4 (d) (1), the Grantee will operate the Airport as a licensed, municipally-owned public airport at all times of the year for a period of **20 years** from the date the Grantee receives final reimbursement under this Agreement. The Airport must be maintained in a safe, serviceable manner for public aeronautical purposes only. Without prior written approval from the State, Grantee will not transfer, convey, encumber, assign, or abandon its interest in the airport or in any real or personal property that is purchased or improved with State funds. If the State approves such a transfer or change in use, the Grantee must comply with such conditions and restrictions as the State may place on such approval. The obligations imposed by this clause survive the expiration or termination of this Agreement.

3 Time

3.1 Grantee must comply with all the time requirements described in this agreement. In the performance of this grant agreement, time is of the essence.

4 Cost and Payment

4.1 **Cost Participation.** Costs for the Project will be proportionate and allocated as follows:

<u>Item Description</u>	<u>Federal Share</u>	<u>State Share</u>	<u>Grantee Share</u>
Seal Pavement Joints & Pavement Surfaces	90%	0%	10%
On the Taxiway, Taxilanes and Apron.			
 Federal Committed:	<u>\$123,110.00</u>		
State:	<u>\$ 0.00</u>		
Grantee:	<u>\$ 13,680.00</u>		

Federal funds are not committed and are only available after being made so by the U.S. Government. Federal funds for the Project will be received and disbursed by the State. In the event federal reimbursement becomes available or is increased for the Project, the State will be entitled to recover from such federal funds an amount not to exceed the state funds advanced for this Project. No more than 95% of the amount due under this Agreement will be paid by the State until the State determines that the Grantee has complied with all terms of this Agreement and furnished all necessary records.

4.2 **Travel Expenses.** No travel Expenses are authorized for this project. The Grantee will be reimbursed for travel and subsistence expenses in the same manner and in no greater amount than provided in the current "Commissioner's Plan" promulgated by the Commissioner of Minnesota Management and Budget (MMB). Grantee will not be reimbursed for travel and subsistence expenses incurred outside Minnesota unless it has received the State's prior written approval for out of state travel. Minnesota will be considered the home state for determining whether travel is out of state at the current Minnesota Department of Transportation Reimbursement Rates for Travel Expenses.

4.3 **Sufficiency of Funds.** Pursuant to Minnesota Rules 8800.2500, the Grantee certifies that (1) it presently has available sufficient unencumbered funds to pay its share of the Project; (2) the Project will be completed without undue delay; and (3) the Grantee has the legal authority to engage in the Project as proposed.

4.4 **Total Obligation.** The total obligation of the State for all compensation and reimbursements to Grantee under this agreement will not exceed **\$ 0.00**.

4.5 Payment

4.5.1 **Invoices.** Grantee will submit invoices for payment by Credit Application, Exhibit 'B', which is attached and incorporated into this agreement and can also be found at <http://www.dot.state.mn.us/aero/airportdevelopment/documents/creditappinteractive.pdf>, is the form Grantee will use to submit invoices. The State's Authorized Representative, as named in this agreement, will review each invoice against the approved grant budget and grant expenditures to-date before approving



payment. The State will promptly pay Grantee after Grantee presents an itemized invoice for the services actually performed and the State's Authorized Representative accepts the invoiced services. Invoices will be submitted timely and according to the following schedule:

As work progresses on a monthly schedule.

- 4.5.2 **All Invoices Subject to Audit.** All invoices are subject to audit, at State's discretion.
- 4.5.3 **State's Payment Requirements.** State will promptly pay all valid obligations under this agreement as required by Minnesota Statutes §16A.124. State will make undisputed payments no later than 30 days after receiving Grantee's invoices for services performed. If an invoice is incorrect, defective or otherwise improper, State will notify Grantee within ten days of discovering the error. After State receives the corrected invoice, State will pay Grantee within 30 days of receipt of such invoice.
- 4.5.4 **Grantee Payment Requirements.** Grantee must pay all contractors under this agreement promptly. Grantee will make undisputed payments no later than 30 days after receiving an invoice. If an invoice is incorrect, defective, or otherwise improper, Grantee will notify the contractor within ten days of discovering the error. After Grantee receives the corrected invoice, Grantee will pay the contractor within 30 days of receipt of such invoice.
- 4.5.5 **Grant Monitoring Visit and Financial Reconciliation.** During the period of performance, the State will make at least annual monitoring visits and conduct annual financial reconciliations of Grantee's expenditures.
 - 4.5.5.1 The State's Authorized Representative will notify Grantee's Authorized Representative where and when any monitoring visit and financial reconciliation will take place, which State employees and/or contractors will participate, and which Grantee staff members should be present. Grantee will be provided notice prior to any monitoring visit or financial reconciliation.
 - 4.5.5.2 Following a monitoring visit or financial reconciliation, Grantee will take timely and appropriate action on all deficiencies identified by State.
 - 4.5.5.3 At least one monitoring visit and one financial reconciliation must be completed prior to final payment being made to Grantee.
- 4.5.6 **Closeout.** The State will determine, at its sole discretion, whether a closeout audit is required prior to final payment approval. If a closeout audit is required, final payment will be held until the audit has been completed. Monitoring of any capital assets acquired with grant funds will continue following grant closeout.
- 4.5.7 **Closeout Deliverables.** At the close of the Project, the Grantee must provide the following deliverables to the State before the final payment due under this Agreement will be released by the State: (1) Electronic files of construction plans as a PDF and in a MicroStation compatible format; (2) Electronic files of as-builts as a PDF and in a MicroStation compatible format; (3) Electronic files of planning documents (Airport Layout Plans – ALP) and Airport Zoning as a PDF and in a MicroStation compatible format and in GIS.
- 4.6 **Contracting and Bidding Requirements.** Prior to publication, Grantee will submit to State all solicitations for work to be funded by this Agreement. Prior to execution, Grantee will submit to State all contracts and subcontracts funded by this agreement between Grantee and third parties. State's Authorized Representative has the sole right to approve, disapprove, or modify any solicitation, contract, or subcontract submitted by Grantee. All contracts and subcontracts between Grantee and third parties must contain all applicable provisions of this Agreement. State's Authorized Representative will respond to a solicitation, contract, or subcontract submitted by Grantee within ten business days.

5 Conditions of Payment

All services provided by Grantee under this agreement must be performed to the State's satisfaction, as determined at the sole discretion of the State's Authorized Representative and in accordance with all applicable federal, state, and local laws, ordinances, rules, and regulations. The Grantee will not receive payment for work found by the State to be unsatisfactory or performed in violation of federal, state, or local law. In addition, Grantee will not receive payment for Airport's failure to pass periodic inspections by a representative of the State's Office of Aeronautics.



6 Authorized Representatives

6.1 The State's Authorized Representative are:

Luke Bourassa, South Region Airports Engineer; (luke.bourassa@state.mn.us) (651)508-0448 and/or

Brian Conklin, Regional Airport Specialist Sr.; (brian.conklin@state.mn.us) (651)252-7658, or his successor.

State's Authorized Representative has the responsibility to monitor Grantee's performance and the authority to accept the services provided under this agreement. If the services are satisfactory, the State's Authorized Representative will certify acceptance on each invoice submitted for payment.

6.2 Grantee's Authorized Representative is:

Steven Lange, City Engineer; (507) 437-7101

slang@ci.austin.mn.us

City of Austin

500 Fourth Avenue N.E.

Austin, MN 55912-3773

If Grantee's Authorized Representative changes at any time during this agreement, Grantee will immediately notify the State.

7 Assignment Amendments, Waiver, and Grant Agreement Complete

7.1 Assignment.

The Grantee may neither assign nor transfer any rights or obligations under this agreement without the prior written consent of the State and a fully executed Assignment Agreement, executed and approved by the same parties who executed and approved this agreement, or their successors in office.

7.2 Amendments.

Any amendments to this agreement must be in writing and will not be effective until it has been executed and approved by the same parties who executed and approved the original agreement, or their successors in office.

7.3 Waiver.

If the State fails to enforce any provision of this agreement, that failure does not waive the provision or the State's right to subsequently enforce it.

7.4 Grant Agreement Complete.

This grant agreement contains all negotiations and agreements between the State and Grantee. No other understanding regarding this agreement, whether written or oral, may be used to bind either party.

7.5 Electronic Records and Signatures.

The parties agree to contract by electronic means. This includes using electronic signatures and converting original documents to electronic records.

7.6 Certification.

By signing this Agreement, the Grantee certifies that it is not suspended or debarred from receiving federal or state awards.

8 Liability

In the performance of this agreement, and to the extent permitted by law, Grantee must indemnify, save, and hold the State, its agents, and employees harmless from any claims or causes of action, including attorney's fees incurred by the State, arising from the performance of this agreement by Grantee or Grantee's agents or employees. This clause will not be construed to bar any legal remedies Grantee may have for the State's failure to fulfill its obligations under this agreement.

9 State Audits

Under Minn. Stat. § 16B.98, Subd.8, the Grantee's books, records, documents, and accounting procedures and practices of Grantee, or other party relevant to this grant agreement or transaction, are subject to examination by the State and/or the State Auditor or Legislative Auditor, as appropriate, for a minimum of six years from the end of this agreement, receipt and approval of all final reports, or the required period of time to satisfy all state and program retention requirements, whichever is later. Grantee will take timely and appropriate action on all deficiencies identified by an audit.



10 Government Data Practices and Intellectual Property Rights

10.1 Government Data Practices.

Grantee and State must comply with the Minnesota Government Data Practices Act, [Minn. Stat. Ch. 13](#), as it applies to all data provided by the State under this grant agreement, and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the Grantee under this agreement. The civil remedies of [Minn. Stat. §13.08](#) apply to the release of the data referred to in this clause by either Grantee or the State. If Grantee receives a request to release the data referred to in this section 10.1, Grantee must immediately notify the State. The State will give Grantee instructions concerning the release of the data to the requesting party before the data is released. Grantee's response to the request shall comply with applicable law.

10.2 Intellectual Property Rights.

10.2.1 Intellectual Property Rights.

State owns all rights, title and interest in all of the intellectual property rights, including copyrights, patents, trade secrets, trademarks and service marks in the Works and

Documents created and paid for under this agreement. "Works" means all inventions, improvements, discoveries (whether or not patentable), databases, computer programs, reports, notes, studies, photographs, negatives, designs, drawings, specifications, materials, tapes and disks conceived, reduced to practice, created or originated by Grantee, its employees, agents and subcontractors, either individually or jointly with others in the performance of this agreement. Works includes Documents. "Documents" are the originals of any databases, computer programs, reports, notes, studies, photographs, negatives, designs, drawings, specifications, materials, tapes, disks or other materials, whether in tangible or electronic forms, prepared by Grantee, its employees, agents or subcontractors, in the performance of this agreement. The Documents will be the exclusive property of State, and Grantee upon completion or cancellation of this agreement must immediately return all such Documents to State. To the extent possible, those Works eligible for copyright protection under the United States Copyright Act will be deemed to be "works made for hire." Grantee assigns all right, title and interest it may have in the Works and the Documents to State. Grantee must, at the request of State, execute all papers and perform all other acts necessary to transfer or record the State's ownership interest in the Works and Documents.

10.2.2 Obligations

10.2.2.1 Notification.

Whenever any invention, improvement or discovery (whether or not patentable) is made or conceived for the first time or actually or constructively reduced to practice by Grantee, including its employees and subcontractors, in the performance of this agreement, Grantee will immediately give State's Authorized Representative written notice thereof and must promptly furnish State's Authorized Representative with complete information and/or disclosure thereon.

10.2.2.2 Representation.

Grantee must perform all acts, and take all steps necessary to ensure that all intellectual property rights in the Works and Documents are the sole property of State and that neither Grantee nor its employees, agents or subcontractors retain any interest in and to the Works and Documents. Grantee represents and warrants that the Works and Documents do not and will not infringe upon any intellectual property rights of other persons or entities. Notwithstanding Clause 8, Grantee will indemnify; defend, to the extent permitted by the Attorney General; and hold harmless State, at Grantee's expense, from any action or claim brought against State to the extent that it is based on a claim that all or part of the Works or Documents infringe upon the intellectual property rights of others. Grantee will be responsible for payment of any and all such claims, demands, obligations, liabilities, costs and damages, including but not limited to, attorney fees. If such a claim or action arises, or in Grantee's or State's opinion is likely to arise, Grantee must, at State's discretion, either procure for State the right or license to use the intellectual property rights at issue or replace or modify the allegedly infringing Works or Documents as necessary and appropriate to obviate the infringement claim. This remedy of State will be in addition to and not exclusive of other remedies provided by law.



11 Workers Compensation

The Grantee certifies that it is in compliance with [Minn. Stat. §176.181](#), Subd. 2, pertaining to workers' compensation insurance coverage. The Grantee's employees and agents will not be considered State employees. Any claims that may arise under the Minnesota Workers' Compensation Act on behalf of these employees and any claims made by any third party as a consequence of any act or omission on the part of these employees are in no way the State's obligation or responsibility.

12 Publicity and Endorsement

12.1 Publicity. Any publicity regarding the subject matter of this agreement must identify the State as the sponsoring agency and must not be released without prior written approval from the State's Authorized Representative. For purposes of this provision, publicity includes notices, informational pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for the Grantee individually or jointly with others, or any subcontractors, with respect to the program, publications, or services provided resulting from this grant agreement. All projects primarily funded by state grant appropriation must publicly credit the State of Minnesota, including on the Grantee's website when practicable.

12.2 Endorsement. The Grantee must not claim that the State endorses its products or services.

13 Governing Law, Jurisdiction, and Venue

Minnesota law, without regard to its choice-of-law provisions, governs this agreement. Venue for all legal proceedings out of this agreement, or its breach, must be in the appropriate state or federal court with competent jurisdiction in Ramsey County, Minnesota.

14 Termination; Suspension

14.1 Termination by the State. The State may terminate this agreement at any time, with or without cause, upon written notice to the Grantee. Upon termination, the Grantee will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed.

14.2 Termination for Cause. The State may immediately terminate this grant agreement if the State finds that there has been a failure to comply with the provisions of this agreement, that reasonable progress has not been made, that fraudulent or wasteful activity has occurred, that Grantee has been convicted of a criminal offense relating to a state grant agreement, or that the purposes for which the funds were granted have not been or will not be fulfilled. The State may take action to protect the interests of the State of Minnesota, including the refusal to disburse additional funds and requiring the return of all or part of the funds already disbursed.

14.3 Termination for Insufficient Funding. The State may immediately terminate this agreement if:

- 14.3.1 It does not obtain funding from the Minnesota Legislature; or
- 14.3.2 If funding cannot be continued at a level sufficient to allow for the payment of the services covered here. Termination must be by written or fax notice to the Grantee. The State is not obligated to pay for any services that are provided after notice and effective date of termination. However, the Grantee will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed to the extent that funds are available. The State will not be assessed any penalty if the agreement is terminated because of the decision of the Minnesota Legislature, or other funding source, not to appropriate funds. The State will provide the Grantee notice of the lack of funding within a reasonable time of the State's receiving that notice.

14.4 Suspension. The State may immediately suspend this agreement in the event of a total or partial government shutdown due to the failure to have an approved budget by the legal deadline. Work performed by the Grantee during a period of suspension will be deemed unauthorized and undertaken at risk of non-payment.

15 Data Disclosure

Under [Minn. Stat. § 270C.65](#), Subd. 3, and other applicable law, Grantee consents to disclosure of its social security number, federal employer tax identification number, and/or Minnesota tax identification number, already provided to the State, to federal and state tax agencies and state personnel involved in the payment of state obligations. These identification numbers may be used in the enforcement of federal and state tax laws which could result in action requiring the Grantee to file state tax returns and pay delinquent state tax liabilities, if any.



- 16 **Fund Use Prohibited.** The Grantee will not utilize any funds received pursuant to this Agreement to compensate, either directly or indirectly, any contractor, corporation, partnership, or business, however organized, which is disqualified or debarred from entering into or receiving a State contract. This restriction applies regardless of whether the disqualified or debarred party acts in the capacity of a general contractor, a subcontractor, or as an equipment or material supplier. This restriction does not prevent the Grantee from utilizing these funds to pay any party who might be disqualified or debarred after the Grantee's contract award on this Project. For a list of disqualified or debarred vendors, see www.mmd.admin.state.mn.us/debarredreport.asp.
- 17 **Discrimination Prohibited by Minnesota Statutes §181.59.** Grantee will comply with the provisions of Minnesota Statutes §181.59 which requires that every contract for or on behalf of the State of Minnesota, or any county, city, town, township, school, school district or any other district in the state, for materials, supplies or construction will contain provisions by which Contractor agrees: 1) That, in the hiring of common or skilled labor for the performance of any work under any contract, or any subcontract, no Contractor, material supplier or vendor, will, by reason of race, creed or color, discriminate against the person or persons who are citizens of the United States or resident aliens who are qualified and available to perform the work to which the employment relates; 2) That no Contractor, material supplier, or vendor, will, in any manner, discriminate against, or intimidate, or prevent the employment of any person or persons identified in clause 1 of this section, or on being hired, prevent or conspire to prevent, the person or persons from the performance of work under any contract on account of race, creed or color; 3) That a violation of this section is a misdemeanor; and 4) That this contract may be canceled or terminated by the state of Minnesota, or any county, city, town, township, school, school district or any other person authorized to grant contracts for employment, and all money due, or to become due under the contract, may be forfeited for a second or any subsequent violation of the terms or conditions of this Agreement.
- 18 **Limitation.** Under this Agreement, the State is only responsible for receiving and disbursing funds. Nothing in this Agreement will be construed to make the State a principal, co-principal, partner, or joint venturer with respect to the Project(s) covered herein. The State may provide technical advice and assistance as requested by the Grantee, however, the Grantee will remain responsible for providing direction to its contractors and consultants and for administering its contracts with such entities. The Grantee's consultants and contractors are not intended to be third party beneficiaries of this Agreement.
- 19 **Telecommunications Certification.** By signing this agreement, Contractor certifies that, consistent with Section 889 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. 115-232 (Aug. 13, 2018), and 2 CFR 200.216, Contractor will not use funding covered by this agreement to procure or obtain, or to extend, renew, or enter into any contract to procure or obtain, any equipment, system, or service that uses "covered telecommunications equipment or services" (as that term is defined in Section 889 of the Act) as a substantial or essential component of any system or as critical technology as part of any system. Contractor will include this certification as a flow down clause in any contract related to this agreement.
- 20 **Title VI/Non-discrimination Assurances.** Grantee agrees to comply with all applicable US DOT Standard Title VI/Non-Discrimination Assurances contained in DOT Order No. 1050.2A, and in particular Appendices A and E, which can be found at: https://edocs-public.dot.state.mn.us/edocs_public/DMResultSet/download?docId=11149035. Grantee will ensure the appendices and solicitation language within the assurances are inserted into contracts as required. State may conduct a review of the Grantee's compliance with this provision. The Grantee must cooperate with State throughout the review process by supplying all requested information and documentation to State, making Grantee staff and officials available for meetings as requested, and correcting any areas of non-compliance as determined by State.
- 21 **Additional Provisions**
[Intentionally left blank.]



STATE ENCUMBRANCE VERIFICATION

Individual certifies that funds have been encumbered as required by Minn. Stat. § 16A.15 and § 16C.05.

Signed: _____

Date: _____

SWIFT Contract/PO No(s). _____

GRANTEE

The Grantee certifies that the appropriate person(s) have executed the grant agreement on behalf of the Grantee as required by applicable articles, bylaws, resolutions, or ordinances.

By: _____

Title: _____

Date: _____

By: _____

Title: _____

Date: _____

DEPARTMENT OF TRANSPORTATION

By: _____
(with delegated authority)

Title: _____

Date: _____

DEPARTMENT OF TRANSPORTATION OFFICE OF FINANCIAL MANAGEMENT – GRANT UNIT

By: _____

Date: _____

DEPARTMENT OF TRANSPORTATION CONTRACT MANAGEMENT

By: _____

Date: _____

**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**

April 5, 2022

RE: Austin Municipal Airport
FY 2022 Federal AIG Grant Request

Luke Bourassa
Minnesota Department of Transportation
Office of Aeronautics
395 John Ireland Blvd.
St. Paul, MN 55155-1800

SP A5001-57 AIG 3-27-0007-20-22

Dear Mr. Bourassa:

Please consider this letter as a formal request from the City of Austin for an Airport Improvement Grant (AIG) from the Federal Aviation Administration (FAA) for Federal Fiscal Year 2022. The grant request is for the 2022 Taxiway Joint Repair project at the Austin Municipal Airport. Associated costs with this project are as follows:

Construction (Ulland Brothers, Inc.)	\$119,989.70
Design Engineering & Construction Services (SEH)	\$ 16,300.00
<u>Administrative – Estimated (City of Austin)</u>	<u>\$ 500.00</u>
TOTAL PROJECT COSTS:	\$ 136,789.70

The City of Austin is requesting federal FAA participation using Bipartisan Infrastructure Law funding for this project at 90 percent (\$123,110). The City is also requesting state participation at 5 percent (\$6,840). The remaining project costs will be covered by local funding.

Please contact me if you have any questions.

90% FAA AIG Funding = \$123,110.
10% Local Funding = \$13,680.

Sincerely,

Steven Lang, City Engineer
City of Austin, Minnesota

CC: Shawn McMahon, SEH
Adinda Van Espen, SEH
Benjamin Garrow, FAA
Brian Conklin, MnDOT Office of Aeronautics

Enclosure: FY 2022 Federal AIG Grant Request Packet

Exhibit "B"

MINNESOTA DEPARTMENT OF TRANSPORTATION
OFFICE OF AERONAUTICS
222 EAST PLATO BOULEVARD
ST. PAUL, MINNESOTA 55107-1618
TELEPHONE NUMBER: (651) 234-7200

Airport Name

State Project No.

Federal Project No.

Mn/DOT Agreement No.

CREDIT APPLICATION

TO THE DIRECTOR, OFFICE OF AERONAUTICS:

Itemized statement of cash expenditures for which credit is claimed:

*FINAL PARTIAL (CHOOSE ONE)

NOTE: PLEASE SEPARATE ENGINEERING COSTS FROM OTHER COSTS.

Municipality

By

Title

*FOR ALL ITEMS INCLUDED IN THIS AGREEMENT

(Complete Form On Reverse Side)

Exhibit "B" (cont.)

STATE OF Minnesota

COUNTY OF

[Redacted], being first duly sworn, deposes and says that he/she is the
[Redacted] of the Municipality of [Redacted], in the County
of [Redacted], State of Minnesota; that he/she has prepared the foregoing Credit Application,
knows the contents thereof, that the same is a true and accurate record of disbursements made, and that the same is true of his/her own
knowledge; and that this application is made by authority of the municipal council (or board) of said Municipality.

Signature

Subscribed and sworn to before me

this _____ day of _____, 20____.

NOTARY PUBLIC

My Commission Expires: _____

RESOLUTION

AUTHORIZATION TO EXECUTE MINNESOTA DEPARTMENT OF TRANSPORTATION GRANT AGREEMENT FOR AIRPORT IMPROVEMENT EXCLUDING LAND ACQUISITION

It is resolved by the **City of Austin** as follows:

1. That the state of Minnesota Agreement No. **1051683**,

"Grant Agreement for Airport Improvement Excluding Land Acquisition," for
State Project No. **A5001-57** at the **Austin Municipal Airport** is accepted.

2. That the _____ and _____ are
(Title) (Title)

authorized to execute this Agreement and any amendments on behalf of the

City of Austin.

CERTIFICATION

STATE OF MINNESOTA

COUNTY OF _____

I certify that the above Resolution is a true and correct copy of the Resolution adopted by the

(Name of the Recipient)

at an authorized meeting held on the _____ day of _____, 20_____
as shown by the minutes of the meeting in my possession.

Signature: _____
(Clerk or Equivalent)

CORPORATE SEAL

/OR/

NOTARY PUBLIC

My Commission Expires: _____

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 Lang, PE
Date: September 15, 2022
Subject: T-Hangar Taxilane Project, CP 22315
 AIP Project No. 3-27-0007-019-2022

The City of Austin has developed a T-Hangar Taxilane project for the Austin Municipal Airport. The project has been developed to include the following:

<u>Project Cost Summary</u>	Federal	State	Local
	90%	10%	10%
2022 Taxilane Construction	\$409,698	\$22,761	\$22,761

The Federal dollars are disbursed through the State Aeronautical department, along with the 10% State allocation. We would request Council approval the state grant for the pass-through Federal dollars and 10% State grant. If you have any questions, please contact me.



**STATE OF MINNESOTA
STATE AIRPORTS FUND
GRANT AGREEMENT**

This agreement is between the State of Minnesota, acting through its Commissioner of Transportation ("State"), and the **City of Austin** ("Grantee").

RECITALS

1. Minnesota Statutes Chapter 360 authorizes State to provide financial assistance to eligible airport sponsors for the acquisition, construction, improvement, marketing, maintenance, or operation of airports and other air navigation facilities.
2. Grantee owns, operates, controls, or desires to own an airport ("Airport") in the state system, and Grantee desires financial assistance from the State for an airport improvement project ("Project").
3. Grantee represents that it is duly qualified and agrees to perform all services described in this agreement to the satisfaction of the State. Pursuant to [Minn.Stat. §16B.98](#), Subd.1, Grantee agrees to minimize administrative costs as a condition of this agreement.

AGREEMENT TERMS

1 Term of Agreement, Survival of Terms, and Incorporation of Exhibits

- 1.1 **Effective Date.** This agreement will be effective on August 10, 2022, or the date the State obtains all required signatures under [Minn. Stat. §16B.98](#), Subd. 5, whichever is later. As required by [Minn.Stat. §16B.98](#) Subd. 7, no payments will be made to Grantee until this agreement is fully executed. Grantee must not begin work under this agreement until this agreement is fully executed and Grantee has been notified by the State's Authorized Representative to begin the work.
- 1.2 **Expiration Date.** This agreement will expire on December 31, 2026, or when all obligations have been satisfactorily fulfilled, whichever occurs first.
- 1.3 **Survival of Terms.** All clauses which impose obligations continuing in their nature and which must survive in order to give effect to their meaning will survive the expiration or termination of this agreement, including, without limitation, the following clauses: 8. Liability; 9. State Audits; 10. Government Data Practices and Intellectual Property; 11. Workers Compensation; 12. Publicity and Endorsement; 13. Governing Law, Jurisdiction, and Venue; and 15 Data Disclosure.
- 1.4 **Plans, Specifications, Descriptions.** Grantee has provided the State with the plans, specifications, and a detailed description of the Project **SP A5001-55**, which are on file with the State's Office of Aeronautics and are incorporated into this Agreement by reference.
- 1.5 **Exhibits: Exhibit 'A' – City of Austin Grant Request Letter; Exhibit 'B' – Credit Application**

2 Grantee's Duties

- 2.1 Grantee will complete the Project in accordance with the plans, specifications, and detailed description of the Project, which are on file with the State's Office of Aeronautics. Any changes to the plans or specifications of the Project after the date of this Agreement will be valid only if made by written change order signed by the Grantee and the State. Subject to the availability of funds, the State may prepare an amendment to this Agreement to reimburse the Grantee for the allowable costs of qualifying change orders.
- 2.2 If the Project involves construction, Grantee will designate a registered engineer to oversee the Project work. If, with the State's approval, the Grantee elects not to have such services performed by a registered engineer, then the Grantee will designate another responsible person to oversee such work.
- 2.3 Grantee will notify State's Authorized Representative in advance of any meetings taking place relating to the Project.
- 2.4 Grantee will comply with all required grants management policies and procedures set forth through [Minn.Stat. §16B.97](#), Subd. 4 (a) (1).
- 2.5 **Asset Monitoring.** If Grantee uses funds obtained by this agreement to acquire a capital asset, the Grantee is required to use that asset for a public aeronautical purpose for the normal useful life of the asset. Grantee may not sell or change the purpose of use for the capital asset(s) obtained with grant funds under this agreement without the



prior written consent of the State and an agreement executed and approved by the same parties who executed and approved this agreement, or their successors in office.

2.6 Airport Operations, Maintenance, and Conveyance. Pursuant to Minnesota Statutes Section 360.305, subdivision 4 (d) (1), the Grantee will operate the Airport as a licensed, municipally-owned public airport at all times of the year for a period of **20 years** from the date the Grantee receives final reimbursement under this Agreement. The Airport must be maintained in a safe, serviceable manner for public aeronautical purposes only. Without prior written approval from the State, Grantee will not transfer, convey, encumber, assign, or abandon its interest in the airport or in any real or personal property that is purchased or improved with State funds. If the State approves such a transfer or change in use, the Grantee must comply with such conditions and restrictions as the State may place on such approval. The obligations imposed by this clause survive the expiration or termination of this Agreement.

3 Time

3.1 Grantee must comply with all the time requirements described in this agreement. In the performance of this grant agreement, time is of the essence.

4 Cost and Payment

4.1 **Cost Participation.** Costs for the Project will be proportionate and allocated as follows:

Item Description	Federal Share	State Share	Grantee Share
Design & Construct 3 Taxilanes for Future T-Hangar Construction	90%	5%	5%
Federal Committed:	<u>\$409,698.00</u>		
State:	<u>\$ 22,761.00</u>		
Grantee:	<u>\$ 22,761.00</u>		

Federal funds are not committed and are only available after being made so by the U.S. Government. Federal funds for the Project will be received and disbursed by the State. In the event federal reimbursement becomes available or is increased for the Project, the State will be entitled to recover from such federal funds an amount not to exceed the state funds advanced for this Project. No more than 95% of the amount due under this Agreement will be paid by the State until the State determines that the Grantee has complied with all terms of this Agreement and furnished all necessary records.

4.2 **Travel Expenses.** No travel Expenses are authorized for this project. The Grantee will be reimbursed for travel and subsistence expenses in the same manner and in no greater amount than provided in the current "Commissioner's Plan" promulgated by the Commissioner of Minnesota Management and Budget (MMB). Grantee will not be reimbursed for travel and subsistence expenses incurred outside Minnesota unless it has received the State's prior written approval for out of state travel. Minnesota will be considered the home state for determining whether travel is out of state at the current Minnesota Department of Transportation Reimbursement Rates for Travel Expenses.

4.3 **Sufficiency of Funds.** Pursuant to Minnesota Rules 8800.2500, the Grantee certifies that (1) it presently has available sufficient unencumbered funds to pay its share of the Project; (2) the Project will be completed without undue delay; and (3) the Grantee has the legal authority to engage in the Project as proposed.

4.4 **Total Obligation.** The total obligation of the State for all compensation and reimbursements to Grantee under this agreement will not exceed **\$ 22,761.00**.

4.5 Payment

4.5.1 **Invoices.** Grantee will submit invoices for payment by Credit Application, Exhibit 'B', which is attached and incorporated into this agreement and can also be found at <http://www.dot.state.mn.us/aero/airportdevelopment/documents/creditappinteractive.pdf>, is the form Grantee will use to submit invoices. The State's Authorized Representative, as named in this agreement, will review each invoice against the approved grant budget and grant expenditures to-date before approving



payment. The State will promptly pay Grantee after Grantee presents an itemized invoice for the services actually performed and the State's Authorized Representative accepts the invoiced services. Invoices will be submitted timely and according to the following schedule:

As work progresses on a monthly schedule.

- 4.5.2 **All Invoices Subject to Audit.** All invoices are subject to audit, at State's discretion.
- 4.5.3 **State's Payment Requirements.** State will promptly pay all valid obligations under this agreement as required by Minnesota Statutes §16A.124. State will make undisputed payments no later than 30 days after receiving Grantee's invoices for services performed. If an invoice is incorrect, defective or otherwise improper, State will notify Grantee within ten days of discovering the error. After State receives the corrected invoice, State will pay Grantee within 30 days of receipt of such invoice.
- 4.5.4 **Grantee Payment Requirements.** Grantee must pay all contractors under this agreement promptly. Grantee will make undisputed payments no later than 30 days after receiving an invoice. If an invoice is incorrect, defective, or otherwise improper, Grantee will notify the contractor within ten days of discovering the error. After Grantee receives the corrected invoice, Grantee will pay the contractor within 30 days of receipt of such invoice.
- 4.5.5 **Grant Monitoring Visit and Financial Reconciliation.** During the period of performance, the State will make at least annual monitoring visits and conduct annual financial reconciliations of Grantee's expenditures.
 - 4.5.5.1 The State's Authorized Representative will notify Grantee's Authorized Representative where and when any monitoring visit and financial reconciliation will take place, which State employees and/or contractors will participate, and which Grantee staff members should be present. Grantee will be provided notice prior to any monitoring visit or financial reconciliation.
 - 4.5.5.2 Following a monitoring visit or financial reconciliation, Grantee will take timely and appropriate action on all deficiencies identified by State.
 - 4.5.5.3 At least one monitoring visit and one financial reconciliation must be completed prior to final payment being made to Grantee.
- 4.5.6 **Closeout.** The State will determine, at its sole discretion, whether a closeout audit is required prior to final payment approval. If a closeout audit is required, final payment will be held until the audit has been completed. Monitoring of any capital assets acquired with grant funds will continue following grant closeout.
- 4.5.7 **Closeout Deliverables.** At the close of the Project, the Grantee must provide the following deliverables to the State before the final payment due under this Agreement will be released by the State: (1) Electronic files of construction plans as a PDF and in a MicroStation compatible format; (2) Electronic files of as-builts as a PDF and in a MicroStation compatible format; (3) Electronic files of planning documents (Airport Layout Plans – ALP) and Airport Zoning as a PDF and in a MicroStation compatible format and in GIS.
- 4.6 **Contracting and Bidding Requirements.** Prior to publication, Grantee will submit to State all solicitations for work to be funded by this Agreement. Prior to execution, Grantee will submit to State all contracts and subcontracts funded by this agreement between Grantee and third parties. State's Authorized Representative has the sole right to approve, disapprove, or modify any solicitation, contract, or subcontract submitted by Grantee. All contracts and subcontracts between Grantee and third parties must contain all applicable provisions of this Agreement. State's Authorized Representative will respond to a solicitation, contract, or subcontract submitted by Grantee within ten business days.

5 Conditions of Payment

All services provided by Grantee under this agreement must be performed to the State's satisfaction, as determined at the sole discretion of the State's Authorized Representative and in accordance with all applicable federal, state, and local laws, ordinances, rules, and regulations. The Grantee will not receive payment for work found by the State to be unsatisfactory or performed in violation of federal, state, or local law. In addition, Grantee will not receive payment for Airport's failure to pass periodic inspections by a representative of the State's Office of Aeronautics.



6 Authorized Representatives

6.1 The State's Authorized Representative are:

Luke Bourassa, South Region Airports Engineer; (luke.bourassa@state.mn.us) (651)508-0448 and/or
Brian Conklin, Regional Airport Specialist Sr.; (brian.conklin@state.mn.us) (651)252-7658, or his successor.

State's Authorized Representative has the responsibility to monitor Grantee's performance and the authority to accept the services provided under this agreement. If the services are satisfactory, the State's Authorized Representative will certify acceptance on each invoice submitted for payment.

6.2 Grantee's Authorized Representative is:

Steven Lange, City Engineer; (507) 437-7101

slang@ci.austin.mn.us

City of Austin

500 Fourth Avenue N.E.

Austin, MN 55912-3773

If Grantee's Authorized Representative changes at any time during this agreement, Grantee will immediately notify the State.

7 Assignment Amendments, Waiver, and Grant Agreement Complete

7.1 Assignment. The Grantee may neither assign nor transfer any rights or obligations under this agreement without the prior written consent of the State and a fully executed Assignment Agreement, executed and approved by the same parties who executed and approved this agreement, or their successors in office.

7.2 Amendments. Any amendments to this agreement must be in writing and will not be effective until it has been executed and approved by the same parties who executed and approved the original agreement, or their successors in office.

7.3 Waiver. If the State fails to enforce any provision of this agreement, that failure does not waive the provision or the State's right to subsequently enforce it.

7.4 Grant Agreement Complete. This grant agreement contains all negotiations and agreements between the State and Grantee. No other understanding regarding this agreement, whether written or oral, may be used to bind either party.

7.5 Electronic Records and Signatures. The parties agree to contract by electronic means. This includes using electronic signatures and converting original documents to electronic records.

7.6 Certification. By signing this Agreement, the Grantee certifies that it is not suspended or debarred from receiving federal or state awards.

8 Liability

In the performance of this agreement, and to the extent permitted by law, Grantee must indemnify, save, and hold the State, its agents, and employees harmless from any claims or causes of action, including attorney's fees incurred by the State, arising from the performance of this agreement by Grantee or Grantee's agents or employees. This clause will not be construed to bar any legal remedies Grantee may have for the State's failure to fulfill its obligations under this agreement.

9 State Audits

Under Minn. Stat. § 16B.98, Subd.8, the Grantee's books, records, documents, and accounting procedures and practices of Grantee, or other party relevant to this grant agreement or transaction, are subject to examination by the State and/or the State Auditor or Legislative Auditor, as appropriate, for a minimum of six years from the end of this agreement, receipt and approval of all final reports, or the required period of time to satisfy all state and program retention requirements, whichever is later. Grantee will take timely and appropriate action on all deficiencies identified by an audit.



10 Government Data Practices and Intellectual Property Rights

10.1 Government Data Practices. Grantee and State must comply with the Minnesota Government Data Practices Act, [Minn. Stat. Ch. 13](#), as it applies to all data provided by the State under this grant agreement, and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the Grantee under this agreement. The civil remedies of [Minn. Stat. §13.08](#) apply to the release of the data referred to in this clause by either Grantee or the State. If Grantee receives a request to release the data referred to in this section 10.1, Grantee must immediately notify the State. The State will give Grantee instructions concerning the release of the data to the requesting party before the data is released. Grantee's response to the request shall comply with applicable law.

10.2 Intellectual Property Rights.

10.2.1 Intellectual Property Rights. State owns all rights, title and interest in all of the intellectual property rights, including copyrights, patents, trade secrets, trademarks and service marks in the Works and

Documents created and paid for under this agreement. "Works" means all inventions, improvements, discoveries (whether or not patentable), databases, computer programs, reports, notes, studies, photographs, negatives, designs, drawings, specifications, materials, tapes and disks conceived, reduced to practice, created or originated by Grantee, its employees, agents and subcontractors, either individually or jointly with others in the performance of this agreement. Works includes Documents. "Documents" are the originals of any databases, computer programs, reports, notes, studies, photographs, negatives, designs, drawings, specifications, materials, tapes, disks or other materials, whether in tangible or electronic forms, prepared by Grantee, its employees, agents or subcontractors, in the performance of this agreement. The Documents will be the exclusive property of State, and Grantee upon completion or cancellation of this agreement must immediately return all such Documents to State. To the extent possible, those Works eligible for copyright protection under the United States Copyright Act will be deemed to be "works made for hire." Grantee assigns all right, title and interest it may have in the Works and the Documents to State. Grantee must, at the request of State, execute all papers and perform all other acts necessary to transfer or record the State's ownership interest in the Works and Documents.

10.2.2 Obligations

10.2.2.1 Notification. Whenever any invention, improvement or discovery (whether or not patentable) is made or conceived for the first time or actually or constructively reduced to practice by Grantee, including its employees and subcontractors, in the performance of this agreement, Grantee will immediately give State's Authorized Representative written notice thereof and must promptly furnish State's Authorized Representative with complete information and/or disclosure thereon.

10.2.2.2 Representation. Grantee must perform all acts, and take all steps necessary to ensure that all intellectual property rights in the Works and Documents are the sole property of State and that neither Grantee nor its employees, agents or subcontractors retain any interest in and to the Works and Documents. Grantee represents and warrants that the Works and Documents do not and will not infringe upon any intellectual property rights of other persons or entities. Notwithstanding Clause 8, Grantee will indemnify; defend, to the extent permitted by the Attorney General; and hold harmless State, at Grantee's expense, from any action or claim brought against State to the extent that it is based on a claim that all or part of the Works or Documents infringe upon the intellectual property rights of others. Grantee will be responsible for payment of any and all such claims, demands, obligations, liabilities, costs and damages, including but not limited to, attorney fees. If such a claim or action arises, or in Grantee's or State's opinion is likely to arise, Grantee must, at State's discretion, either procure for State the right or license to use the intellectual property rights at issue or replace or modify the allegedly infringing Works or Documents as necessary and appropriate to obviate the infringement claim. This remedy of State will be in addition to and not exclusive of other remedies provided by law.



11 Workers Compensation

The Grantee certifies that it is in compliance with [Minn. Stat. §176.181](#), Subd. 2, pertaining to workers' compensation insurance coverage. The Grantee's employees and agents will not be considered State employees. Any claims that may arise under the Minnesota Workers' Compensation Act on behalf of these employees and any claims made by any third party as a consequence of any act or omission on the part of these employees are in no way the State's obligation or responsibility.

12 Publicity and Endorsement

12.1 Publicity. Any publicity regarding the subject matter of this agreement must identify the State as the sponsoring agency and must not be released without prior written approval from the State's Authorized Representative. For purposes of this provision, publicity includes notices, informational pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for the Grantee individually or jointly with others, or any subcontractors, with respect to the program, publications, or services provided resulting from this grant agreement. All projects primarily funded by state grant appropriation must publicly credit the State of Minnesota, including on the Grantee's website when practicable.

12.2 Endorsement. The Grantee must not claim that the State endorses its products or services.

13 Governing Law, Jurisdiction, and Venue

Minnesota law, without regard to its choice-of-law provisions, governs this agreement. Venue for all legal proceedings out of this agreement, or its breach, must be in the appropriate state or federal court with competent jurisdiction in Ramsey County, Minnesota.

14 Termination; Suspension

14.1 Termination by the State. The State may terminate this agreement at any time, with or without cause, upon written notice to the Grantee. Upon termination, the Grantee will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed.

14.2 Termination for Cause. The State may immediately terminate this grant agreement if the State finds that there has been a failure to comply with the provisions of this agreement, that reasonable progress has not been made, that fraudulent or wasteful activity has occurred, that Grantee has been convicted of a criminal offense relating to a state grant agreement, or that the purposes for which the funds were granted have not been or will not be fulfilled. The State may take action to protect the interests of the State of Minnesota, including the refusal to disburse additional funds and requiring the return of all or part of the funds already disbursed.

14.3 Termination for Insufficient Funding. The State may immediately terminate this agreement if:

- 14.3.1 It does not obtain funding from the Minnesota Legislature; or
- 14.3.2 If funding cannot be continued at a level sufficient to allow for the payment of the services covered here. Termination must be by written or fax notice to the Grantee. The State is not obligated to pay for any services that are provided after notice and effective date of termination. However, the Grantee will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed to the extent that funds are available. The State will not be assessed any penalty if the agreement is terminated because of the decision of the Minnesota Legislature, or other funding source, not to appropriate funds. The State will provide the Grantee notice of the lack of funding within a reasonable time of the State's receiving that notice.

14.4 Suspension. The State may immediately suspend this agreement in the event of a total or partial government shutdown due to the failure to have an approved budget by the legal deadline. Work performed by the Grantee during a period of suspension will be deemed unauthorized and undertaken at risk of non-payment.

15 Data Disclosure

Under [Minn. Stat. § 270C.65](#), Subd. 3, and other applicable law, Grantee consents to disclosure of its social security number, federal employer tax identification number, and/or Minnesota tax identification number, already provided to the State, to federal and state tax agencies and state personnel involved in the payment of state obligations. These identification numbers may be used in the enforcement of federal and state tax laws which could result in action requiring the Grantee to file state tax returns and pay delinquent state tax liabilities, if any.



- 16 **Fund Use Prohibited.** The Grantee will not utilize any funds received pursuant to this Agreement to compensate, either directly or indirectly, any contractor, corporation, partnership, or business, however organized, which is disqualified or debarred from entering into or receiving a State contract. This restriction applies regardless of whether the disqualified or debarred party acts in the capacity of a general contractor, a subcontractor, or as an equipment or material supplier. This restriction does not prevent the Grantee from utilizing these funds to pay any party who might be disqualified or debarred after the Grantee's contract award on this Project. For a list of disqualified or debarred vendors, see www.mmd.admin.state.mn.us/debarredreport.asp.
- 17 **Discrimination Prohibited by Minnesota Statutes §181.59.** Grantee will comply with the provisions of Minnesota Statutes §181.59 which requires that every contract for or on behalf of the State of Minnesota, or any county, city, town, township, school, school district or any other district in the state, for materials, supplies or construction will contain provisions by which Contractor agrees: 1) That, in the hiring of common or skilled labor for the performance of any work under any contract, or any subcontract, no Contractor, material supplier or vendor, will, by reason of race, creed or color, discriminate against the person or persons who are citizens of the United States or resident aliens who are qualified and available to perform the work to which the employment relates; 2) That no Contractor, material supplier, or vendor, will, in any manner, discriminate against, or intimidate, or prevent the employment of any person or persons identified in clause 1 of this section, or on being hired, prevent or conspire to prevent, the person or persons from the performance of work under any contract on account of race, creed or color; 3) That a violation of this section is a misdemeanor; and 4) That this contract may be canceled or terminated by the state of Minnesota, or any county, city, town, township, school, school district or any other person authorized to grant contracts for employment, and all money due, or to become due under the contract, may be forfeited for a second or any subsequent violation of the terms or conditions of this Agreement.
- 18 **Limitation.** Under this Agreement, the State is only responsible for receiving and disbursing funds. Nothing in this Agreement will be construed to make the State a principal, co-principal, partner, or joint venturer with respect to the Project(s) covered herein. The State may provide technical advice and assistance as requested by the Grantee, however, the Grantee will remain responsible for providing direction to its contractors and consultants and for administering its contracts with such entities. The Grantee's consultants and contractors are not intended to be third party beneficiaries of this Agreement.
- 19 **Telecommunications Certification.** By signing this agreement, Contractor certifies that, consistent with Section 889 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. 115-232 (Aug. 13, 2018), and 2 CFR 200.216, Contractor will not use funding covered by this agreement to procure or obtain, or to extend, renew, or enter into any contract to procure or obtain, any equipment, system, or service that uses "covered telecommunications equipment or services" (as that term is defined in Section 889 of the Act) as a substantial or essential component of any system or as critical technology as part of any system. Contractor will include this certification as a flow down clause in any contract related to this agreement.
- 20 **Title VI/Non-discrimination Assurances.** Grantee agrees to comply with all applicable US DOT Standard Title VI/Non-Discrimination Assurances contained in DOT Order No. 1050.2A, and in particular Appendices A and E, which can be found at: https://edocs-public.dot.state.mn.us/edocs_public/DMResultSet/download?docId=11149035. Grantee will ensure the appendices and solicitation language within the assurances are inserted into contracts as required. State may conduct a review of the Grantee's compliance with this provision. The Grantee must cooperate with State throughout the review process by supplying all requested information and documentation to State, making Grantee staff and officials available for meetings as requested, and correcting any areas of non-compliance as determined by State.
- 21 **Additional Provisions**
[Intentionally left blank.]



STATE ENCUMBRANCE VERIFICATION

Individual certifies that funds have been encumbered as required by Minn. Stat. § 16A.15 and § 16C.05.

Signed: _____

Date: _____

SWIFT Contract/PO No(s). _____

GRANTEE

The Grantee certifies that the appropriate person(s) have executed the grant agreement on behalf of the Grantee as required by applicable articles, bylaws, resolutions, or ordinances.

By: _____

Title: _____

Date: _____

By: _____

Title: _____

Date: _____

DEPARTMENT OF TRANSPORTATION

By: _____
(with delegated authority)

Title: _____

Date: _____

DEPARTMENT OF TRANSPORTATION OFFICE OF FINANCIAL MANAGEMENT – GRANT UNIT

By: _____

Date: _____

DEPARTMENT OF TRANSPORTATION CONTRACT MANAGEMENT

By: _____

Date: _____

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



Page 1 of 1

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

April 5, 2022

RE: Austin Municipal Airport
FY 2022 Federal AIP Grant Request

SP A5001-55 AIP 3-27-0007-19-22

Luke Bourassa
Minnesota Department of Transportation
Office of Aeronautics
395 John Ireland Blvd.
St. Paul, MN 55155-1800

Dear Mr. Bourassa:

Please consider this letter as a formal request from the City of Austin an Airport Improvement Program (AIP) grant from the Federal Aviation Administration (FAA) for Federal Fiscal Year 2022. The grant request is for the 2022 Taxilane Construction project at the Austin Municipal Airport. Associated costs with this project are as follows:

Construction (Ulland Brothers, Inc.)	\$324,920.00
Design Engineering (SEH)	\$ 52,400.00
Construction Administration and Observation (SEH)	\$ 76,400.00
<u>Administrative – Estimated (City of Austin)</u>	<u>\$ 1,500.00</u>
TOTAL PROJECT COSTS:	\$ 455,220.00

The City of Austin is requesting federal FAA participation using Airport Improvement Program entitlement funding for this project at 90 percent (\$409,698). The City is also requesting state participation at 5 percent (\$22,761). The remaining 5 percent (\$22,761) of the project costs will be covered by local funding.

Please contact me if you have any questions.

Sincerely,

Steven Lang, City Engineer
City of Austin, Minnesota

CC: Shawn McMahon, SEH
Adinda Van Espen, SEH
Benjamin Garrow, FAA
Brian Conklin, MnDOT Office of Aeronautics

Enclosure: FY 2022 Federal AIP Grant Request Packet

Exhibit "B"

MINNESOTA DEPARTMENT OF TRANSPORTATION
OFFICE OF AERONAUTICS
222 EAST PLATO BOULEVARD
ST. PAUL, MINNESOTA 55107-1618
TELEPHONE NUMBER: (651) 234-7200

Airport Name

State Project No.

Federal Project No.

Mn/DOT Agreement No.

CREDIT APPLICATION

TO THE DIRECTOR, OFFICE OF AERONAUTICS:

Itemized statement of cash expenditures for which credit is claimed:

*FINAL PARTIAL (CHOOSE ONE)

NOTE: PLEASE SEPARATE ENGINEERING COSTS FROM OTHER COSTS.

Municipality

By

Title

***FOR ALL ITEMS INCLUDED IN THIS AGREEMENT**

(Complete Form On Reverse Side)

Exhibit "B" (cont.)

STATE OF Minnesota

COUNTY OF |

[Redacted], being first duly sworn, deposes and says that he/she is the
[Redacted] of the Municipality of [Redacted], in the County
of [Redacted], State of Minnesota; that he/she has prepared the foregoing Credit Application,
knows the contents thereof, that the same is a true and accurate record of disbursements made, and that the same is true of his/her own
knowledge; and that this application is made by authority of the municipal council (or board) of said Municipality.

Signature

Subscribed and sworn to before me

this _____ day of _____, 20_____.
(Handwritten signature)

NOTARY PUBLIC

My Commission Expires: _____

RESOLUTION

AUTHORIZATION TO EXECUTE MINNESOTA DEPARTMENT OF TRANSPORTATION GRANT AGREEMENT FOR AIRPORT IMPROVEMENT EXCLUDING LAND ACQUISITION

It is resolved by the **City of Austin** as follows:

1. That the state of Minnesota Agreement No. **1051681**,

"Grant Agreement for Airport Improvement Excluding Land Acquisition," for
State Project No. **A5001-55** at the **Austin Municipal Airport** is accepted.

2. That the _____ and _____ are
(Title) (Title)

authorized to execute this Agreement and any amendments on behalf of the
City of Austin.

CERTIFICATION

STATE OF MINNESOTA

COUNTY OF _____

I certify that the above Resolution is a true and correct copy of the Resolution adopted by the

(Name of the Recipient)

at an authorized meeting held on the _____ day of _____, 20_____
as shown by the minutes of the meeting in my possession.

Signature: _____
(Clerk or Equivalent)

CORPORATE SEAL

/OR/

NOTARY PUBLIC

My Commission Expires: _____

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



Holly Wallace
 Planning & Zoning Administrator
 507-437-9952 / Fax 507-437-7101
 Cellular 1-507-438-2380
 Email: hollyw@ci.austin.mn.us

Memorandum

To: Mayor & City Council
From: Austin Planning Commission
Date: September 13, 2022
Re: Fence Appeal Submitted by Madlain Vander

During the September 13, 2022, meeting of the Austin Planning Commission, the commission reviewed a fence appeal submitted by Madlain Vander, for a proposed 6 foot privacy fence installed on the property line. The property is located on a corner lot. City ordinance requires a 12.5 foot setback from the property line for privacy fences on corner lot side yards.

After review, with 6 Planning Commission members present, the commission recommends approval of this request with the condition that the fence near the driveway be installed at an angle to allow more visibility of the sidewalk adjacent to the driveway. The vote was as follows:

6 - Ayes 0 - Nays

- This recommendation comes from a discussion of the impacts on neighboring properties, public right of way, review of practical difficulties and reasonableness of the petitioner's requested use.

Petitioner: Madlain Vander
710 6th Ave NW
Austin, MN 55912

Property Location: 710 6th Ave NW

Legal Description: N/A

Present Land Use: Residential

Zoning Classification: "R-1" Single Family Residential

Surrounding Land Uses and Zoning Classification: All "R-1" Residential

Requested Action: The petitioner appeals from Austin City Code Section 4.70 Subd. 5. A solid or opaque fence may be constructed, but must be setback 25 feet in a front yard and 12.5 feet in a side yard, in an "R-1" Residential District. The Petitioner wishes to install 50 feet of six foot privacy fence on the property line of her rear side yard, which will not comply with the required 12.5 setback.

Staff Report: The proposed fencing is a six foot tall privacy fence located on a corner lot. The existing lot is about 8,300 square feet, which exceeds the minimum 6,000 square foot requirement. The petitioner's primary concerns in accommodating the setback is maintenance, utilizing the majority of her yard and general security.

Staff Notes:

1. The fence is restricted to the back yard where there is a driveway.
2. There is a sidewalk on two sides of the property.
3. The petitioner has room to meet the setback, but the fence is far from the intersection and will not affect traffic visibility.
4. The petitioner has concerns with passersby and general security.

This is a recommendation to council.

APPLICATION FOR CONSIDERATION OF PLANNING REQUEST

Sept 13th

(This form should be filled out in duplicate by typing or printing in ink)
Applications are due by the 20th day of the prior Month
i.e an application for a June meeting is due by May 20th

CITY OF AUSTIN

Street Location of Property: 710 6th Ave NW

Legal Description of Property: _____

Owner: Name Madlain Vander Phone 507-440-3010

Address 710 6th Ave NW

City Austin State MN Zip 55912

Type of Request: Variance _____ CUP _____ IUP _____ Rezone _____ Other _____

Applicable to Section Fence Appeal of the Austin City Zoning Ordinance, as amended

Description of Request Adding left privacy fence between house & garage

Reason for Request Removed 2 story hedge & would like more privacy. Has been a security & safety issue.

Present Zoning Classification R-1

Existing Use of the Property Residential

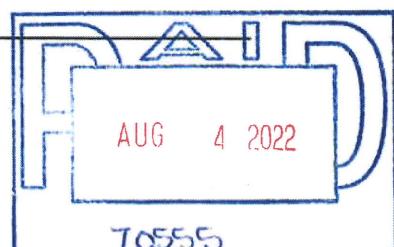
Has a request for a rezoning, variance, or conditional use permit on the subject site or any part thereof been previously sought? NO When? _____

✓ Signature of Applicant Min Kue Date 8/4/2022

Approved _____ Denied _____ by the Planning Commission on _____ (date)

Approved _____ Denied _____ by the Common Council

Comments _____





City of Austin
500 Fourth Avenue NE
Austin, Minnesota 55912
Zoning Department
507-437-9950

FOR OFFICE USE ONLY

Permit No(s): _____

Date Issued: _____

Receipt No: 70555

Receipt Date: 8-4-2022

Zone: _____

Flood: _____

FENCE PERMIT APPLICATION

Owner:

Job Site Address: 710 16th Ave NW

Property Owner: Madlain Vander

Phone Number: 440 3060

Fence Plot Plan Attached

Job Valuation: \$ _____

Description of work: Install privacy
fencing

Zoning Fees:

Zoning Fee: _____ /zone

Investigation Fee: _____ /bldginv

TOTAL FEES: \$ 25.00

Contractor (if applicable):

Name: owner

Address: _____

City, State, Zip: _____

Phone Number: _____

Length: (Ft) 78'

Height: (Ft) 6'

Fence Material: wood

Fence Permit Fees

Linear Ft.	Total Fee
0 to 100	\$25.00
101 to 150	\$30.00
151 to 200	\$35.00
201 +	\$40.00

This permit becomes null and void if work or construction authorized is not commenced within 180 days, or if construction or work is suspended or abandoned for a period of 180 days at any time after work is commenced. I hereby certify that I have read and examined this application and know the same to be true and correct. All provisions of laws and ordinances governing this type of work will be complied with whether specified herein or not. The granting of a permit does not presume to give authority to violate or cancel the provision of any other state or local law regulating construction or the performance of construction.

APPLICANT'S SIGNATURE: Yin Vu

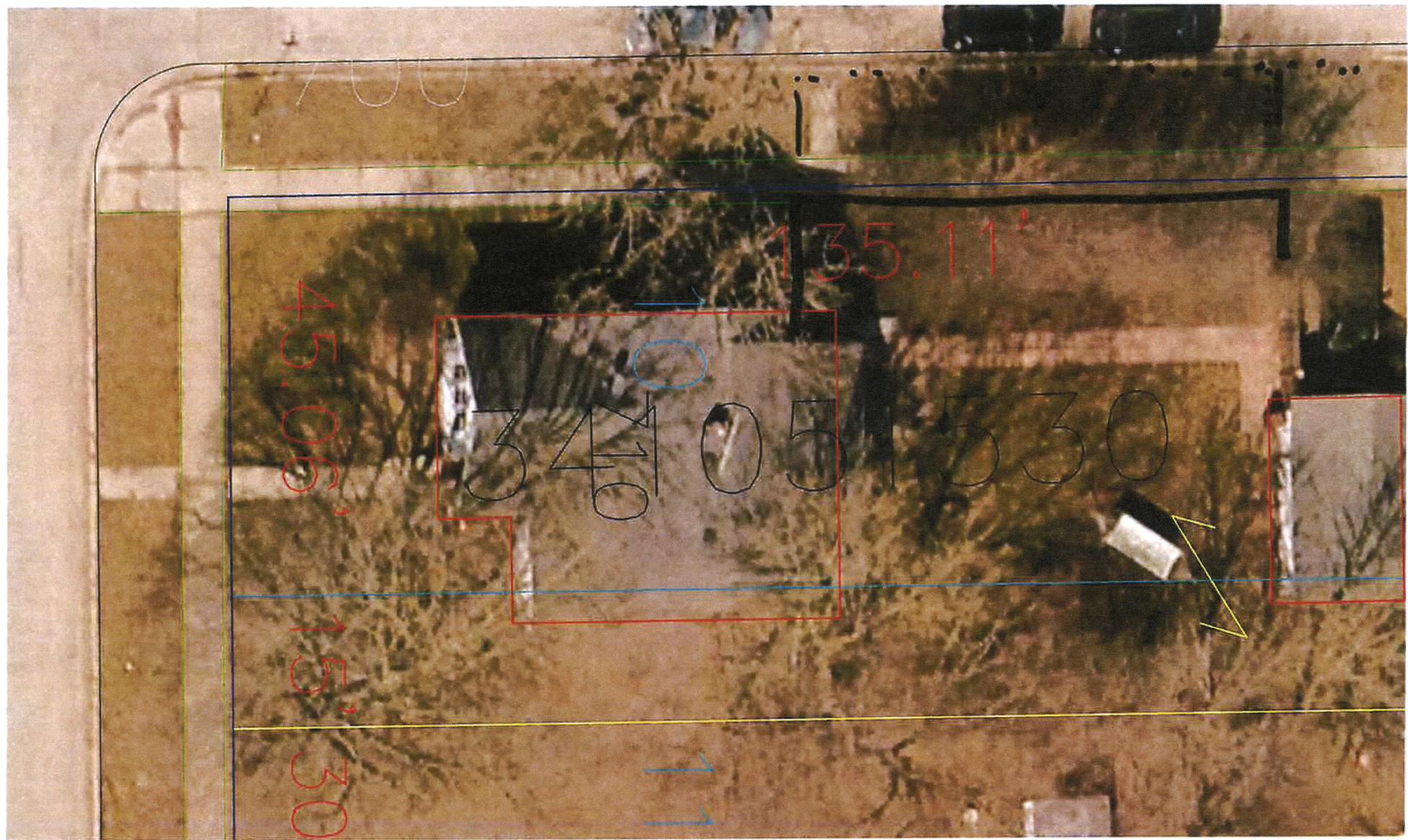
DATE: 8/4/2022

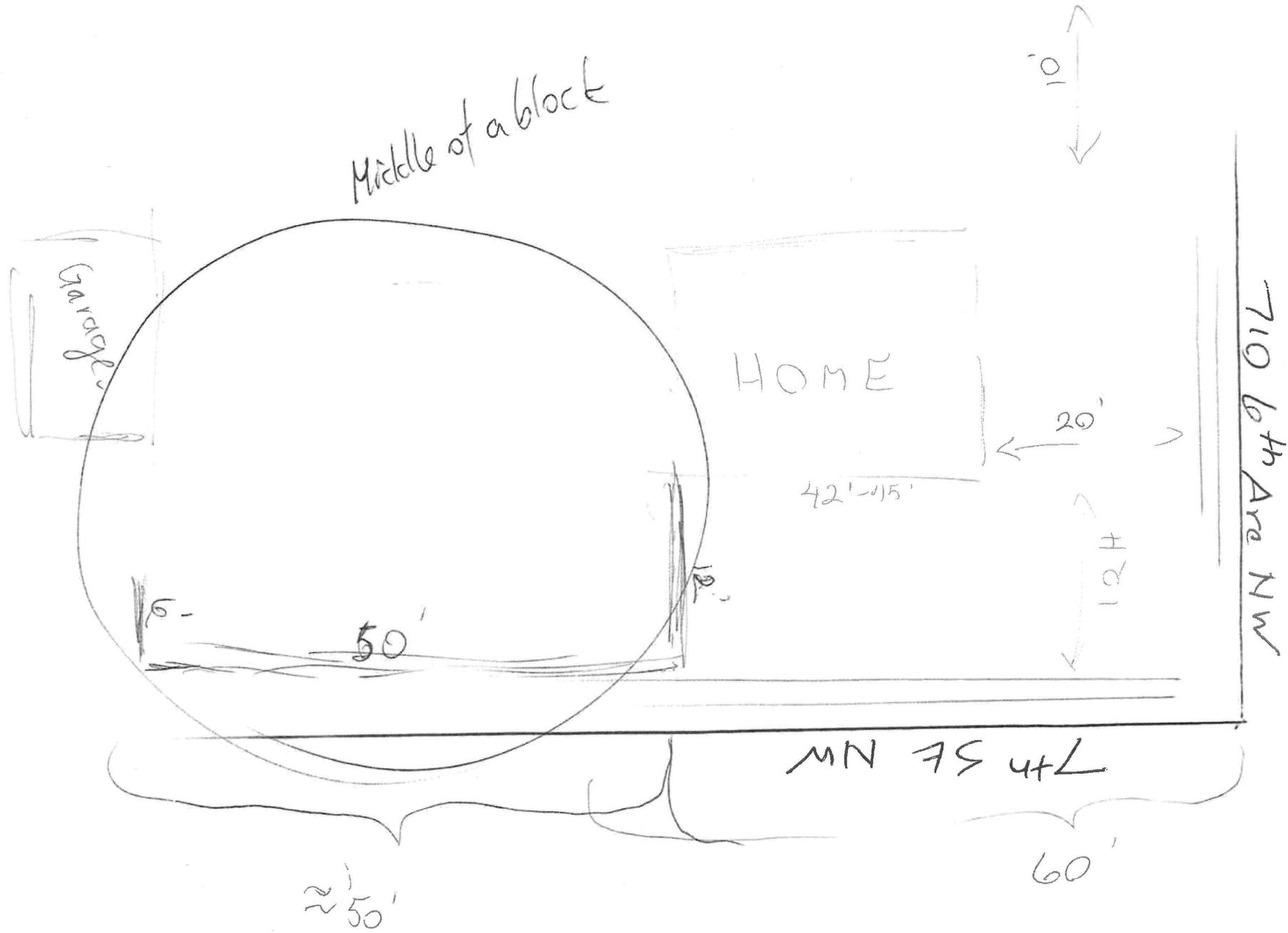
OFFICE USE ONLY

ZONING OFFICIAL'S APPROVAL: _____ DATE: _____

BUILDING OFFICIAL'S APPROVAL: _____

DATE: _____





**City of Austin
Zoning Department**



**500 Fourth Avenue N.E.
Austin, Minnesota 55912-3773
Phone: 507-437-9950
Fax: 507-437-7101
www.ci.austin.mn.us**

Memorandum

To: Mayor and City Council

Cc: Kristina Alvarez-Babastro
600 11th St NE, Austin, MN 55912

From: Holly Wallace, Planning & Zoning Administrator

Re: Accumulation of Refuse and Junk
At 600 11th St NE, Alvarez-Babastro Property

Date: September 16, 2022

May I ask the City Council to approve granting the Planning & Zoning Department the power to contract for the removal of refuse and junk at 600 11th St NE. The property owner has been notified of this violation to the City Code Sections 10.14 Subd.1(B), 10.14 Subd.4-6 but has failed to resolve this issue. (See Attached)

Therefore, I am requesting the Mayor and City Council to approve empowering the Planning & Zoning Department to act on the removal of this junk. Such action is permitted by the City Code Section 10.14.

Thank You



February 23rd, 2022

Kristina Alvarez-Babastros
600 11th St NE
Austin, MN 55912

RE: Zoning Violations at 600 11th St NE, Austin, MN 55912

Dear Kristina:

The City of Austin Planning and Zoning Department has observed a violation of City Code on your property. An investigation of this complaint was conducted on February 23rd, 2022 at this site and the following issues need to be resolved:

1. Remove all junk/garbage from property
2. Each container shall be watertight and contain all refuse which may accumulate between collections or other disposal
3. Garbage shall be collected or otherwise lawfully disposed of, at least once each week during the year

The violation of Austin City Code Sections 10.01 Subd 2,3 & 4, 10.14 Subd.1(B) 4 and 10.14 Subd.4-6 were found. These City Code sections read as follows:

City Code Section 10.01 Subd. 2. Disposal required. Every person shall, in a sanitary manner, store and dispose of refuse that may accumulate upon property owned or occupied by him or her in accordance with the terms of this section. Garbage shall be collected or otherwise lawfully disposed of, at least once each week during the year.

City Code Section 10.01 Subd 3. Deposit of garbage or refuse. It is unlawful:

D. For any person to deposit anywhere within the city any refuse in a manner that it may be carried or deposited by the elements upon any public place or any other premises within the city;

City Code Section 10.01 Subd 4. Containers

A. *General requirement.* Every householder, occupant or owner of any residence and any restaurant, industrial establishment or commercial establishment shall provide on the premises one or more containers to receive and contain all refuse which may accumulate between collections or other disposal. All normal accumulations of refuse shall be deposited in such containers, except that leaves, trimmings from shrubs, grass clippings, shavings, excelsior and other rubbish of similar volume and weight may be stored in closed containers not meeting the requirements of Subpar. B. Tree limbs under four inches in diameter in five-foot lengths and tied in bundles not to exceed 60 pounds, bundles of newspapers, cardboard or magazines tied securely not to exceed 60 pounds. Furniture, rugs and carpeting will be accepted by a licensed hauler if notified 24 hours in advance of regular pickup time. The following articles will not be accepted as refuse and must be deposited at a designated

demolition site: stone, sod, earth, concrete, building materials unless placed in covered garbage cans, automobile parts, except tune-up parts, inflammable liquids, tree trunk sections over four inches in diameter. Tires and white goods need not be accepted as refuse by licensed garbage haulers, but shall be disposed of at the depository as designated by the County Board.

B. *Container requirements.* Each container shall be watertight, shall be impervious to insects and rodents and shall not exceed 32 gallons in capacity, garbage containers when full shall not exceed 60 pounds in weight, when waste is collected by licensed haulers by mechanical lifting devices, the use of the container shall not exceed 90 gallons or limited, as defined by the hauler. Containers shall be maintained in good and sanitary condition. Any container not conforming to the requirements of this section or having ragged or sharp edges or any other defect likely to hamper or injure the person collecting the contents shall be promptly replaced after notice by the city. Notwithstanding the foregoing, grass clippings and leaves may be temporarily stored in bags provided by licensed garbage haulers for pick up by licensed garbage haulers or in plastic bags provided by the owner for ultimate disposal at a site designated by the Council.

C. *Placement.*

1. Garbage containers shall be placed in a driveway or open area outside of the garage or where public alley - garbage shall be placed adjacent to the alley, easily accessible for pickup to be made. Other refuse - properly bagged or bundled such as leaves, clippings or brush shall be placed by the curb of the street or by the alley for collection. Containers must be placed properly for pickup prior to 5:30 a.m. on the day of collection to insure service.

2. At the request of the garbage hauler, garbage containers may be placed on boulevard, curbside or other convenience place in front yard for collection, but the containers shall not be permitted to remain on curbside or in front yard for more than 24 consecutive hours.

City Code Section 10.14, Subd. 1(B):

JUNK. All scrap metal, rags, batteries, paper, trash, rubber tires, debris, waste, wood, and/or construction materials not used in connection with a building or which is carried as inventory in an on-going construction business at a lawful place of business, dismantled vehicles, machinery and appliances or parts thereof and parts of vehicles, glass, tinware, plastic, aluminum and/or steel cans, old or discarded household goods, household furnishings or furniture, hardware or appliances. Neatly stacked firewood located so as to comply with the setback requirements as set forth in Chapter 11 and in accordance with side yard or rear yard setback requirements shall not be considered junk.

City Code Section 10.14, Subd. 4. Notice and abatement.

B. Public nuisances affecting health

5. Accumulations of manure, refuse, junk or other debris;

D. Public nuisances affecting peace and safety.

16. Accumulations in the open of discarded or disused machinery, household appliances, automobile bodies or other material in a manner conducive to the harboring of rats, mice, snakes or vermin, or the rank growth of vegetation among the items so accumulated, or in a manner creating fire, health or safety hazards from accumulation;

City Code Section 10.14, Subd. 4(E-G)

NOTICE AND ABATEMENT.

E. Whenever a public officer or other person charged with enforcement determines that a public nuisance is being maintained or exists on premises in the City, the City enforcement officer shall notify in writing the owner or occupant of the premises of such fact and order that such nuisance be terminated and abated.

F. The notice shall be served in person or by certified or registered mail. If the premises are not occupied and the owner is unknown, the notice may be served by posting it on the premises. The notice shall specify the steps to be taken to abate the nuisance and the time, not exceeding ten (10) days, within which the nuisance is to be abated.

G. If an emergency exists that presents an immediate danger to citizens affecting their safety, the officer shall require immediate abatement of such nuisance. If the notice is not complied with within the time specified, the enforcing officer shall report that fact forthwith to the Council and may take such other appropriate action as may be necessary. The Council may, after notice to the owner or occupant, provide for the abating of the nuisance by the City.

City Code Section 10.14, Subd. 5:

RECOVERY OF COST. The owner of the premises on which a nuisance has been abated by the City shall be personally liable for the cost to the City of the abatement, including administrative costs. As soon as the work has been completed and the cost determined, the City Recorder shall prepare a bill for the cost and mail it to the owner. There upon, the amount shall be immediately due and payable at the Office of the City Recorder. Ownership shall be presumed to be the owner as shown on the records of the County Treasurer unless the City Recorder has reason to know that such information is not accurate, in which event, notice shall be given to such other person as the City Recorder has reason to believe is, in fact, the true owner of said premises.

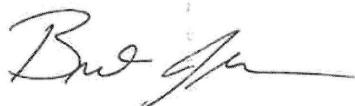
City Code Section 10.14, Subd. 6:

ASSESSMENT. If the cost of abating said nuisance is not paid in full to the City Recorder before September 1, next, then on or before September 1, next, following the abatement of the nuisance, the City Recorder shall list the total unpaid charges along with other such charges, as well as other charges for current services to be assessed under Minnesota Statutes 429.101 against each separate lot or parcel to which charges are attributable. The Council may then spread the charges against such property under that statute and other pertinent statutes for certification to the County Auditor and collection along with current taxes the following year or in annual installments, not exceeding ten (10), as the Council may determine in each case.

Please resolve the City Code violations within **10 days** of the date of this letter, or the matter will be referred to the Austin City Council for corrective action. Council generally meets the first and third Mondays of every month. You will be fined a minimum of \$100, the amount varies depending on the type of violations.

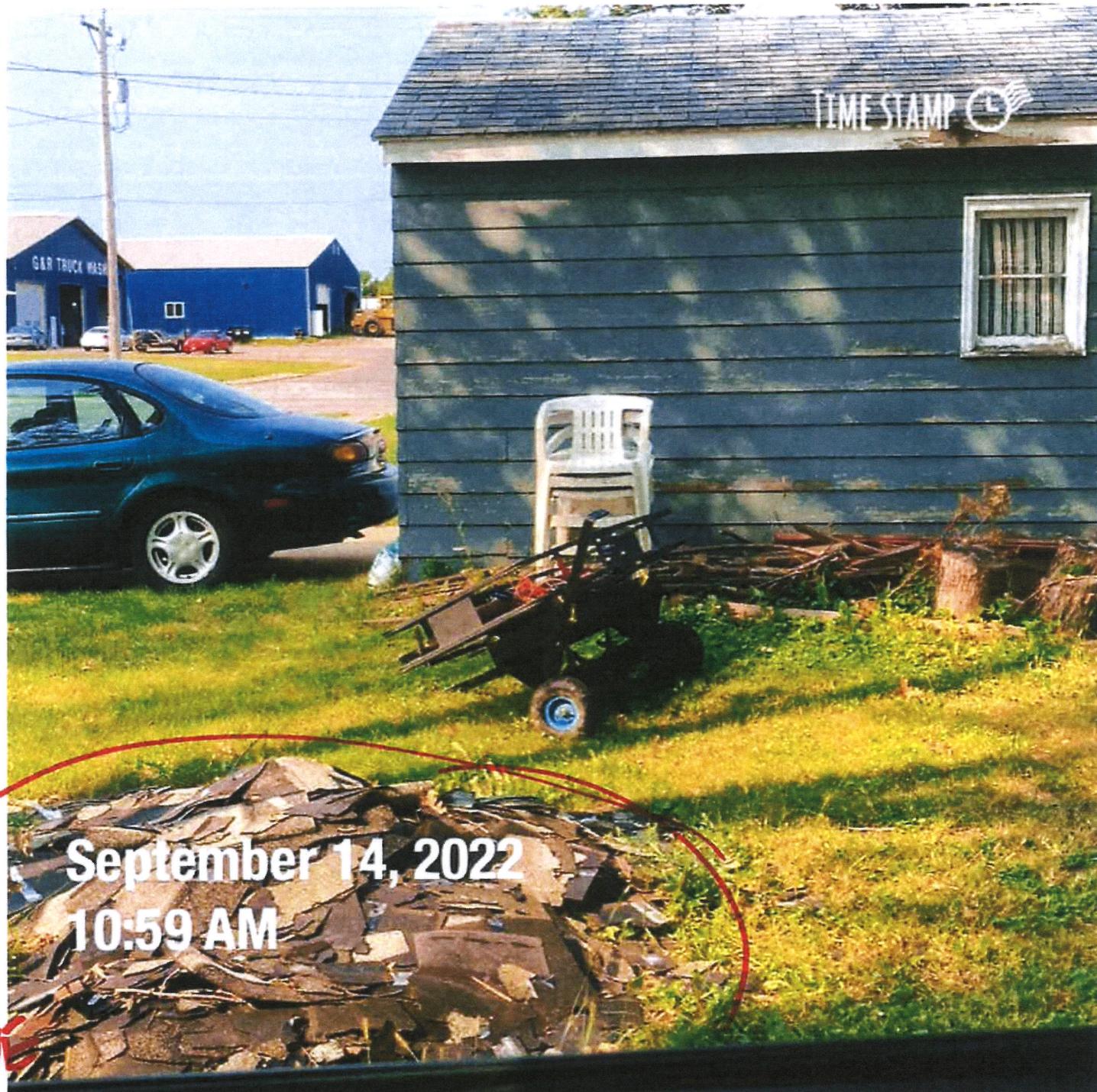
Your cooperation with this matter will be greatly appreciated, and if you have any questions, please call me at my office at (507)437-9950.

Sincerely,



Brent Johnson
Zoning Inspector

CC: Callie Martell



September 14, 2022
10:59 AM

6000
11th st NE



September 14, 2022
10:59 AM

600

City of Austin
Zoning Department



500 Fourth Avenue N.E.
Austin, Minnesota 55912-3773
Phone: 507-437-9950
Fax: 507-437-7101
www.ci.austin.mn.us

Memorandum

To: Mayor and City Council

Cc: Michelle Nystel
1011 4th St Se, Austin, MN 55912

From: Holly Wallace, Planning & Zoning Administrator

Re: Accumulation of Refuse and Junk
At 1011 4th St Se, Nystel Property

Date: September 16, 2022

May I ask the City Council to approve granting the Planning & Zoning Department the power to contract for the removal of refuse and junk at 1011 4th St SE. The property owner has been notified of this violation to the City Code Sections 10.14 Subd.1(B), 10.14 Subd.4-6 but has failed to resolve this issue. (See Attached)

Therefore, I am requesting the Mayor and City Council to approve empowering the Planning & Zoning Department to act on the removal of this junk. Such action is permitted by the City Code Section 10.14.

Thank You

City of Austin
Zoning Department



500 Fourth Avenue N.E.
Austin, Minnesota 55912-3773
Phone: 507-437-9950
Fax: 507-437-7101
www.ci.austin.mn.us

August 24th, 2022

Michelle Nystel
1011 4th St SE
Austin, MN 55912

RE: Zoning Violations at 1011 4th St SE, Austin, MN 55912

Dear Michelle:

The City of Austin Planning and Zoning Department has observed a violation of City Code on your property. An investigation of this complaint was conducted on August 23rd, 2022 at this site and the following issues need to be resolved:

1. Remove all junk/garbage from property
2. Each container shall be watertight and contain all refuse which may accumulate between collections or other disposal- not loose in a pickup truck bed
3. Garbage shall be collected or otherwise lawfully disposed of, at least once each week during the year

The violation of Austin City Code Sections 10.01 Subd 2,3 & 4, 10.14 Subd.1(B) 4 and 10.14 Subd.4-6 were found. These City Code sections read as follows:

City Code Section 10.01 Subd. 2. Disposal required. Every person shall, in a sanitary manner, store and dispose of refuse that may accumulate upon property owned or occupied by him or her in accordance with the terms of this section. Garbage shall be collected or otherwise lawfully disposed of, at least once each week during the year.

City Code Section 10.01 Subd 3. Deposit of garbage or refuse. It is unlawful:

D. For any person to deposit anywhere within the city any refuse in a manner that it may be carried or deposited by the elements upon any public place or any other premises within the city;

City Code Section 10.01 Subd 4. Containers

A. **General requirement.** Every householder, occupant or owner of any residence and any restaurant, industrial establishment or commercial establishment shall provide on the premises one or more containers to receive and contain all refuse which may accumulate between collections or other disposal. All normal accumulations of refuse shall be deposited in such containers, except that leaves, trimmings from shrubs, grass clippings, shavings, excelsior and other rubbish of similar volume and weight may be stored in closed containers not meeting the requirements of Subpar.

B. Tree limbs under four inches in diameter in five-foot lengths and tied in bundles not to exceed 60 pounds, bundles of newspapers, cardboard or magazines tied securely not to exceed 60 pounds. Furniture, rugs and carpeting will be accepted by a licensed hauler if notified 24 hours in advance of regular pickup time. The following

articles will not be accepted as refuse and must be deposited at a designated demolition site: stone, sod, earth, concrete, building materials unless placed in covered garbage cans, automobile parts, except tune-up parts, inflammable liquids, tree trunk sections over four inches in diameter. Tires and white goods need not be accepted as refuse by licensed garbage haulers, but shall be disposed of at the depository as designated by the County Board.

B. *Container requirements.* Each container shall be watertight, shall be impervious to insects and rodents and shall not exceed 32 gallons in capacity, garbage containers when full shall not exceed 60 pounds in weight, when waste is collected by licensed haulers by mechanical lifting devices, the use of the container shall not exceed 90 gallons or limited, as defined by the hauler. Containers shall be maintained in good and sanitary condition. Any container not conforming to the requirements of this section or having ragged or sharp edges or any other defect likely to hamper or injure the person collecting the contents shall be promptly replaced after notice by the city. Notwithstanding the foregoing, grass clippings and leaves may be temporarily stored in bags provided by licensed garbage haulers for pick up by licensed garbage haulers or in plastic bags provided by the owner for ultimate disposal at a site designated by the Council.

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City Code Section 10.14, Subd. 1(B):

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City Code Section 10.14, Subd. 4. Notice and abatement.

B. *Public nuisances affecting health*

5. Accumulations of manure, refuse, junk or other debris;

D. *Public nuisances affecting peace and safety.*

 16. Accumulations in the open of discarded or disused machinery, household appliances, automobile bodies or other material in a manner conducive to the harboring of rats, mice, snakes or vermin, or the rank growth of vegetation among the items so accumulated, or in a manner creating fire, health or safety hazards from accumulation;

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F. The notice shall be served in person or by certified or registered mail. If the premises are not occupied and the owner is unknown, the notice may be served by posting it on the premises. The notice shall specify the steps to be taken to abate the nuisance and the time, not exceeding ten (10) days, within which the nuisance is to be abated.

G. If an emergency exists that presents an immediate danger to citizens affecting their safety, the officer shall require immediate abatement of such nuisance. If the notice is not complied with within the time specified, the enforcing officer shall report that fact forthwith to the Council and may take such other appropriate action as may be necessary. The Council may, after notice to the owner or occupant, provide for the abating of the nuisance by the City.

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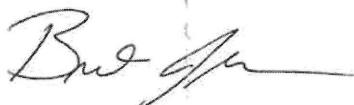
City Code Section 10.14, Subd. 6:

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Please resolve the City Code violations within **10 days** of the date of this letter, or the matter will be referred to the Austin City Council for corrective action. Council generally meets the first and third Mondays of every month. You will be fined a minimum of \$100, the amount varies depending on the type of violations.

Your cooperation with this matter will be greatly appreciated, and if you have any questions, please call me at my office at (507)437-9950.

Sincerely,



Brent Johnson
Zoning Inspector



September 14, 2022
11:15 AM

1011
4th st
SE



September 14, 2022
11:15 AM

1011