

A G E N D A
CITY COUNCIL MEETING
MONDAY, FEBRUARY 6, 2023
5:30 P.M.
COUNCIL CHAMBERS

Call to Order.

Pledge of Allegiance.

Roll Call.

(mot) 1. Adoption of Agenda.

(mot) 2. Approving minutes from January 17, 2023

3. Recognitions and Awards.

Terry Petersen retirement from the Fire Department
Michael Ruzek Day Proclamation

(mot) 4. *Consent Agenda

Licenses:

Exempt Gambling (raffle): Minnesota Deer Farmers Association on March 11, 2023

Food: Windrift Sports Bar & Grill, 2511 11th Street NE

Food: Papa Murphy's Pizza, 402 1st Avenue SW

Food: Pho Kayah Co., 1426 1st Avenue SW # 3

Massage Therapist and Establishment: Daniel Stalkamp and DS Massage

Mobile Business: Chick-fil-A Ear of Corn, 1201 Broadway South, Suite 100, Rochester

Mobile Business: La Borinqua, 205 McArthur Dr, Albert Lea

Temporary Liquor: Austin Area Commission for the Arts on February 17-18, 2023

Temporary Liquor: Austin Area Commission for the Arts on February 25, 2023

Temporary Liquor: Mower County Ag Society on February 24-15, 2023

Temporary Liquor: Mower County Ag Society on August 8-13, 2023

Tobacco: Kush Clouds, 213 North Main Street

Claims:

- a. Pre-list of bills
- b. Credit Card and Financial Reports.

PETITIONS AND REQUESTS:

- (mot) 5. Approve the reclassifying of the grant funded environmental education outreach coordinator position to a grant funded nature center teacher/aid position.
6. Reviewing proposed liquor ordinance changes.
- (mot)
(ord) a. For preparation of the ordinance.
b. For adoption and publication of the ordinance.

- 7. Reviewing proposed licensing ordinance changes.
 - (mot) a. For preparation of the ordinance.
 - (ord) b. For adoption and publication of the ordinance.
- (res) 8. Authorizing a \$42,216,633 general obligation waste water revenue note.
- (res) 9. Approving a labor agreement with IAFF for 2023-2025.
- (res) 10. Adopting a health reimbursement arrangement buy-down plan.
- (res) 11. Approving a HSCP contract addendum for the UAW WWTP.
- (mot) 12. Approving the commander promotion and hiring of a full-time fire prevention specialist/fire engineer in the Fire Department.
- (res) 13. Approving a grant application for 1st Avenue SW reconstruction.
- (res) 14. Accepting flower donations to the City of Austin.
- (mot) 15. Approving 2023 contingency funds for city hall photos and framing.
- (mot) 16. Granting the Planning and Zoning Department the power to contract for the removal of junk and/or illegally stored vehicles at 2010 11th Avenue NE, Jacobsen property.

CITIZENS ADDRESSING THE COUNCIL

HONORARY COUNCIL MEMBER COMMENTS

REPORTS AND RECOMMENDATIONS:

City Administrator
City Council

- (mot) Adjourn to **Tuesday, February 21, 2023** 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
January 17, 2023
5:30 PM
Council Chambers

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

MEMBERS ABSENT: Council Member Joyce Poshusta

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

APPEARING IN PERSON: Julie Champlin, Tim Sorgine

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

Removals

4. Food: Wing Bazaar, LLC, 3401 West Oakland Avenue
- 17a. Junk removal at 909 3rd Avenue NW, Greene Property.

Additions

- (res) 18. Receiving an updated feasibility report and calling for a public hearing on February 21, 2023 for street improvements on 3rd Avenue SW (20th Street to 21st SW) 21st Street SW (22nd Street to 6th Avenue SW) and 22nd Street SW (Oakland Avenue West to 3rd Avenue SW), Project 23106.

- (res) 19. Denying the renewal of a food license for Wing Bazaar, LLC.

Moved by Council Member Baker, seconded by Council Member Baskin, approving the agenda as amended. Carried.

Moved by Council Member Baker, seconded by Council Member Fischer, approving Council minutes from January 3, 2023. Carried.

AWARDS AND RECOGNITIONS

Mayor King recognized Julie Champlin's retirement from the Nature Center. Ms. Champlin thanked the Mayor and Council for her years at the City stating it was her dream job. Nature Center Director Luke Reese stated Julie has been a foundation for the Nature Center.

CONSENT AGENDA

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

Licenses:

Exempt Gambling (raffle): Mower County Habitat & Pheasants Forever on March 4, 2023

Food: Bakereach, 1908 8th Street NW, Suite D

Food: Lawlasoe Market, LLC, 208 South Main Street

Mobile Business: Cookie Dough Bliss Twin Cities

Mobile Business: Stage Coach BBQ & Grill, 206 W Main, Brownsdale

Right of Way: Harty Mechanical, Inc. 1600 1st Ave NE

Right of Way: MetroFibernet, LLC, Overland Park, KS

Claims:

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

Boards and Commissions:

Ed Schmitt to the Parks and Recreation Board – term through December 31, 2026

Tom Stiehm to the Parks and Recreation Board – term through December 31, 2026

Cece Kroc to the Parks and Recreation Board – term through December 31, 2025

Carried.

PETITIONS AND REQUESTS

City Administrator Craig Clark recapped the proposal and requested \$5,000 from 2023 contingency for the continued implementation of the Velocity Group's report. The total fee for the project is \$100,000 and will be divided amongst other community stakeholders. There will be work sessions and virtual speakers.

Moved by Council Member Baker, seconded by Council Member Baskin, approving \$5,000 for Accelerate Austin from 2023 contingency. Carried.

Moved by Council Member Fischer, seconded by Council Member Postma, approving 2023 Council boards and commissions appointments. Carried.

Assistant City Engineer Mitch Wenum stated the City's goal is to assess 40% of the construction costs to the adjacent property owners on the street reconstruction projects. In 2022, the City

assessed 28.8% of the total project costs. The Council reviewed the matter at their January 3, 2023 work session and recommended a 7% increase to the rates for 2023.

Moved by Council Member Baker, seconded by Council Member Fischer, adopting a resolution setting 2023 street assessment rates. Carried 6-0.

Director of Administrative Services Tom Dankert requested the Council approved the mileage reimbursement rate at 65.5 cents per mile.

Moved by Council Member Postma, seconded by Council Member Fischer, adopting a resolution setting the 2023 mileage reimbursement rate. Carried 6-0.

Director of Administrative Services Tom Dankert requested the Council approve an audit engagement letter with CliftonLarsonAllen. The proposed audit fee is \$48,458, which is a 1.9% increase over the previous year.

Moved by Council Member Baker, seconded by Council Member-at-Large Austin, approving an audit quote from CLA, LLP. Carried 6-0.

City Administrator Craig Clark requested the Council approve the City's three United Auto Worker's Union contracts. Each contract would modify health care and has wage increases for 2023 of 4%, 2024 of 3% and 2025 of 3%.

Moved by Council Member Fischer, seconded by Council Member Baker, adopting a resolution approving a 2023-2025 contract with the United Auto Workers Union – Street and Sewer. Carried 6-0.

Moved by Council Member Baker, seconded by Council Member Fischer, adopting a resolution approving a 2023-2025 contract with the United Auto Workers Union – Waste Water Treatment Plant. Carried 6-0.

Moved by Council Member Fischer, seconded by Council Member Postma, adopting a resolution approving a 2023-2025 contract with the United Auto Workers Union – Parks. Carried 6-0.

Moved by Council Member Fischer, seconded by Council Member Fischer, adopting a resolution accepting donations to the City. 4-0 with Council Members Baskin and Baker abstaining.

Moved by Council Member-at-Large Austin, seconded by Council Member Fischer, adopting a resolution granting a hard on-sale liquor and Sunday on-sale liquor license to the Windrift Sports Bar & Grill, LLC. Carried 6-0.

City Administrator Craig Clark requested the Council adopt a resolution in support of bonding dollars for the Waste Water Treatment Plant expansion project.

Moved by Council Member Baker, seconded by Council Member-at-Large Austin, adopting a resolution in support of bonding for the Waste Water Treatment Plant. Carried 6-0.

Planning and Zoning Administrator Holly Wallace stated the City received a US EPA Brownfield Assessment grant in the amount of \$500,000 for environmental assessments and inventories along with community outreach and redevelopment. The City received requests for qualifications in December and received 8 proposals. The City ultimately decided to use Stantec for the implementation of the grant.

Council Member Baker asked how do you measure success in the project and how will Stantec be successful.

Ms. Wallace stated the EPA will provide guidance for the grant. She stated the top three proposals were very similar and she looked at which consultant will be most supportive to staff.

Moved by Council Member Baker, seconded by Council Member Baskin, approving Stantec as the consultant for the implementation of the EPA Brownfield Grant. Carried 6-0.

Moved by Council Member Fischer, seconded by Council Member Postma, granting the Planning and Zoning Department the power to contract for the removal of junk and/or illegally stored vehicles at 104 3rd Avenue SE, Rose Property. Carried.

Assistant City Engineer Mitch Wenum requested the Council receive an updated feasibility report on project 23106. He stated that they have determined the project should be expanded to meet the original project limits from 1997.

Moved by Council Member Baskin, seconded by Council Member Austin, receiving an updated feasibility report and calling for a public hearing on February 21, 2023 for street improvements on 3rd Avenue SW (20th Street to 21st SW) 21st Street SW (22nd Street to 6th Avenue SW) and 22nd Street SW (Oakland Avenue West to 3rd Avenue SW), Project 23106. Carried 6-0.

Police Chief David McKichan stated the police department had a complaint of unsanitary conditions at Wing Bazaar in late 2022 and the incident was reported to the State Health Department. He added on January 13, 2023 the police executed a search warrant resulting in the discovery of cocaine and fentanyl at the location. He believes the restaurant is a public health and safety risk.

Moved by Council Member Baskin, seconded by Council Member-at-Large Austin, denying the renewal of a food license for Wing Bazaar, LLC. Carried 6-0.

CITIZENS ADDRESSING THE COUNCIL

Tim Sorgine, requested the Council be proactive in legalizing recreational cannabis. He requested the Drug Task Force convene a special meeting to address the matter.

REPORTS

City Administrator Craig Clark stated Senator Dornink is working on a bill for the waste water treatment plant. He also noted legislative action day is January 25th.

Council Member Helle noted three labor contracts were approved on the agenda. She stated values employees and appreciates them. She also stated she understands the city over time is planning on picking up more of the health care costs. There will also be a public meeting for Emerald Ash Borer on January 23rd at 1 pm at the Senior Center.

Moved by Council Member-at-Large Austin, seconded by Council Member Baskin, adjourning the meeting to February 6, 2023. Carried.

Adjourned: 6:04 p.m.

Approved: February 6, 2023

Mayor: _____

City Recorder: _____

City of Austin



500 Fourth Avenue NE
Austin, Minnesota 55912-3773
Phone: 507-437-9940
www.ci.austin.mn.us

Proclamation

WHEREAS: *Michael Ruzek received a grant from the Blandin Foundation to conduct a Research and Development effort that confirmed that Austin could benefit from the creation of a community foundation, and*

WHEREAS: *Michael Ruzek brought together a prominent group of Austin area residents to establish a community foundation to be designated as the Austin Area Foundation, and*

WHEREAS: *Michael Ruzek oversaw the effort to obtain 501 (c)(3) nonprofit status for the Austin Area Foundation, which was granted in 2003, and*

WHEREAS: *Michael Ruzek served as the initial Chair of the Board of Trustees and continued in that role until 2014 and again in 2020, and*

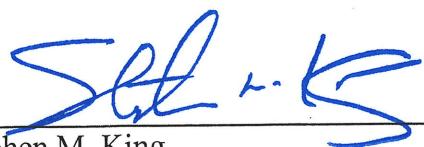
WHEREAS: *Michael Ruzek has served with great distinction as a member of the Board of Trustees since 2003, and*

WHEREAS: *Michael Ruzek has determined that he wishes to retire from his unrivaled service to the Board of Trustees of the Austin Area Foundation,*

NOW, THEREFORE, I, Stephen M. King, Mayor of the City of Austin, Minnesota, recognize Michael Ruzek and do hereby proclaim February, 11, 2023 as

MICHAEL RUZEK DAY





Stephen M. King
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: Mayor King
Austin City Council

FROM: Dave Merrill
Luke Reese, Jay C. Hormel Nature Center Director

DATE: January 12, 2023

RE: Environmental Education Outreach Coordinator position title change

It is our recommendation to change the title of the Environmental Education Outreach Coordinator (EEOC) position to Nature Center Teacher/Aid. The complexity, responsibility, job duties, and qualifications of these two positions are congruent. While the primary audience of the EEOC are students from outside of Austin the ancillary responsibilities and duties align with the Nature Center Teacher/Aide position.

These positions are classified equally and will be compensated the same. The retitling of this position will provide seamlessness and unity within the organizational structure.

This change in title will in no way impact the funding source now or in the future.

There are no financial implications to the City of Austin with any of the recommended changes to this position. All funding for any changes can be absorbed by the current budget and will be planned for in future budgets. The Friends of the Hormel Nature Center have committed to covering any unforeseen budgetary implications that arise as a result. Letters stating as such have been provided.

The Park & Recreation Board is in support of this change through an official motion.



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: Trish Wiechmann, Human Resources
Craig Clark, City Administrator
Helen Jahr, Park & Recreation Board President

FROM: Dave Merrill
Luke Reese, Jay C. Hormel Nature Center Director

DATE: November 22, 2022

RE: Environmental Education Outreach Coordinator position title change

It is our recommendation to change the title of the Environmental Education Outreach Coordinator (EEOC) position to Nature Center Teacher/Aid. The complexity, responsibility, job duties, and qualifications of these two positions are congruent. While the primary audience of the EEOC are students from outside of Austin the ancillary responsibilities and duties align with the Nature Center Teacher/Aide position.

These positions are classified equally and will be compensated the same. The retitling of this position will provide seamlessness and unity within the organizational structure.

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There are no financial implications to the City of Austin with any of the recommended changes to this position. All funding for any changes can be absorbed by the current budget and will be planned for in future budgets. The Friends of the Hormel Nature Center have committed to covering any unforeseen budgetary implications that arise as a result. A letter stating as such can be provided if necessary.

The Park & Recreation Board will also lend their formal support to this change through an official motion.

Jay C. Hormel Nature Center
1304 21st St NE
Austin, MN 55912



www.hormelnaturecenter.org
(507) 437-7519

Memorandum

TO: Craig Clark

CC: Dave Merrill

RE: LCCMR grant funded position classification

DATE: December 15, 2022

Mr. Clark:

I would like to revisit this position and then hopefully put it to bed. I support Mr. Merrill's position that we change the title of the Environmental Education Outreach Coordinator position to Nature Center Teacher/Aid. Mr. Merrill's November 22 memo focused on the operations rational for making that change. This memo will focus on the grant implications.

The grant has two financial commitments:

- State of MN: \$225,000
- Friends of the Hormel Nature Center: \$54,738
- Total: \$279,738

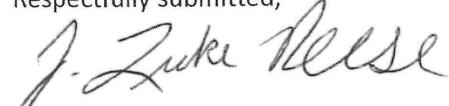
We are half-way through the 3-year grant. In the first year, we saved money because it didn't start on July 1 and the intern opted out of health insurance. The 2022-23 intern also opted out of health insurance. I have developed four scenarios projecting where we will end up with the grant's budget. See below:

- No change to the original budget (if July 2023-June 2024 intern **opts out** of insurance): **\$24,089 unspent**
- No change to the original budget (if July 2023-June 2024 intern **opts into** insurance): **\$18,678 unspent**
- Reclassify naturalist and start at step 1 on January 1 (if July 2023-June 2024 intern opts out of insurance): **\$4,131 unspent**
- Reclassify naturalist and start at step 1 on January 1 (if July 2023-June 2024 intern opts into insurance): **up to \$1,279 overspent**

These scenarios do not consider known savings to the project budget for July 2022-June 2023.

I expect that if the city makes this correction, the project will not go over budget. However, if it were to go over, I have a commitment from the Friends of the Hormel Nature Center to increase their existing match commitment to cover the overage. See the attached letter from Tim Ruzek, President of the Friends of the Hormel Nature Center.

Respectfully submitted,



J. Luke Reese

Director

Jay C. Hormel Nature Center
luke.reese@hormelnaturecenter.org

December 1, 2022

Craig Clark
City Administrator -- City of Austin
500 4th Ave NE
Austin, MN 55912

Dear Mr. Clark:

On November 28, 2022, the Friends of the Hormel Nature Center's Board of Directors voted 11-0, with 1 not present, to support the Park & Rec Director's plan, with support from the Nature Center Director, to reclassify the Environmental Education Outreach Coordinator (EEOC) position to Nature Center Teacher/Aid. The board approved that if doing so should make this project go over budget, the Friends would cover the difference.

The Friends board understands the complexity of this issue, but feels that the position, funded primarily by the ENRTF through an LCCMR grant, was always intended to be a naturalist position. The board understands that this budget had to change at the beginning of the grant due to a 1 year delay in funding and the City's completion of the comp and class study which adjusted city employee wages.

The Friends board understands that the Nature Center Director, Luke Reese, and the City's HR Director tried to find a solution in the middle. After discussing this issue with Mr. Reese, the board agrees that the compromise solution, while better now that it includes paid vacation, is not what was promised by the grant. The grant promised an additional intern and another *naturalist*.

It is the Friends board's understanding from Mr. Reese that while there is no official "naturalist" position in the city, the Nature Center Teacher/Aid is referred to as the naturalist. Therefore we agree that the EEOC position should be reclassified as another Nature Center Teacher/Aid to deliver on the grant's promises.

The Friends of the Hormel Nature Center have a vested interest in this matter as the match to the state's portion of the grant. As such, we want to see the money we have committed fully spent and the person in this position compensated fairly. We feel so strongly on the matter that if it should go over budget, the Friends will cover the difference to ensure that the cost of this project is \$0 to the taxpayers of the City of Austin.

The Friends of the Hormel Nature Center board strongly supports Mr. Reese's vision to utilize local resources as match to acquire state money to enhance the jewel that is the Jay C. Hormel Nature Center. We encourage you to work with him to continue to find success in this endeavor. We support his belief that each successful grant makes the next application more likely to be successful.

Respectfully,


Tim Ruzek

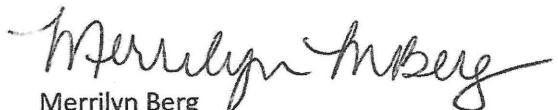
President
Friends of the Hormel Nature Center Board of Directors
PO BOX 83
Austin, MN 55912

December 29, 2022

To Whom it May Concern:

The Friends of the JC Hormel Nature Center has approved (by Executive Committee vote) to increase its commitment to the LCCMR grant funded position at the Nature Center by an additional \$6,603.60. The additional commitment is for the purpose of adjusting the intern position pay and reclassifying the naturalist position. This means the Friends have agreed to a commitment of up to \$62,000 for the grant period ending 6/30/2024.

Respectfully,



Merrilyn Berg
Treasurer, Friends of the JC Hormel Nature Center

City of Austin
Ann M. Kasel, City Clerk



500 Fourth Avenue N.E.
Austin, Minnesota 55912-3773
Phone: 507-437-9943
Fax: 507-434-7197
www.ci.austin.mn.us

MEMORANDUM

To: Mayor & Council
From: Ann M. Kasel, City Clerk
Re: Liquor Ordinance Changes
Date: January 6, 2023

We recently had a situation where a liquor licensee lived in Hollandale and applied for a license within the City of Austin. He stated he would be the manager of the establishment. However, our ordinance no. 5.02 Subd. 7 states that the manager or agent must be a resident of the city. Discussions with the City Administrator, Police Chief and City Attorney concluded that this provision may be overly burdensome and a mileage requirement may be more appropriate.

The rental housing license requires the owner or agent to live within 50 miles of the city. With the rental ordinance the Council concluded that would be an appropriate distance if there were issues with the property. If Council wishes to modify the liquor ordinance, does it feel that 50 miles is an appropriate distance? Or is there another distance the Council would feel more comfortable with? State law does not have a residency requirement for a manager.

Also, the State updated the temporary liquor license laws last summer. I would request that we update our liquor ordinance language which restricts temporary liquor licenses to three consecutive days, to be consistent with State law. State law allows different combinations of days up to seven consecutive days, depending on the type of organization.

Please contact me if you have any questions or need any additional information prior to Tuesday's meeting.

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 5.01 Subd 34 and Section 5.02 Subd. 7, are hereby repealed.

Section 2. A new section 5.62 Subd. 10 is hereby enacted and shall read as follows:

§ 5.01 SUBD 34

Subd. 34. *Temporary on-sale licenses.* Temporary on-sale licenses shall be issued in accordance with Minn. Stat. Section 340A.404 subd. 10 and 340A.410 subd.10.

Section 3. A new section 5.02 Subd. 7 is hereby enacted and shall read as follows:

§ 5.02 SUBD 7.

Subd. 7. *Local manager or agent required.* If the license holder does not reside within 50 miles of the City of Austin, the licensee must provide the City with a local manager or agent that resides within 50 miles of Austin who can take full responsibility for the conduct of the licensed premises and can serve as an agent for service of notices and other processes related to the license. The manager or agent must be a person who, by reason of age, character, reputation or other attributes, could qualify individually as a licensee.

Passed by a vote of yeas and nays this 6th day of February, 2023

YEAS

NAYS

APPROVED:

Stephen M. King, Mayor

ATTEST:

Tom Dankert, City Recorder

City of Austin
Ann M. Kasel, City Clerk



500 Fourth Avenue N.E.
Austin, Minnesota 55912-3773
Phone: 507-437-9943
Fax: 507-434-7197
www.ci.austin.mn.us

MEMORANDUM

To: Mayor & Council
From: Ann M. Kasel, City Clerk
Re: Licensing Ordinance Changes
Date: January 6, 2023

Upon review of the licensing ordinances, I would request we repeal the following ordinances:

6.37: Plumbers. The State took over this licensing and we do not have a plumbing license anymore.

6.30: Mechanical Amusement Devices: There is no longer a public purpose for the regulation of this type of activity.

6.32: Billiards, Pool and Bowling: There is no longer a public purpose for the regulation of this type of activity.

The financial impact of repealing these ordinances is minimal. We found only a few municipalities in the area that still license these activities.

Please contact me if you have any questions or need any additional information prior to Tuesday's meeting.

ORDINANCE NO.

**AN ORDINANCE OF THE CITY OF AUSTIN,
MINNESOTA REPEALING CITY CODE SECTIONS
6.30, 6.32 and 6.37**

The Council of the City of Austin ordains:

- Section 1. Austin City Code Chapter 6, Section 6.30, is hereby repealed in its entirety.
- Section 2. Austin City Code Chapter 6, Section 6.32, is hereby repealed in its entirety.
- Section 3. Austin City Code Chapter 6, Section 6.37, is hereby repealed in its entirety.

Passed by a vote of yeas and nays this 6th day of February. 2023.

YEAS

NAYS

APPROVED:

Mayor

ATTEST:

City Recorder

CERTIFICATION OF MINUTES RELATING TO
\$42,216,633 GENERAL OBLIGATION WASTEWATER REVENUE NOTE,
SERIES 2023A

Issuer: City of Austin, Minnesota

Governing Body: City Council

Kind, date, time and place of meeting: A regular meeting held February 6, 2023, at 5:30 p.m., at the municipal offices in Austin, Minnesota.

Members present:

Members absent:

Documents Attached:

Minutes of said meeting (including):

RESOLUTION NO. _____

RESOLUTION RELATING TO \$42,216,633 GENERAL OBLIGATION
WASTEWATER REVENUE NOTE, SERIES 2023A; AUTHORIZING THE
ISSUANCE AND SALE, FIXING THE FORM AND DETAILS THEREOF
AND PROVIDING FOR THE SECURITY THEREFOR

I, the undersigned, being the duly qualified and acting recording officer of the public corporation issuing the obligations referred to in the title of this certificate, certify that the documents attached hereto, as described above, have been carefully compared with the original records of said corporation in my legal custody, from which they have been transcribed; that said documents are a correct and complete transcript of the minutes of a meeting of the governing body of said corporation, and correct and complete copies of all resolutions and other actions taken and of all documents approved by the governing body at said meeting, so far as they relate to said obligations; and that said meeting was duly held by the governing body at the time and place and was attended throughout by the members indicated above, pursuant to call and notice of such meeting given as required by law.

WITNESS my hand officially as such recording officer this _____ day of February, 2023.

City Clerk

Councilmember _____ introduced the following resolution and moved its adoption:

RESOLUTION NO. _____

RESOLUTION RELATING TO \$42,216,633 GENERAL OBLIGATION
WASTEWATER REVENUE NOTE, SERIES 2023A; AUTHORIZING THE
ISSUANCE AND SALE, FIXING THE FORM AND DETAILS THEREOF
AND PROVIDING FOR THE SECURITY THEREFOR

BE IT RESOLVED by the City Council (the "Council") of the City of Austin, Minnesota (the "City"), as follows:

Section 1. Authorization and Recitals.

1.01. Authorization. The City is authorized pursuant to Minnesota Statutes, Section 444.075, as amended, and Chapter 475 to issue and sell its general obligation bonds or notes in order to finance a portion of the cost of improvements to its wastewater treatment system (the "System"). The City is proposing to undertake improvements to the System's wastewater treatment plant, including upgrades to reduce the discharge of phosphorus, all as detailed in the Minnesota Pollution Control Agency project certification(s) dated June 29, 2021 (the "Project"). The estimated cost of the Project is in excess of \$100,000,000.

1.02. PFA Loan. The Minnesota Public Facilities Authority (the "PFA") has agreed, subject to certain terms and conditions contained in a Bond Purchase and Project Loan Agreement with Point Source Implementation Grant dated January 9, 2023, entered into between the City and PFA (the "Loan Agreement"), to lend the City \$42,216,633 in order to finance a portion of the cost of the Project (the "PFA Loan"). This Council hereby accepts such offer, authorizes and ratifies the execution of the Loan Agreement by the Mayor and the City Recorder and agrees to issue its General Obligation Wastewater Revenue Note, Series 2023A (the "Note"), to the PFA evidencing such loan. The proceeds from the Note will be disbursed to the City from the PFA on a cost reimbursement basis consistent with a budget presented to the PFA in connection with the application for financing and in accordance with state law applicable to the PFA Loan. If (i) as a result of action by the City or PFA, the entire principal amount is not to be disbursed for such reimbursement or (ii) the entire principal amount is not fully disbursed by the date specified in the Loan Agreement, and an extension is not granted pursuant to the Loan Agreement, the undisbursed balance shall be applied to principal payments on the PFA Loan on a pro rata basis or as otherwise determined by the PFA. The City hereby pledges to use all money disbursed for the Project exclusively for the Project, and to pay any additional amount by which the cost of the Project exceeds such disbursements by an appropriation to the construction account described in Section 4.01 hereof of additional money or proceeds of additional bonds or notes to be issued by the City.

1.03 Tax Exemption. The Loan Agreement requires that the Note be tax-exempt, and that the City take the actions required and within its power to assure the tax-exemption of the bonds issued by the PFA (the "PFA Bonds").

1.04. Sale. The offer of the PFA to lend the City funds in the aggregate amount of \$42,216,633, as described in Section 1.02 above, is reasonable and advantageous to the City and is hereby accepted. The Loan Agreement is hereby approved in substantially the form presented to the Council, and is hereby incorporated by reference and made a part of this Resolution. Each and all of the provisions of this Resolution relating to the Note are intended to be consistent with the provisions of the Loan Agreement, and to the extent that any provision in the Loan Agreement is in conflict with this Resolution as it relates to the Note, that provision shall control and this Resolution shall be deemed accordingly modified. The Mayor and City Recorder are hereby authorized and directed to execute the Loan Agreement. The execution of the Loan Agreement by the appropriate officers shall be conclusive evidence of the approval of the Loan Agreement in accordance with the terms hereof. The Loan Agreement may be attached to the Note, and shall be attached to the Note if the holder of the Note is any person other than the PFA. The PFA has represented to the City that it is a duly organized agency of the State of Minnesota, and the City is authorized under Minnesota Statutes, Section 475.60, Subdivision 2(4), to sell its obligations at private sale to an agency of the State of Minnesota.

Delivery of an executed counterpart of a signature page of the Loan Agreement by facsimile, docusign, emailed pdf. or any other electronic means that reproduces an image of the actual executed signature page shall be effective as delivery of a manually executed counterpart of the Loan Agreement, to the extent and as provided for in any applicable law, including Minnesota Statutes, Chapter 325L.

1.05. Recitals. All acts, conditions, and things which are required by the Constitution and laws of the State of Minnesota and the City's Home Rule Charter to be done, to exist, to happen, and to be performed prior to the issuance of the Note having been done, existing, and having happened, it is now necessary for this Council to establish the form and terms of the Note, to provide for the security thereof, and to issue the Note forthwith.

Section 2. Terms and Execution.

2.01. Terms. In order to finance costs of the Project and to evidence the loan referred to in Section 1.02, the City shall forthwith issue the Note in the principal amount of \$42,216,633. The Note shall be dated as of the date of its delivery to the PFA and shall be payable in annual installments of principal maturing on August 20 of the years and in the amounts set forth below:

<u>Year</u>	<u>Amount</u>	<u>Year</u>	<u>Amount</u>
2023	\$811,633	2033	\$2,168,000
2024	1,828,000	2034	2,209,000
2025	1,863,000	2035	2,251,000
2026	1,898,000	2036	2,294,000
2027	1,935,000	2037	2,338,000
2028	1,972,000	2038	2,383,000
2029	2,009,000	2039	2,428,000
2030	2,048,000	2040	2,475,000
2031	2,087,000	2041	2,522,000
2032	2,127,000	2042	2,570,000

The Note shall bear interest, which includes amounts treated by the PFA as service fees from the date of the Loan Agreement at the rate of 1.912% per annum through the date on which no principal remains unpaid, provided, however, that interest and service fees shall accrue only on the aggregate principal amount of the Note actually disbursed by the PFA. Interest shall be payable on each February 20 and August 20 following the date of issuance. Interest shall be computed on the basis of a 360-day year composed of twelve 30-day months. The principal of and interest on the Note shall be payable on each payment date by wire, or by check or draft mailed at least five business days prior to the payment date, to the registered holder thereof at the address appearing on the Note register of the City on the date of payment.

2.02. Registration. The Note shall be fully registered as to both principal and interest and shall be initially registered in the name of and payable to the PFA. While so registered, principal of and interest on the Note shall be payable at the address of the registered holder thereof, as it appears on the note register maintained by the City Clerk, or such other place as may be designated by the registered holder in writing, and delivered to the City Clerk. The City Clerk shall act as note registrar and as such shall establish and maintain a note register for the purpose of recording the name and addresses of the registered holder and its assigns, and the date of registration of any transfer.

2.03. Redemption. (a) The City shall have the option to prepay the Note, subject to the approval thereof by the PFA in its sole discretion, in whole or in part on any February 20 or August 20, upon forty-five (45) days prior written notice to the PFA at a price equal to 100% of the principal amount to be prepaid, together with accrued interest and servicing fees thereon to the redemption date and a premium equal to all fees and expenses of the PFA incurred in connection with such prepayment, including any fees, expenses or other costs relating to the payment and redemption of the Note or PFA Bonds, as defined hereinafter, as determined by the PFA. The PFA may require an opinion of a law firm, selected by the PFA, having a national reputation in the field of municipal law whose legal opinions are generally accepted by purchasers of municipal bonds to the effect that such prepayment will not cause the interest on the Note to be included in the gross income of the recipient thereof for federal income tax purposes.

(b) In the event that special assessments and/or connection charges from another municipality are pledged to the payment of the Note, and the City receives prepayments or lump sum payments of such special assessments and/or connection charges, the City is hereby required, and hereby agrees, to notify the PFA immediately upon receipt of any such payment. The PFA, in its sole discretion, may direct the City to use the funds for the payment of eligible construction costs of the Project, or to transmit the funds to the PFA for payment of the Note, immediately or at a later date. Any such payment received by the PFA may be applied to reduce each unpaid annual principal installment required with respect to the Note in the proportion that such installment bears to the total of all unpaid principal installments or, at the sole option and in the sole discretion of the PFA, may be applied to a future principal payment on the Note in a manner determined by the PFA.

(c) The principal amount of a partial prepayment may, at the sole option and discretion of the PFA, (i) held by the PFA without interest and applied to a future principal payment on the PFA Loan in a manner determined by the PFA or (ii) be applied to reduce each unpaid annual

principal installment required with respect to the PFA Loan in the proportion that such installment bears to the total of all unpaid principal installments (i.e., the remaining principal payment schedule shall be re-amortized to provide proportionately reduced principal payments in each year) with respect to the PFA Loan. The PFA Loan and the Note shall be re-amortized on the same basis to result in identical amortization of the PFA Loan and the Note.

(d) Any payments of principal or interest received by the PFA in excess of the principal of and interest on the Loan and the Note which are not mandatory payments described in (b) above or not expressly designated by the City to be treated as a prepayment may, in the sole discretion of the PFA, be (i) held without interest payable by the PFA and applied to a future payment due on the Note in a manner determined by the PFA, (ii) treated as a prepayment of principal on the Note; or (iii) returned to the City as an overpayment.

2.04. Execution and Delivery. The Note shall be prepared under the direction of the City Recorder and shall be executed on behalf of the City by the signature of the Mayor, attested by the City Recorder, and sealed with the official seal of the City. When the Note has been so executed and authenticated, it shall be delivered by the City Recorder to the PFA to evidence the obligation of the City under the Loan Agreement.

2.05. Assignment and Exchange. The Note shall be transferable by the registered owner or the owner's attorney duly authorized in writing upon presentation thereof to the City Clerk together with a written instrument of transfer satisfactory to the City Clerk and duly executed by the registered owner or the owner's attorney. The following form of assignment shall be sufficient for the purpose:

For value received _____ hereby sells,
assigns and transfers unto _____ the within
Note of the City of Austin, Minnesota, and does hereby irrevocably constitute and
appoint _____, Attorney, to transfer the Note on
the books of the City with full power of substitution in the premises.

Dated: _____

Registered Owner

Such transfer shall also be noted on the Note and in the note register. No service charge shall be made for such transfer, but the City may require payment of a sum sufficient to cover any tax, fee or governmental charge or other expense incurred by the City with respect thereto.

Section 3. Form of Note. The Note shall be in substantially the form attached hereto as Exhibit A.

Section 4. Use of Proceeds; Security Provisions.

4.01. Use of Proceeds. Upon advancements of principal of the Note by the PFA in accordance with the Loan Agreement, or upon an appropriation of funds described in Section 1.02 hereof, the Administrative Services Director shall deposit such proceeds in a separate

construction fund to be created on the books of the City and expended to pay for the costs of the Project, including the costs of issuance of the Note, as further provided in the Loan Agreement. Any amounts remaining upon completion of the Project shall be transferred to the Bond Fund as described in Section 4.02.

No portion of the proceeds of the Note shall be used directly or indirectly to acquire higher yielding investments or to replace funds which were used directly or indirectly to acquire higher yielding investments, except (1) for a reasonable temporary period until such proceeds are needed for the purpose for which the Note was issued, and (2) in addition to the above, in an amount not greater than the lesser of five percent (5%) of the proceeds of the Note or \$100,000. To this effect, any proceeds of the Note or any sums from time to time held in the Bond Fund (or any other City account which will be used to pay principal or interest to become due on the Note) in excess of amounts which under then-applicable federal arbitrage regulations may be invested without regard to yield shall not be invested at a yield in excess of the applicable yield restrictions imposed by said arbitrage regulations on such investments after taking into account any applicable "temporary periods" or "minor portion" made available under the federal arbitrage regulations. In addition, moneys in the Bond Fund shall not be invested in obligations or deposits issued by, guaranteed by or insured by the United States or any agency or instrumentality thereof if and to the extent that such investment would cause the Note to be "federally guaranteed" within the meaning of Section 149 (b) of the federal Internal Revenue Code of 1986, as amended (the Code).

4.02. Bond Fund. So long as any of the Note is outstanding and unpaid, the Administrative Services Director shall maintain a Wastewater Debt Service Fund of the City as a separate and special fund (the "Bond Fund") to be used for no purpose other than the payment of the principal of and interest on the Note and such other general obligation wastewater revenue bonds of the City as may be directed to be paid from the Bond Fund. If the balance in the Bond Fund is ever insufficient to pay all principal and interest then due on bonds or notes payable therefrom, the Administrative Services Director shall nevertheless provide sufficient money from any other funds of the City which are available for that purpose, and such other funds shall be reimbursed from subsequent receipts of net revenues appropriated to the Bond Fund and, if necessary, from the proceeds of the taxes levied for the Fund. The Administrative Services Director shall deposit in the Bond Fund the proceeds of all other money which may at any time be received for or appropriated to the payment of such bonds and interest thereon, including the net revenues herein pledged and appropriated to the Bond Fund, all collections of any ad valorem taxes levied for the payment of the Note.

4.03. Sufficiency of Revenues. It is hereby found, determined and declared that the City owns and operates the System as a revenue-producing utility and convenience; and that the net operating revenues of the System, after deducting from the gross receipts derived from charges for the service, use and availability of the System the normal, current and reasonable expenses of operation and maintenance thereof, will be sufficient, together with any other pledged funds, for the payment when due of the principal of and interest on the Note and on any other outstanding bonds of the City to which such revenues are pledged and, along with other funds dedicated thereto, to provide for the operation and maintenance of the System.

4.04. Rate Covenant; Pledge of Revenues; Additional Obligations. Pursuant to the provisions of Minnesota Statutes, Section 444.075, as amended, the City hereby covenants and agrees with the owners from time to time of the Note that so long as the Note is outstanding, the City will impose and collect reasonable charges for the service, use and availability of the System to the City and its inhabitants according to schedules calculated to produce net revenues which will be sufficient to pay 105% of all principal and interest when due on the Note and any other bonds payable therefrom, and said net revenues, to the extent necessary, are hereby irrevocably pledged and appropriated to the payment of the Note and interest thereon. Nothing herein shall preclude the City or Utility from hereafter making further pledges and appropriations of net revenues of the System for the payment of additional obligations of the City hereafter authorized if the Council determines before the authorization of such additional obligations that the estimated net revenues of the System will, with any other sources of funds pledged, be sufficient for the payment of the Note, any other bonds then payable therefrom and such additional obligations. Such further pledges and appropriations of said net revenues may be made superior or subordinate to or on a parity with the pledge and appropriation herein made.

4.05. Full Faith and Credit Pledged. The full faith and credit and taxing powers of the City shall be and are hereby irrevocably pledged for the prompt and full payment of the principal of and interest on the Note, and the City covenants and agrees that it will make good any deficiency from the general fund of the City. On or before September 1 of each year, beginning in 2023, the Administrative Services Director will calculate and certify to this Council the total amount of cash on hand in the Bond Fund and the available net revenues of the System on hand and estimated to be received and available on or before the 20th day of August of the next succeeding year, and shall determine the sufficiency of such total amount for the payment of principal of and interest on the Note coming due on such August 20 and the interest payable on the immediately preceding February 20.

If such total amount is determined to be insufficient for such payments, this Council shall forthwith appropriate to the Bond Fund sufficient available moneys of the City to make good the deficiency, and if available moneys of the City are not on hand in amounts sufficient for this purpose, this Council shall forthwith levy and certify to the County Auditor of Mower County for collection in the following year a tax at least five percent in excess of the amounts adequate to make good the deficiency. The Administrative Services Director shall also at the same time estimate and certify to this Council the amount which will be on hand in the Bond Fund after payment of principal and interest payable on the 20th day of August of the second succeeding year, and the amount of net revenues of the System to be received and available for such purpose in the period of twelve months ending on said 20th day of August and shall determine the sufficiency of such estimated amounts for the payment of the principal of and interest on the Note coming due during and immediately at the end of such twelve-month period. If the amount of estimated net revenues to become available during such period is determined to be insufficient for such payment, this Council shall forthwith cause to be levied and certified to the County Auditor of Mower County for collection in the following year a tax at least five percent in excess of amounts adequate to make good the deficiency.

Section 5. Registration and Certification of Proceedings.

5.01. Registration. The City Clerk is hereby authorized and directed to file a certified copy of this resolution with the County Auditor of Mower County, together with such other information as shall be required, and to obtain from the County Auditor a certificate that the Note has been entered on his or her note register as required by law.

5.02. Certification of Proceedings. The officers of the City and the County Auditor for Mower County are hereby authorized and directed to prepare and furnish to the PFA and to Dorsey & Whitney LLP, Bond Counsel to the City, certified copies of all proceedings and records of the City, and such other affidavits, certificates and information as may be required to show the facts relating to the legality and marketability of the Note as the same appear from the books and records under their custody and control or as otherwise known to them, and all such certified copies, certificates and affidavits, including any heretofore furnished, shall be deemed representations of the City as to the facts recited therein.

5.03. Negative Covenants as to Use of Proceeds and Project. The City hereby covenants not to use the proceeds of the Note or to use the Project, or to cause or permit them to be used, or to enter into any deferred payment arrangements for the cost of the Project, in such a manner as to cause the Note to be a "private activity bond" within the meaning of Sections 103 and 141 through 150 of the Code. The City reasonably expects that no actions will be taken over the term of the Note that would cause it to be a private activity bond, and the average term of the Note is not longer than reasonably necessary for the governmental purpose of the issue. The City hereby covenants not to use the proceeds of the Note in such a manner as to cause the Note to be a "hedge bond" within the meaning of Section 149(g) of the Code.

5.04. Tax-Exempt Status of the Note; Rebate. The City shall comply with requirements necessary under the Code to establish and maintain the exclusion from gross income under Section 103 of the Code of the interest on the Note, including without limitation (1) requirements relating to temporary periods for investments, (2) limitations on amounts invested at a yield greater than the yield on the Note, and (3) the rebate of excess investment earnings to the United States if an exception is not available.

5.05. Tax-Exempt Status of the PFA Bonds; Rebate. The City with respect to the Note shall comply with requirements necessary under the Code to establish and maintain the exclusion from gross income under Section 103 of the Code of the interest on the PFA Bonds, including without limitation (1) requirements relating to temporary periods for investments, (2) limitations on amounts invested at a yield greater than the yield on the PFA Bonds, and (3) the rebate of excess investment earnings to the United States. The City covenants and agrees with the PFA and holders of the Note that the investments of proceeds of the Note, including the investment of any revenues pledged to the Note which are considered gross proceeds of the PFA Bonds under the applicable regulations, and accumulated sinking funds, if any, shall be limited as to amount and yield in such manner that the PFA Bonds shall not be arbitrage bonds within the meaning of Section 148 of the Code and any regulations thereunder. On the basis of the existing facts, estimates and circumstances, including the foregoing findings and covenants, the City hereby certifies that it is not expected that the proceeds of the Note will be used in such manner as to cause the PFA Bonds to be arbitrage bonds under Section 148 of the Code and any regulations

thereunder. The Mayor and City Recorder shall furnish a certificate to the PFA embracing or based on the foregoing certification at the time of delivery of the Note to the PFA.

5.06. Not Qualified Tax-Exempt Obligations. The Note is not a “qualified tax-exempt obligation” for purposes of Section 265(b)(3) of the Code.

Passed by a vote of yeas and nays this 6th day of February, 2023.

APPROVED:

Mayor

ATTEST:

City Recorder

EXHIBIT A

FORM OF SERIES 2023A NOTE

UNITED STATES OF AMERICA
STATE OF MINNESOTA
COUNTY OF MOWER

CITY OF AUSTIN

GENERAL OBLIGATION WASTEWATER REVENUE NOTE, SERIES 2023A

No. R-1 \$42,216,633

FOR VALUE RECEIVED, THE CITY OF AUSTIN, Mower County, Minnesota (the "City"), acknowledges itself to be indebted and hereby promises to pay to the Minnesota Public Facility Authority (the "PFA"), or registered assigns, the principal sum of Forty Two Million Two Hundred Sixteen Thousand Six Hundred Thirty Three Dollars and No/100 (\$42,216,633), or such lesser amount as may be advanced by the PFA to the City hereunder, in the following installments of principal maturing on August 20 of the years and in the amounts set forth below:

<u>Year</u>	<u>Amount</u>	<u>Year</u>	<u>Amount</u>
2023	\$811,633	2033	\$2,168,000
2024	1,828,000	2034	2,209,000
2025	1,863,000	2035	2,251,000
2026	1,898,000	2036	2,294,000
2027	1,935,000	2037	2,338,000
2028	1,972,000	2038	2,383,000
2029	2,009,000	2039	2,428,000
2030	2,048,000	2040	2,475,000
2031	2,087,000	2041	2,522,000
2032	2,127,000	2042	2,570,000

and promises to pay interest and service fees from the date of the Project Loan and Bond Purchase Agreement between the City and the PFA (the "Loan Agreement") on the installments of principal which have been disbursed by the PFA and are from time to time remaining unpaid at the rate of 1.912% per annum through the date on which no principal remains unpaid, said interest being payable semiannually on February 20 and August 20 of each year. The principal installments of and interest on this Note are payable by check or draft mailed to the address of the registered holder hereof as it appears on the note register of the City as of the payment date, in any coin or currency of the United States of America which on the respective dates of payment is legal tender for public and private debts. For the prompt and full payment of such

principal installments and interest when due, the full faith, credit and taxing powers of the City are hereby irrevocably pledged.

This Note constitutes an issue in the aggregate principal amount of \$42,216,633, issued to defray a portion of the cost of construction of improvements (the "Project") to the wastewater system of the City (the "System"), and is issued pursuant to and in full conformity with the provisions of the Constitution, laws of the State of Minnesota and Home Rule Charter thereunto enabling, including Minnesota Statutes, Section 444.075 and Chapter 475, as amended. This Note is payable primarily from the Wastewater Debt Service Fund (the "Bond Fund") of the City, but the City is required by law to pay maturing principal hereof and interest thereon out of any funds in the treasury if money on hand in the Bond Fund is insufficient therefore.

The City shall have the option to prepay the Note, subject to the approval thereof by the PFA in its sole discretion, in whole or in part on any February 20 or August 20, upon forty-five days prior written notice to the PFA at a price equal to 100% of the principal amount to be prepaid, together with accrued interest to the redemption date and a premium equal to all fees and expenses of the PFA incurred in connection with such prepayment as determined by the PFA in its sole discretion, including any fees, expenses or other costs relating to the payment and redemption of the Note or PFA Bonds, as defined in the resolution approving issuance of the Note, as determined by the PFA. The PFA may require an opinion of a law firm, selected by the PFA, having a national reputation in the field of municipal law whose legal opinions are generally accepted by purchasers of municipal bonds to the effect that such prepayment will not cause the interest on the Note to be included in the gross income the recipient thereof for federal income tax purposes.

In the event that special assessments and/or connection charges from another municipality are pledged to the payment of the Note, and the City receives prepayments or lump sum payments of such special assessments and/or connection charges, the City is hereby required, and hereby agrees, to notify the PFA immediately upon receipt of any such payment. The PFA, in its sole discretion, may direct the City to use the funds for the payment of eligible construction costs of the Project, or to transmit the funds to the PFA for payment of the Note, immediately or at a later date. Any such payment received by the PFA may be applied to reduce each unpaid annual principal installment required with respect to the Note in the proportion that such installment bears to the total of all unpaid principal installments or, at the sole option and in the sole discretion of the PFA, may be applied to a future principal payment on the Note in a manner determined by the PFA.

The principal amount of a partial prepayment may, at the sole option and discretion of the PFA, (i) be applied to a future principal payment on the loan in a manner determined by the PFA or (ii) be applied to reduce each unpaid annual principal installment required with respect to the PFA Loan in the proportion that such installment bears to the total of all unpaid principal installments (i.e., the remaining principal payment schedule shall be re-amortized to provide proportionately reduced principal payments in each year) with respect to the PFA Loan. The PFA Loan and the Note shall be re-amortized on the same basis to result in identical amortization of the PFA Loan and the Note.

Any payments of principal or interest received by the PFA in excess of the principal of and interest on the Loan and the Note which are not mandatory payments with respect to special assessment and connection charges described above or not expressly designated by the City to be treated as a prepayment may, in the sole discretion of the PFA, be (i) held without interest payable by the PFA and applied to a future payment due on the Note in a manner determined by the PFA, (ii) treated as a prepayment of principal on the Note; or (iii) returned to the City as an overpayment.

This Note shall be registered in the name of the owner on the note register of the City kept by the City Clerk as Bond Registrar. This Note is transferable by the registered owner or the owner's attorney duly authorized in writing, upon presentation hereof with a written instrument of transfer satisfactory to the City and duly executed by the registered owner or the owner's attorney, subject to reimbursement for any tax, fee or governmental charge or other expense incurred by the City with respect to such transfer. Such transfer shall be noted on the note register and hereon. The City may treat the person in whose name this Note is registered as the absolute owner hereof, whether this Note is overdue or not, for the purpose of receiving payment of principal and interest and all other purposes, and shall not be affected by any notice to the contrary.

The City intends that the interest on this Note will be excluded from gross income for United States income tax purposes and from both gross income and taxable net income for State of Minnesota income tax purposes.

The City may deem and treat the person in whose name this Note is registered as the absolute owner hereof, whether this Note is overdue or not, for the purpose of receiving payment and for all other purposes, and the City shall not be affected by any notice to the contrary.

IT IS HEREBY CERTIFIED, RECITED, COVENANTED AND AGREED that all acts, conditions and things required by the Constitution, laws of the State of Minnesota to be done, to exist, to happen and to be performed precedent to and in the issuance of this Note in order to make it a valid and binding general obligation of the City according to its terms have been done, do exist, have happened and have been performed in regular and due time, form and manner as so required; that in and by the resolution authorizing the issuance of the Note, the City has covenanted and agreed with the owners of the Note that it will impose and collect charges for the service, use and availability of the System according to schedules sufficient to produce net revenues adequate to pay all principal of and interest on the Note and any other bonds or notes payable therefrom, as such principal and interest respectively become due; that, if necessary to pay such principal and interest, the City is required by law to levy ad valorem taxes upon all taxable property within its corporate limits, without limitation as to rate or amount; and that the issuance of this Note does not cause the indebtedness of the City to exceed any constitutional, charter or statutory limitation.

IN WITNESS WHEREOF, the City of Austin, Minnesota, by its City Council, has caused this Note to be executed on its behalf by the signature of the Mayor, attested by the signature of the City Recorder, and has caused this Note to be dated as of [_____], 2023.

ATTEST:

City Recorder

Mayor

NO WRITING HEREON EXCEPT BY THE CITY CLERK
AS NOTE REGISTRAR

The Note Registrar has transferred on the books of the City of Austin, Mower County, Minnesota, on the last date noted below, to the registered assign noted opposite said date, ownership of the principal amount of and interest on this Note, except the amounts of principal and interest theretofore paid:

<u>Date of Transfer</u>	<u>Registered Assign</u>	<u>Signature of Note Registrar</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

COUNTY AUDITOR'S CERTIFICATE
AS TO BOND REGISTRATION

The undersigned, being the duly qualified and acting County Auditor of Mower County, Minnesota, hereby certify that there has been filed in my office a certified copy of a resolution duly adopted on February 6, 2023, by the City Council of the City of Austin, Minnesota, setting forth the form and details of a \$42,216,633 General Obligation Wastewater Revenue Note, Series 2023A to be dated as of the date of issuance thereof.

I further certify that the issue has been entered on my note register as required by Minnesota Statutes, Sections 475.61 and 475.63, as amended.

WITNESS my hand and official seal this ____ day of _____, 2023.

Mower County Auditor

(SEAL)

City of Austin
Craig Clark,
City Administrator



500 Fourth Avenue N.E.
Austin, Minnesota 55912-3773
Phone: 507-437-9941
craigc@ci.austin.mn.us
www.ci.austin.mn.us

MEMORANDUM

TO: Mayor & City Council

FROM: Craig D. Clark
 City Administrator

RE: Outline of terms – 2023 – 2025
 International Association of Firefighters (IAFF)

DATE: February 6, 2023

Members of the International Association of Firefighters (IAFF) met recently and approved a three-year contract for years 2023-2025 (Exhibit 1). The contract term would be retroactively effective to January 1, 2023.

Below is a summary of the agreement which would be pending your consideration and approval. Terms of the labor agreement are consistent with the directives of the Council and maintain internal consistency between the other bargaining groups while also including the particulars of the previously and mutually agreed to MOA on health care. The contract continues the City's adoption and implementation of the compensation and classification Base Pay Structure (BPS) as an important component of attracting and retaining our talented workforce. Details of the contract include but are not limited to the following:

- Clarify uniform allowance will be paid by the City (as is the current practice) for new employees and how the amounts will be tracked;
- Adoption of Juneteenth holiday if required by the State of Minnesota;
- Transitioning vacation to an employee's hiring date rather than various days within the calendar (proration will occur so no change in the amount of vacation);
- Modification to the bereavement leave to allow for flexibility beyond the 30 days requirement of use;
- Generalized language obligating the employer to provide continued health care coverage with similar aggregate benefit;
- Adoption of the increased health care employer contributions each year of a three-year agreement with defined amounts;
- Elimination of retiree health care provision;
- Clarifying overtime for shift extensions;
- Reducing assistant fire inspector pay for two inspectors from \$.88 to \$.70 per hour;

- Establishes Emergency Medical Technician pay of \$.85 per hour for those who voluntarily are certified to the relevant State and National Boards (currently all are within the department);
- Elimination of the payment for health care “opt-out;” General wage increases of 4%,3%,3% for respectively per year of the agreement and
- other technical changes.

Let me know if you have any questions. Should Council concur we would ask for the following motion to approve:

Approve the resolution and approve Exhibit 1 which would approve the contract for IAFF beginning January 1, 2023 through December 31, 2025 authorizing the Mayor to sign and recorder to attest the agreement.

**AGREEMENT BETWEEN
INTERNATIONAL ASSOCIATION
OF
AUSTIN PROFESSIONAL
FIRE FIGHTERS LOCAL #598
AND
THE CITY OF AUSTIN, MINNESOTA**

2023 – 2025

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ARTICLE 1

INTENT AND PURPOSE

- 1.1 THIS CONTRACT between the City of Austin, hereinafter referred to as the City or the Employer, and Local #598, International Association of Fire Fighters, AFL-CIO, hereinafter referred to as the Union, is intended to set forth the results of collective bargaining negotiations between the City and the Union. Its purpose is to establish standard conditions of employment for employees in the bargaining unit, and to conform with the Public Employment Labor Relations Act of 1971, as amended, to promote harmonious relationships and economy of City Government. It is agreed by the parties that the City will take such steps as are necessary to implement the provisions of this contract, such as, but not restricted to, passage and changes of new and existing administrative directives, ordinances and resolutions.

ARTICLE 2

RECOGNITION

- 2.1 The Employer recognizes the Union as the executive representative for all firefighters of the Austin Fire Department employed in the job classifications of Fire Commander, FPS/Fire Engineer, and FPS/Fire Engineer-Inspector whose employment service exceeds the lesser of fourteen (14) hours per week or thirty-five (35) percent of the normal workweek and more than sixty-seven (67) workdays per year, excluding supervisory and confidential employees.

ARTICLE 3

EMPLOYER AUTHORITY

- 3.1 The Employer retains the full and unrestricted right to operate and manage all manpower, facilities, and equipment; to establish functions and programs; to set and amend budgets; to determine the utilization of technology; to establish and modify the organizational structure; to select, direct and determine the number of personnel; to establish work schedules; and to perform any inherent managerial function not specifically limited by this Agreement.

Any term and condition of employment not specifically established or modified by this Agreement shall remain solely within the discretion of the Employer to modify, establish, or eliminate.

ARTICLE 4

SAVINGS CLAUSE

- 4.1 This agreement is subject to law. In the event any provisions of this agreement shall be held to be contrary to law by a Court of competent jurisdiction from whose final judgment or decree, no appeal has been taken within the time provided, such provisions shall be voided. All other provisions of this agreement shall continue in full force and effect. The voided provisions may be renegotiated at the written request of either party.

ARTICLE 5

EMPLOYEE RIGHTS – GRIEVANCE PROCEDURES

5.1 The Union shall designate and the Employer hereby agrees to recognize grievance stewards in each of the departments covered hereby whose duties shall be to settle any dispute or grievance that might arise with properly designated representatives of the City.

5.2 **DEFINITION OF A GRIEVANCE**

A grievance is defined as a dispute or disagreement as to the interpretation or application of the specific terms and conditions of this contract.

UNION REPRESENTATIVES

The Employer will recognize representatives designated by the Union as the grievance representatives of the bargaining unit having the duties and responsibilities established by this Article. The Union shall notify the Employer in writing of the names of such Union representatives and of their successors when so designated.

PROCESSING OF A GRIEVANCE

It is recognized and accepted by the Union and the Employer that the processing of grievances hereinafter provided is limited by the job duties and responsibilities of the employees and shall therefore be accomplished during normal working hours only when consistent with such employee duties and responsibilities. The aggrieved employee and the Union representative shall be allowed a reasonable amount of time without loss in pay when a grievance is investigated and presented to the Employer during normal working hours provided the employee and the Union representative have notified and received the approval of the designated supervisor who has determined that such absence is reasonable and would not be detrimental to the work programs of the Employer.

PROCEDURE

Grievance, as defined by Section 5.1, shall be resolved in conformance with the following procedure:

Step 1. An employee claiming a violation concerning the interpretation or application of this contract shall, within twenty-one (21) calendar days after such alleged violation has occurred, present such grievance to the employee's supervisor as designated by the Employer. The

ARTICLE 5

EMPLOYEE RIGHTS – GRIEVANCE PROCEDURES (continued)

Employer-designated representative will discuss and give an answer to such Step 1 grievance within ten (10) calendar days after receipt. A grievance not resolved in Step 1 and appealed to Step 2 shall be placed in writing setting forth the nature of the grievance, the facts on which it is based, the provision or provisions of the contract allegedly violated, and the remedy requested and shall be appealed to Step 2 within ten (10) calendar days after the Employer-designated representative's final answer in Step 1. Any grievance not appealed in writing to Step 2 by the Union within ten (10) calendar days shall be considered waived.

Step 2. If appealed, the written grievance shall be presented by the Union and discussed with the City Administrator or designee. The Employer designated representative shall give the Union the Employer's Step 2 answer in writing within then (10) calendar days after receipt of such Step 2 grievance. A grievance not resolved in Step 2 may be appealed to Step 3 within ten (10) calendar days following the Employer designated representative's final Step 2 answer. Any grievance not appealed in writing to Step 3 by the UNION within ten (10) calendar days shall be considered waived.

Step 3. A grievance unresolved in Step 2 and appealed in Step 3 shall be submitted to arbitration. The Employer and the Union representative shall endeavor to select a mutually acceptable arbitrator to hear and decide the grievance. If the parties cannot agree on an arbitrator, the selection of an arbitrator shall be made in accordance with the Rules established by the Bureau of Mediation Services.

ARBITRATOR'S AUTHORITY

- A. The arbitrator shall have no right to amend, modify, nullify, ignore, add to, or subtract from the terms and conditions of this contract. The arbitrator shall consider and decide only the specific issue(s) submitted in writing by the Employer and the Union, and shall have no authority to make a decision on any other issue not so submitted.
- B. The arbitrator shall be without power to make decisions contrary to, or inconsistent with, or modifying or varying in any way the application of laws, rules, or regulations having the force and effect of law. The arbitrator's decision shall be submitted in writing within thirty (30) days following the close of the hearing or the submission of briefs by the parties, whichever be later,

ARTICLE 5

EMPLOYEE RIGHTS – GRIEVANCE PROCEDURES (continued)

unless the parties agree to an extension. The decision shall be binding on both the Employer and the Union and shall be based solely on the arbitrator's interpretation or application of the express terms of this contract and to the facts of the grievance presented.

- C. The fees and expenses for the arbitrator's services and proceedings shall be borne equally by the Employer and the Union provided that each party shall be responsible for compensating its own representatives and witnesses. If either party desires a verbatim record of the proceedings, it may cause such a record to be made, providing it pays for the record. If both parties desire a verbatim record of the proceedings the cost shall be shared equally.

WAIVER

If a grievance is not presented within the time limits set forth above, it shall be considered "waived". If a grievance is not appealed to the next step within the specified time limit or any agreed extension thereof, it shall be considered settled on the basis of the Employer's last answer. If the Employer does not answer a grievance or an appeal thereof within the specified time limits, the Union may elect to treat the grievance as denied at that step and immediately appeal the grievance to the next step. The time limit in each step may be extended by mutual agreement of the Employer and the Union.

ARTICLE 6

UNION ACTIVITY

- 6.1 The Union agrees to conduct its business off the job as much as possible. This article shall not operate as to prevent a representative from the proper conduct of any grievance in accordance with the procedures outlined in this Contract and shall not work to prevent certain routine business such as the posting of notices and bulletins. Leave of absence without pay will be granted, upon request, to elected or appointed officials of the Union.
- 6.2 The Employer hereby agrees not to deduct such reasonable time from the pay of such officer, member, or representative and agrees also that time spent in the conduct of grievance and in bargaining shall not be deducted from the pay of the delegated employee representatives. Spokespersons for the bargaining committee for the purpose of dealing with the Employer shall be limited to no more than three (3) members. The Employer will allow up to two on duty employees to attend negotiations/grievance meetings called by the employer. Additional on-duty employees may attend such sessions when another employee is on duty via a trade in their place. The Union agrees to provide the Employer and Fire Chief with the names of the said persons.

ARTICLE 7

HOURS OF WORK

- 7.1 The Employer shall establish work schedules. Fulltime employees will be assigned shifts by the employer between eight (8) and twenty-four (24) hours in duration.
- 7.2 Employees' regular schedules will not be changed by the Employer without a two-week notice. The advance notice requirement of this section shall not apply in the event of a natural disaster or other public safety emergency.
- 7.3 Employees may trade shifts within classification with the approval of the Chief. Such approval shall not be unreasonably withheld.

ARTICLE 8

UNIFORM ALLOWANCE

- 8.1 Employees who have completed 18 consecutive months of service with the Employer, will receive reimbursement for uniforms and related safety equipment, at the rate of up to seven hundred dollars (\$700) per calendar year. Upon completion of 18 consecutive months of service, an employee's reimbursement amount will be pro-rated based on the number of months remaining within the calendar year that such amount of service is completed.

Employer will provide newly hired employees uniforms and related safety equipment as established by Employer. Employees who terminate employment with the Employer during their probationary period must return to the Employer all items provided to the employee by the Employer.

The Fire Chief shall keep a written account of each employee's uniform and related safety equipment, use and balance available. Any unused balance will be carried over into the following year for that employee.

An employee terminating employment during the year will reimburse the Employer up to the current annual allowance on a pro-rata basis for any month in which they have not worked.

- 8.2 Uniform allowance to be used as allowed and approved by the Chief as necessary or required as essential to the duties of the position. An internal list of eligible items will be established by the Chief and updated from time to time as necessary per department policy.

ARTICLE 9

SICK LEAVE

- 9.1 Employees scheduled to work on the basis of 2080 hours per calendar year will accrue sick leave at the rate of eight (8) hours per month of service.

Employees scheduled to work on the basis of 2912 hours per calendar year will accrue sick leave at the rate of 11.2 hours per month of service. This amount is based on a 1.4 multiplier (2912/2080).

Sick leave may be used as it is earned and shall be tracked on a 'first in-first out' basis.

Whenever the work schedule of an employee is changed; his/her sick leave bank will be adjusted (multiplying or dividing) using the appropriate multiplier as identified above.

- 9.2 An employee will accrue sick leave only during the first thirty (30) calendar days off work during each year, after the thirty (30) calendar days, the employee no longer accrues sick leave even while off on Workers' Compensation.

- 9.3 Sick leave shall be granted in half-hour increments.

9.4 **LIMITS OF ACCUMULATION**

In the event that an employee does not take the full amount of sick leave earned, sick leave will be accumulated to their credit at no limit of accumulation.

9.5 **ENTITLEMENT**

Sick leave with pay shall be granted to all probationary and permanent personnel of this department.

9.6 **OCCASIONS**

Sick leave shall be granted only where injury or illness disables the employee from performing their regular duties in their accustomed manner, as provided by state or federal law, or as otherwise set forth in this Article.

Sick leave may be taken to meet dental appointments and to take physical examinations or other sickness prevention measures.

ARTICLE 9

SICK LEAVE (continued)

9.7 USE FOR SPOUSE AND FAMILY

Sick leave may be taken on account of injury or illness of an employee's family members as identified in the City of Austin's sick leave policy in accordance with Minn. Stat. § 181.9413.

Up to 240 hours of unused sick leave may be used for an employee's spouse's serious illness or accident (as defined by Family and Medical Leave Act). Prior approval must be received from the Human Resources Director and City Administrator, who will require written documentation, by a physician of the nature of the serious illness.

9.8 SICK LEAVE AND WORKERS' COMPENSATION

Sick leave with pay will not be granted for time loss from work, which is compensated for by the City Workers' compensation Policy. An employee receiving Workers' Compensation Insurance payment may take sufficient sick leave to make up the difference between their normal earnings and their Workers' Compensation.

9.9 CERTIFICATION REQUIRED TO RETURN TO WORK

Employees will be required to furnish a doctor's statement certifying their illness or injury if they have been off three (3) working days or more.

An employee has an obligation to report any sick leave or injury as soon as possible but preferably ten (10) hours in advance of their next shift duty and to report any extension of sick leave.

Following two (2) or more day's sick leave, the employee shall notify the on-duty shift officer ten (10) hours prior to returning to duty.

9.10 NOTIFICATION

The department must be notified in case of hospitalization due to sickness or an impending operation in which the employee would be hospitalized.

ARTICLE 9

SICK LEAVE (continued)

9.11 CHANGING OF LEAVE STATUS

An employee on vacation becomes ill or injured may upon the proper notification change their leave status to sick leave. This action will require a doctor's certificate to verify the reason for the requested change.

9.12 CONDITIONS

No person on sick leave, regardless of the length of time, shall leave the city without first notifying the head of the department or their replacement of their intentions. The employee must have either the permission of the head of the department or their replacement or a doctor's certificate indicating that he/she is in condition to do so.

9.13 PAYMENT OF ACCUMULATED SICK LEAVE

Payment of accumulated sick leave will only be made upon involuntary lay off or retirement. Payment of accumulated sick leave, with accumulated unpaid vacation leave, shall not exceed an amount equivalent to one (1) year present rate of pay at the time of involuntary lay-off or retirement. Lay off shall include any termination enacted by City which is not a disciplinary action or resignation of employee.

In order to be qualified to be paid the unpaid sick leave on retirement, the employee must submit a written retirement resignation to their department head at least fourteen calendar days before their retirement date, actually retire, and meet the minimum PERA Police & Fire Fund retirement requirements.

The method of using accumulated sick leave hours will be based on the first-in-first-out method.

If death should occur before retirement, the accumulated sick leave will be paid to designated beneficiary, if none designated, then to the widow or widower, and if no widow or widower, then to be paid to the estate.

ARTICLE 10

JURY DUTY

- 10.1 All fulltime employees shall be granted a leave of absence for service on a jury. They shall be compensated the difference for their regular pay and that received for such jury duty by the Employer. If they report for jury duty and are subsequently excused from such duty, they shall return at once to their regular work.
- 10.2 The employee, in order to receive the difference in their regular pay and that received for jury duty, shall present their jury duty check to the City Recorder for verification.

ARTICLE 11

MILITARY LEAVE

- 11.1 Any regular employee who is a member of a reserve force of the United States or of this state, and who is ordered by the appropriate authorities to attend a training program or perform other duties under the supervision of the United States or this state which would prevent them from performing their regular work, shall be granted a leave with pay upon request not to exceed fifteen (15) calendar days, provided however, that no employee shall be granted paid leave for training purposes beyond that required by the current selective service draft program at the time of the request.
- 11.2 Notice shall be given the Employer at least five (5) working days after receipt of said orders and no less than twenty-four (24) hours prior to date of leave, except that when said orders are received at a time which would make compliance with this provision impossible, the employee shall give notice at the earliest practical time.
- 11.3 Any employee who enters into active service shall be granted a leave without pay for the period of military service, pursuant to Minnesota Statutes and Federal Law.

ARTICLE 12

HOLIDAYS

- 12.1 The following eleven (11) days are established as holidays: New Year's Day, Martin Luther King Day, President's Day, Good Friday, Memorial Day, Fourth of July, Labor Day, Veteran's Day, Thanksgiving Day, Day After Thanksgiving Day, and Christmas Day.

If and when the State of Minnesota adopts Juneteenth as a required recognized holiday in Minnesota, Juneteenth will be recognized as an established holiday, effective upon adoption.

- 12.2 Employees who work on any of the above named holidays as part of their regular work schedule will be paid time and one half (1½) for the hours worked during their shift provided that the majority of the hours worked fall on the holiday.
- 12.3 Employees scheduled to work on the basis of 2080 hours per calendar year will accrue 88 holiday benefit hours (11 x 8 hours) per calendar year. Prorated for service less than a calendar year, based on holidays as they occur in the calendar year.

Employees scheduled to work on the basis of 2912 hours per calendar year will accrue 123.2 holiday benefit hours per calendar year. This amount is based on a 1.4 multiplier (2912/2080; 88 hours x 1.4). Prorated for service less than a calendar year, based on holidays as they occur in the calendar year.

If and when the State of Minnesota adopts Juneteenth, as a required recognized holiday in Minnesota, employees scheduled to work on the basis of 2,080 hours will accrue 96 benefit hours (12 x 8 hours) or employees scheduled to work on the basis of 2,912 hours, will accrue 134.4 holiday benefit hours, of holiday each calendar year, effective January 1; such increase is effective upon adoption.

Whenever the work schedule of an employee is changed; his/her holiday benefit hours will be adjusted (multiplying or dividing) using the appropriate multiplier as identified above.

An employee who separates employment must repay a pro-rated portion through payroll of the hours they used based on the quotient of the number of holidays that have occurred as of the date of separation from employment and the number of holidays that will occur in the remainder of the year.

- 12.4 Employee accrues holidays only during the first thirty (30) calendar days off work during each year, after being off work the thirty (30) calendar days, the employee no longer accrues holidays even while off on Workers' Compensation.

ARTICLE 12

HOLIDAYS (continued)

- 12.5 Employees may use in advance or accumulate up to five (5) holidays.
- 12.6 Employees will be allowed to split holiday time upon approval of the Chief. The splitting of time will be based on the employee's schedule at the time of the request.
- 12.7 Employees requesting to use holiday time off to take a shift or multiple shifts off shall make a request for such shift or shifts off at least one (1) day prior to the desired time off, unless otherwise agreed between the individual and the officer in charge. Where one (1) or more employee asks for the same holiday time off, then seniority would prevail and the employee with the longest record of employment with the City would be given preference.
- 12.8 Employees who respond to a call during their paid time off, will have the time that they respond to the call deducted from the time they would have otherwise been off-duty and will not receive overtime for such response.

ARTICLE 13

VACATIONS

- 13.1 Vacations will be computed on the basis of the anniversary of the employee's hiring date.

For calendar year 2023; employees will be credited with their full bank of earned vacation on January 1, 2023 at their appropriate corresponding level as outlined in 13.2. On the employee's anniversary date in 2023, the employee will receive a pro-rated amount, based on their annual vacation accrual schedule, between January 1 and their anniversary date. Beginning in 2024, and going forward, employees will receive their full vacation allocation on their anniversary date only.

- 13.2 After one (1) year of service, the employee will receive a total of two (2) weeks vacation and after five (5) years of service the employee will receive a total of three (3) weeks vacation and after twelve (12) years of service will receive a total of four (4) weeks vacation and after twenty (20) years of service will receive a total of five (5) weeks vacation and after twenty-five (25) years of service will receive a total of six (6) weeks vacation.

Annual vacation accrual based on a 2080 schedule

One (1) week	= 40 hours
Two (2) weeks	= 80 hours
Three (3) weeks	= 120 hours
Four (4) weeks	= 160 hours
Five (5) weeks	= 200 hours
Six (6) weeks	= 240 hours

Annual vacation accrual based on a 2912 schedule as follows. This amount is based on a 1.4 multiplier (2912/2080).

One (1) week	= 56 hours
Two (2) weeks	= 112 hours
Three (3) weeks	= 168 hours
Four (4) weeks	= 224 hours
Five (5) weeks	= 280 hours
Six (6) weeks	= 336 hours

- 13.3 Employee will accrue vacation while on Workers' Compensation and while on sick leave.
- 13.4 Employees will be allowed to split vacation time upon approval of the Chief. The splitting of time will be based on the employee's schedule at the time of the request.

ARTICLE 13

VACATIONS (continued)

- 13.5 The time for taking vacation time will be arranged between the officer in charge of the department and the employees. Where one or more employees ask for the same vacation date then seniority will prevail and the employee with the longest record of employment with the City will be given preference.
- 13.6 The officer in charge of the department shall prepare a vacation list by the first of January and arrange the vacations according to seniority. Employees may change their vacation time with another if mutually agreed upon between themselves and the officer in charge.
- 13.7 Employees can take earned vacation/holiday time off subject to the Chief's discretion to approve or deny based on whether the request will impair department normal staffing needs or needs based on unusual circumstances. Decisions on requests for earned vacation/holiday time off will not be unreasonably denied or delayed.
- 13.8 Employees who respond to a call during their paid time off, will have the time that they respond to the call deducted from the time they would have otherwise been off-duty and will not receive overtime for such response.

ARTICLE 14

BEREAVEMENT LEAVE

- 14.1 Bereavement leave will be granted employees a maximum of two (2) scheduled workdays for the purpose of bereaving the death of a member of their immediate family, provided the employee makes arrangement with and gets approval from the officer in charge of their department. This leave must be used within 30 calendar days of the death of the family member; leave beyond 30 calendar days may be adjusted at the recommendation and approval of the City Administrator.
- 14.2 For purposes of the above paragraph, a member of the immediate family means the employee's spouse, child, stepchild, grandchild, mother, father, stepparent, sister, brother, stepsibling, mother-in-law, father-in-law, employee's and spouse's grandparents, brother-in-law, sister-in-law.

ARTICLE 15

EMPLOYEE'S INSURANCE PROGRAM

- 15.1 The employer agrees to continue to make a base medical insurance program available, similar to the one in effect on the date of this agreement, subject to the limitations, benefits and conditions established by the contract between the employer and the insurance carrier, or a plan with a comparable or increased aggregate value of benefits, as determined by an actuarial value. The employer reserves the right to change from a fully-insured health plan to a self-insured plan provided that the aggregate value, as determined by an actuarial value, is not changed.

In the event the City offers additional health insurance plans, these optional plans are not negotiated plans and changes to these plans may be made at the employer's discretion, including changing from a self-insured health plan to a fully insured health plan. Employees who choose an optional plan must pay any difference if the cost is greater than the cost of the negotiated plan. These optional plans shall not be negotiable nor subject to M.S. 471.6161 and any additional plans may be added at the City's sole discretion.

For 2023, the City contribution and cap will be One Thousand Four Hundred thirty dollars (\$1,430.00) per month towards the cost of family coverage, Nine Hundred dollars (\$900.00) for employee plus spouse coverage, Eight Hundred dollars (\$800.00) for employee plus child(ren) coverage and Five Hundred Twenty dollars (\$520.00) for single coverage, with the employee picking up the remaining balance of the plan the employee has selected.

For 2024, the City contribution and cap will be One Thousand Six Hundred thirty dollars (\$1,630.00) per month towards the cost of family coverage, One Thousand Twenty-Five dollars (\$1,025.00) for employee plus spouse coverage, Nine Hundred Ten dollars (\$910.00) for employee plus child(ren) coverage and Five Hundred Seventy dollars (\$570.00) for single coverage, with the employee picking up the remaining balance of the plan the employee has selected.

For 2025, the City contribution and cap will be One Thousand Eight Hundred thirty dollars (\$1,830.00) per month towards the cost of family coverage, One Thousand One Hundred Fifty dollars (\$1,150.00) for employee plus spouse coverage, One Thousand Twenty dollars (\$1,020.00) for employee plus child(ren) coverage and Six Hundred Twenty dollars (\$620.00) for single coverage, with the employee picking up the remaining balance of the plan the employee has selected.

City contribution shall not exceed the total monthly premium payment.

ARTICLE 15

EMPLOYEE'S INSURANCE PROGRAM (continued)

There will be an enrollment period each year for coverage effective January 1 of the next year. Employees may change plans during this enrollment period with their choice effective January 1st through December 31st. The coverage for the insured employee and family must be by the same plan each year.

- 15.2 In the event the health insurance provisions of this agreement fail to meet the requirements of the Affordable Care Act, the Bargaining Unit and Employer will meet and confer over alternative provisions so as to comply with the Act.
- 15.3 The Employer shall pay the premium for six (6) months for all employees who are on leave of absence because of sickness. Leaves of absence for military service or other reasons will not be covered.
- 15.4 The Employer shall pay the premium for twelve (12) months for all employees who are disabled with compensable disability.
- 15.5 The Employer shall pay the premium for a \$30,000 term life insurance policy with accidental death and dismemberment.
- 15.6 New employees will sign authorization cards for insurance benefits, excluding health insurance, on the first day of employment and the insurance will be in effect the first day of the month following the third (3rd) month. Health insurance benefits will be effective the first of the month following the second (2nd) month of employment.
- 15.7 When an employee is off with a compensable injury, they shall receive the difference between their compensation check and their regular check for the first thirty (30) days.
- 15.8 The Employer will allow for use of up to a maximum of \$750.00 per year from the employee's accumulated sick leave account of equal or greater value, which can be applied each year toward satisfying deductible costs. Payment to be in the form of reimbursement after the deductible cost has been paid by the insured and receipts submitted to the Employer showing payment.
- 15.9 Employer will provide a long term disability insurance program and subject to the terms as established by Employer.
- 15.10 All employees will participate in a Post Employment Health Care Savings Plan through the Minnesota State Retirement System (MSRS). Per Minn. Stat.

ARTICLE 15

EMPLOYEE'S INSURANCE PROGRAM (continued)

§ 352.98, the Employer will setup and administer the program as defined and determined by MSRS. Employees will contribute two percent (2%) of their salary to the Post Employment Health Care Savings Plan.

- 15.11 Eligible employees shall deposit one hundred percent (100%) of their accrued sick leave, as accrued and accumulated per Article 9 of the union contract, upon retirement into a Post Employment Healthcare Savings Plan with the Minnesota State Retirement System.

If death should occur before retirement, the accrued unused sick leave will be made payable per the terms as outlined in Article 9 of the labor agreement and not as outlined above.

ARTICLE 16

PREMIUM PAY

- 16.1 Time and one-half (1½) will be paid unless employees are repaying hours:
- A. When the employee has been recalled to duty or has a shift extension in response to any type of work designated by the Chief as an emergency or in which tactical equipment will be used, this will be figured based on the 2080 hourly rate.
 - B. When the employee has been recalled to duty or has a shift extension as a replacement to bring the assigned shift up to a minimum figure for non-emergency purposes as designated by the Chief, these will be figured based on the 2912 hourly rate and will not include.
 - C. Commander meetings with the Fire Chief for regularly scheduled meetings may be for one-hour periods. For such meetings of one-hour or less, the Commander shall receive one hour of pay at his/her regular hourly rate.
- 16.2 When employee is acting as Shift Commander for a minimum of four (4) consecutive hours, the employee will be paid the rate of pay in the Commander pay range that is the same step number the employee is at in their regular position during the period of replacement. An employee acting as Shift Commander during an emergency incident that is so designated by the Fire Chief at any time at which also an officer is not acting as an incident commander regardless of the hours the employee is acting as such, will be paid the rate of pay in the Commander pay range that is the same step number the employee is at in their regular position during the period of replacement. If the Department changes its organizational structure to permanently eliminate the position of Shift Commander, the language of this section shall cease to be effective.
- 16.3 Employees who are recalled to work shall be compensated for a minimum of two (2) hours. The recall minimum shall not apply to an early start or extension of a scheduled shift. For an early start within one hour of the start of the employee's scheduled shift, the employee shall receive pay at time and one-half for time served before the scheduled start time. If employee's shift is extended beyond the scheduled end of the shift, employee will receive time and one-half for time worked beyond the time the employee's shift was scheduled to end. If an employee is released and sent home following a call-in or shift extension and is then subsequently called-in again, the two-hour minimum shall also apply to such subsequent call-in.

ARTICLE 16

PREMIUM PAY (continued)

- 16.4 Employees attending training approved by the Chief that is outside of their normal shift may earn compensatory time for such training up to a cap of 60 hours per year. Time to be taken within the calendar year it is earned; however any time remaining at the end of year is to be used within the first 60 days of the subsequent year. Time not scheduled within that 60-days may be assigned by the Chief.
- 16.5 For the purpose of computing premium pay in this article, premium pay shall not be pyramided, compounded, or paid twice for the same hours worked. For time worked in which an employee would receive premium pay under two or more provisions in this article, the employee will solely receive the higher/highest premium pay rate.
- 16.6 Notwithstanding 16.5, an employee appointed to the assignment of Fire Prevention Specialist Engineer/Assistant Fire Inspector shall be paid .70¢ per hour in addition to the wage rate of the position he/she holds.
- 16.7 Notwithstanding 16.5, employees who are certified as an Emergency Medical Technician and certified with the Minnesota Emergency Medical Service Regulatory Board and the National Registry of Medical Technicians shall be paid .85¢ per hour in addition to the wage rate of the position he/she holds. Additional pay is only provided during times of active certification; employees are required to provide certification documentation and ongoing renewals in order to receive the additional pay. Employees shall keep employer informed of any changes in certification.

ARTICLE 17

GENERAL

- 17.1 Upon presentation of an authorized check-off for dues card to the City Recorder's Office, the City Recorder's Office shall make the necessary deduction and remit it to Local #598, of the International Association of Fire Fighters, AFL-CIO, of Austin, Minnesota.
- 17.2 This deduction shall be from the employee's payroll.
- 17.3 Employee will not lose any benefits for 30 calendar days if on Workers' Compensation due to an injury.
- 17.4 The Employer will recognize the principal of seniority on lay-offs and recall after lay-off as follows: Lay-off – last hired – first laid off, Callback: Last laid off – first called back.

ARTICLE 18

PAY PLAN

- 18.1 In calendar years 2023, 2024, and 2025, respectively, employees will be paid the base pay at the following pay grades as provided in employer's base pay schedule for the respective calendar year, which are attached hereto as reference:

Job Title	Pay Grade
Fire Commander	19
FPS/Fire Engineer	14
FPS/Fire Engineer-Inspector	15

Employees' base hourly wage will be based on the employee's annualized base pay in Employer's base pay schedule divided by either the employee's annualized normal work hours or the specific hours referenced in any applicable provision of this Contract.

If the Department changes its organizational structure to permanently eliminate the position of Fire Prevention Specialist/Shift Commander, the language of this section relating to that job title shall cease to be effective.

- 18.2 Overtime pay as earned, excluding FLSA cycle pay shall be paid out at the next regular payroll period.

ARTICLE 19

DURATION

19.1 This Contract shall remain in full force and effect from January 1, 2023 to December 31, 2025.

IN WITNESS WHEREOF, the parties hereto have executed this contract on the latest date affixed to the signatures hereto

**SIGNATURE OF UNION
REPRESENTATIVE**

President, Local #598
International Association of Firefighters

**SIGNATURE OF CITY
REPRESENTATIVE**

Mayor
City Council of Austin, Minnesota

ATTEST:

Secretary

Date: _____

City Recorder

Date: _____

RESOLUTION NO.

RESOLUTION AUTHORIZING THE MAYOR TO SIGN AGREEMENT BETWEEN
INTERNATIONAL ASSOCIATION OF AUSTIN PROFESSIONAL FIRE FIGHTERS,
LOCAL #598 AND THE
CITY OF AUSTIN, MINNESOTA

WHEREAS, International Association of Austin Professional Fire Fighters, Local #598 (IAFF) is the exclusive representative for certain City of Austin employees; and

WHEREAS, the current labor agreement between the City of Austin and IAFF expired on December 31, 2022;

WHEREAS, the City of Austin and IAFF met and negotiated over the terms of the new labor agreement between the parties;

WHEREAS, the City of Austin and IAFF have reached an agreement for a contract between the parties for the calendar years 2023 – 2025; and

WHEREAS, the contract sets forth items for calendar years 2023 – 2025, which sets standard conditions of employment for employees covered under the IAFF labor agreement.

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

1. The Labor Agreement between the City of Austin and IAFF for January 1, 2023 through December 31, 2025 is approved.
2. The City of Austin's Mayor and City Recorder be authorized to sign the labor agreement between the City of Austin and IAFF for calendar years 2023 – 2025.
3. The Labor Agreement referred to in this resolution will be effective January 1, 2023 through December 31, 2025.
4. The City of Austin shall implement the agreement.

Approved by the Austin City Council this 6th day of February, 2023

YEAS

NAYS

ATTEST:

City Recorder

APPROVED:

Mayor

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



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

MEMORANDUM

TO: Mayor & City Council

FROM: Tricia Wiechmann, Human Resources Director

RE: Health Insurance Out-of-Pocket Maximum Buy-Down Plan

DATE: February 1, 2023

As part of the City's move to Medica health insurance effective January 1, 2023, the City added a new high deductible health plan option (Plan #1). As part of the approved plan add-on feature for non-union employees, as well as the approved Memorandum of Agreements with all bargaining units, the City has agreed to provide a buy-down of both single and family out-of-pocket maximums (OPM) for calendar year 2023.

The program provides for a buy-down amount to \$4,500 single, from the current \$6,000 OPM and to \$9,000 family, from the current \$12,000 OPM, through an in-house administered Health Reimbursement Arrangement program. In order to administer such program, we need to adopt the necessary plan documents.

Upon approval, this information and the process for reimbursement will be provided to the employees and will be retro-active to January 1, 2023. In order to receive reimbursement for eligible expenses, employees will need to incur the medical expense and provide the necessary documentation. The program will be administered through human resources and the finance department.

Please let me know if you have any questions prior to the meeting. Thank you.

RESOLUTION NO.

RESOLUTION ADOPTING HEALTH REIMBURSEMENT ARRANGEMENT BUY-DOWN
PROGRAM ADD-ON TO CITY HEALTH INSURANCE PLAN
EFFECTIVE JANUARY 1, 2023

WHEREAS, the City adopted a new Medica HSA high-deductible health insurance option (Plan #1) effective January 1, 2023, by Resolution #16647, dated November 7, 2022;

WHEREAS, the City adopted plan features for non-bargaining unit employees and Memorandum of Agreements for bargaining unit employees, dated November 7, 2022, providing for a buy-down of both single and family out-of-pocket maximums (OPM), with a buy-down amount to \$4,500 single and \$9,000 family for this plan, by Resolutions #16648-16656; and

WHEREAS, the City desires to establish plan documents to implement and administer in-house, the buy-down program, to provide medical reimbursement for eligible medical expenses to eligible employees;

BE IT RESOLVED THAT, the City does hereby adopt a Health Reimbursement Arrangement plan, as an employer-provided medical reimbursement plan of both single and family OPM to \$4,500 single and \$9,000 family effective January 1, 2023 and continuing until otherwise modified or discontinued by the City.

Approved by the Austin City Council this 6th day of February 2023

YEAS _____

NAYS _____

ATTEST:

APPROVED:

City Recorder

Mayor

CITY OF AUSTIN
HEALTH REIMBURSEMENT ARRANGEMENT PLAN

PURPOSE

The City of Austin Health Reimbursement Arrangement Plan (the “Plan”) is adopted by City of Austin effective January 1, 2023. The purpose of the Plan is to allow Employees of City of Austin and other Participating Employers, to obtain reimbursement of Medical Care Expenses on a nontaxable basis from the Plan. City of Austin intends that the Plan qualify as an employer-provided medical reimbursement plan under Code Sections 105 and 106 and regulations issued thereunder, and as a health reimbursement arrangement as defined under IRS Notice 2002-45, and shall be interpreted to accomplish that objective. The Medical Care Expenses reimbursed under the Plan are intended to be eligible for exclusion from the Participant’s income for Federal Income Tax purposes under Section 105(b) of the Internal Revenue Code.

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Section 1

DEFINITIONS

The words and phrases as used herein shall have the following meanings, unless a different meaning is plainly required by the context, and pronouns shall be interpreted so that the masculine pronoun shall include the feminine and the singular shall include the plural.

“Administrator” means City of Austin, who has full authority, discretion, and responsibility to manage and direct the operation and administration of the Plan.

“Benefits” means the reimbursement benefits for Medical Care Expenses described under Section 4.

“COBRA” means the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended.

“Code” means the Internal Revenue Code of 1986 as amended.

“Committee” means the Benefits Committee appointed by the Plan Sponsor.

“Compensation” means earned income, salaries, wages, fees, commissions, and all other earnings paid to the Employee by the Employer.

“Dependent” means any individual who is a tax dependent of the Participant as defined in Code § 152, with the following exceptions: (1) a dependent is defined as in Code § 152, determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof; and (2) any child (as defined in Code § 152(f)(1)) of the Participant who as of the end of the taxable year has not attained age 27, and (3) any child to whom IRS Rev. Proc. 2008-48 applies (regarding a child of divorced parents, etc., where one or both parents have custody of the child for more than half of the calendar year and where the parents together provide more than half of the child's support for the calendar year), is treated as a dependent of both parents. Notwithstanding the foregoing, the HRA Account will provide benefits in accordance with the applicable requirements of a QMCSO, even if the child does not meet the definition of “Dependent.”

“Effective Date” is defined in the Purpose of the Plan as January 1, 2023.

“Electronic Protected Health Information” has the meaning described in 45 C.F.R. § 160.103 and generally includes Protected Health Information that is transmitted by electronic media or maintained in electronic media. Unless otherwise specifically noted, Electronic Protected Health Information shall not include enrollment/disenrollment information and summary health information.

“Eligible Employee” means an Employee eligible to participate in the Plan, as provided in Section 2.1.

“Eligible Medical Expense” means those expenses incurred by the Participant after the effective date of the Participant’s participation in the HRA and during the Plan Year. Medical Care Expenses generally means expenses incurred by a Participant for medical care, as defined in Code section 213, or as described as Eligible Reimbursable Expenses under Schedule A to this Plan, but shall not include expenses that are described as “excluded expenses” under Schedule B to this Plan. For purposes of this plan, an expense is “incurred” when the Participant is furnished the medical care or services giving rise to the claimed expense.

“Employee” means any individual that the Employer classifies as a common-law employee and who is on the Employer’s W-2 payroll who is considered to be in a legal employer-employee relationship with the Employer for federal tax-withholding purposes, excluding independent contractors, temporary or casual employees, any self-employed individual, any partner in a partnership, and any more-than 2% shareholder by virtue of the Code Section 318 ownership attribution rules. The term “Employee” does include “former Employees” for the limited purpose of allowing continued eligibility for benefits in accordance with Section 4.8.

“Employer” means City of Austin and any other Related Employer that adopts this Plan with the approval of the Company. Related Employers, if any, which have adopted this Plan, are listed in Schedule C of this Plan.

“Employment Commencement Date” means the first regularly-scheduled working day on which the Employee first performs an hour of service for the Employer for compensation.

“Enrollment Form” means the form provided by the Administrator for the purpose of allowing an eligible Employee to participate in this Plan.

“Enrollment Period” means the calendar month preceding the beginning of any Plan Year.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended.

“FMLA” means the Family and Medical Leave Act of 1993, as amended.

“Health FSA” means a Health Flexible Spending Arrangement.

“Health Insurance Plan” means the plan(s) that the Employer maintains for its Employees and their Spouses and Dependents that may be eligible under the terms of such plan, providing major medical type benefits through a group insurance policy or group health plan.

“Health Savings Account” or **“HSA”** means a health savings account established under Code § 223. Such arrangements are individual trusts or custodial accounts, each separately established and maintained by an Employee with a qualified trustee/custodian.

“Highly Compensated Employee” (HCE) for purposes of Section 105 an HCE means any Employee who is among the highest paid 25% of all employees, one of the highest paid officers, or a shareholder who owns more than 10% of the value of the Employer’s stock.

“HIPAA” means the Health Insurance Portability and Accountability Act of 1996, as amended.

“HRA” means a health reimbursement arrangement as defined in IRS Notice 2002-45.

“HRA Account” means the HRA Account described in Section 4.4.

“Key Employee” means any Employee defined as such in Section 416(I) of the Code.

“Participant” means any Eligible Employee who has met the conditions for participation set forth in Section 2.

“Participating Employer” means City of Austin and any Related Employer that adopts this Plan with the consent of the Board.

“Period of Coverage” means the Plan Year, with the following exceptions: (a) for Employees who first become eligible to participate, it shall mean the portion of the Plan Year following the date participation commences, as described in Section 2.1; and (b) for Employees who terminate participation, it shall mean the portion of the Plan Year prior to the date participation terminates, as described in Section 2.2. A different Period of Coverage (e.g., monthly) may be established by the Administrator and communicated to Participants.

“Plan” means the City of Austin Health Reimbursement Arrangement as described herein and in any applicable Adoption Agreement, and which is intended for the exclusive benefit of Eligible Employees, and as may be amended from time to time.

“Plan Number” or **“PN”** assigned by the Plan Sponsor is #502.

“Plan Sponsor” means City of Austin (the Employer).

“Plan Year” means the twelve-month period commencing each January 1 and ending on the subsequent December 31, except in the case of a short plan year representing the initial Plan Year or where the Plan Year is being changed, in which case the Plan Year shall be the entire short plan year.

“Qualified Dependent” means a Dependent as defined above who is eligible and enrolled as a participant in the group Health Insurance Plan.

“QMCSO” means a qualified medical child support order, as defined in ERISA Section 609(a).

“Related Employer” means any Employer affiliated with City of Austin that, under Code Section 414(B)(c), or (m), is treated as a single Employer with City of Austin for purposes of Code Section

105.

“Spouse” means an individual who is legally married to a Participant as determined under applicable state law (and who is treated as a spouse under the Code).

“SPD” means the separate Summary Plan Description describing the terms of this Plan.

“USERRA” means the Uniformed Services Employment and Reemployment Rights Act of 1994, as amended.

Section 2

PARTICIPATION IN THE PLAN

2.1 Commencement of Participation. An individual is eligible to participate in the Plan if the individual is an Employee of a Participating Employer; regularly works 30 or more hours per week; has been employed by the Employer for one day, including the employment commencement date; and is eligible to participate and is enrolled in the City of Austin group Health Insurance Plan. The Employee’s coverage will commence on the first day after the Employee has met the Plan’s eligibility requirements and an enrollment form has been submitted to the Administrator.

2.2 Cessation of Participation. A Participant will cease to be a Participant as of the earliest of:

- A.the date on which the Plan terminates; or
- B.the date on which the Employee ceases to be an Eligible Employee; provided that eligibility may continue beyond such date for purposes of COBRA coverage, as may be permitted by the Administrator on a uniform and consistent basis under Section 4.8; or
- C.the date a Participant opts out of the HRA Plan.

Reimbursements from the HRA Account after termination of participation will be made pursuant to Section 4.7 and 4.8 (relating to a run-out period for submitting claims incurred prior to termination and relating to COBRA). Notwithstanding the foregoing, a former Eligible Employee who is absent by reason of sickness, disability, or other authorized leave of absence may continue as a Participant for so long as such authorized absence continues in accordance with such rules and regulations as the Participating Employer may direct.

2.3 Recommencement of Participation. A former active Participant who is rehired within 30 days or less of the date of termination of employment, will be reinstated with the same HRA Account balance that such individual had before termination. If an Employee terminates employment and is

not rehired within 30 days, or ceases to be an Eligible Employee for any other reason and then becomes an Eligible Employee again, the Employee must complete the waiting period described in Section 2.1 before again becoming eligible to participate in the Plan. However, any former active Participant shall be prohibited from making any enrollment change from his prior enrollment in the Plan Year, except as provided in Section 2.4. Such family status changes must occur while the Employee is a Participant.

2.4 Modification to Benefit Enrollees. Any Participant may make a change to his or her enrollment form after the Plan Year has commenced, to be effective for the remainder of such Plan Year if, under the facts and circumstances, the changes are necessitated by and are consistent with a change in status which is acceptable under rules and regulations adopted by the Department of the Treasury, the provisions of which are incorporated by reference. Notwithstanding anything herein to the contrary, if the rules and regulations conflict, then such rules and regulations shall control.

In general, a change in enrollment is considered if there is a change in status for the Participant's dependents. Any new enrollment form shall be effective at such time as the Administrator shall prescribe, but not earlier than the first pay period beginning after the enrollment form is completed and returned to the Administrator. For the purposes of this subsection, a change in status shall only include the following events or other events permitted by Treasury regulations:

- (1) Legal Marital Status: events that change a Participant's legal marital status, including marriage, divorce, death of a spouse, legal separation or annulment;
- (2) Number of Dependents: Events that change a Participant's number of dependents, including birth, adoption, placement for adoption, or death of a dependent;
- (3) Dependent satisfies or ceases to satisfy the eligibility requirements due to attainment of age, or any similar circumstance*;
- (4) In the event of a judgment, decree, or order resulting from a divorce, legal separation, annulment, or change in legal custody (including a qualified medical child support order defined in ERISA Section 609) which requires accident or health coverage for a Participant's child.

*IRS Notice 2010-38 states that the applicable Treasury Regulations have been amended as of March 30, 2010, to include Change in Status events covering children under age 27 who do not otherwise qualify as dependent children, including becoming newly eligible for coverage or eligible for coverage beyond the date on which the child otherwise would have lost coverage. Under health care reform, for plan years starting after September 23, 2010, group health plans that provide

coverage for dependent children must continue to do so for unmarried and married children until age 26, regardless of student status. For plans already in existence on March 23, 2010, the age 26 limit only applies if the child is not eligible for other group coverage. This exception ends in 2014. Thereafter, children that are eligible for other coverage could remain on their parent's plan until age 26.

2.5 FMLA and USERRA Leaves of Absence. A Participant who takes an unpaid leave of absence under the Family and Medical Leave Act of 1993 ("FMLA Leave" applicable to groups of 50+ employees), or under the Uniformed Services Employment and Reemployment Rights Act of 1994 ("USERRA Leave" applicable to any size group), may revoke his election to participate under any group health insurance benefit offered under this Plan, for the remainder of the Plan Year in which such leave of absence commences. Such revocation shall take effect in accordance with such procedures as prescribed by the Plan Administrator. Upon such Participant's return from his or her FMLA or USERRA Leave, the Participant may be reinstated in the Plan, on the same terms that applied to the Participant prior to his or her taking the FMLA or USERRA Leave, and with such other rights to make enrollment changes as are provided to other Participants under the Plan. Notwithstanding the foregoing, a Participant on FMLA or USERRA Leave shall have no greater rights to benefits for the remainder of the Plan Year in which the FMLA or USERRA leave commences, as other Plan Participants.

2.6 Non-FMLA and Non-USERRA Leaves of Absence. A Participant who goes on a leave of absence that is not subject to FMLA or USERRA will be treated as having terminated participation, as described in Section 2.2.

Section 3

BENEFITS and FUNDING OF THE PLAN

3.1 Provision of Benefits. When the Eligible Employee becomes a plan Participant, an HRA Account will be established for the Participant to receive Benefits in the form of reimbursements for Medical Care Expenses as described in Schedule A. Under no circumstances shall benefits be provided in the form of cash or any other taxable or nontaxable benefit other than reimbursement for eligible Medical Care Expenses. The benefits provided thereunder shall be subject further to the provisions of any plan, contract, or other arrangement setting forth the further terms and conditions of

the Benefit Program, and the terms of each Participating Employer's plan, contract or other arrangement, under which benefits provided are incorporated by reference in this Plan.

3.2 Plan Enrollment. An Employee who becomes eligible to participate in the Plan will begin participation on the first day after the eligibility requirements have been satisfied, provided that an Enrollment Form is submitted to the Plan Administrator before the first day in which participation will commence. Once enrolled, the Employee's participation will continue from month-to-month and year-to-year until the Employee's participation terminates, pursuant to Section 2.2. The Spouse and any Dependents whose medical expenses may be submitted to the HRA, must be identified on the Enrollment Form.

3.3 Employee Contributions. There are no Employee contributions for benefits under the Plan.

3.4 Employer Contributions. The Employer funds the full amount of the HRA Accounts.

3.5 No Funding Under a Cafeteria Plan. The benefits can not be funded with salary reduction contributions, Employer contributions (e.g. flex credits) or otherwise under a cafeteria plan.

3.6 Funding of the Plan. All of the amounts payable under the Plan shall be paid from the general assets of the Employer. Nothing herein will be construed to require the Employer or the Administrator to maintain any fund or to segregate any amount for the benefit of any participant and no Participant or other person shall have any claim against, right to, or security or other interest in any fund, account or asset of the Employer from which any payment under this Plan may be made. There is no trust or other fund from which Benefits are paid.

3.7 Nondiscrimination. The Plan shall not discriminate in favor of highly compensated individuals as to eligibility and benefits as defined under Code Section 105(h).

Section 4

HEALTH REIMBURSEMENT BENEFITS

4.1 Benefits. The Plan will reimburse Participants for Medical Care Expenses up to the unused amount in the Participant's HRA Account, as set forth and adjusted under Section 4.3.

4.2 Eligible Medical Care Expenses. Under the HRA, a Participant may receive reimbursement for eligible Medical Care Expenses incurred during a Period of Coverage.

An eligible Medical Care Expense is incurred at the time the medical care or service giving rise to

the expense is furnished, and not when the individual incurring the expense is formally billed for, is charged for, or pays for the medical care. Medical Care Expenses incurred before a Participant first becomes covered by the Plan are not eligible. However, a Medical Care Expense incurred during one Period of Coverage may be paid during a later Period of Coverage provided that the Participant was a Participant in the Plan during both Periods of Coverage. A fourth quarter carryover of deductible expenses incurred in the prior Plan Year is not applicable to any of the current Plan Year benefits.

Medical Care Expenses generally means expenses incurred by a Participant or his or her Spouse or Dependents for medical care, as defined in Code section 213, but shall not include expenses that are described as “excluded expenses” under Schedule B to this Plan. Reimbursements due for Medical Care Expenses incurred by the Participant or the Participant’s Spouse or Dependents shall be charged against the Participant’s HRA Account.

Medical Care Expenses can only be reimbursed to the extent that the Participant or other person incurring the expense is not reimbursed for the expense (nor is the expense reimbursable) through the Health Insurance Plan, other insurance, or any other accident or health plan (see section 4.11 if the other health plan is a Health FSA). If only a portion of a Medical Care Expense has been reimbursed elsewhere (due to health insurance plan co-payment or deductible limitations), the HRA Account can reimburse the remaining portion of such Expense if it otherwise meets the requirements of this plan.

4.3 Maximum Benefits. The maximum allowed benefit each year is outlined in Schedule A attached to this Plan Document.

For subsequent Plan Years, the maximum dollar limit may be changed by the Administrator and shall be communicated to Employees through the Enrollment Form, the SPD or another document. Reimbursements to Highly Compensated Individuals may be limited or treated as taxable compensation to comply with Code Section 105(h), as may be determined by the Administrator in its sole discretion.

4.4 Establishment of the HRA Account. The Administrator will establish and maintain an HRA Account with respect to each Participant but will not create a separate fund or otherwise segregate assets for this purpose. The HRA Account so established will merely be a records-keeping account with the purpose of keeping track of contributions and available reimbursement amounts.

A Participant’s HRA Account will be credited at the beginning of each year with an amount equal to the applicable maximum dollar limit for the Period of Coverage.

A Participant’s HRA Account will be debited during each Period of Coverage for any

reimbursement of Medical Care Expenses incurred during the Period of Coverage.

The amount available for reimbursement of Medical Care Expenses is the amount credited to the Participant's HRA Account reduced by prior reimbursements debited.

4.5 Carryover of Accounts. If any balance remains in the Participant's HRA Account for a Period of Coverage after all reimbursements have been made for the Period of Coverage, such balance shall remain the property of the Employer. Upon termination of employment or other loss of eligibility, the Participant's coverage ceases, and expenses incurred after such time will not be reimbursed unless COBRA is elected. In addition, any HRA benefit payments that are unclaimed by the close of the Plan Year following the Period of Coverage in which the Medical Care Expense was incurred, such as uncashed benefit checks, shall remain the property of the Employer.

4.6 Substantiation of Expenses. Each Participant must submit a written Claim Form to the Plan Administrator accompanied by a written statement or bill from an independent third party stating that the expense has been incurred and the amount thereof. The forms shall contain such evidence as the Plan Administrator shall deem necessary as to substantiate the nature, the amount, and timeliness of any expenses that may be reimbursed.

4.7 Reimbursement. Within 30 days after receipt by the Administrator of a reimbursement claim from a Participant, the Employer will reimburse the Participant for the Participant's Medical Care Expenses, if the Administrator approves the claim, or the Administrator will notify the Participant that his or her claim has been denied. This time period may be extended for an additional 15 days for matters beyond the control of the Administrator, including cases where a reimbursement claim is incomplete. The Administrator will provide written notice of any extension, including the reasons for the extension and will allow the Participant 45 days in which to complete an incomplete reimbursement claim.

A Participant who seeks benefits may apply for reimbursement by submitting an application in writing to the Administrator in such form as the Administrator may prescribe, within 90 days, following the close of the Plan Year in which the Medical Care Expense was incurred. The application must include the person or persons on whose behalf the Medical Care Expense was incurred, the nature and date of the Expense incurred, the amount of the requested reimbursement, and a statement that such Expenses have not otherwise been reimbursed and are not reimbursable through any other source and that Health FSA coverage, if any, for such expense has been exhausted, as described in Sections 4.11 and 4.12.

The application shall be accompanied by a Substantiation of Expense along with any additional documentation that the Administrator may request. Except for the final reimbursement claim for a Period of Coverage, no claim for reimbursement may be made unless and until the aggregate claims for reimbursement is at least \$10.00. If the HRA is accessible by an electronic payment card (e.g., debit card, credit card, or similar arrangement), the Participant will be required to comply with substantiation procedures established by the Plan Administrator in accordance with IRS guidance.

4.8 Reimbursements After Termination and COBRA. When a Participant ceases to be a Participant under Section 2.2, the Participant will not be able to receive reimbursements for Medical Care Expenses incurred after his or her participation terminates. The Participant, or the Participant's estate, may claim reimbursement for any Medical Care Expenses incurred during the Period of Coverage prior to termination of participation, provided that the Participant or the Participant's estate, files a claim within 90 days following the date of termination.

Notwithstanding any provision to the contrary in this Plan, to the extent required by COBRA, the Participant and his or her Spouse and Dependents (Qualified Beneficiaries), whose coverage terminates under the HRA Account because of a COBRA qualifying event, shall be given the opportunity to continue on a self pay basis, the same coverage that he or she had under the HRA Account the day before the qualifying event for the periods prescribed by COBRA (subject to all conditions and limitations under COBRA). However, in the event that such coverage is modified for all similarly situated non-COBRA Participants prior to the date continuation coverage is elected, Qualified Beneficiaries shall be eligible to continue the same coverage that is provided to similarly situated non-COBRA participants, provided that the applicable premium is paid. A premium for continuation coverage shall be charged to Qualified Beneficiaries in such amounts and shall be payable at such times as are established by the Plan Administrator and are permitted by COBRA.

4.9 Named Fiduciary. City of Austin is the named fiduciary for the Plan for purposes of ERISA section 402(a).

4.10 Compliance with ERISA, COBRA, HIPAA, etc. Benefits shall be provided in compliance with ERISA, COBRA, HIPAA, FMLA, USERRA, and other group health plan laws to the extent required by such laws.

4.11 Coordination of Benefits; HRA to Reimburse First. Benefits under this plan are intended to pay benefits solely for Medical Care Expenses not previously reimbursed or reimbursable elsewhere. To the extent that an otherwise eligible Medical Care Expense is payable or reimbursable

from another source, that other source shall pay or reimburse prior to payment or reimbursement from this Plan. Without limiting the foregoing, if the Participant's Medical Care Expenses are covered by both this Plan and by a Health FSA sponsored by the Employer, then this Plan is available for reimbursement of such Medical Care Expense before reimbursement under the Health FSA.

4.12 Coordination of Benefits; HSA Plan. Certain benefits of this HRA Plan may prohibit HSA bank account eligibility. Employees who have made or will make contributions to their Health Savings Account (HSA) for the same calendar year may only elect a Post Deductible HRA. The Post Deductible HRA benefits are available only after the statutory minimum deductible of the HSA Plan deductible has been met. It is specifically the Employee's responsibility regarding Health Reimbursement Arrangement (HRA) reimbursements not to request anything that could violate the terms of the Employee's Health Savings Account (HSA).

4.13 Debit Cards (*if applicable*). New proposed regulations incorporate previous guidance on the use of a debit card to pay, substantiate and reimburse qualified expenses.

- Before a Participant receives a HRA debit card he/she must agree in writing to the following:
 - That the debit card will only be used to pay for medical expenses (as defined by section 213(d)) of the employee, spouse and/or dependent;
 - That the debit card will not be used for expenses that have already been reimbursed;
 - That he/she will not seek reimbursement under any other health plan for any expense paid with the debit card; and
 - That he/she will acquire and retain sufficient documentation to substantiate any expense paid with the debit card.
- The debit card must contain a statement providing that the above provisions have been agreed to in writing, and are reaffirmed each time the Employee uses the card.
- The card will be automatically cancelled when the Employee ceases participation in the Plan.
- The Plan Administrator limits the use of the debit card to:
 - Medical Care Providers (physicians, dentists, hospitals, etc.).
 - Stores with merchant category codes (MCC) for drugstores and pharmacies if such stores meet the 90% gross receipts test for items that qualify as section 213(d) expenses.
 - Stores that have implemented the inventory information approval system (IIAS).

Please Note: Plan Administrators may limit the use of the debit card to IIAS Merchants to avoid debit card use for ineligible OTC items and may limit debit card use to certain types of expenses

to be consistent with the HRA benefit.

- The employer substantiates claims in compliance with the regulations.
- The Plan Administrator will follow proper correction procedures for improper payments as outlined in IRS proposed regulations.

New regulations permit substantiation for expenses that are copay matches (exact multiples of five or fewer), recurring expenses and real-time substantiation. The proposed regulations permit point-of-sale substantiation when the inventory information approval system matches the expense with a list of § 213(d) expenses. The Plan Administrator is responsible to ensure that the inventory information approval system meets the requirements of the new regulations.

Section 5

APPEALS PROCEDURE

5.1 Procedure If Benefits Are Denied Under This Plan. If a claim for reimbursement under this Plan is wholly or partially denied, claims shall be administered in accordance with the claims procedure set forth in the SPD. The Committee acts on behalf of the Administrator with respect to appeals.

Section 6

PLAN ADMINISTRATION

6.1 Administrator. The administration of this Plan shall be under the supervision of the Administrator. It is the principal duty of the Administrator to see that the Plan is carried out, in accordance with its terms, for the exclusive benefit of persons entitled to participate in this Plan without discrimination among them.

6.2 Powers of the Administrator. The Administrator shall have the duties and powers it considers necessary or appropriate to discharge its duties. It shall have the exclusive right to interpret the Plan and to decide all matters thereunder, and all determinations of the Administrator with respect to any matter hereunder shall be conclusive and binding on all persons. Without limiting the generality of the foregoing, the Administrator shall have the following discretionary authority:

(A) to construe and interpret this Plan, including all possible ambiguities,

inconsistencies and omissions in the Plan, and related documents , and to decide all questions of fact, questions relating to eligibility and participation, and questions of benefits under this Plan.

- (B) to prescribe procedures to be followed and the forms to be used by Employees and Participants to enroll in and submit claims pursuant to this Plan;
- (C) to prepare and distribute information explaining this Plan and the benefits under this Plan in such manner as the Administrator determines to be appropriate;
- (D) to request and receive from all Employees and Participants such information as the Administrator shall from time to time determine to be necessary for the proper administration of this Plan;
- (E) to furnish each Employee and Participant with reports with respect to the administration of this Plan as the Administrator determines to be reasonable and appropriate;
- (F) to receive, review and keep on file such reports and information concerning the benefits covered by this Plan as the Administrator determines from time to time to be necessary and proper;
- (G) to appoint and employ such individuals or entities to assist in the administration of this Plan as it determines to be necessary or advisable, including legal counsel and benefit consultants;
- (H) to sign documents for the purposes of administering this Plan, or to designate an individual or individuals to sign documents for the purposes of administering this Plan;
- (I) to secure independent medical or other advice and require such evidence as it deems necessary to decide any claim or appeal; and
- (J) to maintain the books of accounts, records, and other data in the manner necessary for proper administration of this Plan and to meet any applicable disclosure and reporting requirements.

The Plan Administrator shall adopt such rules for administration of the Plan as it considers desirable, provided they do not conflict with the Plan; and may construe the Plan, correct defects, supply omissions and reconcile inconsistencies to the extent necessary to effectuate the Plan, and such action shall be conclusive. Records of administration of the Plan shall be kept by the Plan Administrator, and Participants and their Beneficiaries may examine records pertaining directly to

themselves.

6.3 Provision for Third-Party Plan Service Providers. The Administrator, subject to approval of the Employer, may employ the services of such persons as it may deem necessary or desirable in connection with the operation of the Plan. Unless otherwise provided in the service agreement, obligations under this Plan shall remain the obligation of the Employer.

6.4 Fiduciary Liability. To the extent permitted by law, the Administrator shall not incur any liability for any acts or for failure to act except for their own willful misconduct or willful breach of this Plan.

6.5 Compensation of the Plan Administrator. Unless otherwise determined by the Employer and permitted by law, any Administrator who is also an employee of the Employer shall serve without compensation for services rendered in such capacity, but all reasonable expenses incurred in the performance of their duties shall be paid by the Employer.

6.6 Inability to Locate Payee. If the Administrator is unable to make payment to any Participant or other person to whom a payment is due under the Plan because it cannot ascertain the identity or whereabouts of such Participant or other person after reasonable efforts have been made to identify or locate such person, then such payment and all subsequent payments otherwise due to such Participant or other person shall be forfeited following a reasonable time after the date that any such payment first became due.

6.7 Effect of Mistake. In the event of a mistake as to the eligibility or participation of an Employee, or the allocations made to the account of any Participant, or the amount of benefits paid or to be paid to a Participant or other person, the Administrator shall, to the extent that it deems administratively possible and otherwise permissible under code Section 105, the regulations issued thereunder or other applicable law, cause to be allocated or cause to be withheld or accelerate, or otherwise make adjustment of, such amounts as it will in its judgment accord to such Participant or other person the credits to the HRA Account or distributions to which he or she is properly entitled under the Plan.

Section 7

HIPAA PRIVACY AND SECURITY

7.1 Employer's Certification of Compliance. The Plan shall not disclose Protected Health Information to the Employer unless the Employer certifies that the Plan document incorporates the provisions of 45 CFR § 164.504(f) (2)(ii), and that Employer agrees to conditions of disclosure set forth in this Article VIII.

7.2 Permitted Disclosure of Enrollment/Disenrollment Information. The Plan may disclose to the Employer information on whether the individual is participating in the Plan.

7.3 Permitted Uses and Disclosures of Summary Health Information. The Plan may disclose Summary Health Information to the Employer, provided that the Employer requests the Summary Health Information for the purpose of modifying, amending, or terminating the Plan.

“Summary Health Information” means information (1) that summarizes the claims history, claims expenses or type of claims experienced by individuals for whom a plan sponsor had provided health benefits under a Health Plan; and (2) from which the information described at 42 CFR § 164.514(b)(2)(i) has been deleted, except that the geographic information described in 42 CFR § 164.514(b)(2)(i)(B) need only be aggregated to the level of a five-digit ZIP code.

7.4 Permitted and Required Uses and Disclosure of Protected Health Information for Plan Administration Purposes. Unless otherwise permitted by law, the Plan may disclose a Covered Individual’s Protected Health Information to the Employer, provided that the Employer will use or disclose such Protected Health Information only for Plan administration purposes. “Plan administration purposes” means administration functions performed by the Employer on behalf of the Plan, such as quality assurance, claims processing (including appeals), auditing, and monitoring. Plan administration functions do not include functions performed by the Employer in connection with any other benefit or benefit plan of the Employer, and they do not include any employment-related functions. Any disclosure to and use by Employer of a Covered Individual’s Protected Health Information will be subject to and consistent with the provisions of this Article VIII (including, but not limited to, the restrictions on Employer’s use and disclosure described in 7.5) and the specifications and requirements of the Administrative Simplification provisions of Title II, Subtitle F of the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) and its implementing regulations at 45 Code of Federal Regulations (“C.F.R.”) Parts 160-64.

7.5 Restrictions on Employer's Use and Disclosure of Protected Health Information.

- (a) Employer will neither use nor further disclose a Covered Individual's Protected Health Information, except as permitted or required by the Plan document, or as required by law.
- (b) Employer will ensure that any agent, including any subcontractor, to which it provides a Covered Individual's Protected Health Information or Electronic Protected Health Information received from the Plan, agrees to the restrictions, conditions, and security measures of the Plan document that apply to Employer with respect to the Protected Health Information or Electronic Protected Health Information, respectively.
- (c) Employer will not use or disclose a Covered Individual's Protected Health Information for employment-related actions or decisions, or in connection with any other benefit or Employee benefit plan of Employer.
- (d) Employer will report to the Plan any use or disclosure of a Covered Individual's Protected Health Information that is inconsistent with the uses and disclosures allowed under the Plan document of which the Employer becomes aware.
- (e) Employer will make Protected Health Information available to the Plan or to the Covered Individual who is the subject of the information in accordance with 45 C.F.R. § 164.524.
- (f) Employer will make a Covered Individual's Protected Health Information available for amendment, and will on notice amend a Covered Individual's Protected Health Information, in accordance with 45 C.F.R. § 164.526.
- (g) Employer will track disclosures it may make of a Covered Individual's Protected Health Information that are accountable under 45 C.F.R. § 164.528 so that it can make available the information required for the Plan to provide an accounting of disclosures in accordance with 45 C.F.R. § 164.528.
- (h) Employer will make its internal practices, books, and records relating to its use and disclosure of a Covered Individual's Protected Health Information received from the plan available to the Plan and to the U.S. Department of Health and Human Services to determine compliance with the HIPAA Privacy Rule at 45 C.F.R. Part 164, Subpart E.
- (i) Employer will, if feasible, return or destroy all Protected Health Information of a Covered Individual, in whatever form or medium, received from the Plan, including all copies thereof and all data, compilations, or other works derived therefrom that allow identification of any Covered Individual who is the subject of the Protected Health Information, when the Covered

Individual's Protected Health Information is no longer needed for the plan administration functions for which the disclosure was made. If it is not feasible to return or destroy all such Protected Health Information, Employer will limit the use or disclosure of any Covered Individual's Protected Health Information that cannot feasibly be returned or destroyed to those purposes that make the return or destruction of the information infeasible.

(j) Employer will ensure that the adequate separation between Plan and Employer (i.e., the "firewall"), required in 45 CFR § 504(f)(2)(iii), is satisfied.

7.6 Adequate Separation Between Employer and the Plan.

(a) Only the following Employees or classes of Employees or other workforce members under the control of Employer may be given access to a Covered Individual's Protected Health Information or Electronic Protected Health Information received from the Plan or a business associate servicing the Plan:

- Privacy Official;
- Employees in the Employer's Human Resources Department;
- Employees in the Employer's Office of General Counsel; and
- Any other class of Employees designated in writing by the Privacy Official.

(b) The Employees, classes of Employees or other workforce members identified in Section 7.6(a), above, will have access to a Covered Individual's Protected Health Information or Electronic Protected Health Information only to perform the plan administration functions that Employer provides for the Plan, as specified in Section 7.5, above.

(c) The Employees, classes of Employees or other workforce members identified in Section 7.6(a), above, will be subject to disciplinary action and sanctions pursuant to the Employer's Employee discipline and termination procedures, for any use or disclosure of a Covered Individual's Protected Health Information or Electronic Protected Health Information in breach or violation of or noncompliance with the provisions of this Article VIII.

7.7 Security Measures for Electronic Protected Health Information. The Employer will implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of a Covered Individual's Electronic Protected Health Information that the Employer creates, receives, maintains, or transmits on the Plan's behalf.

7.8 Notification of Security Incident. The Employer will report to the Plan any attempted or successful unauthorized access, use, disclosure, modification, or destruction of information, or

interference with system operations in the Employer's information systems, of which the Employer becomes aware.

Section 8

MISCELLANEOUS PROVISIONS

8.1 Expenses. All reasonable expenses incurred in administering the Plan are currently paid by the Employer.

8.2 Not an Employment Contract. Neither this Plan nor any action taken with respect to it shall confer upon any person the right to continue employment with any Employer.

8.3 Amendment and Termination. The Employer reserves the right to amend or terminate all or any part of this Plan at any time for any reason, and any such amendment or termination will automatically apply to the Related Employers that are participating in this Plan. Any such amendment or termination shall be effective as of such date as the Employer shall determine.

8.4 Headings and Captions. The headings and captions set forth in the Plan are provided for convenience only, shall not be considered part of the Plan, and shall not be employed in construction of the Plan.

8.5 Applicable Laws. This Plan shall be construed, administered and enforced according to the applicable federal law and the laws of the state of the principal place of business of the Employer to the extent not preempted.

8.6 Code and ERISA Compliance. It is intended that this Plan meet all applicable requirements of the IRS Code and ERISA, and of all regulations issued thereunder. This Plan shall be construed, operated and administered accordingly, and in the event of any conflict between any part, clause or provision of this Plan and the Code and/or ERISA, the provisions of the Code and ERISA shall be deemed controlling, and any conflicting part, clause or provision of this Plan shall be deemed superseded to the extent of the conflict.

8.7 Tax Consequences. Neither the Employer nor the Plan Administrator makes any warranty or guarantee that any amounts paid to or for the benefit of any Participant under this Plan will be treated as excludable from the Participant's gross income for federal, state or local income tax purposes. It shall be the responsibility of each Participant to determine whether each payment under this Plan is excludable from the Participant's gross income for federal, state and local income tax

purposes, and to notify the Administrator if the Participant has any reason to believe that such payment is not so excludable. Under no circumstances shall the recipient have any recourse against the Plan Administrator or the Employer with respect to any increased taxes or other losses or damages suffered by the Employee as a result thereof.

8.8 Indemnification of the Employer. If any Participant receives one or more payments or reimbursements under this Plan on a tax-free basis, and such payments do not qualify for such treatment under the Code, such Participant shall indemnify and reimburse the Employer for any liability it may incur for failure to withhold federal income taxes, Social Security taxes, or other taxes from such payments or reimbursements.

8.9 Non-Assignability of Rights. The right of any Participant to receive any reimbursement under this Plan shall not be alienable by the Participant by assignment or any other method and shall not be subject to claims by the Participant's creditors by any process whatsoever. Any attempt to cause such right to be so subjected will not be recognized, except to such extent as may be required by law.

8.10 Plan Provision Controlling. In the event that the terms or provisions of any summary or description of this Plan, or of any other instrument are in any construction interpreted as being in conflict with the provisions of the Plans as set forth in this document, the provisions of this Plan shall be controlling.

8.11 Severability. Should any part of this Plan subsequently be invalidated by a court of competent jurisdiction, the remainder thereof shall be given effect to the maximum extent possible.

Executed January 1, 2023

CITY OF AUSTIN

By: _____
Mayor

Witness: _____
Recorder

Schedule A
SCHEDULE OF BENEFITS AND ELIGIBLE EXPENSES
Medical Expenses That Are Reimbursable

Maximum Benefits. The maximum allowed benefit each calendar year for Employee Only Coverage is **\$1,500.00*** for expenses applicable to the in-network deductible; and for Employee plus Qualified Dependents Coverage the calendar year maximum is **\$3,000.00*** for expenses applicable to the in-network family deductible and out-of-pocket maximum of \$12,000. The Employee is responsible for the first \$4,500.00 of in-network deductible expenses for each covered family member, (maximum of two per family); the HRA reimburses up to the next \$1,500.00* of in-network deductible expenses for each covered family member, (maximum of \$3,000.00* per family) or a combination of in-network deductible expenses, for covered family members, reaching a total maximum amount of \$9,000. The Employee is responsible for all other expenses.

Substantiation of Expenses. Medical expenses that qualify and expenses that do not qualify for reimbursement are defined in the benefit booklet of the group Health Insurance Plan. All claims should be submitted first to the group health plan for processing. The group Health Insurance Plan will provide each Participant with an Explanation of Benefit (EOB) explaining whether the expense qualifies for payment or credit against the in-network deductible. Each Participant must submit a written Claim Form to the Plan Administrator accompanied by a copy of the EOB stating that the expense has been incurred, the amount thereof, and whether the claim qualifies for payment or credit against the in-network deductible.

Carryover of Accounts. There is no carryover of unused HRA Account balances or deductible credit to the next Plan Year. The intent of the Plan is to cushion Participants from the effects of the expenses incurred in the Plan Year and applicable to the group Health Insurance Plan in-network deductible.

* Funding a Health Savings Account (HSA) could significantly reduce the amount of Health Reimbursement Arrangement (HRA) benefits available. If the Employee's major medical health insurance plan is an HSA eligible plan, the Employee must comply with IRS guidelines that require the Employee to retain the required first dollar exposure limit for the HSA eligible plan before benefits are available under the HRA Plan.

The City of Austin HRA Plan document contains the general rules governing what expenses are reimbursable. This Schedule A, as referenced in the Plan document, specifies certain expenses that are reimbursable, if they meet the definition of "medical care" under Code Section 213 and may otherwise be reimbursable under IRS guidance pertaining to HRAs.

Schedule B
SCHEDULE OF INELIGIBLE EXPENSES
Medical Expenses That Are Not Reimbursable

The HRA pays for qualifying expenses applicable to the in-network deductible only. If an expense is not covered by the health plan and not applied to the in-network deductible, then it is not a covered expense. Medical expenses that do not qualify for reimbursement are defined in the limitations and exclusions section of the Group Health Insurance Plan benefit booklet.

The City of Austin HRA Plan document contains the general rules governing what expenses are reimbursable. This Schedule B, as referenced in the Plan document, specifies certain expenses that are not reimbursable, even if they meet the definition of "medical care" under Code Section 213 and may otherwise be reimbursable under IRS guidance pertaining to HRAs.

Schedule C
CITY OF AUSTIN

AFFILIATED COMPANIES

Name of Participating Employer

None

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



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

MEMORANDUM

TO: Mayor and City Council

FROM: Tricia Wiechmann
Human Resources Director

RE: UAW – WWTP, Healthcare Savings Plan (HCSP) changes

DATE: February 2, 2023

From time to time, we have approved resolutions making adjustments to the terms and conditions for employee participation into the HCSP, which is a Post Employment Savings Plan administered by the Minnesota State Retirement Systems (MSRS).

The attached addendum and related resolution outlines plan participation guidelines for the employees covered under the UAW – WWTP labor agreement.

Currently, members of the WWTP labor agreement contribute 100% of their accrued unused sick leave, at the time of retirement, into their HCSP. However, at this time, the members represented by this labor agreement wish to remove this requirement. In doing so, the members would not make any contribution into their HCSP, at the time of retirement.

There is no cost associated with this change to the city. I recommend approval of the labor agreement addendum. If you have any questions, please feel free to contact me.

RESOLUTION NO.

RESOLUTION APPROVING TERMS AND CONDITIONS FOR EMPLOYEES WITHIN UAW LOCAL 867,
WASTEWATER TREATMENT PLANT DEPARTMENT, FOR THEIR PARTICIPATION IN THE MINNESOTA
STATE RETIREMENT SYSTEM HEALTHCARE SAVINGS PLAN

WHEREAS, the City of Austin and UAW Local 867, Wastewater Treatment Plant (WWTP) have entered into a contract addendum by resolution #14750, dated May 19, 2014 outlining terms for participation in a Post Employment Healthcare Savings Plan.

WHEREAS, UAW Local 867, WWTP shall participate in and contribute to the Post Employment Healthcare Savings Plan with the Minnesota State Retirement System as outlined in Article 14, provison 14.10 of the union contract.

WHEREAS, UAW Local 867, WWTP desires to enter into an addendum to amend terms of contribution upon retirement.

BE IT RESOLVED THAT, terms and conditions have been amended for participation in a Post Employment Healthcare Savings Plan administered by the Minnesota State Retirement System for employees within UAW Local 867, WWTP to include:

Eligible Employees shall not make any contribution upon retirement into into a Post Employment Healthcare Savings Plan with the Minnesota State Retirement System.

The terms and conditions of this addendum to the contract shall remain in effect for a minimum of two years and from year-to-year thereafter unless thirty (30) days written notice is given by either party of their intention to terminate the Addendum or as changed by contract at the expiration of the current contract.

Approved by the Austin City Council this 6th day of Februray 2023

YEAS

NAYS

ATTEST:

APPROVED:

City Recorder

Mayor

ADDENDUM III

HEALTH CARE SAVINGS PLAN

This Addendum, entered into this 6th day of February 2023, between the City of Austin, hereinafter referred to as the City or Employer, and the International Union, United Automobile, Aircraft, Aerospace, Agricultural Implement Workers of America (UAW), and its Local 867, hereinafter referred to as the "UNION". Its purpose is to establish a Post Employment Health Care Savings Plan through Minnesota State Retirement System for all employees in the bargaining unit.

All employees of Local 867, Austin Wastewater Treatment Plant Department are eligible for participation.

Eligible employees shall participate in and contribute to the Post Employment Healthcare Savings Plan with the Minnesota State Retirement System as outlined in Article 14, provision 14.10 of the union contract.

Eligible Employees shall not make any contribution upon retirement into a Post Employment Healthcare Savings Plan with the Minnesota State Retirement System.

The terms and conditions of the addendum to the contract shall remain in effect for a minimum of two years and from year-to-year thereafter unless thirty (30) days written notice is given by either party of their intention to terminate the Addendum, or changed by contract at the expiration of the current contract.

IN WITNESS WHEREOF, the parties hereto have executed this Addendum to the contract on this 6th day of February 2023.

**SIGNATURE OF UNION
REPRESENTATIVES
UAW – WWTP, LOCAL 867**

**SIGNATURE OF CITY
REPRESENTATIVE
CITY OF AUSTIN, MINNESOTA**

Mayor

ATTEST:

City Recorder

James McCoy, Fire Chief
Austin Fire Department



122 First Avenue NE
Austin, Minnesota 55912
Phone: 507-433-3405
Fax: 507-433-3525
www.ci.austin.mn.us

TO: Honorable Mayor and City Council
FROM: Fire Chief Jim McCoy *jm*
DATE: February 1, 2023
SUBJECT: Hiring

As prescribed in the civil service commission rules and regulations, we have completed all of the necessary testing to fill both our promotional commander and fulltime prevention specialist/firefighter engineer positions. These two positions were open as a result of the retirement of Terry Petersen.

The commission certified both lists at their December 28, 2022 meeting. I am requesting approval of the appointment of Josh Kunze to fill the open commander position and Matt Wyse to fill the position of fulltime fire prevention specialist/fire engineer.

Josh was number one on a list of three candidates following a competitive testing process. He has been with the department since 2009 as a paid on-call firefighter before joining the department fulltime in 2014.

Matt ranked second on a list of five candidates following the testing process. Matt is currently a paid on-call firefighter with the department, beginning his career in 2017. Candidate number one declined to accept the position.

Upon approval, both Josh and Matt will assume their new roles effective February 8, 2023.

These two eligibility lists for both commander and fulltime firefighter will be maintained for a period of one-year for future promotions and/or new hires. The civil services commission can extend the list for an additional year, unless either are abolished by the commission at any time before that time.

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: Mitch Wenum, PE
Date: February 1, 2023
Subject: Statewide Transportation Improvement Program Application

MnDOT's Southeastern Minnesota Area Transportation Partnership is soliciting applications for funding through the Statewide Transportation Improvement Program (STIP). This solicitation is for project planned in fiscal year 2027. There is \$2.42 million available for cities in MnDOT District 6. The award of these funds is highly competitive and require the local unit of government to financially participate.

We have been successful in securing funding through the STIP program in the recent past with the completed and planned projects listed below.

Year	Project	STIP Funds
2015	8 th Street & 8 th Avenue NE	\$580,000
2016-2017	4 th Drive SW	\$1,040,000
2022	21 st Avenue NE	\$800,000
2025	Oakland Avenue W	\$2,060,000
	Total	\$4,480,000

In reviewing the program criteria and projects scheduled in our 5-year CIP that have the potential for funding, we have selected the following project for our application.

1 st Avenue SW – 2027 (S Main St to 12 th St SW)	
STIP Funding Request	\$2,000,000
State Aid Street Funds	\$1,600,000
Local Funds	\$900,000
Total Estimated Project Cost	\$4,500,000

This project would consist of the reconstruction of 1st Avenue SW from South Main St to 12th Street SW. This roadway was last reconstructed in 1953, and was rehabbed in 2005. 1st Avenue SW provides access to many homes and businesses, and is the main east-west corridor through the City of Austin.

The application submittal date was February 1, 2023, and a Council resolution is required to accompany the application. If you have any questions, please contact me.

RESOLUTION NO.

FEDERAL TRANSPORTATION PROJECT GRANT

WHEREAS, transportation projects receive federal funding from the Federal Transportation Act; and

WHEREAS, the Federal Highway Administration (FHWA) requires that sponsors agree to operate and maintain facilities constructed with federal transportation funds for the useful life of the improvement and not change the use of right-of-way or property ownership acquired without prior approval from the FHWA; and

WHEREAS, the Minnesota Department of Transportation (MnDOT) has determined that for projects implemented with these funds, the above requirements should be applied to the project sponsor; and

WHEREAS, the City of Austin is the project sponsor for the transportation project identified as 1st Avenue SW from South Main Street to 12th Street SW.

NOW, THEREFORE, BE IT RESOLVED, that the City of Austin will assume full responsibility for the operation and maintenance of the property and facilities related to the aforementioned project.

Passed by a vote of yeas and nays this 6th day of February, 2023.

YEAS

NAYS

ATTEST:

City Recorder

APPROVED:

Mayor

RESOLUTION NO.

ACCEPTING DONATIONS FOR 2023 FLOWERS

BE IT RESOLVED that the Austin City Council accepts the gifts to the 2023 Flower Program in the amount of \$16,260 as listed in the attachment.

Passed by a vote of yeas and nays this 6th day of February, 2023.

YEAS

NAYS

ATTEST:

APPROVED:

City Recorder

Mayor

First	Last	Company	Address	City	Date	Amount
Larry	Andreessen		317 14th Street NW	Austin, MN 55912	12/8/2022	\$ 100.00
Mike and Patty	Ankeny		102 22nd Street NW	Austin, MN 55912	12/8/2022	\$ 200.00
Daniel and Rebecca	Astrup		505 22nd Street NW	Austin, MN 55912	12/5/2022	\$ 100.00
Geoff and Diane	Baker		1400 6th Street NW	Austin, MN 55912	12/5/2022	\$ 100.00
Greg and Amy	Baskin		400 19th Street SW	Austin, MN 55912	1/13/2023	\$ 100.00
Jason and Katie	Baskin		2902 7th Avenue SW	Austin, MN 55912	1/18/2023	\$ 50.00
Nancy	Beck		202 24th Street NW	Austin, MN 55912	12/7/2022	\$ 50.00
Judy and Dick	Bergen		1505 26th Street SW	Austin, MN 55912	12/8/2022	\$ 75.00
Roberta and Bruce	Berndt		400 Oakland Place NE, Apt. #1	Austin, MN 55912	12/15/2022	\$ 25.00
Cyrene and Jon	Berthiaume		304 8th Place NW	Austin, MN 55912	12/23/2022	\$ 25.00
Judith and Lee	Bjorndal		2002 11th Avenue NE	Austin, MN 55912	12/14/2022	\$ 50.00
Roger and Cherie	Boughton		2205 SW 10th Avenue	Austin, MN 55912	12/5/2022	\$ 100.00
Patrick	Bradley	Grove Street LLC	4018 W. 65th Street	Edina, MN 55435	12/27/2022	\$ 400.00
Fred and Helen	Bruckmeier		105 2nd Street SW	Austin, MN 55912	12/2/2022	\$ 25.00
Richard and Laura	Carlson		1204 18th Street SW	Austin, MN 55912	12/27/2022	\$ 200.00
Ron	Wieseler	Center Court Apartments	200 25th Street SW	Austin, MN 55912	12/2/2022	\$ 100.00
Collette	Chaffee		311 5th Street SW	Austin, MN 55912	12/14/2022	\$ 125.00
Cheryl	Christopherson		2118 4th Avenue SE	Austin, MN 55912	12/27/2022	\$ 50.00
	CliftonLarsonAllen		109 Main Street N	Austin, MN 55912	1/26/2022	\$ 200.00
Gary	Corcoran		203 10th Avenue NW	Austin, MN 55912	12/27/2022	\$ 300.00
Kathryn	Coyle		203 17th Street NW	Austin, MN 55912	12/16/2022	\$ 100.00
DTK Enterprises		Ameriprise Financial Services, Inc.	329 Main Street N, Suite 201	Austin, MN 55912	12/9/2022	\$ 250.00
Mr. and Mrs. Joseph	Davison		811 14th Avenue SE	Austin, MN 55912	12/6/2022	\$ 100.00
Robert	Divine		700 1st Drive NW, Apt. # 360	Austin, MN 55912	12/7/2022	\$ 50.00
Terry	Dorsey		1501 26th Street SW	Austin, MN 55912	1/6/2023	\$ 30.00
Thomas and Lisa	Dunlop		1811 16th Avenue SW	Austin, MN 55912	12/8/2022	\$ 100.00
Joan	Eidem		1914 6th Ave. SE	Austin, MN 55912	12/8/2022	\$ 350.00
LeeAnn and Jeffrey	Ettinger		309 5th Avenue SW	Austin, MN 55912	12/8/2022	\$ 2,500.00
Charlotte	Feltz		1305 16th Avenue SW	Austin, MN 55912	12/13/2022	\$ 100.00
Quentin and Marlene	Fiala		1503 29th Street SW	Austin, MN 55912	1/13/2023	\$ 25.00
Bob	Finney		1507 29th Street SW	Austin, MN 55912	12/5/2022	\$ 20.00
Lowell	Foster		2102 9th Street SW	Austin, MN 55912	12/13/2022	\$ 100.00
Jeffrey and Maria	Frank		2834 12th Avenue NW	Austin, MN 55912	12/13/2022	\$ 200.00
Phyllis	Freund		1500 5th Avenue NW, Unit D	Austin, MN 55912	12/5/2022	\$ 50.00
J C and P T	Frid		1301 26th Street SW	Austin, MN 55912	12/16/2022	\$ 20.00
Joe and Cindy	Fuhrman		1507 18th Ave SW	Austin, MN 55912	12/27/2022	\$ 100.00
Roland and Cynthia	Gentzler		2603 2nd Avenue NW	Austin, MN 55912	12/5/2022	\$ 100.00
Karen	Goembel		1503 8th Street NW	Austin, MN 55912	12/9/2022	\$ 25.00
Harold and Priscilla	Golly		1502 17th Avenue SW	Austin, MN 55912	12/21/2022	\$ 25.00
Susan	Grove		2301 15th Ave. SW	Austin, MN 55912	12/21/2022	\$ 100.00
Gordon and Donna	Handeland		500 21st Street NW	Austin, MN 55912	12/5/2022	\$ 50.00

First	Last	Company	Address	City	Date	Amount
Veronica	Hansen		1707 A Carriage Drive SW	Austin, MN 55912	12/5/2022	\$ 10.00
Jill and Garry	Hart		2702 10th Avenue SW	Austin, MN 55912	12/5/2022	\$ 50.00
Janet	Hokanson		1903 14th Street SW	Austin, MN 55912	12/8/2022	\$ 100.00
Alice	Holst		2302 15th Avenue SW	Austin, MN 55912	12/19/2022	\$ 300.00
Gregg W.	Johnson		PO Box 452	Austin, MN 55912	12/14/2022	\$ 1,000.00
Peggy	Keener		2300 9th Avenue SW	Austin, MN 55912	12/21/2022	\$ 125.00
Randy and Wendy	Kramer		205 24th Street NW	Austin, MN 55912	12/7/2022	\$ 250.00
Dorothy and Steve	Krob		2203 Oakland Avenue W.	Austin, MN 55912	12/9/2022	\$ 50.00
Thomas	Landherr		PO Box 698	Byron, MN 55920-0698	1/13/2023	\$ 125.00 (2)
Greg	Larson	Hill Larson	326 N. Main Street	Austin, MN 55912	12/23/2022	\$ 100.00
Sonia	Larson		2206 NW 5th Avenue	Austin, MN 55912	12/30/2022	\$ 30.00
Savile	Lord		705 11th Avenue NW	Austin, MN 55912	12/19/2022	\$ 25.00
Ron and Mary Ann	Lueders		2309 4th Drive SW	Austin, MN 55912	12/7/2022	\$ 35.00
Jay	Lutz	and Kelly Rush	1209 20th Street NE	Austin, MN 55912	12/5/2022	\$ 100.00
Thomas and Donna	Maas		103 20th Street SW	Austin, MN 55912	12/5/2022	\$ 30.00
Pat	MacLean		700 NW 22nd Street	Austin, MN 55912	12/8/2022	\$ 30.00
Shane	Mahlum	MBT Bank	607 Main Street N	Austin, MN 55912	12/14/2022	\$ 100.00
Louise	Martell		310 2nd Avenue NE, Apt. #211	Austin, MN 55912	12/27/2022	\$ 25.00
Steven and Shari	Mason		2401 7th Avenue SW	Austin, MN 55912	12/5/2022	\$ 100.00
Mark and Holli	Mayer		1107 27th Street SW	Austin, MN 55912	12/14/2022	\$ 50.00
Jerry and Suzanne	McCarthy		306 13th Street NE	Austin, MN 55912	12/13/2022	\$ 100.00
Rose	McCarthy		701 5th Avenue SW	Austin, MN 55912	12/13/2022	\$ 50.00
Daniel and Rebecca	McKay	McGough Construction Company, 12737 Fairview Avenue N		St. Paul, MN 55113	12/13/2022	\$ 1,000.00
Darryl and Deb	Mickelsen		2101 7th Avenue SW	Austin, MN 55912	12/8/2022	\$ 200.00
Joyce	Mlinar		404 22nd Street NW	Austin, MN 55912	10/31/2022	\$ 100.00
Bill	Momsen		803 19th Avenue SW	Austin, MN 55912	1/17/2023	\$ 100.00
Kurt and Annette	Mueller		1310 21st Ave. NW, Unit #311	Austin, MN 55912	12/14/2022	\$ 300.00
Stephen	Neiswanger		1506 4th Street SE	Austin, MN 55912	12/5/2022	\$ 200.00
Colleen	Horn	Mower County Horticulture Society	1404 24th Avenue SW	Austin, MN 55912	12/7/2022	\$ 300.00
Ann and Dale	Odegaard		1500 7th Street NW	Austin, MN 55912	1/6/2023	\$ 300.00
Meridee and Gary	Oftedahl		902 19th Avenue SW	Austin, MN 55912	12/23/2022	\$ 100.00
Betty	Olson		1601 17th Avenue SW	Austin, MN 55912	12/13/2022	\$ 100.00
Duane	Olson		1812 1st Avenue SE	Austin, MN 55912	12/2/2022	\$ 100.00
Ralph and Judith	Pesonen		1403 16th Avenue SW	Austin, MN 55912	1/20/2023	\$ 100.00 (3)
Larry and Teresa	Pfeil		600 24th Street NW	Austin, MN 55912	12/5/2022	\$ 200.00
Joyce	Poshusta		201 17th Avenue NE	Austin, MN 55912	12/13/2022	\$ 30.00
Mike and Stephanie	Postma		1405 27th Street SW	Austin, MN 55912	12/20/2022	\$ 100.00
Steve and Lynn	Price		4420 78th Avenue North	Brooklyn Park, MN 55443	12/13/2022	\$ 100.00
Patricia	Purcell		1701 22nd Avenue SW	Austin, MN 55912	12/8/2022	\$ 100.00
Peggy	Queensland		2007 D. Oak Tree Lane	Austin, MN 55912	12/13/2022	\$ 100.00
Gretchen and Mark	Ramlo		1908 Oak Tree Lane, Unit A	Austin, MN 55912	1/6/2023	\$ 50.00

First	Last	Company	Address	City	Date	Amount
Rebecca Johnson	Repinski		1005 4th Street SW	Austin, MN 55912	12/27/2022	\$ 30.00
Scott and Catherine	Richardson		100 24th St. NW	Austin, MN 55912	12/6/2022	\$ 50.00
Bonnie and Tim	Rietz		701 NW 22nd Street	Austin, MN 55912	12/14/2022	\$ 300.00 (1)
Barbara	Schaefer		1820 6th Ave. NE.	Austin, MN 55912	12/23/2022	\$ 40.00
Belita	Schindler		703 22nd St. NW	Austin, MN 55912	12/21/2022	\$ 100.00
Dean and Leanna	Seeck		1406 9th Street NW	Austin, MN 55912	12/5/2022	\$ 50.00
Jim and Jeanne	Sheehan		2503 7th Avenue SW	Austin, MN 55912	1/17/2023	\$ 100.00
Paige and John	Scholl		2201C 7th Street NW	Austin, MN 55912	12/8/2022	\$ 75.00
Ellen	Stark		1809 25th Street SW	Austin, MN 55912	12/27/2022	\$ 100.00
Maureen	Steenblock		2001A Burr Oak Drive	Austin, MN 55912	1/20/2023	\$ 400.00
Tom and Sarah	Stiehm		508 15th Avenue SW	Austin, MN 55912	1/17/2023	\$ 25.00
David and June	Sylte		1804 18th Street SW	Austin, MN 55912	12/7/2022	\$ 150.00
Janice	Tamke		300 1st Avenue NE, Apt. 304	Austin, MN 55912	12/19/2022	\$ 5.00
Peter and Bonnie	Tangren		2700 4th Avenue NW	Austin, MN 55912	12/13/2022	\$ 100.00
Terrance and Sherry	Taylor		2107 9th Street SW	Austin, MN 55912	1/6/2023	\$ 150.00
Daphne	Wagner		1604 1st Avenue SE	Austin, MN 55912	1/3/2023	\$ 15.00
Richard and Annabelle	Waldman		700 1st Drive NW, Apt. #358	Austin, MN 55912	12/19/2022	\$ 50.00
Cathy	Wegner		2201 D. 7th Street NW	Austin, MN 55912	12/8/2022	\$ 25.00
James and Sharlene	Westrick		24167 540th Avenue	Austin, MN 55912	12/27/2022	\$ 100.00
Bruce	Westrum		909 4th Avenue NE, Apt. #3	Austin, MN 55912	1/12/2023	\$ 10.00
Dale	Wicks	Quality Pork Processors, Inc.	711 Hormel Century Parkway	Austin, MN 55912	12/27/2022	\$ 500.00
Jerry and Mary Anne	Wolesky		602 20th Street SW	Austin, MN 55912	12/6/2022	\$ 100.00
Gary and Marjorie	Zimmerman		2200 6th Avenue NW	Austin, MN 55912	12/5/2022	\$ 300.00
			Baudler, Maus, Forman & King, LLP	Austin, MN 55912	12/5/2022	\$ 150.00
			108 N Main St	Austin, MN 55912	12/19/2022	\$ 100.00
			Golden Tress Inc.	Austin, MN 55912	12/15/2022	\$ 100.00
			Potach & Mitchell Dental Clinic	Austin, MN 55912		
			104 111th Avenue NW			
			607 1st Drive NW, Box 1064			
						\$ 16,260.00

(1) = From Tim and Bonnie Rietz in memory of Viola Besse (\$150) and Austia and Joe Hickey (\$150).

(2) = In memory of Kenneth Laufle.

(3) = In memory of Harold "Mully", Jeanette, and John Mullenmeister.

City of Austin
500 Fourth Avenue N.E.
Austin, Minnesota 55912-3773
www.ci.austin.mn.us



ITEM NO. 15

Craig D. Clark, MPA
City Administrator
507-437-9941
craigc@ci.austin.mn.us

MEMO

To: Honorable Mayor and City Council Members
From: Craig D. Clark
City Administrator
Date: February 2, 2023
Subject: Beatification of City Hall

With the end of the Our Austin, Our America project, the photos that were hung in City Hall have been taken down. They were only to be on display for a specific period of time.

The photos currently available at City Hall to replace the photos taken down need to be updated. The majority of these photos are dated and mismatched.

We are looking to beautify City Hall by purchasing new photos, matching photo frames, and hiring a photographer to take pictures of landmarks and landscapes around Austin.

The estimate for thirteen photos, frames, and a photographer would be \$3,000.

We are requesting payment for this project out of the contingency fund with your approval.

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: Deloris Jacobsen
2010 11th Ave NE, Austin, MN 55912

From: Holly Wallace, Planning & Zoning Administrator

Re: Accumulation of Refuse and Junk
At 2010 11th Ave NE, Jacobsen Property

Date: February 3, 2010

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 2010 11th Ave 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

**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**

December 16th, 2022

Deloris Jacobsen
2010 11th Ave NE
Austin, MN 55912

RE: Zoning Violations at 2010 11th Ave NE, Austin, MN 55912

Dear Deloris:

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 November 28th and December 16th, 2022 at this site and the following issues need to be resolved:

1. Remove all junk/garbage from property

The violation of Austin City Code Sections 10.01 Subd 2 & 3, 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 10.14, 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 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.

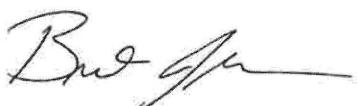
City Code Section 10.14, Subd. 6:

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



2010
11th Ave NE



2010