

A G E N D A
CITY COUNCIL MEETING
MONDAY, JULY 3, 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 June 20, 2023.

3. Recognitions and Awards.

(mot) 4. *Consent Agenda

Licenses:

Mobile Business: Goette Farms, Bricelyn, MN

Temporary Food: American Legion Post 91 on August 19, 2023

Temporary Food: La Senda Antigua on July 2 – 4, 2023

Temporary Food: Salvation Army on August 19, 2023

Claims:

- a. Pre-list of bills
- b. Credit Card Report.

Event Applications:

River Rats Car Show on August 18, 2023

PETITIONS AND REQUESTS:

(res) 5. Approving a financing and development agreement for the 1st and 3rd Apartments.

(res) 6. Approving budget adjustment number 4.

(res) 7. Approving budget adjustment number 5.

(res) 8. Approving a labor contract with Austin Associates Organization for years 2023-2025.

(res) 9. Approving a maintenance agreement for Highway 105 with MnDot.

(res) 10. Approving flood hazard mitigation grant for a Waste Water Treatment Plant project.

(res) 11. Approving contracts for automated vehicle location services and route optimization with funding from 2023 contingency.

(res) 12. Accepting donations to the City of Austin.

(mot) 13. Adopting a policy for employee affiliation with outside entities.

(res) 14. Declaring the property at 308 12th Avenue SW a hazardous structure.

15. Granting the Planning and Zoning Department the power to contract for the removal of junk and/or illegally stored vehicles at the following locations:

(mot) a. 909 3rd Avenue NW, Greene Property.

(mot) b. 1011 4th Street SE, Nystel Property.

(mot) c. 1200 4th Street SE, Olson Property.

(mot) d. 1416 7th Avenue NW, McFarland Property.

CITIZENS ADDRESSING THE COUNCIL

HONORARY COUNCIL MEMBER COMMENTS

REPORTS AND RECOMMENDATIONS:

City Administrator

City Council

(mot) Adjourn to **Monday, July 17, 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
June 20, 2023
5:30 PM
Council Chambers

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

MEMBERS ABSENT:

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

APPEARING IN PERSON: KAUS Radio

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

Moved by Council Member Fischer, seconded by Council Member Poshusta, approving the agenda with removing item number 12. Carried.

Moved by Council Member Baker, seconded by Council Member Fischer, approving Council minutes from June 5, 2023. Carried.

CONSENT AGENDA

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

Licenses:

Liquor Catering: Hoot & Ole's, LLC, 105 11th Street SE
Temporary Liquor: VFW Post 1216 on August 19, 2023

Claims:

- a. Pre-list of bills
- b. Investment & Financial Reports

Carried.

PUBLIC HEARINGS

A public hearing was held for a five-year tax abatement application from Bigelow & Lennon Construction for a proposed home at 1307 18th Street NE. City Administrator Craig Clark stated Bigelow & Lennon would construct a single-family home valued at approximately \$314,000. He noted the application is in conformance with the City's tax abatement policy.

There were no public comments.

Moved by Council Member Baker, seconded by Council Member Postma, adopting a resolution approving a five-year tax abatement for Bigelow & Lennon Construction for the property at 1307 18th Street NE. Carried 7-0.

A public hearing was held for a five-year tax abatement application from Bigelow & Lennon Construction for a proposed home at 1803 12th Avenue NE. City Administrator Craig Clark stated Bigelow & Lennon would construct a single-family home valued at approximately \$355,000. He noted the application is in conformance with the City's tax abatement policy.

There were no public comments.

Moved by Council Member Baskin, seconded by Council Member Fischer, adopting a resolution approving a five-year tax abatement for Bigelow & Lennon Construction for the property at 1307 18th Street NE. Carried 7-0.

PETITIONS AND REQUESTS

Police Chief David McKichan requested two additional police patrol officers to be added to the force, effective immediately. The Council discussed the matter at their June 5, 2023 Council meeting and unanimously voted to approved the additional positions.

Moved by Council Member Baskin, seconded by Council Member Postma, adopting a resolution authorizing the addition of two police patrol officers effective immediately and including the positions in the 2024 budget. Carried.

City Administrator Craig Clark stated the City is looking to partner with Mower County for the construction of a new law enforcement center. He stated SEH submitted a proposal in the amount of \$16,500 which would be allocated with \$5,500 to the City and \$11,000 to the County for a needs assessment. He proposed funding for the project come from 2023 contingency.

Moved by Council Member Baker, seconded by Council Member Poshusta, adopting a resolution approving a contract with SEH, Inc. in the amount of \$5,500 for a law enforcement center needs assessment with funding coming from 2023 contingency. Carried 7-0.

Police Chief David McKichan requested the Council approve a contract for two school police liaison officers for the 2023-2024 school year.

Moved by Council Member Baskin, seconded by Council Member Baker, adopting a resolution approving a contract with Independent School District No. 492 for police liaison officers. Carried 7-0.

Director of Administrative Services Tom Dankert requested the Council approve an updated agreement for the collection of a local sales and use tax with the Minnesota Department of Revenue. He stated the City currently pays 1.55% was a floating fee to the Department to administer the program. The updated agreement would provide for a flat fee of 1.35% and monthly settlements in one sum. The City would also be required to post and disseminate information to the public regarding the tax.

Moved by Council Member-at-Large Austin, seconded by Council Member Baker, adopting a resolution approving an updated agreement with the Minnesota Department of Revenue for the collection of local option sales tax. Carried 7-0.

Moved by Council Member Baker, seconded by Council Member-at-Large Austin, adopting a resolution accepting donations to the City of Austin. Carried 6-0 with Council Member Baskin abstaining.

Planning and Zoning Administrator Holly Wallace reviewed a variance request from Meyer Properties and Holdings, LLC. The business is operating as the Muffler Center and has requested a variance from the code requirement that there be a 20-foot setback in the rear and side yards that abut a residential district. They would like to build up to 2.5 feet from the North property line which abuts two residential properties. Ms. Wallace stated the two property owners appeared at the June 13, 2023 Planning Commission meeting and neither objected to the project. The Planning Commission voted 6-0 to grant the variance.

Moved by Council Member Postma, seconded by Council Member Fischer, approving a variance request from Meyer Properties and Holdings, LLC. Carried.

City Administrator Craig Clark stated the City solicited proposals for an employee survey as part of the City Council's 24 month plan. Upon review, it was determined that Employee Strategies be selected with a flat fee of \$17,500. An additional debriefing and presentation would be an additional \$8,500 resulting in a total cost of \$26,000. Mr. Clark requested the Council approve the contract with funding from 2023 contingency.

Council Member Postma asked what made Employee Strategies stick out as the firm to choose for the survey.

Council Member Baskin stated two of the proposals stuck out from the five that were reviewed. Those two finalists had processes that were rooted in science and had experience with government entities. Employee Strategies had worked with Minnesota cities.

Moved by Council Member Baker, seconded by Council Member Fischer, approving a contract for an employee survey with Employee Strategies in the amount of \$26,000 with funding from 2023 contingency. Carried 7-0.

Parks and Recreation Director Dave Merrill requested the Council approved a lease with Austin MN Junior Hockey, LLC for Riverside Arena through May 17, 2026.

Moved by Council Member Baskin, seconded by Council Member Poshusta, approving a lease with Austin MN Junior Hockey, LLC. Carried 7-0.

HONORARY COUNCIL MEMBER COMMENTS

Honorary Council Member Denver Ritz stated he enjoyed the experience and encouraged people to apply that would be considering a political career.

REPORTS

Council Member Poshusta thanked Denver Ritz for his time as the Honorary Council Member. She thanked the Police Department for their recent response to community events.

Council Member Postma thanked those involved in 4th Avenue Fest.

Council Member Helle stated 4th Avenue Fest was the biggest to date. She noted Mower County is providing recycling services for events. She stated the HRA recently put their new build property on the market.

Moved by Council Member Baker, seconded by Council Member-at-Large Austin, adjourning the meeting to July 3, 2023. Carried.

Adjourned: 5:52 p.m.

Approved: July 3, 2023

Mayor: _____

City Recorder: _____



Street/Special Event Permit

Permit Type: Street or Special Event

Permit Number: 2023-009

Applicant Information	
Organizer Name	River Rats Car Club
Organizer Address	608 7th AVE SE
Organizer City	AUSTIN
Organizer State	MN
Organizer Zipcode	55912
Organizer Phone	507-438-6635
Organizer Email	rhonda.devries2015@gmail.com
Alternate Name	John DeVries
Alternate Phone	507-433-5325
Alternate Email	devries.john2015@gmail.com

Permit Information

Event Title	River Rats Car Show		
Event Description	Car show to raise money for the Veterans		
Event Start Date	August 18, 2023	Event End Date	August 20, 2023
Approximate Number of Participants	500		
Event Start Time	07:00	Event End Time	18:00
Portion of Street Width Being Used	Using Lafayette Park from Friday, August 18 (for setup), Saturday, August 19 (for car show , thru Sunday (raindate)		
Traffic Control Barricades Needed for Street/Lane Closure?	Yes	Will Traffic Control Barricades be Provided by Applicant or will City Assistance be Requested?	Requested City Help
Food Trucks at Event?	Yes	Number of Food Trucks	4
Food Truck Information	Food Truck 1: Smokin Tailgate, Dayle Goskesen, 1-507-259-4326 Food Truck 2: American Legion, Roe Naylor, 507-438-5804 Food Truck 3: Salvation Army/Pizza, Stacy Wisemore, 507-279-0676 Food Truck 4: S & L Shakes, Sara Kriehn, 507-279-2909 Food Truck 5: ,		
Alcoholic Beverages Available	Yes		
Location of Alcohol	Fenced in Pavillion		
Licensed Establishment(s) Serving Alcohol	Austin VFW		
Types of Alcohol	3.2 beer		
Live Entertainment	Yes		
Recorded Entertainment	Yes		
Date and Time Clean Up will be Accomplished	Sunday, August 20, 2023 4 p.m.	Responsible Person(s) for Clean Up	John DeVries
Will Event be Advertised?	Yes	Describe Invited People	car enthusiasts and the public
Designated Adult Name	John DeVries	Designated Adult Phone	507-438-6635
Designated Adult Address	608 7th AVE SE		
Additional Information	Car show to raise money for the Veterans		

Engineering Department

Determination	Approved	Date of Approval	March 20, 2023	Approved By	Mitch Wenum
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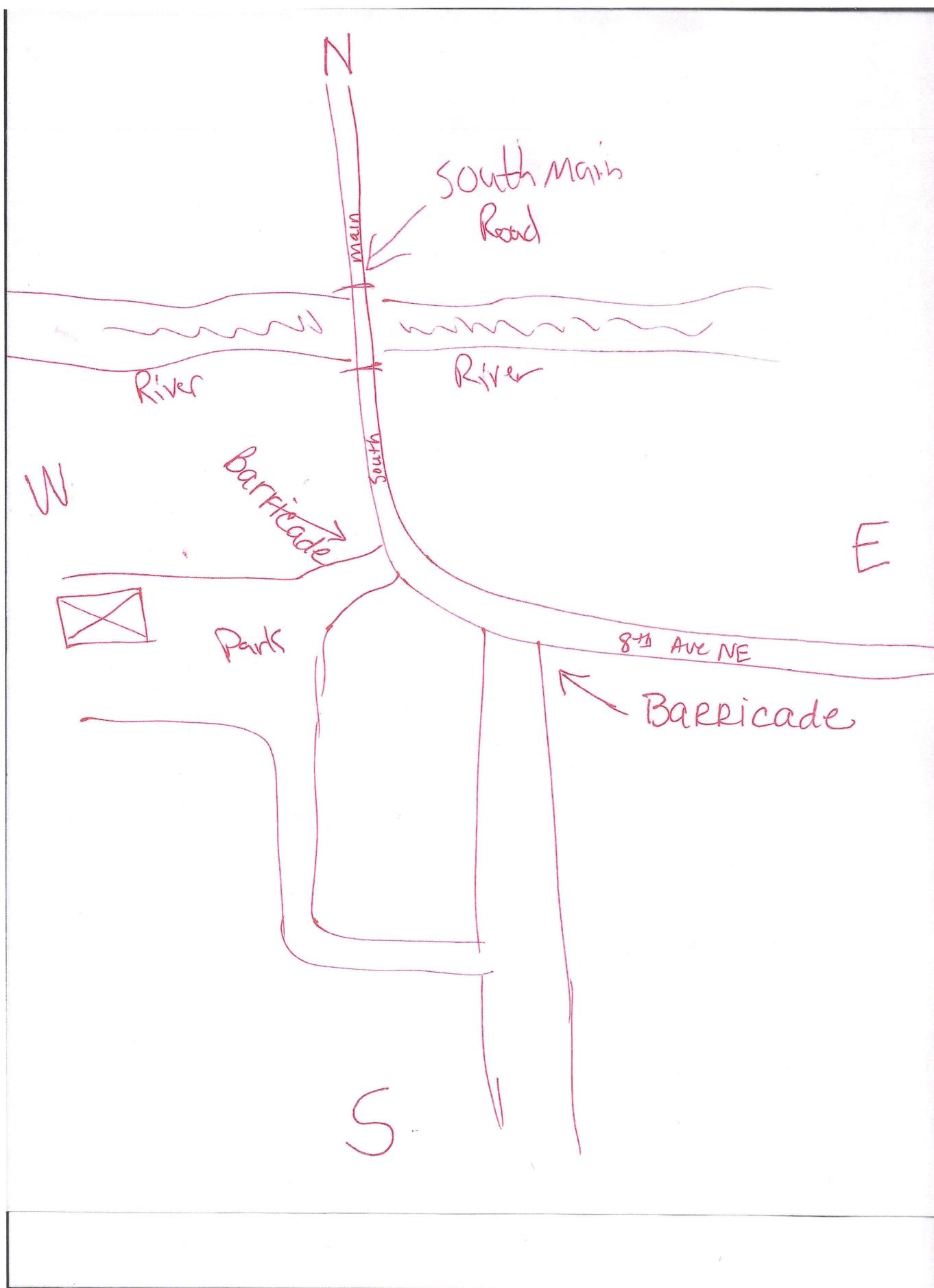
Comments	City to provide barricades in locations as requested				
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Police Department					
Determination	Approved	Date of Approval	March 27, 2023	Approved By	David McKichan
Comments					

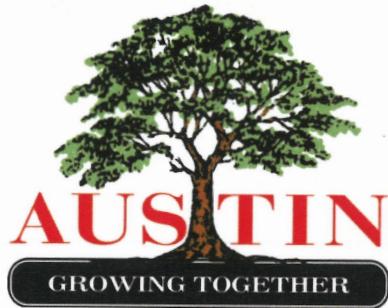
City Clerk					
Determination	Approved	Date of Approval	June 23, 2023	Approved By	Ann Kasel
Comments	Smokin Tailgate will not be at the event				

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



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



Phone: 507-437-9940

www.ci.austin.mn.us

TO: Mayor and City Council
 FROM: Tom Dankert, Director of Administrative Services *TOD*
 DATE: July 3, 2023
 RE: 1st and 3rd Apartments
 U:\Word\2023\Miscellaneous\Three Rivers Housing resolution.doc

Staff at the City of Austin and Austin HRA have been working with our attorneys at Dorsey & Whitney to bring the affordable housing project (named 1st and 3rd Apartments) to fruition. We are now at that point with Three Rivers Community Action Inc. and their construction of a 40-unit apartment complex on land owned by the Austin HRA just east of the post office.

Some things have changed in the State of Minnesota since we first started this project. The main change is that the State of Minnesota has reduced the state tax class rate for this type of property (called 4d property) from a class rate of 0.75% to 0.25%. This will reduce the tax increments being paid for the project by a third, and will reduce potential repayment maximum amounts. However, we will still have in place a minimum assessment agreement and a loan agreement to have our \$615,000 loan proceeds at 1% interest repaid back. If the tax increments paid via the Mower County tax system are not enough to cover the loan payments back to the City, Three Rivers has agreed to pay us the difference on an annual basis. This legislation had been before the state for the last few years, and we had this repayment requirement in our documents from the beginning knowing full well it could eventually get approved. On another note, this is a further tax shift onto all other property in the State of Minnesota.

To recap the prior City commitments:

- \$615,000 loan at 1%, funding set aside in the Building Fund.
- \$300,000 grant, funding set aside in the Building Fund.
- \$540,000 grant, proceeds from the decertified TIF District #11 CRC and a law change that allowed excess TIF funds to be used for affordable housing. Funding set aside in the Building Fund.
- \$75,000 in funding to realign the existing storm water drainage during the project, funding from the Storm Water Utility District.
- We will have an estimated \$20,000 in legal and finance advisory fees to set up the TIF District and agreements, funding to come from the Building Fund.

Additional contributions:

- \$600,000 grant from The Hormel Foundation, to be given to the City of Austin and then forwarded to Three Rivers for the project.
- \$250,000 grant from Mower County into the project.
- Land to be provided by the Austin HRA.

Recent conversations with Three Rivers indicate that construction costs have not come down, and this project is expected to be in excess of \$16 million for the 40 units.

The attached resolution drafted by Dorsey & Whitney authorizes the Mayor and City Recorder to sign any and all documents related to this project. The primary document, the Financing Development Agreement, is attached for your review. Other documents we would be authorized to sign after the passage of this resolution include the Minimum Assessment Agreement, mortgage documents, etc.

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

Tom Dankert

From: Krenz, Laura L. <krenzl@ballardspahr.com>
Sent: Thursday, June 22, 2023 4:31 PM
To: turpin.grant@dorsey.com
Cc: SStrandberg@threeriverscap.org; lhall@threeriverscap.org; Tom Dankert; Taggart Medgaarden
Subject: RE: 1st & 3rd TIF Agreement and updated MSA

Grant,

The TIF Agreement and mortgage are approved by my client and its lender and tax credit investor. Please let us know if you need us to do anything to have them included on the City's July 3rd agenda for final approval and authorization.

Also, please let us know if you have any questions or concerns regarding our requested revision to the deed (to convey the real estate directly to 1st & 3rd Apartments LP). Could you send us a copy of the final HRA resolution (I believe it was approved May 30) authorizing the conveyance so I can complete the Property Contribution Agreement.

We are targeting a closing the week of July 17. Will that work for you and your clients?

Laura L. Krenz

Ballard Spahr
LLP

Helps Build the Nation

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From: turpin.grant@dorsey.com <turpin.grant@dorsey.com>
Sent: Wednesday, June 21, 2023 8:01 AM
To: SStrandberg@threeriverscap.org; Tdankert@ci.austin.mn.us; Krenz, Laura L. (Minn) <krenzl@ballardspahr.com>; lhall@threeriverscap.org; taggart@austinhra.org
Subject: RE: 1st & 3rd TIF Agreement and updated MSA

⚠ EXTERNAL

Good morning—

Please find attached updated drafts of the Financing Development Agreement (redlined to prior draft) and Mortgage (redlined to Ballard clean draft) reflecting the requested changes and several minor modifications. Also included is the draft Quit-Claim Deed. Please advise whether this should be modified to reflect conveyance to 1st & 3rd Apartments LP (currently drafted as to Three Rivers Community Action, Inc.).

Let me know of any issues.

Grant I. Turpin

Tom Dankert

From: turpin.grant@dorsey.com
Sent: Friday, June 23, 2023 2:32 PM
To: Tom Dankert; Taggart Medgaarden; SStrandberg@threeriverscap.org; krenzl@ballardspahr.com; lhall@threeriverscap.org
Cc: Mikaela.Huot@bakertilly.com; tonolli.kara@dorsey.com
Subject: 1st & 3rd TIF Agreement - Related Documents
Attachments: Mortgage (Austin-Three Rivers)-v5.docx; Quit Claim Deed (1st & 3rd Apartments)-v2.docx; HRA Grant Agreement for Pre-Development & Environmental Costs (Austin-Three Rivers)-v1.docx; MK_MPLS-#2800538-v2-Both_Loans_-_Master_Subordination_Agreement_and_Estoppel_Certificate__(GMHF__1st_&_3rd_Apartments).DOCX; UCC-1 Financing Statement (Austin-Three Rivers TIF Mortgage 2023)-v1.pdf

Good afternoon—

Please find attached the following documents related to the Financing Development Agreement. The resolution authorizing execution of the Financing Development Agreement (sent in the prior email) also authorizes the execution of the below documents.

Note: These documents, in addition to the Exhibits in the Financing Development Agreement, do NOT have to be signed at this time. Instructions on execution will be provided at a later date closer to closing.

- Mortgage
- UCC-1
- Master Subordination Agreement

Other related documents (already authorized for execution at the HRA's meeting on May 30th) to be executed by the HRA.

- Quit Claim Deed
- HRA Grant Agreement for Pre-Development and Environmental Costs

Note: These documents do NOT have to be signed by the HRA at this time. Instructions on execution will be provided at a later date closer to closing.

Grant I. Turpin

Senior Attorney



DORSEY & WHITNEY LLP
Suite 1500, 50 South Sixth Street | Minneapolis, MN 55402-1498
P: 612.492.6787 C: 715.781.1133

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

Council member _____ introduced the following resolution and moved its adoption:

RESOLUTION NO. _____

**RESOLUTION AUTHORIZING THE EXECUTION OF A FINANCING
DEVELOPMENT AGREEMENT AND RELATED DOCUMENTS**

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

Section 1. Recitals.

1.01. The City has heretofore established Municipal Development District No. 1 and adopted the Development Program therefor and established Tax Increment Financing (Housing) District No. 17 (the "District") therein and adopted a Tax Increment Financing Plan (the "TIF Plan") therefor; all pursuant to and in conformity with applicable law, including Minnesota Statutes, Sections 469.124 to 469.133 and Sections 469.174 to 469.1794, all inclusive, as amended (the "Act").

Section 2. Approval of Financing Development Agreement.

2.01. There has been prepared and presented to the Council for its consideration a certain Financing Development Agreement (the "Agreement") by and among the City, 1st & 3rd Apartments LP, and Three Rivers Community Action, Inc. (together, with any related entities, the "Developer"), stating the Developer's responsibilities and the terms and conditions of the City's assistance with the financing construction of a new multi-story, 40-unit, apartment building with underground parking and green space in the District.

2.02. The Council hereby approves the Agreement, together with any related documents necessary in connection therewith, including but not limited to: an Assessment Agreement between the City and 1st & 3rd Apartments LP; a Tax Increment Financing Reimbursement Agreement between the City and the Austin Housing and Redevelopment Authority; the Mortgage given by 1st and 3rd Apartments LP to the City; and a Master Subordination Agreement and Estoppel Certificate by and among 1st and 3rd Apartments LP, Greater Minnesota Housing Fund, and the City (together with any related documents, the "Development Documents"), substantially in the form presented to the Council and hereby authorizes Mayor and City Recorder or any other authorized officer of the City, in their discretion and at such time, if any, as they may deem appropriate, to execute the same on behalf of the City, and to carry out, on behalf of the City, the City's obligations thereunder.

2.03. The approval hereby given to the Development Documents includes approval of such additional details therein as may be necessary and appropriate and such modifications thereof, deletions therefrom and additions thereto as may be necessary and appropriate and approved by legal counsel to the

City and by the officers authorized herein to execute said documents prior to their execution; and said officers are hereby authorized to approve said changes on behalf of the City. The execution of any instrument by the appropriate officers of the City herein authorized shall be conclusive evidence of the approval of such document in accordance with the terms hereof. In the event of absence or disability of the officers, any of the documents authorized by this Resolution to be executed may be executed without further act or authorization of the Council by any duly designated acting official, or by such other officer or officers of the Council as, in the opinion of the City Attorney, may act in their behalf.

2.04. Upon execution and delivery of the Development Documents, the officers and employees of the City are hereby authorized and directed to take or cause to be taken such actions as may be necessary on behalf of the City to implement the Development Documents.

2.05. The Council hereby determines that the execution and performance of the Development Documents will help realize the public purposes of the Act.

The motion for the adoption of the foregoing resolution was duly seconded by Council member _____, and upon a vote being taken thereon, the following voted in favor thereof:

and the following voted against the same:

Dated: July 3, 2023

ATTEST:

Mayor

City Recorder

(Seal)

TAX INCREMENT FINANCING REIMBURSEMENT AGREEMENT

1ST & 3RD APARTMENTS PROJECT

THIS Tax Increment Financing Reimbursement Agreement (this "Agreement"), made and entered into as of July 3rd, 2023, is by and between the CITY OF AUSTIN, MINNESOTA (the "CITY") and THE AUSTIN HOUSING AND REDEVELOPMENT AUTHORITY (the "HRA").

WHEREAS, the City has designated a Development District in the City denominated the Municipal Development District No. 1 (the "Development District") and adopted a Development Program (the "Development Program") therefor, pursuant to and in accordance with Minnesota Statutes ("M.S."), Sections 469.124 to 469.133, as amended; and

WHEREAS, the City adopted a resolution establishing Tax Increment Financing District No. 17, an "housing district" (the "TIF District") pursuant to M.S., Section 469.174, Subdivision 11, and approved a Tax Increment Financing Plan therefor (the "TIF Plan"); and

WHEREAS, in order to achieve the objectives of the Development Program and the TIF Plan, the City intends to provide assistance to 1st & 3rd Apartments LP, a Minnesota limited partnership (the "Owner") through tax increment financing, as described in M.S., Sections 469.174 through 469.1794 (the "TIF Act"), to finance construction of a new multi-story, 40-unit, apartment building with underground parking and green space (the "Project"); and

WHEREAS, pursuant to a Financing Development Agreement between the City, Three Rivers Community Action, Inc. ("Three Rivers"), and the Owner dated July 3rd, 2023 (the "TIF Agreement") the City has agreed to provide Three Rivers and/or the Owner with certain public assistance and other contributions, and to apply tax increment revenues generated from the TIF District to reimburse the City therefor; and

WHEREAS, pursuant to a Grant Agreement to be dated on or around July 17, 2023, the HRA has also agreed to provide to Three Rivers and/or the Owner certain assistance for Pre-Development costs and has also agreed to incur the costs rectifying certain environmental issues on the site of the Project (the "HRA Costs");

WHEREAS, the City intends to reimburse the HRA for the HRA Costs with any tax increment revenues remaining from the TIF District after the City has reimbursed itself for the City-provided public assistance and the City's other contributions.

NOW, THEREFORE, in consideration of the foregoing premises and the mutual obligations set forth in this Agreement, the parties hereto hereby agree as follows:

Section 1. Reimbursement for HRA Costs. To the extent any tax increment revenues remain after the City has reimbursed itself for the City-provided public assistance and City contribution (as further described in the TIF Agreement), the City agrees to pay to the HRA such remaining tax increment revenues to reimburse the HRA for the HRA Costs.

Section 2. Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota without giving effect to the conflicts-of-laws principles thereof.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first above written.

CITY OF AUSTIN, MINNESOTA

By _____
Mayor

And _____
City Recorder

AUSTIN HOUSING AND REDEVELOPMENT
AUTHORITY

By _____
Chair

And _____
Secretary

FINANCING DEVELOPMENT AGREEMENT
IN
MUNICIPAL DEVELOPMENT DISTRICT NO. 1
AND
TAX INCREMENT FINANCING DISTRICT NO. 17

CITY OF AUSTIN,
MOWER COUNTY, MINNESOTA

By and Among
CITY OF AUSTIN, MINNESOTA

And
THREE RIVERS COMMUNITY ACTION, INC.

AND
1ST & 3RD APARTMENTS LP

for the
1ST & 3RD HOUSING PROJECT

Dated as of July 3, 2023

This Document Was Drafted By:

DORSEY & WHITNEY LLP (GIT)
Suite 1500
50 South Sixth Street
Minneapolis, Minnesota 55402

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EXHIBIT C PROJECT DESCRIPTION; QUALIFIED COSTS	
EXHIBIT D FORM OF CERTIFICATE OF COMPLETION	
EXHIBIT E FORM OF NOTE	
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FINANCING DEVELOPMENT AGREEMENT

THIS Financing Development Agreement (this "Agreement"), made and entered into as of this July 3, 2023, is by and among the CITY OF AUSTIN, a municipal corporation and political subdivision of the State of Minnesota (the "City"), THREE RIVERS COMMUNITY ACTION, INC., a Minnesota nonprofit corporation, together with its successors and assigns (the "Three Rivers"), and 1st & 3rd APARTMENTS LP, a Minnesota limited partnership, together with its successors and assigns ("Borrower").

WITNESSETH:

WHEREAS, the City has designated a Development District in the City denominated the Municipal Development District No. 1 (the "Development District") and adopted a Development Program (the "Development Program") therefor, pursuant to and in accordance with Minnesota Statutes ("M.S."), Sections 469.124 to 469.133, as amended; and

WHEREAS, the City adopted a resolution establishing Tax Increment Financing District No. 17, an "housing district" (the "TIF District") pursuant to M.S., Section 469.174, Subdivision 11, and approved a Tax Increment Financing Plan therefor (the "TIF Plan"); and

WHEREAS, in order to achieve the objectives of the Development Program and the TIF Plan, the City intends to provide assistance in the form of grants to Three Rivers and tax increment financing to Borrower, as described in M.S., Sections 469.174 through 469.1794 (the "TIF Act"), to finance construction of a new multi-story, 40-unit, apartment building with underground parking and green space (the "Project");

WHEREAS, the City has determined that, in order to accomplish the purposes specified in and to carry out the Development Program and the TIF Plan, it is necessary and desirable for the City to provide Borrower with up-front assistance for certain costs to be incurred and paid for by Borrower in connection with the Project (the "Public Assistance"), which Public Assistance is intended to be reimbursed by the City with tax increment revenues generated from the TIF District; and

WHEREAS, the City will provide Three Rivers with certain grants and will provide Borrower with the Public Assistance in the form of a loan, evidenced by a note (the "Note"), and apply tax increment revenues generated from the TIF District to (i) pay or reimburse the City for administrative expenses relating to the TIF District to the extent permitted by the TIF Act, and (ii) pay or reimburse the City for the Public Assistance; and (iii) pay or reimburse the City for its City Contribution (as defined herein); and (iv) pay or reimburse the City's Housing and Redevelopment Authority (the "HRA") for its HRA Contribution (as defined herein); and

WHEREAS, the City believes that the development activities associated with the Project pursuant to this Agreement are in the best interests of the City and benefit the health, safety, morals and welfare of its residents, and comply with the applicable state and local laws and requirements under which the Project has been undertaken and is being assisted.

NOW, THEREFORE, in consideration of the foregoing premises and the mutual obligations set forth in this Agreement, the parties hereto hereby agree as follows:

ARTICLE 1
Definitions

1.01. Definitions.

In this Agreement, unless a different meaning clearly appears from the context:

“Act” means M.S., Sections 469.124 to 469.133.

“Agreement” means this Agreement, as the same may be from time to time modified, amended or supplemented.

“Assessment Agreement” means the Assessment Agreement between the City and Owner in the form set forth as Exhibit F hereto.

“Available Tax Increment” means ninety-five percent (95%) of the tax increment revenues generated from the TIF District.

“Borrower” or “Owner” means 1st & 3rd Apartments LP, a Minnesota limited partnership.

“Business Subsidies Act” means M.S., Sections 116J.993 through 116J.995.

“Certificate of Completion” means a certification in the form attached hereto as Exhibit D, to be provided to Borrower pursuant to this Agreement.

“City” means the City of Austin, Minnesota.

“City Council” means the City Council of the City.

“City Contribution” means the amount of \$318,500 granted by the City to Three Rivers for the Project, which City Contribution is reimbursable with any Available Tax Increment remaining after each Note Payment has been satisfied.

“Construction Plans” means the plans, specifications, drawings and related documents for the construction work to be performed by Borrower on the Development Property.

“County” means the County of Mower, Minnesota, a political subdivision of the State.

“Default Notice” means written notice from the City to Three Rivers or Borrower setting forth the Event of Default of the respective party and the action required to remedy the same.

“Development District” means Municipal Development District No. 1, designated pursuant to the Act.

“Development Program” means the Development Program developed for Municipal Development District No. 1.

“Development Property” or “Property” means the real property described in Exhibit A attached hereto.

“Event of Default” means as any of the events set forth in Section 7.01 hereof.

“Grants” mean the grant of funds from the City to Three Rivers pursuant to Section 5.09 hereof.

“General Partner” means 1st & 3rd Apartments GP LLC, a limited liability company organized under the laws of the State and general partner of the Borrower.

“HRA” means the Housing and Redevelopment Authority of the City.

“HRA Contribution” means the HRA Contribution to Three Rivers, Borrower or directly to third party vendors for certain predevelopment costs and certain environmental costs for the Project, which HRA Contribution is reimbursable with any Available Tax Increment remaining after both the Public Assistance and the City Contribution have been fully reimbursed.

“Legal and Administrative Expenses” means the fees and expenses incurred by the City in connection with review and analysis of the development proposed under this Agreement with the adoption and administration of the TIF Plan and establishment of the TIF District, the preparation of this Agreement including, but not limited to, attorney and municipal advisor fees and expenses.

“Mortgage” means any mortgage made by Borrower which covers, in whole or in part, the Development Property.

“Mortgagee” means the owner or holder of a Mortgage.

“Note” means the Note (1st & 3rd Housing Project) to be executed by Borrower and delivered to the City pursuant to Article 5 hereof, the form of which is attached hereto as Exhibit E.

“Note Payment” means the principal and interest payment due on the Note semi-annually on each August 1 and February 1, or as otherwise shown in column (4) of the final Note Payment Schedule attached to the Note.

“M.S.” means Minnesota Statutes.

“Project” means the construction of a new multi-story, 40-unit, apartment building with underground parking and green space, as further described in Exhibit C to this Agreement.

“Public Assistance” means the up-front assistance in the amount of \$615,000 to be provided by the City to Borrower in the form of a loan evidenced by the Note, as further described under Article 5 hereof.

“Qualified Costs” means costs incurred in connection with construction of the Project that are reimbursable from tax increment pursuant to Sections 469.174, Subd. 12 and 469.1761 of the TIF Act, which are shown on Exhibit C to this Agreement.

“Restrictions” means the easements, covenants, conditions and restrictions set forth in Exhibit B attached hereto.

“Section” means a Section of this Agreement, unless used in reference to M.S.

“Short-Fall Payment” means the payment from Borrower to the City to make up the difference between the Available Tax Increment actually received in a tax year and the Note Payment for such payment period.

“State” means the State of Minnesota.

“Termination Date” means the earlier of (i) December 31, 2051, (ii) the date the Note is paid in full, (iii) the date on which the TIF District expires or is otherwise terminated, or (iv) the date this Agreement is terminated or rescinded in accordance with its terms.

“Three Rivers” means Three Rivers Community Action, Inc., a nonprofit corporation organized under the laws of the State, and the sole member of the General Partner.

“TIF Act” means M.S., Sections 469.174 through 469.1794, as amended.

“TIF District” means Tax Increment Financing (Housing) District No. 17, a housing district, established by the City Council on May 1, 2023.

“TIF Plan” means the Tax Increment Financing Plan for the TIF District approved by the City Council.

“Unavoidable Delay” means a failure or delay in a party’s performance of its obligations under this Agreement, or during any cure period specified in this Agreement which does not entail the mere payment of money, not within the party’s reasonable control, including but not limited to weather delays, acts of God, governmental agencies, the other party, strikes, labor disputes, fire or other casualty, lack of materials, or declarations of any state, federal or local government, pandemics, epidemics (including the COVID-19 virus). Within ten (10) days after a party impaired by the delay has actual (as opposed to constructive) knowledge of the delay it shall give the other party notice of the delay and the estimated length of the delay, and shall give the other party notice of the actual length of the delay within ten (10) days after the cause of the delay has ceased to exist. The parties shall pursue with reasonable diligence the avoidance and removal of any such delay. Unavoidable Delay shall not extend performance of any obligation unless the notices required in this definition are given as herein required.

ARTICLE 2 Representations and Warranties

2.01. City Representations.

The City makes the following representations to Three Rivers and Borrower:

(a) The City is a municipal corporation and political subdivision of the State. Under the provisions of the Act and the TIF Act, the City has the power to enter into this Agreement and carry out its obligations hereunder.

(b) The City has designated the Development District and has adopted the Development Program in accordance with the provisions of the Act and has created the TIF District and adopted the TIF Plan in accordance with the provisions of the TIF Act.

(c) With each Note Payment, the City will provide Borrower with a statement showing the Available Tax Increment along with a statement of the remaining amounts of unpaid interest, if any, and principal.

(d) There are no pending or proposed special assessments affecting the Development Property or any proposed or pending public improvements which may give rise to any special or area assessments affecting the Property as a result of the construction of the Project.

2.02. Three Rivers Representations.

Three Rivers represents and warrants that:

(a) Three Rivers is a Minnesota corporation and has power to enter into this Agreement and has duly authorized, by all necessary corporate action, the execution and delivery of this Agreement.

(b) Neither the execution or delivery of this Agreement, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of this Agreement is prevented by, limited by, conflicts with, or results in a breach of, any restriction, agreement or instrument to which Three Rivers is now a party or by which Three Rivers is bound.

(c) Three Rivers has no actual knowledge that any member of the City Council, or any other officer of the City has any direct or indirect financial interest in Three Rivers, the Development Property, or the Project.

(d) The Public Assistance, City Contribution, HRA Contribution, and Grants received pursuant to this Agreement will be used to create housing.

2.03. Borrower Representations

BORROWER represents and warrants that:

(a) The Borrower is a Minnesota limited partnership and has power to enter into this Agreement and has duly authorized, by all necessary corporate action, the execution and delivery of this Agreement.

(b) Borrower will, subject to and as required by Agreement, construct the Project in accordance with the terms of this Agreement, the TIF Plan and all applicable local, state and federal laws and regulations.

(c) At such time or times as may be required by law, Borrower will have complied with all local, state and federal environmental laws and regulations applicable to the Project, and will have obtained any and all necessary environmental reviews, licenses and clearances. Except as otherwise disclosed to the City, Borrower has received no written notice from any local, state or federal official that the activities of Borrower or the City with respect to the Development Property may be or will be in violation of any environmental law or regulation. Except as otherwise disclosed to the City, Borrower has no actual knowledge of any facts the existence of which would cause it to be in violation of any local, state or federal environmental law, regulation or review procedure with respect to the Development Property.

(d) Neither the execution or delivery of this Agreement, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of this Agreement is prevented by, limited by, conflicts with, or results in a breach of, any restriction, agreement or instrument to which Borrower is now a party or by which Borrower is bound.

(e) Borrower will use commercially reasonable efforts to obtain, in a timely manner, all required permits, licenses and approvals, and will meet, in a timely manner, all requirements of all local, state and federal laws and regulations which must be obtained or met in connection with the Project. Without limitation to the foregoing, Borrower will request and seek to obtain from the City all necessary variances, conditional use permits and zoning changes related to the Project.

(f) Borrower would not undertake the Project without the Public Assistance to be provided by the City pursuant to this Agreement and the TIF Plan.

(g) Apart from the assistance to be provided under this Agreement, and to the extent they are not covered by the City or HRA, Borrower shall pay all standard charges and fees due with respect to real estate developments and allocable to the Development Property under City ordinances and the City code, excluding any special assessments for any improvements included in the initial construction of the Project on the Development Property.

(h) The Project is intended for occupancy, in part, by persons or families of low and moderate income, as defined in chapter 462A, Title II of the National Housing Act of 1934, the National Housing Act of 1959, the United States Housing Act of 1937, as amended, Title V of the Housing Act of 1949, as amended, any other similar present or future federal, state or municipal legislation, or the regulations promulgated under any of those acts.

(i) The improvements constructed for commercial, retail or nonresidential uses will consist of not more than 20% of the total square footage of the Project.

During the term of this Agreement, at least (i) 20% of the residential units in the Project will be occupied or held available for occupancy by persons/families with incomes no greater than 50% area median income or (ii) 40% of the residential units in the Project will be occupied or held

available for occupancy by persons/families with incomes no greater than 60% area median income. Borrower will provide the City an annual certification in the form attached hereto as Exhibit G (the “Compliance Certificate”) evidencing compliance with the requirements in this paragraph, and income verifications from tenants used to satisfy this low income set aside requirement. The annual certification shall be provided on or before December 1 of each year commencing December 1, 2025, and shall cover the preceding calendar year.

2.04. Use, Ownership of Development Property; Restrictions; Use of Development Property. Borrower’s use of the Development Property shall be subject to and in compliance with all of the conditions, covenants, restrictions and limitations imposed by this Agreement, the Restrictions, and all applicable laws, ordinances and regulations.

2.05. Ownership of Development Property. Borrower hereby represents and warrants that it is the owner in fee simple of the Development Property and that there are no liens, defects or other encumbrances upon title to the Development Property that would hinder the development of the Development Property by Borrower as contemplated by this Agreement.

2.06. Declaration of Restrictive Covenants. Borrower shall prepare, execute, and record on the title to the Development Property a Declaration of Restrictive Covenants, in form approved by the City, which includes the Restrictions set forth in Exhibit B. If Borrower determines that operation of the Development Property and the Project would endanger the financial viability thereof, Borrower may request the City Council to consent to the amendment, modification or termination of any of the restrictions in any respect. The City is under no obligation to amend, modify or terminate any of the restrictions and may, in its sole and absolute discretion, refuse to do so.

2.07. Damage or Destruction. Until the issuance of the Certificate of Completion, subject to any mortgage requirements, upon any damage or destruction of the Project, or any portion thereof, by fire or other casualty, Borrower shall within one hundred twenty (120) days after such damage or destruction, commence the process required to repair, reconstruct and restore the damaged or destroyed Project, or portion thereof, to substantially the same condition or utility value as existed prior to the event causing such damage or destruction and shall diligently pursue such repair, reconstruction and restoration. Borrower acknowledges that failure to repair, reconstruct and restore the damaged or destroyed Project, or portion thereof, to substantially the same condition or utility value as existed prior to the event causing such damage or destruction after the Certificate of Completion is issued may impact the tax increment generated from the Project, and, in the event the tax increment generated is insufficient to make the Note Payments then due as required pursuant to this Agreement, Borrower is required to make any Short-Fall Payments.

2.08. Assessment Agreement. The Assessment Agreement shall be executed by Borrower and the City as of the date hereof, and Borrower shall cause the Assessment Agreement and an executed Assessor’s Certificate attached as Exhibit C thereto to be recorded on the title to the Development Property.

ARTICLE 3
Construction of Project

3.01. **Construction Plans.** Prior to commencing construction of the Project, Borrower shall make available to the City for review Construction Plans for the Project. The Construction Plans shall provide for construction of the Project in conformity with the Development Program, the TIF Plan, this Agreement, and all applicable state and local laws and regulations. The City shall approve the Construction Plans in writing if, in the reasonable discretion of the City, the Construction Plans: (a) conform to the Development Program, the TIF Plan, this Agreement, and to any subsequent amendments thereto approved by the City; (b) conform to all applicable federal, state and local laws, ordinances, rules and regulations; (c) are adequate to provide for construction of the Project; and (d) no Event of Default has occurred.

No approval by the City shall relieve Borrower of the obligation to comply with the terms of this Agreement, applicable federal, state and local laws, ordinances, rules and regulations, or to properly construct the Project. No approval by the City shall constitute a waiver of an Event of Default. Any disapproval of the Construction Plans shall set forth the reasons therefore and shall be made within thirty (30) days after the date of their receipt by the City. If the City rejects the Construction Plans, in whole or in part, Borrower shall submit new or corrected Construction Plans within thirty (30) days after written notification to Borrower of the rejection. The provisions of this Section relating to approval, rejection and resubmission of corrected Construction Plans shall continue to apply until the Construction Plans have been approved by the City. Issuance of a building permit by the City for the Project shall constitute approval by the City of the Construction Plans and their conformance to the Development Program and TIF Plan.

3.02. **Undertaking of the Project.**

(a) Subject to Unavoidable Delay, Borrower shall commence the Project by August 31, 2023, and cause the Project to be substantially completed in accordance with the Section 3.03(a) and other terms of this Agreement by December 31, 2024.

(b) All work with respect to the Project shall be in substantial conformity with the Construction Plans approved by the City, subject to change orders approved by Borrower.

(c) Borrower shall not interfere with, or construct any improvements over, any public street or utility easement without the prior written approval of the City. All connections to public utility lines and facilities shall be subject to approval of the City (in accordance with City code) and any applicable private utility provider. Except for public improvements, which are undertaken by the City or other governmental body at its cost and not assessed against benefited properties, all other street and utility installations, relocations, alterations and restorations included in the Construction Plans for the Project shall be at Borrower's expense and without expense to the City. Borrower, at its own expense, shall replace any public facilities or utilities damaged during the Project by Borrower or its agents or by others acting on behalf of or under the direction or control of Borrower.

3.03. Certificate of Occupancy; Certificate of Completion.

(a) Upon Borrower's request following the City's issuance of a certificate of occupancy with respect to the Project, the City will furnish Borrower with a Certificate of Completion for the Project, in substantially the form attached hereto as Exhibit D, as conclusive evidence of satisfaction and termination of the agreements and covenants of this Agreement with respect to the obligations of Borrower to complete the Project. The furnishing by the City of such Certificate of Completion shall not constitute evidence of compliance with or satisfaction of any obligation of Borrower to any Mortgagee.

(b) If the City shall refuse or fail to provide a Certificate of Completion following Borrower's request, the City shall, within ten (10) days after Borrower's request, provide Borrower with a written statement specifying in what respects Borrower has failed to complete the Project in accordance with this Agreement, or is otherwise in default, and what measures or acts will be necessary, in the reasonable opinion of the City, for Borrower to obtain the Certificate of Completion.

3.04. Progress Reports. Until the Certificate of Completion is issued for the Project, Borrower shall make, in such detail as may reasonably be required by the City, and forward to the City, upon demand by the City (provided such demand shall not be made more frequently than quarterly in the absence of an Event of Default hereunder), a written report as to the actual progress of construction.

3.05. Access to Development Property. Borrower agrees to permit the City and any of its officers, employees or agents access to the Development Property at all reasonable times for the purpose of inspection of all work being performed in connection with the Project; provided, however, that the City shall not have an obligation to inspect such work.

3.06. Modification; Subordination. The City agrees to subordinate its rights under this Agreement, the Assessment Agreement, and the Covenants and Restrictions, to the holder of any Mortgage securing construction or permanent financing, in accordance with the terms of a subordination agreement in a form reasonably acceptable to the City and the holder of any such Mortgage; provided the City shall not be obligated to subordinate its rights under the Agreement, the Assessment Agreement, or the Covenants and Restrictions, if the terms of any such subordination would limit or negatively impact the City's collection of the tax increment generated from the Project to reimburse itself or the HRA for Project-related costs and obligations.

The City's ability to reimburse itself and the HRA for Project-related costs and obligations with tax increment generated from the Project, based on the minimum market value of the Land and the portion of the Project located thereon for ad valorem tax purposes (as described in the Assessment Agreement) shall remain absolute, and no other party shall have priority over the City for the tax increment generated from the Project.

The City agrees to subordinate its rights to this Agreement, the Assessment Agreement and Declaration of Restrictive Covenants to the construction loan provided by Greater Minnesota Housing Fund in the amount of \$10,000,000.00 and the construction to permanent financing

provided by Greater Minnesota Housing Fund in the amount of \$1,211,000.00 (the “GMHF Obligations”).

ARTICLE 4
Defense of Claims; Insurance

4.01. Defense of Claims.

(a) Borrower shall indemnify and hold harmless the City, its governing body members, officers, and agents including the independent contractors, consultants, and legal counsel, servants and employees thereof (hereinafter, for the purposes of this Section, collectively the “Indemnified Parties”) for any expenses (including reasonable attorneys’ fees incurred that are separate from those incurred in negotiating this Agreement and related documents), loss (excluding consequential, special or punitive damages except to the extent payable to third parties by any Indemnified Parties), damage to property, or death of any person occurring at or about, or resulting from any defect in, the Project; provided, however, Borrower shall not be required to indemnify any Indemnified Party for any claims or proceedings arising from any negligent, intentional misconduct, or unlawful acts or omissions of such Indemnified Party, or from expenses, damages or losses that are eligible to be reimbursed by insurance. Promptly after receipt by the City of notice of the commencement of any action in respect of which indemnity may be sought against Borrower under this Section 4.01, such person will notify Borrower in writing of the commencement thereof, and, subject to the provisions hereinafter stated, Borrower shall assume the defense of such action (including the employment of counsel, who shall be counsel reasonably satisfactory to the City) and the payment of expenses insofar as such action shall relate to any alleged liability in respect of which indemnity may be sought against Borrower. The City shall have the right to employ separate counsel in any such action and to participate in the defense thereof, but the fees and expenses of such counsel shall not be at the expense of Borrower unless the employment of such counsel has been specifically authorized by Borrower. Notwithstanding the foregoing, if the City has been advised by independent counsel that there may be one or more legal defenses available to it which are different from or in addition to those available to Borrower, Borrower shall not be entitled to assume the defense of such action on behalf of the City, but Borrower shall not be responsible for any fees, costs and expenses (including the employment of counsel) of the City in conducting their defense. Borrower shall not be liable to indemnify any person for any settlement of any such action effected without Borrower’s consent. The omission to notify Borrower as herein provided will not relieve Borrower from any liability which they may have to any Indemnified Party pursuant hereto, otherwise than under this Section.

(b) Borrower agrees to protect and defend the Indemnified Parties, and further agrees to hold the aforesaid harmless, from any claim, demand, suit, action or other proceeding whatsoever by any person or entity arising or purportedly arising from the actions or inactions of Borrower (or other persons acting on its behalf or under their direction or control) under this Agreement, or the transactions contemplated hereby or the acquisition, construction, installation, ownership, and operation of the Project; provided that this indemnification shall not apply to the warranties made or obligations undertaken

by the City in this Agreement or to any actions undertaken by the City which are not contemplated by this Agreement but shall, in any event, apply to any pecuniary loss (excluding consequential, special or punitive damages except to the extent payable to third parties by any of the Indemnified Parties) or penalty (including interest thereon from the date the loss is incurred or penalty is paid by the City at a rate equal to the prime rate) as a result of the Project, as constructed and operated by Borrower (or a related entity to Borrower), causing the TIF District to cease to qualify as a "housing district" under the TIF Act or to violate limitations as to the use of the revenues therefrom as set forth in the TIF Act.

(c) All covenants, stipulations, promises, agreements and obligations of the City contained herein shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the City and not of any governing body member, officer, agent, servant or employee of the City, as the case may be.

4.02. Insurance.

(a) Until the issuance of the Certificate of Completion, subject to the terms of any Mortgage relating to the Development Property, Borrower shall keep and maintain the Development Property and Project at all times insured against such risks and in such amounts, with such deductible provisions, as are customary in connection with facilities of the type and size comparable to the Project, and Borrower shall carry and maintain, or cause to be carried and maintained, and pay or cause to be paid timely the premiums for direct damage insurance covering all risks of loss, including, but not limited to, the following:

1. fire
2. extended coverage perils
3. vandalism and malicious mischief
4. boiler explosion (but only if steam boilers are present)
5. collapse

on a replacement cost basis in an amount equivalent to the full insurable value thereof. ("Full insurable value" shall include the actual replacement cost of the Project, exclusive of foundations and footings, without deduction for architectural, engineering, legal or administrative fees or for depreciation.) Insurance in effect with respect to any portion of the Project to be constructed, rehabilitated, or renovated as a part of the Project prior to the issuance by the City of a Certificate of Completion under Section 3.03 hereof with respect thereto shall be maintained on an "all-risk" builder's risk basis during the course of construction. The policies required by this Section 4.02 shall be subject to a no coinsurance clause or contain an agreed amount clause, and may contain a deductibility provision not exceeding \$25,000.

(b) Subject to the terms of any Mortgage relating to the Development Property, policies of insurance required by this Section 4.02 shall insure and be payable to Borrower, and shall provide for release of insurance proceeds to Borrower for restoration of loss. The City shall be furnished certificates showing the existence of such insurance. In case of loss,

Borrower is hereby authorized to adjust the loss and execute proof thereof in the name of all parties in interest. On an annual basis and from time to time at the City's request, Borrower shall file with the City, as applicable, a certificate of insurance for each of the policies required under this Section.

ARTICLE 5 Public Assistance

5.01. Development Costs. Borrower has agreed to and shall be responsible to pay all of its respective costs of the Project, as herein provided. However, the City, in order to encourage Three Rivers and Borrower to proceed with the construction of the Project, and to assist in paying the costs thereof, is willing to provide the City Contribution to Three Rivers and the Public Assistance to Borrower for Qualified Costs (as permitted by the TIF Act and in accordance with the TIF Plan) that will be incurred by Borrower to construct the Project.

5.02. City Contribution and Public Assistance for Qualified Costs.

Upon execution of this Agreement, the City agrees to provide Three Rivers with the City Contribution and shall cause the applicable parties to provide Three Rivers with the HRA Contribution and Grants, and the City agrees to provide Borrower with the Public Assistance for Qualified Costs incurred by Borrower. The Public Assistance shall be in the form of a loan, which loan shall be evidenced by the Note. Borrower shall be required to pay the difference between the available tax increment actually received by the City from the TIF District for any tax year less the required Note Payment then due (a "Short-Fall Payment"), as shown in Exhibit A to Note. (See "Exhibit A to Note – Note Payment Schedule" that is included in Exhibit E herein)

The City Contribution shall be reimbursable with any Available Tax Increment remaining after each Note Payment has been satisfied.

After Borrower has executed and recorded on the title to the Development Property both the (i) Declaration of Restrictive Covenants and (ii) Assessment Agreement, the City shall provide the Public Assistance to Borrower and the Borrower shall issue the Note, subject to the following terms and conditions:

(a) The total principal amount of the Note for the Project shall be six hundred fifteen thousand dollars (\$615,000).

(b) The unpaid principal of the Note shall bear simple non-compounding interest from the date of issuance of the Note, at one percent (1.00%) per annum. Interest shall be computed on the basis of a 360 day year consisting of twelve (12) 30-day months.

(c) Principal and interest payments are due semi-annually on each August 1 and February 1 (the "Note Payment"). *See "column (4) of Exhibit A to Note – Note Payment Schedule" that is included in Exhibit E herein.*

(d) THE BORROWER SHALL BE REQUIRED TO MAKE ANY SHORT-FALL PAYMENTS ON AN ANNUAL BASIS.

(e) The City will retain five percent (5%) of the tax increment generated for administrative costs and apply the retained tax increment first to pay any administrative expenses relating to the Development Property to the extent permitted by the tax increment Act and to the extent that such expenses have not been paid or reimbursed to the City by the Borrower. The remaining ninety-five percent (95%) shall be retained by the City to first reimburse itself for the Public Assistance. Available Tax Increment shall be used as follows:

FIRST: to offset the Note Payment then due.

If any Available Tax Increment remains then...

SECOND: to reimburse the City Contribution.

If any Available Tax Increment remains then...

THIRD: to reimburse the HRA Contribution for the Project.

The City is entitled to any Available Tax Increment remaining after total reimbursement of the obligations noted above.

(f) The City shall not be obligated to forgive or offset any outstanding Note Payments subsequent to the termination of this Agreement as provided in Section 8.06 hereof, and any Note Payments remaining outstanding as of such date (other than by reason of failure of the City to comply with the terms of this Agreement) shall be an obligation of the Borrower to pay.

(g) The City shall not be obligated to reimburse Borrower for any past Short-Fall Payments, in the event the Available Tax Increment in future years is greater than the amount necessary to satisfy all obligations payable from such Available Tax Increment. Additionally, in the event the Available Tax Increment is greater than the required Note Payment then due, the City shall not be obligated to apply such additional tax increment to offset any required Note Payments in any future years; the City may apply such additional tax increment to reimburse the City for the City Contribution and, if the City Contribution is completely reimbursed, reimburse the HRA for the HRA Contribution.

(h) With the written consent of the City, Three Rivers and/or Borrower may assign their respective rights under this Agreement to secure financing incurred by Borrower to pay costs of the Project, including but not limited to any Mortgagee, or, after Certificate of Completion has been issued by the City, to third parties; provided, however that such assignee shall agree that the City's ability to reimburse itself and the HRA for Project-related costs and obligations with tax increment generated from the Project shall remain absolute, and no other party, including any assignee, shall have priority over the City for the tax increment generated from the Project. Additionally, unless such assignment requires Three Rivers and/or Borrower to retain the obligation under this Agreement to make any Short-Fall Payments, any assignment shall require the assignee to assume the obligation to make Short-Fall Payments.

5.03. Evidence of Qualified Costs.

Prior to delivery by the City of the Certificate of Completion, Borrower will deliver to the City an instrument executed by Borrower (i) specifying the amount and nature of the Qualified Costs of the Project paid and (ii) certifying that such costs have been paid to third parties unrelated to Borrower, or if any costs have been paid to third parties related to Borrower, that such costs do not exceed the reasonable and customary costs of services, labor or materials of comparable quality, dependability, availability and other pertinent criteria and that such costs have not previously been contained in an instrument furnished to the City pursuant to this Section 5.03. Together with such instrument, Borrower shall deliver to the City evidence reasonably satisfactory to the City of the payment by Borrower of such costs.

If Borrower's Qualified Costs do not equal or exceed the principal amount of the Public Assistance herein provided, Borrower is required to pay or shall cause Borrower to pay to the City, without offset from any Available Tax Increment, the difference between the maximum principal amount of Public Assistance (\$615,000) and the total amount of Qualified Costs actually incurred.

By way of example: if Borrower only incurs \$515,000 in Qualified costs, Borrower (or Borrower) would be required to pay to the City \$100,000 (plus interest), without offset from any Available Tax Increment.

Maximum Principal of Public Assistance	\$615,000
(Less) Actual Qualified Costs incurred by Borrower	-\$515,000
Principal payable by Borrower without TIF Offset	\$100,000

5.04. Satisfaction of Conditions Precedent. Notwithstanding anything to the contrary contained herein, the City's obligation to provide Three Rivers the City Contribution and Borrower the Public Assistance for Qualified Costs shall be subject to satisfaction, or waiver in writing by the City, of all of the following conditions precedent:

- (a) the conditions precedent in this Section 5.04 hereof have been satisfied;
- (b) Neither Three Rivers nor Borrower shall be in default under the terms of this Agreement beyond any applicable cure period;
- (c) Borrower shall have executed and recorded on the title to the Development Property, the Declaration of Restrictive Covenants, required by Section 2.06 hereof, as set forth in Exhibit B;
- (d) Borrower shall have executed and recorded on the title to the Development Property the Assessment Agreement described in Section 2.08 hereof, as set forth in Exhibit F; and
- (e) Three Rivers and Borrower shall have closed on or received commitments in financing or shall provide equity sufficient to pay all costs to be incurred in connection with the Project.

In the event that all of the above conditions required to be satisfied as provided in this Section 5.04 have not been satisfied by December 31, 2025, either the City, Three Rivers, or Borrower may terminate this Agreement if such conditions are not satisfied within thirty (30) days following notice to the non-terminating parties by the terminating party. Upon such termination, the provisions of this Agreement relating to the Project shall terminate and, except as provided in Article 8, neither Three Rivers, Borrower, nor the City shall have any further liability or obligation to the other hereunder.

5.05. Notice of Default. Whenever the City shall deliver any notice or demand to Three Rivers or Borrower with respect to any breach or default by Three Rivers or Borrower in their respective obligations or covenants under this Agreement, the City shall at the same time forward a copy of such notice or demand to any non-defaulting party and each investor (at the address listed in Section 9.01 hereof), lender, or holder of any permitted mortgage, lien or other similar encumbrance at the last address of such holder shown in the records of the City. The non-defaulting party and each such investor, lender, or holder shall have the right, at its option, to cure or remedy such breach or default and to add the cost thereof to the mortgage debt and the lien of its mortgage; provided that if the breach or default is with respect to construction of the Project, nothing contained in this Agreement shall be deemed to permit or authorize such holder, either before or after foreclosure or action in lieu thereof, to undertake or continue the construction or completion of the Project without first having expressly assumed the obligation to the City, by written agreement satisfactory to the City, to complete the construction the Project in accordance with the plans and specifications therefor and this Agreement. Any such holder who shall properly complete the construction of the Project shall be entitled, upon written request made to the City, to a certification by the City to such effect in the manner provided in Section 3.03.

5.06. Real Property Taxes. Prior to the Termination Date, Borrower shall pay all real property taxes payable with respect to all and any parts of the Development Property acquired and owned by it until Borrower's obligations have been assumed by any other person pursuant to the provisions of this Agreement.

Borrower's agrees that prior to the Termination Date:

(1) It will not seek administrative review or judicial review of the applicability of any tax statute relating to the ad valorem property taxation of real property contained on the Development Property determined by any tax official to be applicable to the Project or Borrower or raise the inapplicability of any such tax statute as a defense in any proceedings with respect to the Development Property, including delinquent tax proceedings; provided, however, "tax statute" does not include any local ordinance or resolution levying a tax;

(2) It will not seek administrative review or judicial review of the constitutionality of any tax statute relating to the taxation of real property contained on the Development Property determined by any tax official to be applicable to the Project or Borrower or raise the unconstitutionality of any such tax statute as a defense in any proceedings, including delinquent tax proceedings with respect to the Development Property; provided, however, "tax statute" does not include any local ordinance or resolution levying a tax;

(3) It will not seek any tax deferral or abatement, either presently or prospectively authorized under M.S., Section 469.1813, or any other State or federal law, of the ad valorem property taxation of the Development Property between the date of execution of this Agreement and the Termination Date.

5.07. No Action to Reduce Taxes. Except as otherwise permitted by the events described in the Section 2.02 of the Assessment Agreement, Borrower may not seek through petition or other means to have the market value for the Development Property reduced.

5.08. Legal and Administrative Expenses. All Legal and Administrative Expenses expected to be incurred in connection with the negotiating, approval and documentation of this Agreement have been included as part of the City's Contribution.

5.09. Grants. In addition to the Public Assistance and City Contribution described in this Article, pursuant to this Agreement, the City hereby makes Grants in the following amounts to Three Rivers for financing the Project:

- (a) \$600,000 (received from the City from the Hormel Foundation);
- (b) \$540,000 from the City's Building Fund; and
- (c) \$75,000 for storm sewer realignment,

which amounts are to be disbursed by the City to Three Rivers concurrently with the City Contribution to Three Rivers and the Public Assistance to Borrower, after Borrower has executed and recorded on the title to the Development Property both the (i) Declaration of Restrictive Covenants and (ii) Assessment Agreement.

If so requested by the City, Three Rivers will provide the City with a written report detailing the uses of the Grant funds. This report will supply sufficient information for the City to determine that the grants are being used for the purposes intended and for the City to fulfill any of its own public reporting responsibilities.

ARTICLE 6

Prohibitions Against Assignment and Transfer

6.01. Transfer of Property and Assignment. Other than leases made in the ordinary course of business, Borrower has not made and will not make, or suffer to be made, any total or partial sale, assignment, conveyance, lease, or other transfer, with respect to this Agreement, the Project or Property or any part thereof or any interest therein (other than any Mortgage or Mortgages securing financing for the Project in accordance with Section 5.02(h) herein), or any contract or agreement to do any of the same, without the prior written approval of the City, which shall not be unreasonably withheld or delayed. The City shall be entitled to require as conditions to any such approval that: (i) the proposed transferee have the qualifications and financial responsibility, as reasonably determined by the City, necessary and adequate to fulfill the obligations undertaken in this Agreement by Borrower; (ii) the proposed transferee, by recordable instrument satisfactory to the City shall, for itself and its successors and assigns, assume all of the obligations of Borrower under this Agreement. No transfer of, or change with respect to,

ownership in the Project or Property or any part thereof, or any interest therein, however consummated or occurring and whether voluntary or involuntary, shall operate, legally or practically, to deprive or limit the City of or with respect to any rights or remedies or controls provided in or resulting from this Agreement with respect to the Project or Property and the completion of the Project that the City would have had, had there been no such transfer or change. There shall be submitted to the City for review all legal documents relating to the transfer.

Notwithstanding the foregoing, this Section 6.01 shall not apply to any transfer or assignment: (i) to any entity controlling, controlled by or under common control with Three Rivers or Borrower; (ii) to any entity in which the majority equity interest is owned by the parties that have a majority equity interest in Three Rivers or Borrower; or (iii) that after giving effect to such transfer or assignment does not result in a change in control of Three Rivers or Borrower.

Provided that no Event of Default exists hereunder, any such transfer or assignment shall release Three Rivers or Borrower from their respective obligations hereunder upon execution and delivery to the City by the transferee or assignee of an instrument in form and substance satisfactory to the City by which the transferee or assignee assumes the obligations of Three Rivers or Borrower hereunder.

Except as set forth in the immediately preceding paragraph, in the absence of specific written agreement by the City to the contrary, no approval of any assignment or transfer by the City thereof with respect to any transfer or assignment shall be deemed to relieve Three Rivers or Borrower, or any other party bound in any way by this Agreement or otherwise with respect to the completion of the Project, from any of their obligations with respect thereto.

A transfer by virtue of Greater Minnesota Housing Fund enforcing either of its mortgages securing the GMHF Obligations will not be a default under the this Agreement.

6.02. Termination of Limitations on Transfer. The provisions of Section 6.01 shall terminate at such time as the Certificate of Completion has been issued by the City under Section 3.03 of this Agreement with respect to the Project.

ARTICLE 7 Event of Default; Fees

7.01. Events of Default. Subject to Unavoidable Delay, the following shall be “Events of Default” under this Agreement and the term “Event of Default” shall mean, whenever it is used in this Agreement (unless the context otherwise provides), any one or more of the following events which occurs and continues for more than thirty (30) days after written notice by the defaulting party of such default (and the term “default” shall mean any event which would with the passage of time or giving of notice, or both, be an “Event of Default” hereunder):

- (a) Failure of Borrower to construct or reconstruct the Project as required hereunder.
- (b) Failure of Borrower to furnish the Construction Plans as required hereunder.

(c) Failure of Borrower to pay to the City any amounts required to be paid by the respective parties hereunder.

(d) Failure of Three Rivers or Borrower or the City to observe and perform any other material covenant, condition, obligation or agreement on its part to be observed or performed hereunder.

(e) Failure of Borrower to pay any taxes on the Development Property prior to the same becoming delinquent.

(f) Filing of any voluntary petition in bankruptcy or similar proceedings by Three Rivers or Borrower; general assignment for the benefit of creditors made by Three Rivers or Borrower or admission in writing by Three Rivers or Borrower of inability to pay its debts generally as they become due; or filing of any involuntary petition in bankruptcy or similar proceedings against Three Rivers or Borrower which are not dismissed or stayed within sixty (60) days.

7.02. Remedies on Default. In the event the City desires to exercise any of its rights or remedies as provided herein or otherwise available to the City at law or in equity, the City shall first provide written notice to both the defaulting and non-defaulting party setting forth with specific particularity the Event of Default and the action required to cure or remedy the same (the "Default Notice"). Three Rivers or Borrower or any transferee or assignee under Section 6.01 hereof, shall have thirty (30) days from receipt of a Default Notice to cure or remedy the Event of Default specified in the Default Notice, or such longer period as may be reasonably required to complete the cure as soon as reasonably possible under the circumstances. If, following Three Rivers' or Borrower's receipt of a Default Notice, Three Rivers or Borrower does not cure or remedy the Event of Default therein specified within the time provided above, the City may take any one or more of the following actions at any time prior to Three Rivers' or Borrower's curing or remedying the Event of Default:

(a) Suspend its performance under this Agreement until it receives assurances from Three Rivers or Borrower, deemed reasonably adequate by the City, that Three Rivers or Borrower will cure its default and continue its performance under this Agreement.

(b) Require Borrower to make Note Payments in full without offset of tax increment.

(c) In the case of a material default that is not cured within a reasonable period of time, terminate all rights of Three Rivers or Borrower under this Agreement.

(d) Withhold the Certificate of Completion.

(e) Take whatever action at law or in equity may appear necessary or desirable to the City to enforce performance and observance of any obligation, agreement, or covenant of Three Rivers or Borrower under this Agreement.

In the event the City should fail to observe or perform any covenant, agreement or obligation of the City on their part to be observed and performed under this Agreement with respect

to either Three Rivers or Borrower, Three Rivers or Borrower may take any one or more of the following actions:

- (a) Suspend its performance under this Agreement until it receives assurances from the City deemed adequate by Three Rivers or Borrower, that the City will cure its default and continue its performance under this Agreement.
- (b) In the case of a material default that is not cured within a reasonable period of time, terminate all rights of the City under this Agreement.
- (c) Take whatever action at law or in equity may appear necessary or desirable to Three Rivers or Borrower to enforce performance and observance of any obligation, agreement, or covenant of the City under this Agreement.

7.03. No Remedy Exclusive. No remedy herein conferred upon or reserved to the City, or to Three Rivers or Borrower is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the City, Three Rivers, or Borrower to exercise any remedy reserved to them, it shall not be necessary to give notice, other than such notice as may be required under this Agreement.

7.04. Waivers. All waivers by any party to this Agreement shall be in writing. If any provision of this Agreement is breached by any party and thereafter waived by another party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other concurrent, previous or subsequent breach hereunder.

7.05. Agreement to Pay Attorneys' Fees. Whenever any Event of Default occurs and the non-defaulting party shall employ attorneys or incur other expenses for the collection of payments due or to become due or for the enforcement or performance or observance of any obligation or agreement on the part of the defaulting party contained, the defaulting party agrees that they shall, on demand therefor, pay to the non-defaulting party the reasonable fees of such attorneys and such other expenses so incurred by the non-defaulting party.

ARTICLE 8

General Provisions

8.01. Conflicts of Interest; City Representatives Not Individually Liable. No member, official, employee, or consultant or employee of a consultant of the City shall have any personal interest, direct or indirect, in this Agreement, nor shall any such member, official, consultant or the consultant's employees or employee participate in any decision relating to this Agreement which affects his or her personal interests or the interests of any corporation, partnership, or association in which he or she is directly or indirectly interested. No member, official, consultant or consultant's employee, or employee of the City shall be personally liable to Three Rivers or Borrower, or any successor in interest, in the event of any default or breach by the City or for any amount which may become due to Three Rivers or Borrower or successors or on any obligations

under the terms of this Agreement. No member, official, consultant or consultant's employee, or employee of Three Rivers or Borrower shall be personally liable to the City, or any successor in interest, in the event of any default or breach by Three Rivers or Borrower or for any amount which may become due to the City on any obligations under the terms of this Agreement.

8.02. Equal Employment Opportunity. Borrower, for itself and its successors and assigns, agrees that during the construction of the Project it will comply with any applicable affirmative action and nondiscrimination laws or regulations.

8.03. Restrictions on Use. Borrower agrees for itself, and its successors and assigns, and every successor in interest to the Development Property, or any part thereof, that Borrower, and such successors and assigns, shall devote the Development Property to, and only to and in accordance with, the uses specified in the Development Program, this Agreement and other agreements entered into between Borrower and the City, and shall not discriminate upon the basis of race, color, creed, religion, national origin, sex, marital status, disability, status with regard to public assistance, sexual orientation, and familial status in the sale, lease, or rental or in the use or occupancy of the Development Property or any improvements erected or to be erected thereon, or any part thereof.

8.04. Titles of Articles and Sections. Any titles of the several parts, Articles, and Sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.

8.05. Business Subsidies Act. The Public Assistance and Grants being provided by the City to Three Rivers and Borrower under this Agreement constitute assistance for housing and, therefore, are not business subsidies under the Business Subsidies Act, and subsidy agreements as described in Minnesota Statutes, Section 116J.994, Subd. 3 and Subd. 4 are not being entered by the City, Three Rivers, or Borrower.

8.06. Term of Agreement. This Agreement shall terminate upon the earlier to occur of (i) December 31, 2051, (ii) the date the Note is paid in full, (iii) the date on which the TIF District expires or is otherwise terminated, or (iv) the date this Agreement is terminated or rescinded in accordance with its terms; it being expressly agreed and understood that the provisions of this Agreement are intended to survive the expiration and satisfaction of any security instruments placed of record contemporaneously with this Agreement, if such expiration and satisfaction occurs prior to the expiration of the term of this Agreement, as stated in this Section 8.06.

8.07. Provisions Surviving Termination. Sections 4.01 and 7.05 hereof shall survive any termination, rescission, or expiration of this Agreement with respect to or arising out of any event, occurrence, or circumstance existing prior to the date thereof. Additionally, should this Agreement expire, be terminated, or rescinded prior to the date the Note is paid in full, due to the actions of Borrower, Borrower shall be required to pay the remaining outstanding amounts due under the Note.

ARTICLE 9
Administrative Provisions

9.01. **Notices and Demands.** Except as otherwise expressly provided in this Agreement, a notice, demand, or other communication under this Agreement by any party to another party shall be sufficiently given or delivered if it is dispatched by registered or certified mail, postage prepaid, return receipt requested, or delivered personally as follows:

(a) in the case of Three Rivers, addressed to or delivered personally to:

Three Rivers Community Action, Inc.
1414 Northstar Drive
Zumbrota, MN 55992
Attention: Executive Director

With a copy to

MHEG Fund 57, LP
c/o Midwest Housing Equity Group, Inc.
515 N 162nd Avenue, Suite 202
Omaha, Nebraska 68118

(b) in the case of Borrower, addressed to or delivered personally to:

1st & 3rd Apartments LP
c/o Three Rivers Community Action, Inc.
1414 Northstar Drive

Zumbrota, MN 55992
Attention: Executive Director

With a copy to

MHEG Fund 57, LP
c/o Midwest Housing Equity Group, Inc.
515 N 162nd Avenue, Suite 202
Omaha, Nebraska 68118

(c) in the case of the City, addressed or delivered personally to:

City of Austin
500 4th Avenue NE
Austin, MN 55912
Attention: City Recorder

(d) in the case of the Greater Minnesota Housing Fund, addressed or delivered personally to:

Greater Minnesota Housing Fund
332 Minnesota Street, Suite 1650W
Saint Paul, MN 55101
Attention: President

The City, Three Rivers, and Borrower, by notice given hereunder, may designate different addresses to which subsequent notices, certificates or other communications should be sent.

9.02. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall constitute one and the same instrument.

9.03. Binding Effect. This Agreement shall inure to the benefit of and shall be binding upon the City, Three Rivers, and Borrower and their respective successors and assigns.

9.04. Severability. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

9.05. Amendments, Changes and Modifications. This Agreement may be amended or any of its terms modified only by written amendment authorized and executed by the City, Three Rivers, and Borrower. The Mayor and City Recorder are authorized to execute and deliver amendments and any documents related to this Agreement on behalf of the City.

9.06. Further Assurances and Corrective Instruments. The City, Three Rivers, and Borrower agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the Development Property or the Project or for carrying out the expressed intention of this Agreement.

9.07. Captions. The captions or headings in this Agreement are for convenience only and in no way define, limit or describe the scope of intent of any provisions or Sections of this Agreement.

9.08. Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State without giving effect to the conflicts-of-laws principles thereof.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first above written.

CITY OF AUSTIN, MINNESOTA

By: _____
(Signature)

_____,
(Print Name)

Its: _____
(Mayor)

By: _____
(Signature)

_____,
(Print Name)

Its: _____
(City Recorder)

STATE OF MINNESOTA)
)
) ss.
COUNTY OF MOWER)

The foregoing instrument was acknowledged before me on this _____ day of _____, 2023, by _____, the Mayor, and _____, the City Recorder, of the City of Austin, a Minnesota municipal corporation, on behalf of the corporation.

IN WITNESS WHEREOF, I have set my hand and my official seal this _____ day of _____, 2023.

Notary Public

THREE RIVERS COMMUNITY ACTION,
INC., a Minnesota nonprofit corporation

By: _____
(*Signature*)

_____,
(*Print Name*)

Its: _____
(*Title*)

STATE OF _____)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me on this _____ day of _____, 2023, by _____, the _____ Three Rivers Community Action, Inc., a Minnesota nonprofit corporation, on behalf of the corporation.

IN WITNESS WHEREOF, I have set my hand and my official seal this _____ day of _____, 2023.

Notary Public

1st & 3rd Apartments LP, a Minnesota limited partnership

By: 1st & 3rd Apartments GP LLC, a
Minnesota nonprofit limited liability
company

Its: General Partner

By: Three Rivers Community Action,
Inc.

Its: Sole Member

By _____

Name: Jennifer Larson

Title: Executive Director

STATE OF _____)
)
COUNTY OF _____)

The foregoing instrument was acknowledged before me on this ____ day of _____, 2023, by Jennifer Larson, the Executive Director of Three Rivers Community Action, Inc., a Minnesota non-profit corporation, the sole member of 1st & 3rd Apartments GP LLC, a Minnesota limited liability company, the general partner of 1st & 3rd Apartments LP, a Minnesota limited partnership, on behalf of the limited partnership.

IN WITNESS WHEREOF, I have set my hand and my official seal this ____ day of
, 2023.

Notary Public

EXHIBIT A
DEVELOPMENT PROPERTY

The real property and interests in such property located in the County of Mower, State of Minnesota and described as follows:

Lot 1, Block 1, 1st & 3rd Apartments, Mower County, Minnesota.

EXHIBIT B

COVENANTS AND RESTRICTIONS

During the term of that certain Financing Development Agreement by and among the City of Austin (the “City”), Three Rivers Community Action, Inc., and 1st & 3rd Apartments LP, together with its successors and permitted assigns (“Owner”), dated July 3, 2023, and recorded in the Office of the Mower County Registrar as Document No. [] on [], 20[], the Property shall be subject to the following covenants and restrictions:

1. The Property shall not be exempt from real estate taxes notwithstanding the ownership or use of the land.

2. The Property shall not be sold, transferred, conveyed or leased to any of the following parties:

- (a) An institution of purely public charity;
- (b) A church or ancillary tax-exempt housing;
- (c) A public hospital;
- (d) A public school district;
- (e) An organization exempt from federal income taxes pursuant to Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, if as a result of such sale, transfer, conveyance or lease the Property would become exempt from real estate taxes; or
- (f) A Minnesota cooperative association organized under Minnesota Statutes, Section 308.05 and 308.18 for the purpose of complying with the provisions of Minnesota Statutes, Section 273.133, subdivision 3, or any other party that would cause the Property to be valued and assessed for real estate tax purposes at a lower percentage of its market value than the Property is then being valued and assessed for real estate tax purposes or would result in the Property becoming exempt from real estate taxes.

3. The Property shall not be used for any of the following purposes:

- (a) The operation of a public charity;
- (b) A church or house of worship;
- (c) The operation of a public hospital;
- (d) The operation of a public schoolhouse, academy, college, university or seminary of learning; or

- (e) Any other use which would cause the Property to be valued and assessed for real estate tax purposes at a lower percentage of its market value than the Property is then being valued and assessed for real estate tax purposes or would result in the Property becoming exempt from real estate taxes.

4. The Property shall be devoted to uses consistent with a “housing district” under Minnesota Statutes, Sections 469.174 through 469.1794.

5. The Property owner shall:

- (a) not discriminate upon the basis of race, color, creed, religion, national origin, sex, marital status, disability, status with regard to public assistance, sexual orientation, and familial status in the sale, lease, or rental or in the use or occupancy of the Development Property, the Project or any part thereof;
- (b) develop the Development Property in an orderly manner consistent with the City’s zoning ordinances and comprehensive plan.

6. The covenants and restrictions herein contained shall run with the title to the Property and shall be binding upon all present and future owners and occupants of the Property; provided, however, that the covenants and restrictions herein contained shall inure only to the benefit of the City and may be released or waived in whole or in part at any time, and from time to time, by the sole act of the City, and variances may be granted to the covenants and restrictions herein contained by the sole act of the City. These covenants and restrictions shall be enforceable only by the City, and only the City shall have the right to sue for and obtain an injunction, prohibitive or mandatory, to prevent the breach of the covenants and restrictions herein contained, or to enforce the performance or observance thereof.

7. Notwithstanding Section 6 hereof, the covenants and restrictions herein contained shall remain in effect until the earlier of (i) December 31, 2051, (ii) the date the City terminates the TIF District or the TIF District expires, or (iii) as otherwise set forth in the Financing Development Agreement.

EXHIBIT C

PROJECT DESCRIPTION; QUALIFIED COSTS

Project Description

The proposed Project includes redevelopment of the existing properties to include construction of a new multi-story building with underground parking and green space. The building will include a 40-unit apartment building with a mix of 1, 2, 3 and 4-bedroom units with community room and other supporting uses. The project will provide workforce housing to low and moderate-income individuals and families at or below 60% area median income (AMI). Approximately 50% of the units will have rents affordable to households with incomes at or below 50% AMI, exceeding the threshold for qualifying for inclusion within a housing TIF District. (Minimum qualifications include at least 20% of the units occupied by persons/families with incomes no greater than 50% AMI or 40% of the units occupied by persons/families with incomes no greater than 60% AMI).

Borrower's Qualified Costs

The estimated Qualified Costs of Borrower are listed below. Such Qualified Costs are eligible for reimbursement from tax increments of the TIF District. The categories below identify the categories of expenses that the parties agree may be reimbursed through tax increment financing. The amounts assigned to each category are estimates only and not independent limitations of Borrower's Qualified Costs.

Qualified Cost Description	Estimated Amount
Site work	\$ 700,000
Residential new construction	13,000,000
Professional fees	630,000
Other	500,000
TOTAL	\$14,830,000

EXHIBIT D

FORM OF CERTIFICATE OF COMPLETION

WHEREAS, 1st & 3rd Apartments LP, a Minnesota limited partnership (the "Owner"), is the owner of the property in the County of Mower and State of Minnesota described on Exhibit A hereto and made a part hereof (the "Development Property"); and

WHEREAS, the Development Property is subject to the provisions of a certain Financing Development Agreement (the "Agreement") in the Municipal Development District No. 1 and Tax Increment Financing (Housing) District No. 17, dated as of July 3, 2023, by and among Three Rivers Community Action, Inc., the Owner, and the City of Austin, Minnesota; and

WHEREAS, the Owner has fully and duly performed all of the covenants and conditions of Owner under the Agreement with respect to the completion of the Project (as defined in the Agreement);

NOW, THEREFORE, it is hereby certified that all requirements of the Owner under the Agreement with respect to the completion of the Project have been completed and duly and fully performed, and this instrument is to be conclusive evidence of the satisfactory termination of the covenants and conditions of the Agreement as they relate to the completion of the Project. All other covenants and conditions of the Agreement shall remain in effect and are not terminated hereby.

Dated this ____ day of _____, 20__.

CITY OF AUSTIN, MINNESOTA

By _____
Mayor

And _____
City Recorder

Exhibit A to Certificate of Completion

Development Property

The real property and interests in such property located in the County of Mower, State of Minnesota and described as follows:

Lot 1, Block 1, 1st & 3rd Apartments, Mower County, Minnesota.

EXHIBIT E

FORM OF NOTE

No. R-_____

\$615,000

**UNITED STATES OF AMERICA
STATE OF MINNESOTA
CITY OF AUSTIN**

**NOTE
(1ST & 3RD HOUSING PROJECT)**

PRINCIPAL AMOUNT: SIX HUNDRED FIFTEEN THOUSAND DOLLARS

INTEREST RATE: 1.0%

This Note is issued pursuant to the provisions of that certain Financing Development Agreement, dated as of July 3, 2023, as the same may be amended from time to time (the “Tax Increment Financing Agreement”), by and among the City of Austin, Minnesota (the “City”) and 1st & 3rd Apartments LP, or its registered assigns (the “Borrower”).

Terms used herein but not otherwise defined, shall have the meaning attributed to them in the Tax Increment Financing Agreement.

The unpaid principal of the Note shall bear simple non-compounding interest from the date of issuance of the Note, at one percent (1.00%) per annum. Interest shall be computed on the basis of a 360 day year consisting of twelve (12) 30-day months.

COMMENCING AUGUST 1, 2026, THE BORROWER SHALL BE REQUIRED TO PAY THE DIFFERENCE BETWEEN THE AVAILABLE TAX INCREMENT ACTUALLY RECEIVED BY THE CITY FROM THE TIF DISTRICT FOR ANY TAX YEAR LESS THE REQUIRED NOTE PAYMENT THEN DUE AS SHOWN IN COLUMN (4) TO EXHIBIT A TO THIS NOTE (A “SHORT-FALL PAYMENT”).

The City makes no representation or covenant, express or implied, that the Available Tax Increments will be sufficient to negate any Short-Fall Payments, which are or may become due and payable hereunder.

The City shall not be obligated to reimburse Borrower for any past Short-Fall Payments, in the event the Available Tax Increment in future years is greater than the amount necessary to satisfy all obligations payable from such Available Tax Increment. Additionally, in the event the Available Tax Increment is greater than the required Note Payment, the City shall not be obligated to apply such additional tax increment to the Note but may apply such additional tax increment to reimbursement of the City Contribution and HRA Contribution pursuant to the Tax Increment Financing Agreement.

IN WITNESS WHEREOF, Borrower has caused this Note to be executed by the manual signatures of the [] of Borrower and has caused this Note to be dated as of [Closing Date], 20__.

1ST & 3RD APARTMENTS LP

By: _____

Its: _____

**Exhibit A to Note
Note Payment Schedule**

(See Attached)

Projected City Loan Repayment Report

**City of Austin, Minnesota
Tax Increment Financing (Housing) District No. 17
1st and 3rd Apartment Project
Revenue Projections based on 40 units and Taxable Value of \$3,947,400**

Note Date:	08/01/23				Cumulative Interest Due	Unpaid Accrued Interest	Semi-Annual Net Revenue	Loan Balance Outstanding
Date (1)	Principal (2)	Interest (3)	P & I (4)	(5)	(6)	(7)	(8)	
02/01/25	0.00	0.00	0.00	9,225.00	9,225.00	0.00	615,000.00	
08/01/25	0.00	0.00	0.00	12,300.00	12,300.00	0.00	615,000.00	
02/01/26	0.00	0.00	0.00	15,375.00	15,375.00	0.00	615,000.00	
08/01/26	0.00	14,490.00	14,490.00	18,450.00	3,960.00	14,490.00	615,000.00	
02/01/27	7,455.00	7,035.00	14,490.00	7,035.00	0.00	14,490.00	607,545.00	
08/01/27	11,452.27	3,037.73	14,490.00	3,037.73	0.00	14,490.00	596,092.73	
02/01/28	11,509.54	2,980.46	14,490.00	2,980.46	0.00	14,490.00	584,583.19	
08/01/28	11,567.08	2,922.92	14,490.00	2,922.92	0.00	14,490.00	573,016.11	
02/01/29	11,624.92	2,865.08	14,490.00	2,865.08	0.00	14,490.00	561,391.19	
08/01/29	11,683.04	2,806.96	14,490.00	2,806.96	0.00	14,490.00	549,708.15	
02/01/30	11,741.46	2,748.54	14,490.00	2,748.54	0.00	14,490.00	537,986.69	
08/01/30	11,800.17	2,689.83	14,490.00	2,689.83	0.00	14,490.00	526,166.52	
02/01/31	11,859.17	2,630.83	14,490.00	2,630.83	0.00	14,490.00	514,307.35	
08/01/31	11,918.46	2,571.54	14,490.00	2,571.54	0.00	14,490.00	502,388.89	
02/01/32	11,978.06	2,511.94	14,490.00	2,511.94	0.00	14,490.00	490,410.83	
08/01/32	12,037.95	2,452.05	14,490.00	2,452.05	0.00	14,490.00	478,372.88	
02/01/33	12,098.14	2,391.86	14,490.00	2,391.86	0.00	14,490.00	466,274.74	
08/01/33	12,158.63	2,331.37	14,490.00	2,331.37	0.00	14,490.00	454,116.11	
02/01/34	12,219.42	2,270.58	14,490.00	2,270.58	0.00	14,490.00	441,896.69	
08/01/34	12,280.52	2,209.48	14,490.00	2,209.48	0.00	14,490.00	429,616.17	
02/01/35	12,341.92	2,148.08	14,490.00	2,148.08	0.00	14,490.00	417,274.25	
08/01/35	12,403.63	2,086.37	14,490.00	2,086.37	0.00	14,490.00	404,870.62	
02/01/36	12,465.65	2,024.35	14,490.00	2,024.35	0.00	14,490.00	392,404.97	
08/01/36	12,527.98	1,962.02	14,490.00	1,962.02	0.00	14,490.00	379,876.99	
02/01/37	12,590.62	1,899.38	14,490.00	1,899.38	0.00	14,490.00	367,286.37	
08/01/37	12,653.57	1,836.43	14,490.00	1,836.43	0.00	14,490.00	354,632.80	
02/01/38	12,716.84	1,773.16	14,490.00	1,773.16	0.00	14,490.00	341,915.96	
08/01/38	12,780.42	1,709.58	14,490.00	1,709.58	0.00	14,490.00	329,135.54	
02/01/39	12,844.32	1,645.68	14,490.00	1,645.68	0.00	14,490.00	316,291.22	
08/01/39	12,908.54	1,581.46	14,490.00	1,581.46	0.00	14,490.00	303,382.68	
02/01/40	12,973.09	1,516.91	14,490.00	1,516.91	0.00	14,490.00	290,409.59	
08/01/40	13,037.95	1,452.05	14,490.00	1,452.05	0.00	14,490.00	277,371.64	
02/01/41	13,103.14	1,386.86	14,490.00	1,386.86	0.00	14,490.00	264,288.50	
08/01/41	13,168.66	1,321.34	14,490.00	1,321.34	0.00	14,490.00	251,099.84	
02/01/42	13,234.50	1,255.50	14,490.00	1,255.50	0.00	14,490.00	237,865.34	
08/01/42	13,300.67	1,189.33	14,490.00	1,189.33	0.00	14,490.00	224,584.67	
02/01/43	13,367.18	1,122.82	14,490.00	1,122.82	0.00	14,490.00	211,197.49	
08/01/43	13,434.01	1,055.99	14,490.00	1,055.99	0.00	14,490.00	197,783.48	
02/01/44	13,501.18	988.82	14,490.00	988.82	0.00	14,490.00	184,282.30	
08/01/44	13,568.69	921.31	14,490.00	921.31	0.00	14,490.00	170,693.61	
02/01/45	13,636.53	853.47	14,490.00	853.47	0.00	14,490.00	157,057.08	
08/01/45	13,704.71	785.29	14,490.00	785.29	0.00	14,490.00	143,352.37	
02/01/46	13,773.24	716.76	14,490.00	716.76	0.00	14,490.00	129,579.13	
08/01/46	13,842.10	647.90	14,490.00	647.90	0.00	14,490.00	115,737.03	
02/01/47	13,911.31	578.69	14,490.00	578.69	0.00	14,490.00	101,825.72	
08/01/47	13,980.87	509.13	14,490.00	509.13	0.00	14,490.00	87,844.85	
02/01/48	14,050.78	439.22	14,490.00	439.22	0.00	14,490.00	73,794.07	
08/01/48	14,121.03	368.97	14,490.00	368.97	0.00	14,490.00	59,673.04	
02/01/49	14,191.63	298.37	14,490.00	298.37	0.00	14,490.00	45,481.41	
08/01/49	14,262.59	227.41	14,490.00	227.41	0.00	14,490.00	31,218.82	
02/01/50	14,333.91	156.09	14,490.00	156.09	0.00	14,490.00	16,884.91	
08/01/50	8,406.58	84.42	8,491.00	84.42	0.00	8,491.00	8,478.33	
02/01/51	8,448.61	42.39	8,491.00	42.39	0.00	8,491.00	0.00	
08/01/51	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
02/01/52	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
	\$614,970	\$97,531.72	\$712,502.00		\$40,860.00	\$712,502.00		
				Surplus Tax Increment	0.00			
				Total Net Revenue	\$712,502.00			

EXHIBIT F

FORM OF ASSESSMENT AGREEMENT

THIS AGREEMENT is dated as of [Dated Date], 2023, and is between the City of Austin, Minnesota (the “City”), a municipal corporation and political subdivision of the State of Minnesota (the “State”), and 1st & 3rd Apartments LP, a Minnesota limited partnership (the “Owner”), together with its successors and permitted assigns.

IN CONSIDERATION OF the mutual covenants and benefits herein described, the City and the Owner recite and agree as follows:

Section 1. Recitals.

1.01. **Development District; Development Program.** The City has heretofore undertaken certain development activities, which is a “project” as defined in Minnesota Statutes, Section 469.174, subdivision 8, known as Municipal Development District No. 1 (the “Project Area”) pursuant to a Project Plan for Municipal Development District No. 1 (the “Project Plan”).

1.02. **Tax Increment Financing District; Project.** Pursuant to the Minnesota Tax Increment Financing Act, Minnesota Statutes, Sections 469.174 to 469.1794, as amended (the “TIF Act”), the City has approved a tax increment financing plan (the “Financing Plan”), which is the proposed method for financing the development activities currently proposed to be undertaken pursuant to the Project Plan and established a portion of the Project Area as a tax increment financing district (“Tax Increment District”). The Financing Plan proposes to finance the cost of construction of a new multi-story, 40-unit, apartment building with underground parking and green space (the “Project”).

1.03. **Implementation.** The City has authorized and directed its officers to take all actions necessary to implement and carry out the Project Plan and the Financing Plan. The Project Plan and the Financing Plan propose that the City finance certain costs of or related to the Project, payable from tax increment (as defined in the TIF Act) derived from the District (“Tax Increment”).

1.04. **Development Agreement.** The City, Three Rivers Community Action, Inc., and the Owner have entered into a Financing Development Agreement, dated as of July 3, 2023 (the “Tax Increment Financing Agreement”), which provides that the Owner, or its permitted assignee, will improve the real property described in Exhibit A hereto (the “Land”) by the construction of the portion of the Project located thereon. The Tax Increment Financing Agreement provides that upon the execution and delivery of the Tax Increment Financing Agreement, the City and Owner are to enter into this Assessment Agreement.

Section 2. Minimum Market Value.

2.01. **Agreed Upon Minimum.** The Owner agrees that the minimum market value of the Land and the portion of the Project located thereon for ad valorem tax purposes, for the

assessment made as of January 1, 2025 for taxes payable 2026, shall be not less than \$3,947,400.00, and shall not be reduced by any action taken by the Owner (other than a deed in lieu of, or under threat of, condemnation by the City, Mower County or other condemning authority), to less than the said amount, and that during the term of this Assessment Agreement no reduction of the market value therefor below said minimum market value shall be sought by the Owner or granted by any public official or court except in accordance with Minnesota Statutes, Section 469.177, subdivision 8. This minimum market value shall apply only to the Land, the portion of the Project located thereon and any other facilities situated on the Land. In the event of involuntary conversion of the Land and the portion of the Project located thereon for any reason (other than condemnation by a public entity), the minimum market value shall not be reduced to an amount less than said minimum market value.

The Owner acknowledges and agrees that the Land and the portion of the Project located thereon are subject to ad valorem property taxation and that such property taxes constitute taxes on "real property" (as provided in Section 469.174 of the TIF Act) and, to the extent reflecting net tax capacity rates of taxing jurisdictions levied against the captured net tax capacity of the District, tax increment.

2.02. Higher Market Value. Nothing in this Assessment Agreement shall limit the discretion of the assessor of the City or any other public official or body having the duty to determine the market value of the Land, the portion of the Project located thereon and other facilities on the Land for ad valorem tax purposes, to assign to the Land, the portion of the Project located thereon or to any other improvements constructed on the Land, on a nondiscriminatory basis and treated fairly and equally with all other property so classified in the respective counties, a market value in excess of the minimum market value specified in Section 2.01. The Owner shall have the normal remedies available under the law to contest any estimated assessor's estimated value in excess of said minimum market values, but only to the extent of the excess.

2.03. Substantial Completion. For purposes of this Assessment Agreement and the determination of the market value of the Land and the portion of the Project located thereon for ad valorem tax purposes, the Owner agrees that the portion of the Project located thereon shall be deemed to be completed in accordance with the Tax Increment Financing Agreement as of December 31, 2024 (the required date of completion), whether in fact completed or not.

Section 3. Filing and Certification.

3.01. Assessor Certification. The City shall present this Assessment Agreement to the assessor of the City and request such assessor to execute the certification attached hereto as Exhibit C. The Owner shall provide to the assessor all information relating to the Land and the portion of the Project located thereon requested by the assessor for the purposes of discharging the assessor's duties with respect to the certification.

3.02. Filing. Prior to the recording of any mortgage, security agreement or other instrument creating a lien on the Land, the Owner shall cause this Assessment Agreement and a copy of Minnesota Statutes, Section 469.177, subdivision 8, attached hereto as Exhibit B, to be recorded in the office of the County Recorder or Registrar of Titles of Mower County, and shall pay all costs of such recording.

Section 4. Relation to Tax Increment Financing Agreement. The covenants and agreements made by the Owner in this Assessment Agreement are separate from and in addition to the covenants and agreements made by the Owner in the Tax Increment Financing Agreement and nothing contained herein shall in any way alter, diminish or supersede the duties and obligations of the Owner under the Tax Increment Financing Agreement.

Section 5. Miscellaneous Provisions.

5.01. Binding Effect. This Assessment Agreement shall inure to the benefit of and shall be binding upon the City and the Owner and their respective successors and assigns, and upon all subsequent owners of the Land and the portion of the Project located thereon.

5.02. Severability. In the event any provision of this Assessment Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

5.03. Amendments, Changes and Modifications. Except as provided in Section 5.04, this Assessment Agreement may be amended or any of its terms modified only by written amendment authorized and executed by the City and the Owner and otherwise in compliance with Section 469.177, subdivision 8, of the Act.

5.04. Further Assurances and Corrective Instruments. The City and the Owner agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged or delivered, such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the Land or the portion of the Project located thereon, or for carrying out the expressed intention of this Assessment Agreement.

5.05. Execution Counterparts. This Assessment Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

5.06. Applicable Law. This Assessment Agreement shall be governed by and construed in accordance with the internal laws of the State.

5.07. Captions. The captions or headings in this Assessment Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or Sections of this Assessment Agreement.

5.08. Effective Date. This Assessment Agreement shall be effective as of [Dated Date], 2023.

5.09. Termination Date. This Assessment Agreement shall terminate upon the termination of the District in accordance with Minnesota Statutes, Section 469.176, subdivision 1.

5.10. Definitions. Terms used with initial capital letters but not defined herein shall have the meanings given such terms in the Development Agreement, unless the context hereof clearly requires otherwise.

IN WITNESS WHEREOF, the City has caused this Assessment Agreement to be executed in its name by its duly authorized officers and the Owner has caused this Assessment Agreement to be executed in its corporate name.

CITY OF AUSTIN, MINNESOTA

By _____
Mayor
And _____
City Recorder

STATE OF MINNESOTA)
) ss.
COUNTY OF MOWER)

The foregoing instrument was acknowledged before me on this _____ day of _____, 2023, by _____, the Mayor, and _____, the City Recorder, of the City of Austin, a Minnesota municipal corporation, on behalf of the corporation.

IN WITNESS WHEREOF, I have set my hand and my official seal this _____ day of _____, 2023.

Notary Public

1st & 3rd Apartments LP, a Minnesota limited partnership

By: 1st & 3rd Apartments GP LLC, a
Minnesota nonprofit limited liability
company

Its: General Partner

By: Three Rivers Community Action,
Inc.

Its: Sole Member

By _____
Name: Jennifer Larson

Name: Jennifer Larson

Title: Executive Director

STATE OF _____)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me on this ____ day of _____, 2023, by Jennifer Larson, the Executive Director of Three Rivers Community Action, Inc., a Minnesota non-profit corporation, the sole member of 1st & 3rd Apartments GP LLC, a Minnesota limited liability company, the general partner of 1st & 3rd Apartments LP, a Minnesota limited partnership, on behalf of the limited partnership.

IN WITNESS WHEREOF, I have set my hand and my official seal this ____ day of _____, 2023.

Notary Public

Exhibit A to Assessment Agreement

DESCRIPTION OF LAND

The real property and interests in such property located in the County of Mower, State of Minnesota and described as follows:

Lot 1, Block 1, 1st & 3rd Apartments, Mower County, Minnesota.

Exhibit B to Assessment Agreement

COPY OF MINNESOTA STATUTES, SECTION 469.177, SUBDIVISION 8

Assessment agreements. An authority may enter into a written assessment agreement with any person establishing a minimum market value of land, existing improvements, or improvements to be constructed in a district, if the property is owned or will be owned by the person. The minimum market value established by an assessment agreement may be fixed, or increase or decrease in later years from the initial minimum market value. If an agreement is fully executed before July 1 of an assessment year, the market value as provided under the agreement must be used by the county or local assessor as the taxable market value of the property for that assessment. Agreements executed on or after July 1 of an assessment year become effective for assessment purposes in the following assessment year. An assessment agreement terminates on the earliest of the date on which conditions in the assessment agreement for termination are satisfied, the termination date specified in the agreement, or the date when tax increment is no longer paid to the authority under section 469.176, subdivision 1. The assessment agreement shall be presented to the county assessor, or city assessor having the powers of the county assessor, of the jurisdiction in which the tax increment financing district and the property that is the subject of the agreement is located. The assessor shall review the plans and specifications for the improvements to be constructed, review the market value previously assigned to the land upon which the improvements are to be constructed and, so long as the minimum market value contained in the assessment agreement appears, in the judgment of the assessor, to be a reasonable estimate, shall execute the following certification upon the agreement:

The undersigned assessor, being legally responsible for the assessment of the above described property, certifies that the market values assigned to the land and improvements are reasonable

The assessment agreement shall be filed for record and recorded in the office of the county recorder or the registrar of titles of each county where the real estate or any part thereof is situated. After the agreement becomes effective for assessment purposes, the assessor shall value the property under section 273.11, except that the market value assigned shall not be less than the minimum market value established by the assessment agreement. The assessor may assign a market value to the property in excess of the minimum market value established by the assessment agreement. The owner of the property may seek, through the exercise of administrative and legal remedies, a reduction in market value for property tax purposes, but no city assessor, county assessor, county auditor, board of review, board of equalization, commissioner of revenue, or court of this state shall grant a reduction of the market value below the minimum market value established by the assessment agreement during the term of the agreement filed of record regardless of actual market values which may result from incomplete construction of improvements, destruction, or diminution by any cause, insured or uninsured, except in the case of acquisition or reacquisition of the property by a public entity. Recording an assessment agreement constitutes notice of the agreement to anyone who acquires any interest in the land or improvements that is subject to the assessment agreement, and the agreement is binding upon them.

An assessment agreement may be modified or terminated by mutual consent of the current parties to the agreement. Modification or termination of an assessment agreement must be approved by

the governing body of the municipality. If the estimated market value for the property for the most recently available assessment is less than the minimum market value established by the assessment agreement for that or any later year and if bond counsel does not conclude that termination of the agreement is necessary to preserve the tax exempt status of outstanding bonds or refunding bonds to be issued, the modification or termination of the assessment agreement also must be approved by the governing bodies of the county and the school district. A document modifying or terminating an agreement, including records of the municipality, county, and school district approval, must be filed for record. The assessor's review and certification is not required if the document terminates an agreement. A change to an agreement not fully executed before July 1 of an assessment year is not effective for assessment purposes for that assessment year. If an assessment agreement has been modified or prematurely terminated, a person may seek a reduction in market value or tax through the exercise of any administrative or legal remedy. The remedy may not provide for reduction of the market value below the minimum provided under a modified assessment agreement that remains in effect. In no event may a reduction be sought for a year other than the current taxes payable year.

Exhibit C to Assessment Agreement

ASSESSOR'S CERTIFICATE

The undersigned, being the duly qualified and acting assessor of the City of Austin, Minnesota, hereby certifies that.

1. I am the assessor responsible for the assessment of the Land described in the foregoing Exhibit A;
2. I have read the foregoing Assessment Agreement dated as of [Dated Date], 2023;
3. I have received and read a duplicate original of the Financing Development Agreement referred to in the Assessment Agreement;
4. I have received and reviewed the architectural and engineering plans and specifications for the portion of the Project agreed to be constructed on the Land pursuant to the Financing Development Agreement;
5. I have received and reviewed an estimate prepared by the Owner of the cost of the Land and the portion of the Project to be constructed thereon;
6. I have reviewed the market value previously assigned to the Land on which the applicable portion of the Project is to be constructed, and the minimum market value to be assigned to the Land and the portion of the Project located thereon by the Assessment Agreement is a reasonable estimate; and
7. I hereby certify that the market value assigned to the Land and the portion of the Project located thereon described on the foregoing Exhibit A by the Assessment Agreement is reasonable and the market value assigned to the Land and the portion of the Project located thereon, for the assessment made as of January 1, 2025 for taxes payable 2026, and continuing throughout the term of this Assessment Agreement, shall be not less than \$3,947,400.00.

Dated: _____, 20 ____.

City Assessor, City of Austin, Minnesota

EXHIBIT G

FORM OF RENTAL HOUSING INCOME COMPLIANCE CERTIFICATE

The undersigned, 1st & 3rd Apartments LP, does hereby certify that as of the date of this Certificate at least:

(check one)

- 20% of the units referred to in the Financing Development Agreement, dated as of July 3, 2023, between the City of Austin, Minnesota, Three Rivers Community Action, Inc. and the undersigned (the “Tax Increment Financing Agreement”), are occupied or available for occupancy by persons/families with incomes no greater than 50% area median income; or
- 40% of the units referred to in the Tax Increment Financing Agreement are occupied by persons/families with incomes no greater than 60% area median income.

Attached hereto are income verifications for those tenants in the Project used to satisfy this requirement.

Dated this ____ day of _____, 20__.

1ST & 3RD APARTMENTS LP

By: _____
[], []

Exhibit A to Rental Housing Income Compliance Certificate

Income Verifications

Income Verification Minimum Qualification used (check one):

- 20% of the units are occupied or available for occupancy by persons/families with incomes no greater than 50% area median income; or
- 40% of the units are occupied by persons/families with incomes no greater than 60% area median income.

	Unit #	Tenant Name	# of Persons Residing in the Unit	# of Bedrooms	Total Adjusted Gross Income	Minimum Qualification Met? (Yes/No)	Date of Initial Occupancy	Rent
1								
2								
3								
4								
5								
6								
7								
8								
9								
10								
11								
12								
13								
14								
15								
16								

17								
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24								
25								
26								
27								
28								
29								
30								
31								
32								
33								
34								
35								
36								
37								
38								
39								
40								

(Top 3 inches reserved for recording data)

MORTGAGE

MORTGAGE REGISTRY TAX DUE: \$ N/A
(exempt under MN Statutes Section 287.04(6)).

DATE: _____

THIS MORTGAGE ("Mortgage") is given by 1st & 3rd Apartments LP, a Minnesota limited partnership, as mortgagor ("Borrower"), to the City of Austin, Minnesota, a Minnesota municipal corporation, as mortgagee ("Lender"). In consideration of the receipt of \$615,000 (the "Indebtedness") from Lender, Borrower hereby mortgages, with power of sale, the real property in Mower County, Minnesota (the "Land"), legally described as follows:

See Exhibit A attached hereto and incorporated herein,

Check here if all or part of the described real property is Registered (Torrens)

together with all buildings, improvements, and fixtures now or hereafter erected on the Land (the "Improvements"), all machinery, equipment and personal property now or hereafter located on, in or under the Land (the "Personal Property"), and all tenements, hereditaments, and appurtenances belonging to the Land (collectively, the "Property"), subject to the following exceptions:

- (a) Covenants, conditions, restrictions (without effective forfeiture provisions) and declarations of record, if any;
- (b) Reservations of minerals or mineral rights by the State of Minnesota, if any;
- (c) Utility and drainage easements which do not interfere with present Improvements;
- (d) Applicable laws, ordinances, and regulations;
- (e) The lien of real estate taxes and installments of special assessments not yet due and payable; and
- (f) The following liens or encumbrances, if any: See Exhibit B attached hereto and incorporated herein.

Borrower covenants with Lender as follows:

1. Repayment of Indebtedness. If Borrower (a) pays the Indebtedness to Lender according to the terms of the promissory notes or other instruments of even date herewith that evidences the Indebtedness and all renewals, extensions, and modifications thereto (collectively the “Note”); (b) pays interest on the Indebtedness as provided in the Note; (c) repays to Lender, at the times and with interest as specified, all sums advanced in protecting the lien of this Mortgage, if any; and (d) keeps and performs all the covenants and agreements contained herein, then Borrower’s obligations under this Mortgage will be satisfied, and Lender will deliver an executed satisfaction of this Mortgage to Borrower. It is Borrower’s responsibility to record any satisfaction of this Mortgage at Borrower’s expense. The Note mature on February 1, 2051.

2. Statutory Covenants. Borrower makes and includes in this Mortgage the following covenants and provisions set forth in Minn. Stat. Section 507.15, and the relevant statutory covenant equivalents contained therein are hereby incorporated by reference:

- (a) To warrant the title to the Property;
- (b) To pay the Indebtedness as herein provided;
- (c) To pay all taxes and assessments;
- (d) That the Property shall be kept in repair and no waste shall be committed;
- (e) To pay principal and interest on prior mortgages (if any).

3. Additional Covenants and Agreements of Borrower. Borrower makes the following additional covenants and agreements with Lender:

- (a) Borrower shall keep the Property and all Improvements insured as required by Section 4.02 of that certain Financing Development Agreement, dated as of July 3, 2023, by and among Three Rivers Community Action, Inc., Borrower, and the Lender (the “City Development Agreement”).
- (b) Borrower agrees to pay all mortgage registry tax payable upon this Mortgage and any amendment hereof or supplement hereto pursuant to Minn. Stat. Chapter 287.
- (c) Borrower will pay any other expenses and attorneys’ fees incurred by Lender pursuant to the Note or as reasonably required for the protection of the lien of this Mortgage.
- (d) Borrower will comply with all obligations of any instruments recorded against the Property.

4. Payment by Lender. If Borrower fails to pay any amounts to be paid hereunder to Lender or any third parties, or to insure the Improvements, Lender may make such payments or secure such insurance. The sums so paid shall be additional Indebtedness, bear interest from the date of such payment at the same rate set forth in the Note, be an additional lien upon the Property, and be immediately due and payable upon written demand. This Mortgage secures the repayment of such advances.

5. Default. In case of default (a) in the payment of sums to be paid under the Note or this Mortgage, when the same becomes due, (b) in any of the covenants set forth in this Mortgage, or (c) under the terms of the Note (each an “Event of Default”), if such Event of Default is not cured within 30 days

after Borrower receives written notice from Lender specifying the particulars of such Event of Default, in addition to any other remedies available hereunder and under applicable law, Lender may declare the unpaid balance of the Note and the interest accrued thereon, together with all sums advanced hereunder, immediately due and payable without further notice, and Borrower hereby grants and confers upon Lender the fullest rights and remedies available for foreclosure of this Mortgage by action or by advertisement pursuant to Minnesota Statutes, Chapters 580, 581 and 582, as said statutes may be amended from time to time, and out of the monies arising from such sale, to retain all sums secured hereby, with interest and all legal costs and charges of such foreclosure and the maximum attorneys' fees permitted by law, which costs, charges, and fees Borrower agrees to pay.

6. Assignment of Leases and Rents; Appointment of Receiver.

(a) Borrower hereby irrevocably, absolutely, presently and unconditionally assigns to Lender all of Borrower's right, title and interest in, to and under all leases, licenses, rental agreements and other agreements of any kind relating to the use or occupancy of any of the Property, whether existing as of the date hereof or at any time hereafter entered into, together with all guarantees of and security for any tenant's or lessee's performance thereunder, and all amendments, extensions, renewals and modifications thereto (each, a "Lease" and collectively, the "Leases"), together with any and all other rents, issues and profits of the Property (collectively, "Rents"). This is an absolute assignment, not an assignment for security only, and Lender's right to Rents is not contingent upon and may be exercised without taking possession of the Property.

(b) Lender confers upon Borrower a license ("License") to collect and retain the Rents as, but not before, they come due and payable, until the occurrence of any Event of Default. Upon the occurrence of any Event of Default, the License shall be automatically revoked, and Lender may, at Lender's option and without notice, either in person or by agent, with or without bringing any action, or by a receiver to be appointed by a court: (a) enter, take possession of, manage and operate the Property or any part thereof; (b) make, cancel, enforce or modify any Lease; (c) obtain and evict tenants, fix or modify Rents, and do any acts which Lender deems proper to protect the security hereof; and (d) either with or without taking possession of the Property, in its own name, sue for or otherwise collect and receive all Rents, and apply the same in accordance with the provisions of this Mortgage.

(c) At any time during an Event of Default, Lender may make application to a court of competent jurisdiction for, and obtain from such court as a matter of strict right and without notice to Borrower or regard to the adequacy of the Property for the repayment of the Indebtedness, the appointment of a receiver of the Property, and Borrower irrevocably consents to such appointment. Any such receiver shall have all the usual powers and duties of receivers in similar cases, including the full power to rent, maintain and otherwise operate the Property upon such terms as may be approved by the court.

(d) Lender's rights and remedies hereunder with respect to an assignment of Leases and Rents from, and/or the appointment of a receiver for Rents from, the Property upon the occurrence and during the continuance of an Event of Default shall include, without limitation, the fullest range and benefit of the rights and remedies made available to a mortgagee pursuant to Minnesota Statutes Chapter 576 and Section 559.17, as said statutes may be amended from time to time. Nothing contained herein which may be construed as contrary to said statutes shall invalidate any other provision hereof. In the event that Lender elects to exercise its remedies under said statute or any of said remedies, the terms and provisions of said statute, as amended, governing the exercise of said remedies shall govern, control and take precedence over any contrary terms contained in

this Mortgage. All rents collected by Lender or any receiver shall first be applied as provided for in Minnesota Statutes Section 576.25, subd. 5, and any remaining collected rents shall be applied as otherwise provided for in this Mortgage. The exercise by Lender of the statutory remedies referenced herein shall not constitute Lender a "mortgagee-in-possession" under Minnesota law, or give rise to any liability which might otherwise attach to Lender as a mortgagee-in-possession.

7. Security Agreement. This Mortgage is both a real property mortgage and a "security agreement" within the meaning of the Uniform Commercial Code, as adopted and enacted by the state of Minnesota, as the same may amended or replaced from time to time (the "UCC"). The Property includes both real and personal property and all other rights and interests, whether tangible or intangible in nature, of Borrower in the Property. By executing and delivering this Mortgage, Borrower hereby grants to Lender, as security for the Indebtedness, a security interest in the Improvements, the Personal Property and other property constituting the Property to the full extent that the Personal Property and such other property may be subject to the UCC (said portion of the Property so subject to the UCC being called the "Collateral"). If an Event of Default occurs, Lender, in addition to any other rights and remedies which it may have, will have and may exercise immediately and without demand, any and all rights and remedies granted to a secured party upon default under the UCC, including, without limiting the generality of the foregoing, the right to take possession of the Collateral or any part thereof, and to take such other measures as Lender may deem necessary for the care, protection and preservation of the Collateral. Upon request or demand of Lender after the occurrence of an Event of Default, Borrower will, at its expense, assemble the Collateral and make it available to Lender at a convenient place acceptable to Lender. Borrower will pay to Lender on demand any and all expenses, including legal expenses and attorneys' fees, incurred or paid by Lender in protecting its interest in the Collateral and in enforcing its rights hereunder with respect to the Collateral after the occurrence of an Event of Default. Any notice of sale, disposition or other intended action by Lender with respect to the Collateral sent to Borrower in accordance with the provisions hereof at least 10 business days prior to such action, will, except as otherwise provided by applicable law, constitute reasonable notice to Borrower. The proceeds of any disposition of the Collateral, or any part thereof, may, except as otherwise required by applicable law, be applied by Lender to the payment of the Indebtedness in such priority and proportions as Lender in its discretion deems proper.

8. Fixture Filing. This Mortgage is and shall be a fixture filing and a fixture financing statement under the Uniform Commercial Code in effect in the State of Minnesota.

(a) Name and address of Debtor: 1st & 3rd Apartments LP
c/o Three Rivers Community Action, Inc.
1414 Northstar Drive
Zumbrota, MN 55992
Attn: Executive Director

(b) Type of Organization: a nonprofit corporation

(c) Jurisdiction of Organization: Minnesota

(d) Name and Address of Secured Party: City of Austin, Minnesota
Secured Party: 500 4th Avenue NE
Austin, MN 55912
Attention: City Recorder

(e) Description of the types (or items) of property covered by this Financing Statement: the Property (as defined herein)

(f) Legal Description of Land to which the collateral is attached or upon which it is or will be fixtures: See Exhibit A.

Some of the above-described collateral is or is to become fixtures upon the Property, which is owned, in fee, by Borrower, and this Financing Statement is to be filed in the public real estate records. The above-stated address of Secured Party is the address from which information concerning the security interest may be obtained.

9. Future Advances. To the extent this Mortgage secures future advances, the amount of such future advances cannot currently be determined. The acceptance by Lender of this Mortgage constitutes an acknowledgment by Lender that Lender is aware of the provisions of Minn. Stat. Section 287.05, subd. 5, and intends to comply with the requirements contained therein with respect to any such future advances which are to be secured hereby. Borrower agrees to pay any additional mortgage registry tax the payment of which is required to effectuate said compliance. Borrower hereby acknowledges that the provisions of this section do not constitute or imply an agreement by Lender to make any future advances to Borrower.

10. Non-Agricultural Use. Borrower represents and warrants that as of the date of this Mortgage, the Mortgaged Property is not in agricultural use as defined in Minn. Stat. Section 40A.02, Subd. 3, and is not used for agricultural purposes.

11. Governing Law; Severability. This Mortgage shall be governed by the laws of Minnesota. If any provision or clause of this Mortgage or the Note conflicts with applicable law, such conflict shall not affect other provisions of this Mortgage or the Note which can be given effect without the conflicting provision.

12. Special Provisions.

(a) Capitalized terms used herein and not otherwise defined shall have the meanings set forth in the City Development Agreement, together with this Mortgage, the Note, and any other documents evidencing the Indebtedness, collectively, the "Loan Documents").

(b) Notwithstanding anything to the contrary contained in any of the Loan Documents:

(i) under no circumstances shall any of the collateral pledged by the Borrower pursuant to the Loan Documents secure any other obligations that the Borrower's partners and/or their affiliates may have with Lender;

(ii) under no circumstances shall the default of any obligation of the Borrower, any of their respective partners and/or their affiliates not directly related to the Indebtedness lead to a default under the Loan Documents; furthermore, failure to notify the Lender of such default shall not lead to a default under the Loan Documents;

(iii) Except for those provisions surviving termination, recession, or expiration of the City Development Agreement, upon issuance of the Certificate of Completion, any obligations

or guarantees made by the Borrower and/or Three Rivers Community Action, Inc. under the Indebtedness shall terminate and have no further force or effect.

- (iv) Upon issuance of the Certificate of Completion, Borrower's partners shall not have personal liability under the Loan Documents. At no time shall the investor, MHEG Fund 57, LP, have any personal liability under the Loan Documents. If the investor or Midwest Housing Assistance Corporation ("MHAC") removes the General Partner of Borrower in accordance with the terms of the Borrowers Amended and Restated Agreement of Limited Partnership dated on or about the date hereof (the "Partnership Agreement"), (i) such removal will not constitute an Event of Default under the Loan Documents (as defined in the Mortgage), (ii) neither investor, nor any substitute General Partner shall have any liability for any actions of the removed General Partner before such replacement. Any amendment to the Partnership Agreement to effectuate the removal of the General Partner and admission of a substitute general partner shall not require Lender consent. Nothing in the Loan Documents shall limit or restrict the ability of the investor, MHAC, and their successors and assigns to transfer, sell or assign its ownership interest in Borrower, from time to time, without consent of Lender, provided that said investor remains liable for payment of any then unpaid capital contributions to Borrower, as and when payable, as set forth in the Partnership Agreement, notwithstanding any such transfer, sale or assignment. In particular, Lender hereby consents to any transfers, sales or assignments of partnership interests in Borrower to any affiliate of the investor or any entity in which the investor, or an affiliate, is the manager or managing general partner and agrees that such transfers shall not constitute defaults under the Loan Documents. Any transfer by investor of its ownership interest in Borrower will not be grounds for acceleration of the Indebtedness, or otherwise constitute a default or impermissible transfer under the Loan Documents.
- (v) Notwithstanding anything to the contrary contained in the Loan Documents, Lender agrees to apply all insurance proceeds resulting from casualty or damage of the Property and all payments or awards resulting from a taking, for any public or quasi-public purpose by any lawful power or authority by exercise of the power of condemnation or eminent domain, toward the restoration, replacement or rebuilding of the Property, or any part thereof, as nearly as possible to its value, condition and operational character immediately prior to any such damage, destruction or taking ("Restoration"), provided sufficient funds are available from all sources to complete such Restoration. Furthermore, notwithstanding anything to the contrary contained in the Loan Documents, if the Property is substantially damaged, this event alone shall not constitute an Event of Default under any of the Loan Documents or permit Lender to demand immediate payment, provided, in the sole determination of Lender, that sufficient funds are available from all sources to complete the Restoration of the Property to the satisfaction of Lender.
- (vi) This Mortgage it is subject to the terms of a Master Subordination Agreement by and between the Lender, the Borrower, and Greater Minnesota Housing Fund.

[Remainder of page intentionally left blank; signatures on following page(s)]

BORROWER:

1st & 3rd Apartments LP, a Minnesota limited partnership

By: 1st & 3rd Apartments GP LLC, a Minnesota
nonprofit limited liability company

Its: General Partner

By: Three Rivers Community Action, Inc.

Its: Sole Member

By _____

Name: Jennifer Larson

Title: Executive Director

STATE OF _____)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me on this ____ day of _____, 2023, by Jennifer Larson, the Executive Director of Three Rivers Community Action, Inc., a Minnesota non-profit corporation, the sole member of 1st & 3rd Apartments GP LLC, a Minnesota limited liability company, the general partner of 1st & 3rd Apartments LP, a Minnesota limited partnership, on behalf of the limited partnership.

IN WITNESS WHEREOF, I have set my hand and my official seal this ____ day of _____, 2023.

Notary Public

THIS INSTRUMENT WAS DRAFTED BY:

Dorsey & Whitney LLP (GIT)
50 South Sixth Street, Suite 1500
Minneapolis, MN 55402
612-340-2600

Note: Failure to record or file this mortgage may give other parties priority over this mortgage.

Exhibit A

Legal Description of the Property

Lot 1, Block 1, 1st & 3rd Apartments, Mower County, Minnesota

Exhibit B

Permitted Encumbrances

[]

UCC FINANCING STATEMENT

FOLLOW INSTRUCTIONS

A. NAME & PHONE OF CONTACT AT FILER (optional)

Kara Tonolli (612-492-6548)

B. E-MAIL CONTACT AT FILER (optional)

tonolli.kara@dorsey.com

C. SEND ACKNOWLEDGMENT TO: (Name and Address)

**Dorsey & Whitney LLP
50 South Sixth Street
Suite 1500
Minneapolis, MN 55402**

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. DEBTOR'S NAME: Provide only one Debtor name (1a or 1b) (use exact, full name; do not omit, modify, or abbreviate any part of the Debtor's name); if any part of the Individual Debtor's name will not fit in line 1b, leave all of item 1 blank, check here and provide the Individual Debtor information in item 10 of the Financing Statement Addendum (Form UCC1Ad)

1a. ORGANIZATION'S NAME
1st & 3rd Apartments LP

OR
1b. INDIVIDUAL'S SURNAME FIRST PERSONAL NAME ADDITIONAL NAME(S)/INITIAL(S) SUFFIX
1c. MAILING ADDRESS CITY STATE POSTAL CODE COUNTRY
c/o Three Rivers Community Action, 1414 N **Zumbrota** **MN** **55992**

2. DEBTOR'S NAME: Provide only one Debtor name (2a or 2b) (use exact, full name; do not omit, modify, or abbreviate any part of the Debtor's name); if any part of the Individual Debtor's name will not fit in line 2b, leave all of item 2 blank, check here and provide the Individual Debtor information in item 10 of the Financing Statement Addendum (Form UCC1Ad)

2a. ORGANIZATION'S NAME

OR
2b. INDIVIDUAL'S SURNAME FIRST PERSONAL NAME ADDITIONAL NAME(S)/INITIAL(S) SUFFIX
2c. MAILING ADDRESS CITY STATE POSTAL CODE COUNTRY

3. SECURED PARTY'S NAME (or NAME of ASSIGNEE of ASSIGNOR SECURED PARTY): Provide only one Secured Party name (3a or 3b)

3a. ORGANIZATION'S NAME
City of Austin, Minnesota

OR
3b. INDIVIDUAL'S SURNAME FIRST PERSONAL NAME ADDITIONAL NAME(S)/INITIAL(S) SUFFIX
3c. MAILING ADDRESS CITY STATE POSTAL CODE COUNTRY
500 4th Avenue NE **Austin** **MN** **55912**

4. COLLATERAL: This financing statement covers the following collateral:

This Financing Statement covers the Debtor's right, title and interest in and to a Mortgage dated as of [] , 2023 (the "Mortgage"), in connection with the promissory Note (the "Note") delivered by Debtor to Secured Party pursuant to that certain Financing Development Agreement, dated as of July 3, 2023, by and among Three Rivers Community Action, Inc., Debtor, and Secured Party. Debtor grants to Secured Party a security interest in the Improvements, the Personal Property and other property constituting the Property (as defined in the Mortgage) to the full extent that the Personal Property and such other property may be subject to the UCC.

5. Check only if applicable and check only one box: Collateral is held in a Trust (see UCC1Ad, item 17 and Instructions) being administered by a Decedent's Personal Representative

6a. Check only if applicable and check only one box:

6b. Check only if applicable and check only one box:

Public-Finance Transaction Manufactured-Home Transaction A Debtor is a Transmitting Utility

Agricultural Lien Non-UCC Filing

7. ALTERNATIVE DESIGNATION (if applicable): Lessee/Lessor Consignee/Consignor Seller/Buyer Bailee/Bailor Licensee/Licensor

8. OPTIONAL FILER REFERENCE DATA:
867155-43 (MN SOS and Mower County)

UCC FINANCING STATEMENT ADDENDUM

FOLLOW INSTRUCTIONS

9. NAME OF FIRST DEBTOR: Same as line 1a or 1b on Financing Statement; if line 1b was left blank because Individual Debtor name did not fit, check here

9a. ORGANIZATION'S NAME

1st & 3rd Apartments LP

OR

9b. INDIVIDUAL'S SURNAME

FIRST PERSONAL NAME

ADDITIONAL NAME(S)/INITIAL(S)

SUFFIX

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

10. DEBTOR'S NAME: Provide (10a or 10b) only one additional Debtor name or Debtor name that did not fit in line 1b or 2b of the Financing Statement (Form UCC1) (use exact, full name; do not omit, modify, or abbreviate any part of the Debtor's name) and enter the mailing address in line 10c

10a. ORGANIZATION'S NAME

OR

10b. INDIVIDUAL'S SURNAME

INDIVIDUAL'S FIRST PERSONAL NAME

INDIVIDUAL'S ADDITIONAL NAME(S)/INITIAL(S)

SUFFIX

10c. MAILING ADDRESS

CITY

STATE

POSTAL CODE

COUNTRY

11. ADDITIONAL SECURED PARTY'S NAME or ASSIGNOR SECURED PARTY'S NAME: Provide only one name (11a or 11b)

11a. ORGANIZATION'S NAME

OR

11b. INDIVIDUAL'S SURNAME

FIRST PERSONAL NAME

ADDITIONAL NAME(S)/INITIAL(S)

SUFFIX

11c. MAILING ADDRESS

CITY

STATE

POSTAL CODE

COUNTRY

12. ADDITIONAL SPACE FOR ITEM 4 (Collateral):

13. This FINANCING STATEMENT is to be filed [for record] (or recorded) in the REAL ESTATE RECORDS (if applicable)

14. This FINANCING STATEMENT:

covers timber to be cut

covers as-extracted collateral

is filed as a fixture filing

15. Name and address of a RECORD OWNER of real estate described in item 16 (if Debtor does not have a record interest):

16. Description of real estate:

Lot 1, Block 1, 1st & 3rd Apartments, Mower County, Minnesota

17. MISCELLANEOUS:

FOR USE BY FILING OFFICER ONLY

**MASTER SUBORDINATION AGREEMENT
AND
ESTOPPEL CERTIFICATE**

THIS MASTER SUBORDINATION AGREEMENT AND ESTOPPEL CERTIFICATE (this “**Agreement**”), shall have an effective date of the _____ day of July, 2023, and entered into among 1ST & 3RD APARTMENTS LP, a Minnesota limited partnership, (“**Borrower**”), GREATER MINNESOTA HOUSING FUND, a Minnesota nonprofit corporation (“**GMHF**”), and CITY OF AUSTIN, a Minnesota municipal corporation and political subdivision (the “**City**”).

RECITALS

A. Borrower has applied to and obtained certain loans from the other parties hereto and will use the proceeds of such loans and additional equity to fund the acquisition and construction of 40 housing units (the “**Development**”), situated on real property located at 201 2nd Street SE, City of Austin, County of Mower, State of Minnesota, and legally described in **Exhibit A** attached hereto (the “**Property**”).

B. The following is a listing and description of the loans that Borrower has obtained from the other parties hereto (each a “**Loan**”) and collectively, the “**Loans**”), which will be used to fund the acquisition of the Development and the repayment of which will be secured by liens on the Property, and a listing of the documents that evidence and secure the repayment of such loans (collectively, the “**Loan Documents**”):

Description of Loan	Amount of Loan	Loan Documents Evidencing and Securing Repayment
A permanent loan from GMHF	\$1,211,000.00	Those documents set forth in Exhibit B attached hereto

A construction loan from GMHF	\$10,000,000.00	Those documents set forth in Exhibit C attached hereto
A tax increment financing loan from the City	\$615,000.00	Those documents set forth in Exhibit D attached hereto

C. The parties intend that the Loans, the corresponding Loan Documents, and other documents referred to herein and the liens created thereby shall have a certain order of priority.

D. The parties wish to specify how the terms and conditions contained in the Loan Documents shall be interpreted in the event of a conflict or inconsistency therein.

NOW, THEREFORE, in consideration of good and valuable consideration, and in further consideration of the parties hereto making and entering into the Loans, the parties hereto agree as follows:

1. **Definitions.** For the purposes of this Agreement, the definitions set forth above shall be incorporated into this Section 1 by reference. The following terms shall have the meanings set out respectively after each such term, and such meaning shall be equally applicable to both the singular and plural forms of the term defined:

- (a) “City TIF Loan” – A tax increment financing loan from the City to Borrower in an original principal amount of \$615,000.00.
- (b) “City TIF Loan Documents” – Those documents listed in **Exhibit D** attached hereto and incorporated herein by reference, which evidence and secure the repayment of the City TIF Loan.
- (c) “GMHF Construction Loan” – A construction loan from GMHF to Borrower in an original principal amount of \$10,000,000.00.
- (d) “GMHF Construction Loan Documents” – Those documents listed in **Exhibit C** attached hereto and incorporated herein by reference, which evidence and secure the repayment of the GMHF Construction Loan.
- (e) “GMHF Permanent Loan” – A permanent loan from GMHF to Borrower in an original principal amount of \$1,211,000.00.
- (f) “GMHF Permanent Loan Documents” – Those documents listed in **Exhibit B** attached hereto and incorporated herein by reference, which evidence and secure the repayment of the GMHF Permanent Loan.
- (g) “GMHF Loans” – The GMHF Permanent Loan and the GMHF Construction Loan.

(h) “GMHF Loan Documents” – The GMHF Permanent Loan Documents and the GMHF Construction Loan Documents.

2. Consent to Loans, Liens, and Encumbrances. The parties consent and agree to all of the Loans and agree that all of the liens and encumbrances created by the Loan Documents shall be deemed to be permitted encumbrances under their respective Loan Documents. The parties further agree to execute any and all documents that any party hereto may reasonably request in order to document that such liens and encumbrances are permitted encumbrances under their respective Loan Documents.

3. Use of Loan Documents. The parties hereto agree and consent to the use of the Loan Documents set forth in the exhibits attached hereto in conjunction with the Loan referenced in each exhibit. In addition, each party hereto, as to the Loan Documents that correspond to one of its Loans, does hereby covenant, warrant, consent, and agree that: (i) the described Loan Documents are all of the documents that the party has entered into regarding the corresponding Loan, (ii) there are no documents relating to such Loan other than the described Loan Documents for such Loan, (iii) it will not enter into any other document for such Loan that would adversely impact any other party or parties hereto without the prior written consent of such party or parties, and (iv) any existing document or documents that may come into existence in the future to which a party hereto is or becomes a party or from which a party hereto obtains a benefit that is materially different from the benefits that the other parties hereto have received or will receive, and that is not listed in the Loan Documents set forth herein for such Loan, shall be of no force or effect until approved and consented to in writing by all of the parties hereto upon which such document has, or will have, an adverse effect, and upon such written approval, such documents shall be automatically considered to be included in the exhibit hereto setting forth the Loan Documents for such Loan. The other parties hereto shall execute any document that may reasonably be requested in order to include such document in such exhibit.

4. Subordination of Loans and Loan Documents.

Except as specifically provided below, each party hereto agrees to the following priority for the provisions contained in the Loan Documents and any and all the liens and encumbrances created thereby and subordinates its respective Loan Documents and the liens and encumbrances created thereby to those Loan Documents and liens and encumbrances created thereby that are listed as having a priority over its Loan Documents and the liens and encumbrances created thereby:

Loan Documents and Liens and Encumbrances Created Thereby	Party to the Loan Documents and Holder of Liens and Encumbrances Created Thereby	Order of Priority
GMHF Permanent Loan Documents	GMHF	First
GMHF Construction Loan Documents	GMHF	Second
City TIF Loan Documents	City	Third

5. **Interpretation.** The parties are entering into and executing this Agreement in order to establish the subordination and priority of the Loan Documents and any liens and encumbrances created thereby, and, accordingly, such parties hereby agree, understand, and acknowledge that the enforceability of this Agreement is not, and shall not be, restricted, limited, or impaired by the fact that not all of the parties hereto are signatories to each or any of the Loan Documents.

6. **Most Restrictive Requirements.** Notwithstanding the order of priority and subordinations granted herein or any provisions to the contrary contained herein, the parties agree that if there are any inconsistencies contained herein or in the Loan Documents, the most restrictive requirement in the Loan Documents shall control. Notwithstanding the foregoing, while each of the GMHF Loans are outstanding, the terms, conditions, provisions, and requirements of the GMHF Loan Documents shall control until the GMHF Loans are each paid in full.

7. **Absence of Events of Default and Compliance with Closing Requirements.** Each party hereto states, represents, and warrants that as to each of its Loan(s): (i) each such Loan has been duly closed, (ii) there are no events of default, or events that with the passage of time could constitute an event of default, currently existing with respect to any of its Loan(s), and (iii) each of its Loan(s) are in good standing.

8. **Use of Insurance and Condemnation Proceeds.** Notwithstanding any provisions to the contrary contained herein or in any of the Loan Documents, the parties hereto agree that any and all insurance and/or condemnation proceeds will be used first to repair or reinstate the Development. If there are any remaining proceeds, or if such amounts are insufficient to repair or reinstate the Development, or if the Development cannot be repaired or reinstated, then such proceeds shall be used to pay off the Loans in order of the priority of the Loan Documents specified herein.

9. **Execution in Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be an original but all of which shall constitute one instrument.

(THE REMAINING PORTION OF THIS PAGE IS INTENTIONALLY LEFT BLANK)

IN WITNESS WHEREOF, the parties have executed this Master Subordination Agreement and Estoppel Certificate as of the date first written above.

BORROWER:

1ST & 3RD APARTMENTS LP,
a Minnesota limited partnership

By: 1ST & 3RD APARTMENTS GP LLC,
a Minnesota limited liability company
Its: General Partner

By: _____
Name: _____
Its: _____

STATE OF MINNESOTA)
)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2023, by _____, the _____ of 1st & 3rd Apartments GP LLC, a Minnesota limited liability company, the General Partner of 1st & 3rd Apartments LP, a Minnesota limited partnership on behalf of the limited partnership.

Notary Public

Signature Page to Master Subordination Agreement and Estoppel Certificate.

GMHF:

GREATER MINNESOTA HOUSING FUND,
a Minnesota nonprofit corporation

By: _____

John Rocker
Its: Director of Lending

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

The foregoing instrument was acknowledged before me this _____ day of July, 2023, by John Rocker, the Director of Lending of Greater Minnesota Housing Fund, a Minnesota nonprofit corporation.

Notary Public

CITY:

CITY OF AUSTIN, MINNESOTA

a Minnesota municipal corporation and political
subdivision

By: _____

Printed Name: _____

Its: Mayor

AND

By: _____

Printed Name: _____

Its: City Clerk

STATE OF MINNESOTA)
) ss.
COUNTY OF MOWER)

The foregoing instrument was acknowledged before me this _____ day of July, 2023, by
_____, the Mayor of the City of Austin, Minnesota, a Minnesota municipal
corporation and political subdivision.

Notary Public

STATE OF MINNESOTA)
) ss.
COUNTY OF MOWER)

The foregoing instrument was acknowledged before me this _____ day of July, 2023, by
_____, the City Clerk of the City of Austin, Minnesota, a Minnesota municipal
corporation and political subdivision.

Notary Public

THIS DOCUMENT WAS DRAFTED BY:

Messerli & Kramer (MRJ)

1400 Fifth Street Towers

100 South Fifth Street

Minneapolis, Minnesota 55402

Signature Page to Master Subordination Agreement and Estoppel Certificate.

Exhibit A

LEGAL DESCRIPTION

Lot 1, Block 1, 1st & 3rd Apartments, Mower County, Minnesota.

Property is Abstract

Exhibit B

GMHF PERMANENT LOAN DOCUMENTS

1. Loan Agreement executed by and between 1st & 3rd Apartments LP, a Minnesota limited partnership, and Greater Minnesota Housing Fund, a Minnesota nonprofit corporation, of even date herewith.
2. Promissory Note executed by 1st & 3rd Apartments LP, a Minnesota limited partnership, in favor of Greater Minnesota Housing Fund, a Minnesota nonprofit corporation, of even date herewith in the original principal amount of \$1,211,000.00.
3. Combination Mortgage, Security Agreement, Fixture Financing Statement and Assignment of Rents and Leases executed by 1st & 3rd Apartments LP, a Minnesota limited partnership, in favor of Greater Minnesota Housing Fund, a Minnesota nonprofit corporation, of even date herewith to be recorded with the Office of the County Recorder for Mower County, Minnesota.
4. Collateral Assignment of Interests in Agreement Affecting Real Estate executed by and between 1st & 3rd Apartments LP, a Minnesota limited partnership, and Greater Minnesota Housing Fund, a Minnesota nonprofit corporation, of even date herewith.
5. UCC-1 Financing Statement given by 1st & 3rd Apartments LP, a Minnesota limited partnership, as debtor, in favor of Greater Minnesota Housing Fund, a Minnesota nonprofit corporation, as secured party, to be filed with the Minnesota Secretary of State.
6. Guaranty executed by Three Rivers Community Action, Inc., a Minnesota nonprofit corporation in favor of Greater Minnesota Housing Fund, a Minnesota nonprofit corporation, of even date herewith.
7. Certificate of Total Project Cost and Funding Sources executed by 1st & 3rd Apartments LP, a Minnesota limited partnership, of even date herewith.
8. Loan Disbursement Agreement executed by and between 1st & 3rd Apartments LP, a Minnesota limited partnership, Greater Minnesota Housing Fund, a Minnesota nonprofit corporation, and Title Services, Inc., of even date herewith.
9. Borrower Certification executed by 1st & 3rd Apartments LP, a Minnesota limited partnership, of even date herewith.
10. Declaration of Covenants and Restrictions executed by 1st & 3rd Apartments LP, a Minnesota limited partnership, of even date herewith, to be recorded with the County Recorder for Mower County, Minnesota.

Exhibit C

GMHF CONSTRUCTION LOAN DOCUMENTS

1. Construction Loan Agreement executed by and between 1st & 3rd Apartments LP, a Minnesota limited partnership, and Greater Minnesota Housing Fund, a Minnesota nonprofit corporation, of even date herewith.
2. Promissory Note executed by 1st & 3rd Apartments LP, a Minnesota limited partnership, in favor of Greater Minnesota Housing Fund, a Minnesota nonprofit corporation, of even date herewith in the original principal amount of \$10,000,000.00.
3. Combination Mortgage, Security Agreement, Fixture Financing Statement and Assignment of Rents and Leases executed by 1st & 3rd Apartments LP, a Minnesota limited partnership, in favor of Greater Minnesota Housing Fund, a Minnesota nonprofit corporation, of even date herewith to be recorded with the County Recorder for Mower County, Minnesota.
4. Assignment of Capital Contributions and Contract Rights executed by 1st & 3rd Apartments LP, a Minnesota limited partnership and 1st & 3rd Apartments GP LLC, a Minnesota limited liability company in favor of Greater Minnesota Housing Fund, a Minnesota nonprofit corporation, of even date herewith.
5. Collateral Assignment of Interests in Agreement Affecting Real Estate executed by and between 1st & 3rd Apartments LP, a Minnesota limited partnership and Greater Minnesota Housing Fund, a Minnesota nonprofit corporation, of even date herewith.
6. UCC-1 Financing Statement given by 1st & 3rd Apartments LP, a Minnesota limited partnership and 1st & 3rd Apartments GP LLC, a Minnesota limited liability company, as debtor, in favor of Greater Minnesota Housing Fund, a Minnesota nonprofit corporation, as secured party, to be filed with the Minnesota Secretary of State.
7. Guaranty executed by Three Rivers Community Action, Inc., a Minnesota nonprofit corporation in favor of Greater Minnesota Housing Fund, a Minnesota nonprofit corporation, of even date herewith.
8. Certificate of Total Project Cost and Funding Sources executed by 1st & 3rd Apartments LP, a Minnesota limited partnership, of even date herewith.
9. Loan Disbursement Agreement executed by and between 1st & 3rd Apartments LP, a Minnesota limited partnership, Greater Minnesota Housing Fund, a Minnesota nonprofit corporation, and Title Services, Inc., of even date herewith.

Exhibit D

TIF LOAN DOCUMENTS

1. Financing Development Agreement executed by and between 1st & 3rd Apartments LP, a Minnesota limited partnership, Three Rivers Community Action, Inc. a Minnesota nonprofit corporation, and the City of Austin, a Minnesota municipal corporation and political subdivision of even date herewith.
2. Promissory Note executed by 1st & 3rd Apartments LP, a Minnesota limited partnership, in favor of City of Austin, a Minnesota municipal corporation and political subdivision, of even date herewith in the original principal amount of \$615,000.00.
3. Mortgage executed by 1st & 3rd Apartments LP, a Minnesota limited partnership, in favor of City of Austin, a Minnesota municipal corporation and political subdivision, of even date herewith to be recorded with the County Recorder for Mower County, Minnesota.

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



Thomas Dankert
 Director of
 Administrative Services
 507-437-9959
 Fax 507-433-1693
 tdankert@ci.austin.mn.us

TO: Mayor King and Council Members
 FROM: Tom Dankert
 DATE: June 26, 2023
 RE: **Budget Adjustment #4 – 2023 Budget Adjustment**
 U:\Word\2023\Miscellaneous\2023 Budget Adjustment #4.doc

Now that all of the bargaining unit contracts have been settled with the approval of the A.A.O. contract at the July 3 Council meeting, we would like to push Budget Adjustment #4 through the departmental budgets. As you may recall, we have reserved \$700,000 in allocated Contingency to fund projected increases in wages/benefits through the 2023 budget process.

In total for all funds, we have projected an increase in the budgeted costs of \$697,854 (from \$16,753,678 to a new balance of \$17,451,532). However, we would like to allocate the \$700,000 set aside in Contingency in the General Fund as follows:

- General Fund, allocate \$515,644 from Contingency to department wages/benefits.
- General Fund, allocate remaining \$184,356 to Risk Management Fund, Health Insurance Department, as we believe the potential for PTSD payments might require additional funding based on the recent legislation.
- All other departments would use their own fund balance to balance the increase in wages/benefits.

General Fund (11000):

	<u>Debit</u>	<u>Credit</u>
XXXXX.6101-6151 Wages/Benefits	\$ 515,644	
49011.7775 Transfer to Risk Management	\$ 184,356	
49911.6438 Contingency		\$ 700,000
Total General Fund	\$ 700,000	\$ 700,000

Library Fund (25000):

	<u>Debit</u>	<u>Credit</u>
45500.6101-6151 Wages/Benefits	\$ 18,219	
45500.5490 Use of Fund Balance		\$ 18,219
Total Library Fund	\$ 18,219	\$ 18,219

Sewer User Fund (61000):

	<u>Debit</u>	<u>Credit</u>
49450.6101-6151 Wages/Benefits	\$ 18,378	
49480.6101-6151 Wages/Benefits	\$ 51,070	
49490.6101-6151 Wages/Benefits	\$ 51,070	
49480.7999 Source/Use of Fund Balance		\$ 120,518
Total Sewer User Fund	\$ 120,518	\$ 120,518

Storm Water Utility District Fund (67000):

	<u>Debit</u>	<u>Credit</u>
43150.6101-6151 Wages/Benefits	\$ 13,048	
43150.5490 Use of Fund Balance		\$ 13,048
Total Storm Water Utility District Fund	\$ 13,048	\$ 13,048

Central Garage Fund (71000):

	<u>Debit</u>	<u>Credit</u>
43317.6101-6151 Wages/Benefits	\$ 33,947	
43337.6101-6151 Wages/Benefits		\$ 16,053
43347.6101-6151 Wages/Benefits	\$ 3,337	
49480.7999 Source of Fund Balance		\$ 21,231
45217.6101-6151 Wages/Benefits		\$ 4,920
45217.5492 Source of Fund Balance	\$ 4,920	
Total Central Garage Fund	\$ 42,204	\$ 42,204

M.I.S. Administration Fund (72000):

	<u>Debit</u>	<u>Credit</u>
41507.6101-6151 Wages/Benefits	\$ 12,658	
43150.5490 Use of Fund Balance		\$ 12,658
Total M.I.S. Administration Fund	\$ 12,658	\$ 12,658

Risk Management Fund (75000):

	<u>Debit</u>	<u>Credit</u>
41327.6101-6151 Wages/Benefits	\$ 1,456	
49007.4789 Health Insurance Premiums		\$ 403,347
49007.4795 Sick Leave Premiums		\$ 1,076
49007.4797 Life Insurance Premiums		\$ 1,910
49007.4798 Disability Insurance Premium		\$ 10,446
49007.4799 Workers. Comp. Premiums		\$ 13,521
49007.5401 Transfer from General Fund		\$ 184,356
49017.6129 Sick Leave Expense	\$ 1,076	
49017.6131 Health Insurance Expense	\$ 587,703	
49017.6133 Life Insurance Expense	\$ 1,910	
49017.6134 Disability Insurance Expense	\$ 10,446	
49017.6151 Workers Comp. Expense	\$ 13,521	
41327.5490 Use of Fund Balance		\$ 1,456
Total Risk Management Fund	\$ 616,112	\$ 616,112

By passing a Resolution, council will have then officially amended the budget for the 2023 year that would allow for the above purchases/transfers. Please do not hesitate to give me a call if you have any questions.

ORIGINAL BUDGET																
Department	Description	Regular Salaries	OT	Temporary	Clothing/Meals		PERA 6121	FICA 6122	Medicare 6125	HI	Sick Leave	Health Insurance	Life Insurance	Disability Insurance	W/C Insurance	
		6101	6102	6104	Car 112/115					Opt Out 6128	6129	6131	6133	6134	6151	
41110	City Council	66,600	-	-	-	4,995	4,129	966	-	-	-	-	504	-	177	77,371
41320	Mayor	12,600	-	-	-	945	781	183	-	-	-	-	72	-	33	14,614
41320	Administration	205,054	-	-	4,800	15,379	13,011	3,043	2,580	1,435	13,200	144	246	789	259,681	
41400	City Clerk	133,353	1,500	-	-	10,114	8,361	1,955	-	944	10,200	144	162	519	167,252	
41500	Finance	305,731	-	-	4,800	22,619	19,253	4,503	2,580	3,065	25,080	209	367	1,176	389,383	
41610	City Attorney	112,320	-	-	-	8,424	6,964	1,629	-	-	31,500	288	-	432	161,557	
41800	Human Resources	106,279	-	3,000	-	7,971	6,775	1,585	-	1,488	13,200	72	128	421	140,919	
41910	Planning	191,122	-	-	4,800	14,334	12,147	2,841	-	1,338	10,200	144	229	914	238,069	
42010	Police	315,342	-	-	1,590	49,477	3,852	4,572	5,160	3,980	13,200	216	378	14,406	412,173	
42020	Investigations	506,576	31,000	-	3,900	95,151	-	7,795	10,320	6,208	13,200	360	645	30,078	705,233	
42030	Patrol	2,272,855	120,000	-	20,400	423,535	-	34,696	25,800	19,597	160,500	1,800	2,871	133,885	3,215,939	
42050	High School Liaison	91,249	-	-	-	16,151	-	1,323	-	639	13,200	72	109	5,106	127,849	
42070	Crossing Guards	-	-	17,125	-	-	1,062	248	-	-	-	-	-	724	19,159	
42110	CSO	147,700	1,000	-	900	11,152	9,219	2,156	5,160	1,489	-	180	178	8,320	187,454	
42120	Ellis Liaison Officer	91,249	-	-	750	16,151	-	1,323	-	639	-	72	109	5,106	115,399	
42200	Fire	1,006,206	40,000	80,726	8,500	234,590	8,857	16,341	15,480	9,054	36,600	792	1,255	75,338	1,533,739	
42400	Building Inspection	242,487	1,000	-	-	18,262	15,096	3,531	5,160	1,704	13,200	216	292	1,107	302,055	
42450	Rental Housing	105,385	1,000	-	-	7,979	6,596	1,543	2,580	962	6,600	108	128	480	133,361	
43000	Engineering	497,749	7,000	7,500	5,400	37,856	32,057	7,497	7,095	4,806	29,700	360	606	2,422	640,048	
43100	Streets	1,133,040	20,000	5,000	2,500	86,478	71,938	16,824	12,900	9,081	85,980	1,152	1,384	56,424	1,502,701	
43170	Sign Shop	48,466	-	-	-	3,635	3,005	703	-	339	2,580	72	58	2,361	61,219	
45010	Recreation Admin.	380,935	-	13,000	-	28,570	24,424	5,712	-	2,884	39,150	324	457	12,011	507,467	
45120	Swimming Pool	-	-	100,000	-	-	6,200	1,450	-	-	-	-	-	3,806	111,456	
45210	Parks Maintenance	418,254	6,000	95,000	1,050	31,819	32,197	7,530	2,580	4,328	57,900	432	509	20,737	678,336	
45220	Downtown Flowers	-	-	19,125	-	-	1,186	277	-	-	-	-	-	764	21,352	
45240	Forestry	144,066	-	-	500	10,805	8,932	2,089	-	1,008	18,300	144	173	5,753	191,770	
45300	Nature Center	291,176	-	121,808	125	28,936	25,605	5,988	10,320	3,678	23,400	504	463	14,053	526,056	
45430	Riverland Ball Diamond	-	-	7,500	-	-	465	109	-	-	-	-	-	300	8,374	
45460	5-Diamond Complex	-	-	4,000	-	-	248	58	-	-	-	-	-	160	4,466	
45480	Ice Rinks	-	-	4,375	-	-	271	63	-	-	-	-	-	87	4,796	
45490	Izaak Walton Cabin	-	-	2,000	-	-	124	29	-	-	-	-	-	80	2,233	
49850	Riverside Admin.	15,534	-	28,750	-	3,321	2,746	642	-	217	1,275	18	19	170	52,692	
49860	Riverside Maint.	49,226	500	16,250	-	4,948	4,090	957	-	689	9,900	54	60	1,458	88,132	
49870	Packer Admin.	15,534	-	14,375	-	2,243	1,854	434	-	217	1,275	18	19	115	36,084	
49880	Packer Maint.	16,409	-	12,500	-	2,168	1,792	419	-	230	3,300	18	20	639	37,495	
Total General Fund		8,922,497	229,000	552,034	60,015	1,198,008	333,237	141,014	107,715	80,019	632,640	8,489	10,865	400,351	12,675,884	
22000	Recreation Programs	-	200	35,228	-	15	2,197	514	-	-	-	-	-	1,415	39,569	
45500	Library	706,958	5,500	60,000	-	53,434	47,892	11,201	7,740	5,885	53,625	702	855	2,972	956,764	
49450	Sewer Maint.	399,377	10,000	-	1,500	30,703	25,381	5,936	9,675	3,196	13,725	378	479	19,946		
49480	WWTP-Domestic	643,615	15,000	2,500	1,100	49,359	40,989	9,586	11,932	5,494	39,751	594	772	16,261		
49490	WWTP-Industrial	643,615	15,000	2,500	1,100	49,359	40,989	9,586	11,932	5,494	39,751	594	772	16,261		
Total WWTP		1,686,607	40,000	5,000	3,700	129,421	107,359	25,108	33,539	14,184	93,227	1,566	2,023	52,468	2,194,202	
43150	SWUD	209,719	1,500	2,500	-	15,841	13,251	3,099	3,225	1,601	9,675	198	252	10,413	271,274	

Department	Description	Regular	OT	Temporary	Clothing/Meals		Medicare	HI	Sick	Health	Life	Disability	W/C		
		Salaries			Car	PERA									
		6101	6102	6104	112/115	6121	6122	6125	6128	6129	6131	6133	6134	6151	
43317	Mechanics	153,093	10,000	-	350	12,232	10,112	2,365	2,580	1,072	13,200	144	184	3,740	
43337	Purchasing	93,986	-	-	-	7,049	5,827	1,363	2,580	1,316	-	72	113	2,155	
43347	Building Maint.	68,217	-	-	-	5,116	4,229	989	-	478	-	72	82	2,597	
45217	Parks Maint.	80,722	250	-	200	6,073	5,020	1,174	2,580	565	-	72	97	1,857	
	Total Central Garage	396,018	10,250	-	550	30,470	25,188	5,891	7,740	3,431	13,200	360	476	10,349	503,923
41507	MIS Administration	76,840	-	-	-	5,763	4,764	1,114	-	538	5,100	72	92	296	94,579
41327	Risk Management	13,802	-	-	-	1,035	856	200	-	193	1,320	7	17	53	17,483
	GRAND TOTAL	12,012,441	286,450	654,762	64,265	1,433,987	534,744	188,141	159,959	105,851	808,787	11,394	14,580	478,317	16,753,678

AMENDED BUDGET															
Department	Description	Regular	OT	Temporary	Clothing/Meals		Medicare	HI	Sick	Health	Life	Disability	W/C		
		Salaries			Car	PERA									
		6101	6102	6104	112/115	6121	6122	6125	6128	6129	6131	6133	6134	6151	
41110	City Council	66,600	-	-	-	4,995	4,129	966	-	-	-	588	-	177	
41320	Mayor	12,600	-	-	-	945	781	183	-	-	-	84	-	33	
41320	Administration	213,256	-	-	4,800	15,994	13,519	3,162	-	1,493	21,168	168	427	821	
41400	City Clerk	138,687	1,500	-	-	10,514	8,692	2,033	-	981	16,488	168	280	539	
41500	Finance	317,314	-	-	4,800	23,488	19,971	4,671	-	3,181	33,859	244	635	1,221	
41610	City Attorney	114,817	-	-	-	8,611	7,119	1,665	-	-	44,220	336	-	442	
41800	Human Resources	110,530	-	3,000	-	8,290	7,039	1,646	-	1,547	14,808	84	221	437	
41910	Planning	198,767	-	-	4,800	14,908	12,621	2,952	-	1,391	16,488	168	398	951	
42010	Police	327,956	-	-	1,590	51,457	4,007	4,755	-	4,139	14,808	252	656	14,983	
42020	Investigations	532,611	31,000	-	3,900	99,759	-	8,172	-	6,520	21,168	420	1,127	31,535	
42030	Patrol	2,309,775	120,000	-	20,400	430,070	-	35,232	-	19,305	231,936	2,100	4,860	135,951	
42050	High School Liaison	94,899	-	-	-	16,797	-	1,376	-	664	21,168	84	190	5,310	
42070	Crossing Guards	-	-	17,125	-	-	1,062	248	-	-	-	-	-	724	
42110	CSO	148,041	1,000	-	900	11,178	9,241	2,161	-	1,509	-	210	298	8,339	
42120	Ellis Liaison Officer	94,899	-	-	750	16,797	-	1,376	-	664	-	84	190	5,310	
42200	Fire	1,032,461	40,000	80,726	8,500	238,985	9,012	16,721	-	8,605	75,312	924	2,145	76,674	
42400	Building Inspection	252,187	1,000	-	-	18,989	15,698	3,671	-	1,772	14,808	252	506	1,151	
42450	Rental Housing	109,600	1,000	-	-	8,295	6,857	1,604	-	1,000	4,122	126	221	499	
43000	Engineering	517,659	7,000	7,500	5,400	39,349	33,291	7,786	-	4,996	35,496	420	1,049	2,516	
43100	Streets	1,183,702	20,000	5,000	2,500	90,278	75,079	17,559	-	9,476	119,532	1,344	2,407	58,893	
43170	Sign Shop	51,418	-	-	-	3,856	3,188	746	-	360	21,168	84	103	2,505	
45010	Recreation Admin.	396,172	-	13,000	-	29,713	25,369	5,933	-	3,744	35,418	378	792	12,471	
45120	Swimming Pool	-	-	100,000	-	-	6,200	1,450	-	-	-	-	-	3,806	
45210	Parks Maintenance	451,732	6,000	95,000	1,050	34,330	34,272	8,015	-	4,211	86,556	504	915	22,074	
45220	Downtown Flowers	-	-	19,125	-	-	1,186	277	-	-	-	-	-	764	
45240	Forestry	140,527	-	-	500	10,540	8,713	2,038	-	984	23,052	168	281	5,612	
45300	Nature Center	283,429	-	136,204	125	29,375	26,017	6,085	-	3,623	16,488	588	783	14,921	
45430	Riverland Ball Diamond	-	-	7,500	-	-	465	109	-	-	-	-	-	300	
45460	5-Diamond Complex	-	-	4,000	-	-	248	58	-	-	-	-	-	160	
45480	Ice Rinks	-	-	4,375	-	-	271	63	-	-	-	-	-	87	
45490	Izaak Walton Cabin	-	-	2,000	-	-	124	29	-	-	-	-	-	80	
49850	Riverside Admin.	16,155	-	28,750	-	3,368	2,784	651	-	226	2,061	21	32	173	
49860	Riverside Maint.	51,195	500	16,250	-	5,096	4,213	985	-	717	15,876	63	103	1,502	
49870	Packer Admin.	16,155	-	14,375	-	2,290	1,893	443	-	226	2,061	21	32	117	
49880	Packer Maint.	17,065	-	12,500	-	2,217	1,833	429	-	239	5,292	21	34	653	
	Total General Fund	9,200,209	229,000	566,430	60,015	1,230,484	344,894	145,250	-	81,573	893,353	9,904	18,685	411,731	13,191,528
22000	Recreation Programs	-	200	35,228	-	15	2,197	514	-	-	-	-	-	1,415	39,569

Department	Description	Regular	Clothing/Meals			HI			Sick	Health	Life	Disability	W/C		
		Salaries	OT	Temporary	Car	PERA	FICA	Medicare	Opt Out	Leave	Insurance	Insurance	Insurance	Insurance	
		6101	6102	6104	112/115	6121	6122	6125	6128	6129	6131	6133	6134	6151	
45500	Library	716,766	5,500	60,000	-	54,170	48,500	11,343	-	5,497	67,922	830	1,445	3,010	974,983
49450	Sewer Maint.	415,352	10,000	-	1,500	31,901	26,372	6,168	-	3,325	22,059	441	831	20,725	
49480	WWTP-Domestic	670,981	15,000	2,500	1,100	51,411	42,686	9,983	-	5,725	69,669	693	1,341	16,934	
49490	WWTP-Industrial	670,981	15,000	2,500	1,100	51,411	42,686	9,983	-	5,725	69,669	693	1,341	16,934	
	Total WWTP	1,757,314	40,000	5,000	3,700	134,723	111,744	26,134	-	14,775	161,397	1,827	3,513	54,593	2,314,720
43150	SWUD	218,107	1,500	2,500	-	16,471	13,771	3,221	-	1,666	15,597	231	436	10,822	284,322
43317	Mechanics	159,216	10,000	-	350	12,691	10,491	2,454	-	1,115	42,336	168	318	3,880	
43337	Purchasing	83,084	-	-	-	6,231	5,151	1,205	-	582	-	84	166	1,905	
43347	Building Maint.	70,945	-	-	-	5,321	4,399	1,029	-	497	-	84	142	2,700	
45217	Parks Maint.	60,792	250	-	200	4,578	3,785	885	-	426	21,168	84	122	1,400	
	Total Central Garage	374,037	10,250	-	550	28,821	23,826	5,573	-	2,620	63,504	420	748	9,885	520,234
41507	MIS Administration	84,947	-	-	-	6,371	5,267	1,232	-	595	8,244	84	170	327	107,237
41327	Risk Management	14,354	-	-	-	1,077	890	208	-	201	2,117	8	29	55	18,939
	GRAND TOTAL	12,365,734	286,450	669,158	64,265	1,472,132	551,089	193,475	-	106,927	1,212,134	13,304	25,026	491,838	17,451,532

BUDGET ADJUSTMENT #3

Department	Description	Regular	OT	Temporary	Clothing/Meals		FICA	Medicare	HI	Sick	Health	Life	Disability	W/C	
		Salaries			Car	112/115	PERA			Opt Out	Leave	Insurance	Insurance	Insurance	Insurance
6101	6102	6104	6121	6122	6125	6128	6129	6131	6133	6134	6151				
49850	Riverside Admin.	621	-	-	-	47	38	9	-	9	786	3	13	3	
49860	Riverside Maint.	1,969	-	-	-	148	123	28	-	28	5,976	9	43	44	
49870	Packer Admin.	621	-	-	-	47	39	9	-	9	786	3	13	2	
49880	Packer Maint.	656	-	-	-	49	41	10	-	9	1,992	3	14	14	
Total General Fund		277,712	-	14,396	-	32,476	11,657	4,236	(107,715)	1,554	260,713	1,415	7,820	11,380	515,644
22000	Recreation Programs	-	-	-	-	-	-	-	-	-	-	-	-	-	-
45500	Library	9,808	-	-	-	736	608	142	(7,740)	(388)	14,297	128	590	38	18,219
49450	Sewer Maint.	15,975	-	-	-	1,198	991	232	(9,675)	129	8,334	63	352	779	
49480	WWTP-Domestic	27,366	-	-	-	2,052	1,697	397	(11,932)	231	29,918	99	569	673	
49490	WWTP-Industrial	27,366	-	-	-	2,052	1,697	397	(11,932)	231	29,918	99	569	673	
Total WWTP		70,707	-	-	-	5,302	4,385	1,026	(33,539)	591	68,170	261	1,490	2,125	120,518
43150	SWUD	8,388	-	-	-	630	520	122	(3,225)	65	5,922	33	184	409	13,048
43317	Mechanics	6,123	-	-	-	459	379	89	(2,580)	43	29,136	24	134	140	
43337	Purchasing	(10,902)	-	-	-	(818)	(676)	(158)	(2,580)	(734)	-	12	53	(250)	
43347	Building Maint.	2,728	-	-	-	205	170	40	-	19	-	12	60	103	
45217	Parks Maint.	(19,930)	-	-	-	(1,495)	(1,235)	(289)	(2,580)	(139)	21,168	12	25	(457)	
Total Central Garage		(21,981)	-	-	-	(1,649)	(1,362)	(318)	(7,740)	(811)	50,304	60	272	(464)	16,311
41507	MIS Administration	8,107	-	-	-	608	503	118	-	57	3,144	12	78	31	12,658
41327	Risk Management	552	-	-	-	42	34	8	-	8	797	1	12	2	1,456
GRAND TOTAL		353,293	-	14,396	-	38,145	16,345	5,334	(159,959)	1,076	403,347	1,910	10,446	13,521	697,854

RESOLUTION NO.

BUDGET ADJUSTMENT #4

**RESOLUTION AMENDING THE 2023 OPERATING BUDGET
OF GENERAL FUND – FUND 11 LIBRARY FUND – FUND 25, SEWER USER FUND -FUND 61
STORM WATER UTILITY DISTRICT FUND – FUND 67, CENTRAL GARAGE FUND – FUND
71, MIS ADMINISTRATION FUND – FUND 72, RISK MANAGEMENT FUND – FUND 75**

WHEREAS, the City Council of the City of Austin adopted Resolution No. 16678 on December 19, 2022 approving the 2023 operating budgets for the various city operations; and

WHEREAS, the following items have been approved for funding and require an amendment to the 2023 budget:

General Fund (11000):

	<u>Debit</u>	<u>Credit</u>
XXXXX.6101-6151 Wages/Benefits	\$ 515,644	
49011.7775 Transfer to Risk Management	\$ 184,356	
49911.6438 Contingency		\$ 700,000
Total General Fund	\$ 700,000	\$ 700,000

Library Fund (25000):

	<u>Debit</u>	<u>Credit</u>
45500.6101-6151 Wages/Benefits	\$ 18,219	
45500.5490 Use of Fund Balance		\$ 18,219
Total Library Fund	\$ 18,219	\$ 18,219

Sewer User Fund (61000):

	<u>Debit</u>	<u>Credit</u>
49450.6101-6151 Wages/Benefits	\$ 18,378	
49480.6101-6151 Wages/Benefits	\$ 51,070	
49490.6101-6151 Wages/Benefits	\$ 51,070	
49480.7999 Source/Use of Fund Balance		\$ 120,518
Total Sewer User Fund	\$ 120,518	\$ 120,518

Storm Water Utility District Fund (67000):

	<u>Debit</u>	<u>Credit</u>
43150.6101-6151 Wages/Benefits	\$ 13,048	
43150.5490 Use of Fund Balance		\$ 13,048
Total Storm Water Utility District Fund	\$ 13,048	\$ 13,048

Central Garage Fund (71000):

	<u>Debit</u>	<u>Credit</u>
43317.6101-6151 Wages/Benefits	\$ 33,947	
43337.6101-6151 Wages/Benefits		\$ 16,053
43347.6101-6151 Wages/Benefits	\$ 3,337	
49480.7999 Source of Fund Balance		\$ 21,231
45217.6101-6151 Wages/Benefits		\$ 4,920
45217.5492 Source of Fund Balance	\$ 4,920	
Total Central Garage Fund	\$ 42,204	\$ 42,204

M.I.S. Administration Fund (72000):

	<u>Debit</u>	<u>Credit</u>
41507.6101-6151 Wages/Benefits	\$ 12,658	
43150.5490 Use of Fund Balance		\$ 12,658
Total M.I.S. Administration Fund	\$ 12,658	\$ 12,658

Risk Management Fund (75000):

	<u>Debit</u>	<u>Credit</u>
41327.6101-6151 Wages/Benefits	\$ 1,456	
49007.4789 Health Insurance Premiums		\$ 403,347
49007.4795 Sick Leave Premiums		\$ 1,076
49007.4797 Life Insurance Premiums		\$ 1,910
49007.4798 Disability Insurance Premium		\$ 10,446
49007.4799 Workers. Comp. Premiums		\$ 13,521
49007.5401 Transfer from General Fund		\$ 184,356
49017.6129 Sick Leave Expense	\$ 1,076	
49017.6131 Health Insurance Expense	\$ 587,703	
49017.6133 Life Insurance Expense	\$ 1,910	
49017.6134 Disability Insurance Expense	\$ 10,446	
49017.6151 Workers Comp. Expense	\$ 13,521	
41327.5490 Use of Fund Balance		\$ 1,456
Total Risk Management Fund	\$ 616,112	\$ 616,112

WHEREAS, generally accepted accounting principles and reporting practices call for the amendment of the adopted budget to properly reflect these authorizations.

NOW THEREFORE, BE IT RESOLVED that the City Recorder shall record these authorized budget amendments upon the City's 2023 financial records.

Passed by a vote of yeas and nays this 3rd day of July, 2023.

YEAS

NAYS

ATTEST:

APPROVED:

City Recorder

Mayor



AUSTIN PUBLIC LIBRARY

323 4TH AVENUE NORTHEAST | AUSTIN MINNESOTA

MEMORANDUM

TO: Mayor and Council
FROM: Julie Clinefelter, Austin Public Library
RE: Request for Use of Money from Library's Fund Balance
DATE: June 28, 2023

On June 12, 2023, the Austin Public Library Board voted to approve use of funds from the Library's existing fund balance for the following two facilities upgrade projects:

Transition to LED Lighting in Library's Main Area – Project Cost of \$21,185.00:

The library's current annual energy cost is \$9,347. Upgrading to LED will save \$3,903 per year. A rebate of \$6,005 is available through the Conserve & Save program.

Security Camera System Update – Project Cost of \$12,815.08:

In the course of the 2023 construction project, the library's fire alarm system was upgraded. Upgrading and integration of the existing security camera system was not part of those system upgrades. The existing camera system was installed piecemeal over the last 20+ years and is outdated and insufficient for the library's current needs. The upgrade will replace cabling, cameras and the recording device.

Total cost for the two projects

LED Lighting	\$21,185.00
Security Cameras	\$12,815.08
Total Initial cost	\$34,000.08*

***Rebate of \$6,005 brings final cost down to a total of \$27,995.08.**

The City's Energy Building/Facilities Maintenance Technician, Brian Mason, has been involved with the evaluation process and is in agreement with the recommendations received.

Funds for these projects are not available from the regular 2023 library budget and would require use of monies from the Library's existing fund balance, which has adequate funds to cover the costs and still maintain a healthy amount of reserve. The bids for the projects are attached to this Memo.

The library seeks approval from City Council for use of library fund balance monies to pay for the projects as outlined.

PROPOSAL

FOX ELECTRIC CO. INC.

Electrical Contractor
SECURITY FIRE ALARM DATA PHONE
 500 NE 10th Street – Austin, Minnesota 55912
Phone: (507) 433-7184 Fax: (507) 433-5111
Email: foxelectric@foxelectricinc.com

PROPOSAL SUBMITTED TO: CITY OF AUSTIN	E-MAIL	PHONE	DATE 6/28/2023
STREET	JOB NAME AUSTIN PUBLIC LIBRARY		
CITY, STATE and ZIP CODE AUSTIN MN 55912	JOB LOCATION 323 4 TH AVE NE		

We hereby submit specifications and estimates for:

RETRO FIT LIGHTING TO LED TO INCLUDE:

1. BYPASS BALLASTS AND DIRECT CONNECT TO ENDS IN (29) 4' 2 LAMP FIXTURES (139) 4' 3 LAMP FIXTURES (4) 2' 2 LAMP UBEND FIXTURES (36) 24' 18 LAMP PENDANT INDIRECT FIXTURES (14) 8" ROUND RECESS FIXTURES.
2. FURNISH AND INSTALL (1,123) 4' DIRECT CONNECT LED LAMPS.
3. FURNISH AND INSTALL (8) 2' DIRECT CONNECT 3" UBEND LED LAMPS.
4. FURNISH AND INSTALL (14) 8" LED ROUND INSERT TRIMS.
5. REPLACE (4) 3-WAY SWITCHES IN PROGRAM ROOM.
6. DISPOSAL OF FLOURESCENT LAMPS.
7. STATE INSPECTION FEES.

TOTAL: \$21,185.00

APPROXIMATE REBATE

1,123 X \$5.00 = \$5,615.00

8 X \$5.00 = \$40.00

14 X \$25.00 = \$350.00

TOTAL \$6,005.00

*** 3% PROCESSING FEE FOR CREDIT/DEBIT CARD CHARGES OVER \$500.00 ***

Payment to be made as follows: **50% DOWNPAYMENT UPON ACCEPTANCE OF BID-REMAINDER UPON COMPLETION OF PROJECT**

Any alteration from above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. Owner to carry fire, tornado, and other necessary insurance. If additional insured is required on certificate of insurance, there will be an additional fee added to this price in the form of a change order. Price does not include performance bond, bid bond, building permit, or dumpster fees. Price does include State Electrical Inspection Fee.

Note: This proposal may be withdrawn by us if not accepted within 10 days.

Acceptance of Proposal – The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work specified. Payment will be made as outlined above.

Fox Electric
 Signature BRIAN BRIDGEMAN/br

Date of Acceptance: _____

Owner
 Signature _____



PREPARED FOR

Austin Public Library

Cameras

Prepared For:

Julie Clinefelter

Austin Public Library
(507) 396-5011
jclinefelter@selco.info

Prepared By:

Nathan Jones
Commercial Security Consultant
Custom Alarm
(507) 951-4147
nathanj@custom-alarm.com



1661 GREENVIEW DRIVE SW, ROCHESTER, MN 55902
507.288.5522 | WWW.CUSTOM-ALARM.COM



Proposal Number: 28366-1-0
Date: May 22, 2023

Scope Of Work

Customer Details:

Site: 323 4th Ave NE Austin, MN 55912

Billing: 323 4th Ave NE Austin, MN 55912

Contact: Julie Clinefelter (507) 396-5011

jclinefelter@selco.info

Custom Alarm will replace cabling, cameras, and recorder. Custom Alarm will run new Cat6e cable to the (8) camera locations. Custom Alarm will keep the existing head end on the shelf behind the reception desk. Custom Alarm will take down the (8) old cameras and replace those with new cable and cameras. The (8) cameras consist of (3) exterior bullet cameras and (5) interior dome cameras. Custom Alarm will remove the power supply above the drop tile but leave the analog camera. Custom Alarm will leave the remaining (5) cameras in place. A lift is included in this price to run new cable. Custom Alarm will test, train, and program following the installation.

Initials: _____

Scope Details

Business Hours: All work proposed shall be performed during normal business hours which are Monday-Friday 7:30 AM-5:00 PM



Proposal Number: 28366-1-0
Date: May 22, 2023

Financial Summary

Customer Details:

Site: 323 4th Ave NE Austin, MN 55912

Billing: 323 4th Ave NE Austin, MN 55912

Main Contact: Julie Clinefelter (507) 396-5011 jclinefelter@selco.info

Video Surveillance		\$12,815.08
QTY	Description	
1	Wisenet WAVE NVR-12TB	
4	License	
5	IP Camera-Dome	
3	IP Camera-Bullet	
3	Bullet Back Box	
550	Cat6E plenum wire (Specify Color)	

Financial Summary

Total Proposal Amount: \$12,815.08

Down Payment: \$2,563.01

Balance Due Upon Completion: \$10,252.07

Note: The above price does not include sales tax

If paying invoice via credit card, there may be a 3% service fee added to this charge.

This proposal may be withdrawn by Custom Alarm if not accepted within 30 days.



Proposal Number: 28366-1-0
Date: May 22, 2023

System Investment

Custom Alarm will provide the proposed system as described in this proposal for the sum of: \$12,815.08.

The price above includes: material, equipment and labor as described within this proposal. Taxes are not included and will be charged additionally, if applicable.

Payment Terms:

Work will be scheduled upon the receipt of an authorized signature, purchase agreement deposit as specified on the Financial Summary.

Any alteration or deviation from the proposal involving extra cost of materials or labor will become an extra charge over the sum stated above.

Projects exceeding one calendar month will be billed for work completed during each month (progressive billing). Progressive billing will include invoicing for engineering, labor, and/or programming prior to onsite installation and material stored at Custom Alarm. Payment is due 30 days from the date of invoice. Customer agrees to pay each invoice when due. In addition to all other rights and remedies available, Custom Alarm shall have the option to withhold any further shipments of material and/or the provision of any service, including, but not limited to Technical Assistance, until Customer's account is paid in full.

Proposal Acceptance:

I have read the *General Terms and Conditions* of the sale, understand them fully, and agree to abide by them. I have also read and understand the payment terms as set forth in this agreement as well as the *Schedule of Equipment* as listed.

I hereby certify that I am authorized to sign this agreement. Custom Alarm is hereby authorized to perform the work as specified.

Prepared By: Custom Alarm
Name: Nathan Jones

Signature: _____

Title: _____

Date: _____

Accepted By: Austin Public Library
Name: _____

Signature: _____

Title: _____

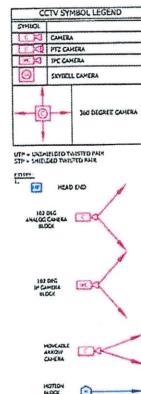
Date: _____



CUSTOM COMMUNICATIONS
1661 GREENVIEW DR SW
ROCHESTER, MN 55902
PHONE: 507-288-5522
TOLL FREE: 800-533-1602
FAX: 507-287-0757
WWW.CUSTOM-ALARM.COM

AUSTIN PUBLIC LIBRARY
323 4TH AVE NE
AUSTIN, MN

FIRE ALARM SHEET INDEX	
SHEET NUMBER	SHEET NAME
API-CCTV001	PROJECT INFORMATION
API-CCTV201	LEVEL 1 CCTV FLOOR PLAN



WONDERLAND PUBLIC LIBRARY
323 4TH AVE NE
AUSTIN, MN

DRAWN BY CEI	DATE 05/12/23
DESIGNED BY N JONES	
SOLD BY N JONES	
SYSTEM TYPE(S) CCTV	
SCALE: AS NOTED	
APL-CCTV001	



AUSTIN PUBLIC LIBRARY
323 4TH AVE NE
AUSTIN, MN

DRAWN BY	CET	DATE
DESIGNED BY	05/12/23	
N. JONES		
SUPERVISED BY		
N. JONES		
SYSTEM TESTED		
CC-TV-L1		
SCALE: 1/8" = 1'		
DRAWINGS/...		

RESOLUTION NO.

BUDGET ADJUSTMENT #5

**RESOLUTION AMENDING THE 2023 OPERATING BUDGET
OF FUND 25 - LIBRARY FUND**

WHEREAS, the City Council of the City of Austin adopted Resolution No. 16678 on December 19, 2022 approving the 2023 operating budgets for the various city operations; and

WHEREAS, the following items have been approved for funding and require an amendment to the 2023 budget:

Library Fund (25000):

	<u>Debit</u>	<u>Credit</u>
45500.6520 Buildings	\$34,000	
45500.5101 Revenue		\$6,005
45000.5490 Use of Fund Balance		\$27,995

WHEREAS, generally accepted accounting principles and reporting practices call for the amendment of the adopted budget to properly reflect these authorizations.

NOW THEREFORE, BE IT RESOLVED that the City Recorder shall record these authorized budget amendments upon the City's 2023 financial records.

Passed by a vote of yeas and nays this 20th day of June, 2023.

YEAS

NAYS

ATTEST:

APPROVED:

City Recorder

Mayor

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
 Austin Associates Organization (AAO)

DATE: July 3, 2023

Members of the Austin Associates Organization (AAO) met recently and approved a contract extension for years 2023-2025. The contract (Exhibit 1) has been signed by the bargaining unit members of the union.

Below is a summary of the agreement which would be pending your consideration and approval. Terms of the labor agreement include but are not limited to the following:

- Establishment of Juneteenth subject to the State of Minnesota requirement as a holiday (consistent with all other agreements);
- Clarify that vacation can differ at the discretion of the City Administrator;
- Adjustment of the bereavement leave for flexibility for those instances where it doesn't work well to utilize it within 30 days (consistent with all other agreements);
- General wage increases of 4,3,3 for respectively per year of the agreement (consistent with all other agreements);
- Adoption of the increased health care employer contributions each year of a three-year agreement with defined amounts (consistent with all other agreements);
- Generalized language obligating the employer to provide continued health care coverage with similar aggregate benefit (consistent with all other agreements);
- Elimination of retiree health care provision (consistent with all other agreements);
- Elimination of the payment for health care "opt-out" (consistent with all other agreements);
- Other technical items.

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

Approve Exhibit 1 the contract with AOO for 2023-2025 and authorize the Mayor to sign and recorder to attest the agreement.

AGREEMENT BETWEEN
AUSTIN ASSOCIATES ORGANIZATION
AND
THE CITY OF AUSTIN, MINNESOTA

2023 – 2025

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ARTICLE 1

INTENT AND PURPOSE

1.1 This agreement between the City of Austin, hereinafter referred to as the City or Employer, and Austin Associates Organization (AAO), hereinafter referred to as the Unit, is intended to set forth the results of collective bargaining negotiations between the City and the Unit. 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 agreement, 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 Unit as the exclusive representative for collective bargaining purposes and to have a representative of their choosing for all employees in the classifications of: Sewer Maintenance Supervisor, Nature Center Director, Public Works Director, WWTP Maintenance Supervisor, Park Supervisor, Planning and Zoning Administrator, Assistant City Engineer, Park & Rec. Director, Library Director, Street Superintendent, Shop Supervisor, Recreation Supervisor, WWTP Superintendent, WWTP Operations Supervisor, Assistant Street Superintendent, and Fire Chief employed by the City of Austin, Minnesota, who are public employees within the meaning of Minn. Stat. 179A.03 subd. 14, excluding all other 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.

ARTICLE 3

EMPLOYER AUTHORITY

(continued)

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 re-negotiated at the written request of either party.

ARTICLE 5

EMPLOYEE RIGHTS – GRIEVANCE PROCEDURES

5.1 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 AGREEMENT.

UNIT REPRESENTATIVES

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

PROCESSING OF A GRIEVANCE

It is recognized and accepted by the UNIT 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

ARTICLE 5

EMPLOYEE RIGHTS – GRIEVANCE PROCEDURES (continued)

aggrieved EMPLOYEE and the UNIT 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 UNIT 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 AGREEMENT 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 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

AGREEMENT 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 UNIT within ten (10) calendar days shall be considered waived.

Step 2. If appealed, the written grievance shall be presented by the UNIT and discussed with the City Administrator or designee. The City Administrator or designee shall give the UNIT 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 City Administrator or designee's final Step 2 answer. Any grievance not appealed in writing to Step 3 by the UNIT 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 UNIT 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.

ARTICLE 5

EMPLOYEE RIGHTS – GRIEVANCE PROCEDURES (continued)

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 AGREEMENT. The arbitrator shall consider and decide only the specific issue(s) submitted in writing by the EMPLOYER and the UNIT, 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, unless the parties agree to an extension. The decision shall be binding on both the EMPLOYER and the UNIT and shall be based solely on the arbitrator's interpretation or application of the express terms of this AGREEMENT 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 UNIT 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 UNIT 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 UNIT.

ARTICLE 6

UNIT ACTIVITY

- 6.1 The Unit 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 agreement and shall not work to prevent certain routine business such as the posting of notices and bulletins.
- 6.2 The Employer hereby agrees not to deduct such reasonable time from the pay of such officers, members, 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 Unit agrees to provide the Employer with the names of said persons.

ARTICLE 7

SICK LEAVE

- 7.1 Sick leave will be accumulative at the rate of eight (8) hours for each month of service up to twelve (12) months of service each year and may be used as it is earned on a monthly basis.
- 7.2 Sick leave shall be accumulative without a limit as to its accumulation.
- 7.3 Sick leave shall be granted only where accident or illness disables the employee from performing their regular duties in their accustomed manner or as provided by state or federal law.

Per Minn. Stat. §181.9413, as amended and updated from time to time, employees may use sick leave for their children, adult children, spouses, siblings, parents, mother-in-law, father-in-law, grandchild, grandparents and stepparents. Sick leave usage for this group of covered individuals is limited to 160 hours per calendar year (combined, not 160 per individual). The 160-hour limit does not apply to the employee's stepchild, biological or foster children either under 18 or under 20 if still attending secondary school.

If abuse is suspected, the Employer may request notification from a physician substantiating such illness in order for the payment of sick leave to be approved.

ARTICLE 7

SICK LEAVE (continued)

7.4 Payment of accumulated sick leave will only be made upon involuntary lay off or retirement. Payment of accumulated sick leave, with credited vacation leave together in an amount not to exceed one (1) year's present pay at 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.

For employees hired after April 1, 2006, sick leave shall be paid out at fifty percent (50%) of accumulation, which shall not exceed an amount equivalent to one year of pay.

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, must actually retire, and meet the PERA 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 spouse, and if no spouse, then to be paid to the estate.

ARTICLE 8

JURY DUTY

8.1 All fulltime employees shall be granted a leave of absence for service on a jury. They shall be compensated the difference in 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.

8.2 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 9

HOLIDAYS

- 9.1 All employees in each contract year shall be permitted twelve (12) working days off (96 benefit hours) with pay in lieu of holidays.
- 9.2 The following days are established as holidays:

New Year's Day
Martin Luther King, Jr. Day
Presidents Day
Good Friday
Memorial Day
Juneteenth
Fourth of July
Labor Day
Veterans Day
Thanksgiving Day
Day After Thanksgiving Day
Christmas Day

Supervisors whose employees have different holidays than above are required to take the same holidays as their employees. If all Employer employees receive the same holidays as specified above, the preceding sentence will be deemed eliminated from this Agreement and of no force or effect.

- 9.3 Employee's required to work on one of the above-named holidays will be provided \$100 holiday premium pay as long as four (4) or more consecutive hours are worked on the holiday. This premium pay is per holiday, not per every four hours of work. Anything less than four (4) hours of work does not qualify for holiday premium pay. Employees will be allowed to use their unused holiday time (hours required to work) for time off at a later date.

ARTICLE 10

VACATION

- 10.1 Vacations will be computed on the following basis:

When the date of hire is between January 1st and July 1st, on the following January 1st, credit for eighty (80) hours will be given. When the date of hire is between July 1st and October 1st, credit for forty (40) hours will be given on the following January 1st. When the date of hire is between October 1st and January 1st, credit for eighty (80) hours will be given on January 1st, a year later.

ARTICLE 10

VACATION (continued)

10.2 After one (1) year of service, the employee will receive a total of eighty (80) hours vacation and after five (5) years of service the employee will receive a total of 120 hours vacation and after twelve years (12) years of service will receive a total of 160 hours vacation and after twenty (20) years of service will receive a total of 200 hours vacation and after twenty-five (25) years of service will receive a total of 240 hours vacation based on the following formula:

When the end of the 4th, 11th, 19th or 24th year falls between January 1st and July 1st additional hours vacation will be credited on the following January 1st. When the end of the 4th, 11th, 19th or 24th year falls between July 1st and January 1st, additional hours vacation will be credited on January 1st, a year later.

Vacation Schedule:

1 Year	80 hours
5 Years	120 hours
12 Years	160 hours
20 Years	200 hours
25 Years	240 hours

Vacations may be taken a day at a time if it does not compromise the proper functioning of the department.

10.3 Vacation leaves shall be taken during each calendar year except that up to forty (40) hours of vacation may be carried into the following calendar year.

ARTICLE 11

BEREAVEMENT LEAVE

11.1 Bereavement leave will be granted employees up to a maximum of two (2) scheduled working days for the purpose of bereaving the death of a member of their immediate family, provided the employee makes arrangement with and gets approval from their supervisor. 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.

ARTICLE 11

BEREAVEMENT LEAVE

(continued)

11.2 For the purposes of the above paragraph, a member of the immediate family means the employee's spouse, child, stepchild, grandchild, mother, father, stepparent, sister, brother, step sibling, mother-in-law and father-in-law, employee's and spouse's grandparents, brother-in-law and sister-in-law.

ARTICLE 12

EMPLOYEE'S INSURANCE COVERAGE

12.1 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 negotiated nor subject to M.S. 471.6161 and any additional plans may be added at the City's sole discretion.

Beginning January 1, 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.

ARTICLE 12

EMPLOYEE'S INSURANCE COVERAGE

(continued)

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.

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.

- 12.2 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.
- 12.3 The Employer will pay the Employer's share of the premium for up to twelve (12) months for all employees who are disabled with compensable disability (receiving Workers' Compensation). Employer will be under no obligation to pay any health insurance after the twelve-month period.
- 12.4 The Employer shall pay the premium for a \$40,000 term life insurance policy with accidental death and dismemberment.
- 12.5 New employees will sign authorization cards for all insurance on the first day of employment and the insurance will be in effect on the date of hire.
- 12.6 Employer will provide a long-term disability insurance program as established by Employer.
- 12.7 When an employee is off work with an eligible compensation injury, they shall receive the difference between their compensation check and their regular check for the first thirty (30) calendar days. After the first thirty (30) days, the employee may use sick leave in an amount sufficient so that with their compensation check they will receive their regular salary.
- 12.8 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

ARTICLE 12

EMPLOYEE'S INSURANCE PROGRAM (continued)

of reimbursement after the deductible cost has been paid by the insured and receipts submitted to the Employer showing payment.

- 12.9 An employee who retires and has unused sick leave pay available may choose to leave all or part of the sick leave pay in a reserve account with the Employer to be used to pay the Employer the monthly cost for the employee's medical/hospital insurance when they choose to stay on the City's health insurance plan after retirement. No interest on the employees' money in their reserve account shall be earned by the retired Employee and paid by the Employer. The Employee may choose to close the account effective the first of the month and receive payment for any balance in their reserve account. The maximum sick leave balance paid by the Employer will not exceed one year's salary.
- 12.10 All employees covered by this labor agreement will participate in a Post Employment Health Care Savings Plan (HCSP) through the Minnesota State Retirement System (MSRS). Per Minn. Stat. §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 through regular payroll deduction.

Eligible employees who are eligible for retirement under PERA guidelines shall contribute one-hundred percent (100%) of accrued unused sick leave, as accrued and accumulated per Article 7 of the labor agreement and one-hundred percent (100%) of accrued unused vacation, as accrued and accumulated per Article 10 of the labor agreement upon retirement into a Post Employment HCSP with the MSRS. Payment of accumulated sick leave, along with accumulated vacation, shall not exceed an amount equivalent to one (1) year present rate of pay at time of retirement.

If any eligible employee is involuntarily laid off or terminated, no accrued sick leave shall be deposited into a Post Employment Healthcare Savings Plan with the Minnesota State Retirement System. If death should occur before retirement, no contribution shall be deposited into a Post Employment Healthcare Savings Plan, the accrued unused sick leave will be made payable per the terms as outlined in Article 7 of the labor agreement and not as outlined above.

ARTICLE 13

PAY PLAN

13.1 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
Assistant City Engineer	26
Assistant Street Superintendent	20
Fire Chief	29
Library Director	27
Nature Center Director	22
Parks and Recreation Director	28
Parks Supervisor	21
Planning and Zoning Administrator	28
Public Works Director	33
Recreation Supervisor	21
Sewer Maintenance Supervisor	21
Shop Supervisor	17
Street Superintendent	24
WWTP Maintenance Supervisor	21
WWTP Operations Supervisor	20
WWTP Superintendent	28

ARTICLE 14

PREMIUM PAY

14.1 Overtime at the rate of time and one-half will be granted to the positions designated below for any hours worked in a seven-day period (Sunday through Saturday) in excess of 48 hours provided that the department head approves the hours to be worked in advance. For the purpose of calculating above, holiday and sick hours will be considered hours actually worked.

Eligible positions: Park Supervisor, WWTP Maintenance Supervisor, WWTP Operations Supervisor, Sewer Maintenance Supervisor, Street Superintendent, Assistant Street Superintendent and Shop Supervisor.

ARTICLE 15

UNIFORM & CAR ALLOWANCE

15.1 The Fire Chief shall receive an annual uniform allowance of \$700.00. A uniform account shall be kept by the Finance Department for each position.

An employee terminating employment during the year will reimburse the City up to the current annual allowance on a pro-rated basis for any month in which he/she has not worked.

15.2 The Employer shall pay from the uniform account invoices submitted by the Fire Chief from either the uniform vendor or for claims submitted by the employee with attached receipt showing payment by the employee for the uniform article.

15.3 Any unspent funds in the uniform account shall be carried forward to the next fiscal year uniform account for the Fire Chief.

15.4 The Public Works Director and Planning and Zoning Administrator shall receive \$400.00 per month car allowance to compensate for personal vehicle use for City business.

15.5 The Employer shall provide appropriate protective clothing and safety glasses/eyewear as required by state and federal law or where the employee's duties require the provision of such protective clothing or safety glasses or eyewear.

ARTICLE 16

GENERAL

16.1 The City will reimburse employees fifty (50%) percent tuition reimbursement for college credit courses in a subject deemed by the Employer to be of related value to the position the employee holds with the Employer. Course must be from a public college/university with reimbursement paid to the employee upon course completion and a letter grade of "C" or higher or receive a "Pass" on a pass/fail system. A written course grade report as well as a receipt for tuition from the institution is required before Employer pays reimbursement to the employee.

16.2 Upon presentation of an authorized dues payroll deduction to the Finance Department, the Employer shall make the necessary deductions from employee's paycheck on a monthly basis and remit it to appropriate office of AAO.

ARTICLE 16

GENERAL (continued)

16.3 Employees in the positions of Assistant Street Superintendent, Street Superintendent, Shop Supervisor, Sewer Maintenance Supervisor, Assistant City Engineer, Public Works Director, WWTP Superintendent, WWTP Maintenance Supervisor and Park Supervisor will be provided up to \$200.00 every two years toward the purchase of prescription safety glasses according to the following rules:

- A. Glasses must meet OSHA regulations.
- B. Glasses must include side clamps (either permanent or removable, with the expectation that they are worn during work hours).
- C. A plastic lens will be used and it shall be coated with a scratch-proofing compound.
- D. Employer contribution shall be available on an annual basis.
- E. The payment paid to vendor by Employer or reimbursed to employee from appropriately detailed receipt.
- F. No carry-over beyond the two-year time period.

16.4 Employees in the positions of Assistant Street Superintendent, Sewer Maintenance Supervisor, WWTP Maintenance Supervisor, WWTP Operations Supervisor and Park Supervisor shall be reimbursed up to \$200.00 annually toward the purchase of work clothing items. The Employer will reimburse the employee upon submission of a receipt from the vendor that has been paid.

Balance may be carried forward from year to year. The Human Resources Department will administer the account.

An employee terminating employment during the year will reimburse the City up to the current annual allowance on a pro-rated basis for any month in which he/she has not worked.

ARTICLE 17

DURATION

17.1 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 below.

SIGNATURE OF UNIT
REPRESENTATIVES OF
AUSTIN ASSOCIATES ORGANIZATION
BARGAINING COMMITTEE

President

Date: _____

SIGNATURE OF CITY
REPRESENTATIVES
CITY OF AUSTIN, MINNESOTA

Mayor

ATTEST:

City Recorder

Date: _____

APPENDIX A

COMPENSATORY TIME

Except as hereinafter specifically provided for, the accumulation and use of compensatory time by all employees shall cease as of March 30, 2007.

Prior to March 30, 2007, certain employees have accumulated compensatory time. The names of these employees and the hours of compensatory time which they have accumulated and which are unused are as follows:

<u>Employees</u>	<u>Hours of Unused Accumulated Compensatory Hours (updated as of 5/12/23)</u>
Steven Lang	203.00

The use of unused accumulated compensatory hours above set forth by these identified employees shall be subject to and limited by the following conditions, to wit:

- A. Employees above identified may use up to a maximum of 40 hours per calendar year of the unused compensatory hours they did accumulate prior to March 30, 2007.
- B. Notwithstanding the foregoing, any unused and accumulated compensatory time as above set forth may be used to reimburse said employees for sick leave taken for a catastrophic event so long as the employee completes the entire qualifying period required to receive long-term disability benefits (90 calendar days).
- C. In no event may said employee's use of compensatory time as provided for in said paragraphs A and B exceed the total of the unused accumulated hours of compensatory time listed above.
- D. As the said unused accumulated compensatory hours are used by the above identified employees as provided herein, the balance of said compensatory hours available for the use of said employees shall be reduced on an hour for hour basis.
- E. Any of said unused accumulated compensatory time not used by said employees as above set forth will be forfeited upon the employee's resignation, death, discharge or retirement and no compensation, monetary or otherwise, shall be given or paid to said employees for unused compensatory time.
- F. Employees and Employer specifically acknowledge and agree that no further compensatory time shall accumulate from and after March 30, 2007.

2023 BPS - Step System

Job Evaluation Point Range		Grade	Pay Range						
			Step 1 Start	Step 2 6 mos.	Step 3 12 mos.	Step 4 24 mos.	Step 5 36 mos.	Step 6 48 mos.	Step 7 60 mos.
Min	Max	1-36	70.00%	75.00%	80.00%	85.00%	90.00%	95.00%	100.00%
150	163	1	\$20.50	\$21.97	\$23.43	\$24.90	\$26.36	\$27.83	\$ 29.29
164	178	2	\$21.11	\$22.62	\$24.13	\$25.64	\$27.14	\$28.65	\$ 30.16
179	193	3	\$21.75	\$23.30	\$24.86	\$26.41	\$27.96	\$29.52	\$ 31.07
194	209	4	\$22.40	\$24.00	\$25.60	\$27.20	\$28.80	\$30.40	\$ 32.00
210	225	5	\$23.07	\$24.72	\$26.37	\$28.02	\$29.66	\$31.31	\$ 32.96
226	241	6	\$23.77	\$25.46	\$27.16	\$28.86	\$30.56	\$32.25	\$ 33.95
242	258	7	\$24.48	\$26.23	\$27.98	\$29.73	\$31.47	\$33.22	\$ 34.97
259	276	8	\$25.21	\$27.02	\$28.82	\$30.62	\$32.42	\$34.22	\$ 36.02
277	294	9	\$25.97	\$27.83	\$29.68	\$31.54	\$33.39	\$35.25	\$ 37.10
295	313	10	\$26.75	\$28.66	\$30.57	\$32.48	\$34.39	\$36.30	\$ 38.21
314	332	11	\$27.55	\$29.52	\$31.49	\$33.46	\$35.42	\$37.39	\$ 39.36
333	352	12	\$28.38	\$30.41	\$32.43	\$34.46	\$36.49	\$38.51	\$ 40.54
353	372	13	\$29.23	\$31.31	\$33.40	\$35.49	\$37.58	\$39.66	\$ 41.75
373	393	14	\$30.11	\$32.26	\$34.41	\$36.56	\$38.71	\$40.86	\$ 43.01
394	415	15	\$31.01	\$33.23	\$35.44	\$37.66	\$39.87	\$42.09	\$ 44.30
416	437	16	\$31.94	\$34.22	\$36.50	\$38.79	\$41.07	\$43.35	\$ 45.63
438	460	17	\$32.89	\$35.24	\$37.59	\$39.94	\$42.29	\$44.64	\$ 46.99
461	484	18	\$33.88	\$36.30	\$38.72	\$41.14	\$43.56	\$45.98	\$ 48.40
485	508	19	\$34.90	\$37.40	\$39.89	\$42.38	\$44.87	\$47.37	\$ 49.86
509	533	20	\$35.95	\$38.51	\$41.08	\$43.65	\$46.22	\$48.78	\$ 51.35
534	559	21	\$37.02	\$39.67	\$42.31	\$44.96	\$47.60	\$50.25	\$ 52.89
560	585	22	\$38.14	\$40.86	\$43.58	\$46.31	\$49.03	\$51.76	\$ 54.48
586	613	23	\$39.28	\$42.08	\$44.89	\$47.69	\$50.50	\$53.31	\$ 56.11
614	641	24	\$40.46	\$43.35	\$46.24	\$49.13	\$52.02	\$54.91	\$ 57.80
642	670	25	\$41.67	\$44.65	\$47.62	\$50.60	\$53.58	\$56.55	\$ 59.53
671	700	26	\$42.92	\$45.99	\$49.06	\$52.12	\$55.19	\$58.25	\$ 61.32
701	731	27	\$44.21	\$47.37	\$50.53	\$53.69	\$56.84	\$60.00	\$ 63.16
732	763	28	\$45.54	\$48.79	\$52.04	\$55.29	\$58.55	\$61.80	\$ 65.05
764	795	29	\$46.90	\$50.25	\$53.60	\$56.95	\$60.30	\$63.65	\$ 67.00
796	829	30	\$48.31	\$51.76	\$55.21	\$58.66	\$62.11	\$65.56	\$ 69.01
830	864	31	\$49.76	\$53.31	\$56.86	\$60.42	\$63.97	\$67.53	\$ 71.08
865	899	32	\$51.25	\$54.91	\$58.57	\$62.23	\$65.89	\$69.55	\$ 73.21
900	936	33	\$52.79	\$56.56	\$60.33	\$64.10	\$67.87	\$71.64	\$ 75.41
937	974	34	\$54.37	\$58.25	\$62.14	\$66.02	\$69.90	\$73.79	\$ 77.67
975	1013	35	\$56.00	\$60.00	\$64.00	\$68.00	\$72.00	\$76.00	\$ 80.00
1014	1054	36	\$57.68	\$61.80	\$65.92	\$70.04	\$74.16	\$78.28	\$ 82.40

Notes:

- 2023 represents 4% base increase over 2022.
- Employees starting in a position may be placed on any step at the discretion of the City Administrator.
- Employees promoted to a position that is in a higher pay grade, will be placed on a step that is at least equivalent to, but not less than, their base wage before they were promoted.
- No step increases will be awarded under this structure after December 31, 2023.

2024 BPS - Step System

Job Evaluation Point Range		Grade	Pay Range						
			Step 1 Start	Step 2 6 mos.	Step 3 12 mos.	Step 4 24 mos.	Step 5 36 mos.	Step 6 48 mos.	Step 7 60 mos.
Min	Max	1-36	70.00%	75.00%	80.00%	85.00%	90.00%	95.00%	100.00%
150	163	1	\$21.12	\$22.63	\$24.14	\$25.64	\$27.15	\$28.66	\$30.17
164	178	2	\$21.75	\$23.30	\$24.86	\$26.41	\$27.96	\$29.52	\$31.07
179	193	3	\$22.40	\$24.00	\$25.60	\$27.20	\$28.80	\$30.40	\$32.00
194	209	4	\$23.07	\$24.72	\$26.37	\$28.02	\$29.66	\$31.31	\$32.96
210	225	5	\$23.76	\$25.46	\$27.16	\$28.86	\$30.55	\$32.25	\$33.95
226	241	6	\$24.48	\$26.23	\$27.98	\$29.72	\$31.47	\$33.22	\$34.97
242	258	7	\$25.21	\$27.01	\$28.82	\$30.62	\$32.42	\$34.22	\$36.02
259	276	8	\$25.97	\$27.83	\$29.68	\$31.54	\$33.39	\$35.25	\$37.10
277	294	9	\$26.75	\$28.66	\$30.57	\$32.48	\$34.39	\$36.30	\$38.21
295	313	10	\$27.55	\$29.52	\$31.49	\$33.45	\$35.42	\$37.39	\$39.36
314	332	11	\$28.38	\$30.41	\$32.43	\$34.46	\$36.49	\$38.51	\$40.54
333	352	12	\$29.23	\$31.32	\$33.41	\$35.49	\$37.58	\$39.67	\$41.76
353	372	13	\$30.10	\$32.25	\$34.40	\$36.55	\$38.70	\$40.85	\$43.00
373	393	14	\$31.01	\$33.23	\$35.44	\$37.66	\$39.87	\$42.09	\$44.30
394	415	15	\$31.94	\$34.22	\$36.50	\$38.79	\$41.07	\$43.35	\$45.63
416	437	16	\$32.90	\$35.25	\$37.60	\$39.95	\$42.30	\$44.65	\$47.00
438	460	17	\$33.88	\$36.30	\$38.72	\$41.14	\$43.56	\$45.98	\$48.40
461	484	18	\$34.90	\$37.39	\$39.88	\$42.37	\$44.87	\$47.36	\$49.85
485	508	19	\$35.95	\$38.52	\$41.09	\$43.65	\$46.22	\$48.79	\$51.36
509	533	20	\$37.02	\$39.67	\$42.31	\$44.96	\$47.60	\$50.25	\$52.89
534	559	21	\$38.13	\$40.86	\$43.58	\$46.31	\$49.03	\$51.75	\$54.48
560	585	22	\$39.28	\$42.09	\$44.89	\$47.70	\$50.50	\$53.31	\$56.11
586	613	23	\$40.46	\$43.35	\$46.24	\$49.12	\$52.01	\$54.90	\$57.79
614	641	24	\$41.67	\$44.65	\$47.63	\$50.60	\$53.58	\$56.56	\$59.53
642	670	25	\$42.92	\$45.99	\$49.05	\$52.12	\$55.18	\$58.25	\$61.32
671	700	26	\$44.21	\$47.37	\$50.53	\$53.69	\$56.84	\$60.00	\$63.16
701	731	27	\$45.54	\$48.80	\$52.05	\$55.30	\$58.55	\$61.81	\$65.06
732	763	28	\$46.90	\$50.25	\$53.60	\$56.95	\$60.30	\$63.65	\$67.00
764	795	29	\$48.31	\$51.76	\$55.21	\$58.66	\$62.11	\$65.56	\$69.01
796	829	30	\$49.76	\$53.31	\$56.86	\$60.42	\$63.97	\$67.53	\$71.08
830	864	31	\$51.25	\$54.91	\$58.57	\$62.23	\$65.89	\$69.55	\$73.21
865	899	32	\$52.78	\$56.56	\$60.33	\$64.10	\$67.87	\$71.64	\$75.41
900	936	33	\$54.37	\$58.25	\$62.14	\$66.02	\$69.91	\$73.79	\$77.67
937	974	34	\$56.00	\$60.00	\$64.00	\$68.00	\$72.00	\$76.00	\$80.00
975	1013	35	\$57.68	\$61.80	\$65.92	\$70.04	\$74.16	\$78.28	\$82.40
1014	1054	36	\$59.41	\$63.65	\$67.90	\$72.14	\$76.39	\$80.63	\$84.87

Notes:

- 2024 represents 3% base increase over 2023.
- Employees starting in a position may be placed on any step at the discretion of the City Administrator.
- Employees promoted to a position that is in a higher pay grade, will be placed on a step that is at least equivalent to, but not less than, their base wage before they were promoted.
- No step increases will be awarded under this structure after December 31, 2024.

2025 BPS - Step System

Job Evaluation Point Range		Grade	Pay Range						
			Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7
Min	Max	1-36	70.00%	75.00%	80.00%	85.00%	90.00%	95.00%	100.00%
150	163	1	\$21.76	\$23.31	\$24.14	\$26.42	\$27.97	\$29.53	\$31.08
164	178	2	\$22.40	\$24.00	\$25.60	\$27.20	\$28.80	\$30.40	\$32.00
179	193	3	\$23.07	\$24.72	\$26.37	\$28.02	\$29.67	\$31.31	\$32.96
194	209	4	\$23.76	\$25.46	\$27.16	\$28.86	\$30.55	\$32.25	\$33.95
210	225	5	\$24.48	\$26.23	\$27.97	\$29.72	\$31.47	\$33.22	\$34.97
226	241	6	\$25.21	\$27.01	\$28.81	\$30.62	\$32.42	\$34.22	\$36.02
242	258	7	\$25.97	\$27.83	\$29.68	\$31.54	\$33.39	\$35.25	\$37.10
259	276	8	\$26.75	\$28.66	\$30.57	\$32.48	\$34.39	\$36.30	\$38.21
277	294	9	\$27.55	\$29.52	\$31.49	\$33.46	\$35.42	\$37.39	\$39.36
295	313	10	\$28.38	\$30.40	\$32.43	\$34.46	\$36.48	\$38.51	\$40.54
314	332	11	\$29.23	\$31.32	\$33.41	\$35.49	\$37.58	\$39.67	\$41.76
333	352	12	\$30.11	\$32.26	\$34.41	\$36.56	\$38.71	\$40.86	\$43.01
353	372	13	\$31.01	\$33.22	\$35.43	\$37.65	\$39.86	\$42.08	\$44.29
373	393	14	\$31.94	\$34.22	\$36.50	\$38.79	\$41.07	\$43.35	\$45.63
394	415	15	\$32.90	\$35.25	\$37.60	\$39.95	\$42.30	\$44.65	\$47.00
416	437	16	\$33.89	\$36.31	\$38.73	\$41.15	\$43.57	\$45.99	\$48.41
438	460	17	\$34.90	\$37.39	\$39.88	\$42.37	\$44.87	\$47.36	\$49.85
461	484	18	\$35.94	\$38.51	\$41.08	\$43.65	\$46.21	\$48.78	\$51.35
485	508	19	\$37.03	\$39.67	\$42.32	\$44.96	\$47.61	\$50.25	\$52.90
509	533	20	\$38.13	\$40.86	\$43.58	\$46.31	\$49.03	\$51.75	\$54.48
534	559	21	\$39.28	\$42.08	\$44.89	\$47.69	\$50.50	\$53.31	\$56.11
560	585	22	\$40.46	\$43.35	\$46.24	\$49.13	\$52.02	\$54.91	\$57.80
586	613	23	\$41.67	\$44.65	\$47.62	\$50.60	\$53.57	\$56.55	\$59.53
614	641	24	\$42.92	\$45.99	\$49.06	\$52.12	\$55.19	\$58.25	\$61.32
642	670	25	\$44.21	\$47.37	\$50.52	\$53.68	\$56.84	\$60.00	\$63.16
671	700	26	\$45.54	\$48.79	\$52.04	\$55.30	\$58.55	\$61.80	\$65.05
701	731	27	\$46.91	\$50.26	\$53.61	\$56.96	\$60.31	\$63.66	\$67.01
732	763	28	\$48.31	\$51.76	\$55.21	\$58.66	\$62.11	\$65.56	\$69.01
764	795	29	\$49.76	\$53.31	\$56.86	\$60.42	\$63.97	\$67.53	\$71.08
796	829	30	\$51.25	\$54.91	\$58.57	\$62.23	\$65.89	\$69.55	\$73.21
830	864	31	\$52.79	\$56.56	\$60.33	\$64.10	\$67.87	\$71.64	\$75.41
865	899	32	\$54.37	\$58.25	\$62.14	\$66.02	\$69.90	\$73.79	\$77.67
900	936	33	\$56.00	\$60.00	\$64.00	\$68.00	\$72.00	\$76.00	\$80.00
937	974	34	\$57.68	\$61.80	\$65.92	\$70.04	\$74.16	\$78.28	\$82.40
975	1013	35	\$59.41	\$63.65	\$67.90	\$72.14	\$76.38	\$80.63	\$84.87
1014	1054	36	\$61.19	\$65.56	\$69.94	\$74.31	\$78.68	\$83.05	\$87.42

Notes:

- 2025 represents 3% base increase over 2024.
- Employees starting in a position may be placed on any step at the discretion of the City Administrator.
- Employees promoted to a position that is in a higher pay grade, will be placed on a step that is at least equivalent to, but not less than, their base wage before they were promoted.
- No step increases will be awarded under this structure after December 31, 2025.

RESOLUTION NO.

RESOLUTION AUTHORIZING THE MAYOR TO SIGN AGREEMENT BETWEEN
AUSTIN ASSOCIATES ORGANIZATION AND THE
CITY OF AUSTIN, MINNESOTA

WHEREAS, Austin Associates Organization (AAO) is the exclusive representative for certain City of Austin employees; and

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

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

WHEREAS, the City of Austin and AAO 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 AAO 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 AAO 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 AAO 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 3rd day of July, 2023

YEAS

NAYS

ATTEST:

City Recorder

APPROVED:

Mayor

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



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

Memorandum

To: Mayor & Council
From: Steven J. Lang, P.E.
Date: June 21, 2023
Subject: Hwy 105 Maintenance Agreement

Attached is an agreement for routine maintenance between the Minnesota Department of Transportation and the City of Austin on Highway 105. The current agreement with MnDOT expires in June of 2023. Execution of this document would provide for an extension to June 30th, 2025.

As part of the agreement, the City of Austin provides routine maintenance to the roadway mainly involving snowplowing, sanding and minor patching. In return, MnDOT reimburses the City a lump sum about annually. Listed below are the lump sum amounts the City has been reimbursed in the recent past and the proposed rates for the term of this agreement.

		<u>Increase</u>			<u>Increase</u>
FY2012	\$8,504.66	0%	FY2022	\$10,723.74	3.5%
FY2013	\$8,504.66	0%	FY2023	\$11,099.07	3.5%
FY2014	\$8,759.81	3%	FY2024	\$11,598.54	4.5%
FY2015	\$9,022.59	3%	FY2025	\$12,120.45	4.5%
FY2016	\$9,203.04	2%			
FY2017	\$9,387.09	2%			
FY2018	\$9,574.83	2%			
FY2019	\$9,766.32	2%			
FY2020	\$10,059.33	3%			
FY2021	\$10,361.08	3%			

MnDOT has proposed a 4.5% increase annually for this 2-year agreement. I would recommend approval of the agreement. If you have any question, please contact me.

STATE OF MINNESOTA
DEPARTMENT OF TRANSPORTATION
And
CITY OF AUSTIN
ROUTINE MAINTENANCE
AGREEMENT

Routine Maintenance Performed by the City	Total Agreement Amount
on:	<u>\$23,718.99</u>
Trunk Highway Number (T.H.): <u>105</u>	Amount Encumbered (Fiscal Year 2024)
	<u>\$11,598.54</u>
	Amount Encumbered (Fiscal Year 2025)
	<u>\$12,120.45</u>

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

Recitals

1. The State requests the City perform routine maintenance on certain trunk highway(s) located within the corporate city limits, and the City is willing to perform the routine maintenance; and
2. The State will reimburse the City for the routine maintenance performed; and
3. Under Minnesota Statutes § 161.38, subdivision 3, the State and the City wish to enter into an agreement that will provide routine maintenance performed by the City on certain trunk highway(s) located within the City limits; and
4. Minnesota Statutes § 161.20, subdivision 2, authorizes the Commissioner of Transportation to make agreements with and cooperate with any governmental authority for the purposes of constructing, maintaining, and improving the trunk highway system.

Agreement

1. Term of Agreement; Survival of Terms

- 1.1. **Effective Date.** This Agreement will be effective on July 1, 2023 or the date the State obtains all signatures required by Minnesota Statutes § 16C.05, subdivision 2, whichever is later.
- 1.2. **Expiration Date.** This Agreement will expire on June 30, 2025, or when all obligations have been satisfactorily fulfilled, whichever occurs first.
- 1.3. **Survival of Terms.** All clauses which impose obligations continuing in their nature and which must survive in order to give effect to their meaning will survive the expiration or termination of this Agreement, including, without limitation, the following clauses: 7. Liability; Worker Compensation Claims; Insurance; 10. State Audits; 11. Government Data Practices; 12. Governing Law; Jurisdiction; Venue; and 14. Force Majeure.

2. Agreement Between the Parties

2.1. *Maintenance by the City.*

- A. **Location.** The City will perform routine maintenance of the following portions of the trunk highway system within the Corporate City limits:
 - i. On Trunk Highway No. 105 (Oakland Avenue West) from the east entrance ramp to Trunk Highway No. 90 easterly to 12th Street Southwest, consisting of 2.90 lane miles. This does not include the portion described in Article 2.1.A.ii.
 - ii. On Trunk Highway No. 105 (Oakland Avenue West) from 170 feet west of 15th Street Southwest easterly to 12th Street Southwest, consisting of 0.56 lane miles (This is the southern portion of the roadway split that occurs 170 feet west of 15th Street Southwest).
 - iii. On Trunk Highway No. 105 (12th Street Southwest) from the north junction of Oakland Avenue West southerly to the south side of 11th Avenue Southwest, consisting of 1.40 lane miles.
- B. **Total Mileage.** The total trunk highway mileage for the routine maintenance performed under this Agreement is 2.43 miles consisting of 4.86 lane miles.

2.2. *Maintenance Responsibilities (Reimbursable).* The City will perform the following routine maintenance duties to the satisfaction of the State's District Maintenance Engineer at Owatonna. All materials used in the performance of said routine maintenance must comply with the State's current "Standard Specifications for Construction".

- A. Maintain the trunk highway(s) to keep them smooth and in good repair for the passage of traffic and free from all obstructions and impediments to traffic. This includes all necessary preventative maintenance to preserve the roadbed in its present condition, such as proper and timely crack sealing of the surface, restoration of utility openings, and all necessary patching of the roadbed.
- B. Keep the traveled roadway free and clear of ice, snow, litter, debris, and any other foreign matter of any nature.
- C. Sand, salt, or chemically treat the traveled roadway as necessary to provide for safe public travel.
- D. Maintain the roadside vegetation and landscaping in a neat and orderly fashion by mowing, trimming, and providing for noxious weed control according to Minnesota Statutes § 160.23.
- E. Dispose of all snow, litter, debris, and any other foreign matter collected upon, along, or adjacent to the trunk highway proper and within the Trunk Highway Right-of-Way limits and State roadside development facilities (i.e. rest areas) according to all applicable laws, ordinances, and regulations.
- F. Maintain roadway markings, traffic control devices and safety devices in operating and usable condition. The State will place, install, and maintain at all times suitable guide signs, warning signs, route markers, and center lines for the guidance of traffic on the trunk highway(s).
- G. Furnish all labor, materials, tools, equipment, and any other necessary items to perform the routine maintenance duties covered under this Agreement.

2.3. *Other Maintenance Responsibilities; Agreements (Non-Reimbursable).* The City is responsible for performing the following routine maintenance duties, without cost or expense to the State:

- A. Keep the pedestrian user areas of the walkways, medians, pedestrian ramps, and curb and gutter free and clear of ice, snow, litter, debris, and any other foreign matter of any nature.

- B. Sand, salt, or chemically treat, and repair joints and panels in the pedestrian user areas of the walkways, medians, pedestrian ramps, and curb and gutter.
- C. Maintain any other facilities located within the Trunk Highway Right-of-Way that are covered under other agreements or Limited Use Permits. This Agreement does not supersede any other agreements between the parties.

2.4. *Traffic Control.*

- A. The City may partially block the trunk highway to perform the routine maintenance under this Agreement. In cases of emergency, the City may block the trunk highway and prevent passage of traffic thereon. At no time, however, may the City continue to obstruct the free passage of traffic on the trunk highway for a longer period of time than is reasonably required for making the necessary repairs.
- B. The City may close the trunk highway to travel as necessary for the repair or installation of water or gas mains, electric or telephone cables, or sewers. The City must give the State ten days written notice and obtain a permit before such repairs or installation, except for extraordinary emergencies.
- C. The City will not close any portion of the trunk highway to traffic for reasons other than those set forth above and in no event for a time longer than necessary to complete the required maintenance work. In the event of the total blocking or closing of the trunk highway, the City must provide a suitable detour during such time.
- D. The City must conduct all trunk highway partial and total closures in conformance with the current Minnesota Manual on Uniform Traffic Control Devices (MNMUTCD) and Temporary Traffic Control Zone Layouts - Field Manual.

2.5. *Maintenance of Route Change of Trunk Highway.* If there is a change in the routing of the trunk highway, a substitution of a new route for the trunk highway, or a variation from the present location of the trunk highway, the City will maintain the new trunk highway in accordance with this Agreement after such changes, substitution, or variation and will be paid the amount to which it is entitled under this Agreement. If the State relocates any portion of the trunk highway and the roadway reverts to the City, the City will maintain the reverted portion at its sole expense.

2.6. *City's Failure to Adequately Maintain.* If the City fails to perform any of the routine maintenance according to the terms of this Agreement, the State may reduce the amount payable to the City by either an amount judged to be fair and equitable for such routine maintenance, or, if the State performs such routine maintenance, by the actual cost of the maintenance performed by the State in accordance with this Agreement.

2.7. *Extraordinary Maintenance.* The City is not required to perform any extraordinary maintenance, construction or reconstruction under this Agreement. If the City is willing to perform extraordinary maintenance, and the State's District Maintenance Engineer at Owatonna approves such performance, the parties to this Agreement must enter into a separate agreement therefore. No expenses may be incurred on the extraordinary maintenance prior to the full execution of such an agreement as governed by Minnesota Statutes § 16A.15, subdivision 3.

2.8. *Inspection of City Performed Maintenance.* Authorized representatives of the City and the State will jointly inspect the involved trunk highways on a regular basis during the life of this Agreement to determine if the routine maintenance is being performed according to the terms of this Agreement.

3. Basis of State Cost

The State's payment to the City for routine maintenance will be based on the number of lane miles times the dollar value to be paid per lane mile per State fiscal year. Fractional miles (to the hundredth of a mile) will be used in computing the amounts payable under this Agreement.

4. State Cost and Payment by the State

4.1. State Cost. \$23,718.99 is the State's estimated total cost for the routine maintenance covered under this Agreement based on the data below:

- A. **Fiscal Year 2024:** \$11,598.54 = 4.86 lane miles times \$2,386.53 per lane mile
- B. **Fiscal Year 2025:** \$12,120.45 = 4.86 lane miles times \$2,493.92 per lane mile

4.2. Conditions of Payment. The State will make a lump sum payment to the City for routine maintenance performed, on a quarterly basis, on or after September 30, December 31, March 31, and June 30 of each State fiscal year after the following conditions have been met:

- A. Encumbrance by the State of the necessary funds for the routine maintenance payment amount.
- B. Execution of this Agreement and transmittal to the City.
- C. The State's receipt of an invoice from the City for the applicable quarter, signed by the State's authorized representative attesting that all routine maintenance has been performed in full conformity with this Agreement.
 - i. The invoice must indicate the amount, if any, deducted from the estimated quarterly payment under Article 2.5 and Article 2.6 of this Agreement.
 - ii. The City will keep records and accounts that enable it to provide the State, when requested, with documentation itemizing the labor, materials, and equipment used to perform the routine maintenance.

5. Authorized Representatives

Each party's Authorized Representative is responsible for administering this Agreement and is authorized to give and receive any notice or demand required or permitted by this Agreement.

5.1. The State's Authorized Representative will be:

Name, Title: Tim Zierden, Maintenance Supervisor (or successor)
 Address: 1010 21st Avenue Northwest, Owatonna, MN 55060
 Telephone: 507-456-5348
 E-Mail: tim.zierden@state.mn.us

5.2. The City's Authorized Representative will be:

Name, Title: Steven Lang, Public Works Director (or successor)
 Address: 500 Fourth Avenue Northeast, Austin, MN 55912
 Telephone: 507-437-9940
 E-Mail: slang@ci.austin.mn.us

6. Assignment; Amendments; Waiver; Contract Complete

6.1. Assignment. No party may assign or transfer any rights or obligations under this Agreement without the prior consent of the other party and a written assignment agreement, executed and approved by the same parties who executed and approved this Agreement, or their successors in office.

- 6.2. Amendments.** Any amendment to this Agreement must be in writing and will not be effective until it has been executed and approved by the same parties who executed and approved the original Agreement, or their successors in office.
- 6.3. Waiver.** If a party fails to enforce any provision of this Agreement, that failure does not waive the provision or the party's right to subsequently enforce it.
- 6.4. Contract Complete.** This Agreement contains all prior negotiations and agreements, with respect to routine maintenance, between the State and the City. No other understanding regarding this Agreement, whether written or oral, may be used to bind either party.

7. Liability; Worker Compensation Claims; Insurance

- 7.1.** Each party is responsible for its own acts, omissions, and the results thereof to the extent authorized by law and will not be responsible for the acts, omissions of others, and the results thereof. Minnesota Statutes § 3.736 and other applicable law govern liability of the State. Minnesota Statutes Chapter 466 and other applicable law govern liability of the City. Notwithstanding the foregoing, the City will indemnify, hold harmless, and defend (to the extent permitted by the Minnesota Attorney General) the State against any claims, causes of actions, damages, costs (including reasonable attorneys fees), and expenses arising in connection with the project covered by this Agreement, regardless of whether such claims are asserted by the City's contractor(s) or consultant(s) or by a third party because of an act or omission by the City or its contractor(s) or consultant(s).
- 7.2.** Each party is responsible for its own employees for any claims arising under the Workers Compensation Act.
- 7.3.** The City may require its contractor to carry insurance to cover claims for damages asserted against the City's contractor.

8. Nondiscrimination

Provisions of Minnesota Statutes § 181.59 and of any applicable law relating to civil rights and discrimination are considered part of this Agreement.

9. Title VI/Non-discrimination Assurances

The City agrees to comply with all applicable US DOT Standard Title VI/Non-Discrimination Assurances contained in DOT Order No. 1050.2A, and in particular Appendices A and E, which can be found at: https://edocs-public.dot.state.mn.us/edocs_public/DMResultSet/download?docId=11149035. The City will ensure the appendices and solicitation language within the assurances are inserted into contracts as required. The State may conduct a review of the City's compliance with this provision. The City must cooperate with the State throughout the review process by supplying all requested information and documentation to the State, making City staff and officials available for meetings as requested, and correcting any areas of non-compliance as determined by the State.

10. State Audits

Under Minnesota Statutes § 16C.05, subdivision 5, the City's books, records, documents, accounting procedures, and practices relevant to this Agreement are subject to examination by the State and the State Auditor or Legislative Auditor, as appropriate, for a minimum of six years from the end of this Agreement.

11. Government Data Practices

The City and State must comply with the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, as it applies to all data provided under this Agreement, and as it applies to all data created,

collected, received, stored, used, maintained, or disseminated by the City under this Agreement. The civil remedies of Minnesota Statutes §13.08 apply to the release of the data referred to in this clause by either the City or the State.

12. Governing Law; Jurisdiction; Venue

Minnesota law governs the validity, interpretation, and enforcement of this Agreement. Venue for all legal proceedings arising out of this Agreement, or its breach, must be in the appropriate state or federal court with competent jurisdiction in Ramsey County, Minnesota.

13. Termination

13.1. By Mutual Agreement. This Agreement may be terminated by mutual agreement of the parties or by the State for insufficient funding as described below

13.2. Termination for Insufficient Funding. The State may immediately terminate this Agreement if it does not obtain funding from the Minnesota Legislature, or other funding source; or if funding cannot be continued at a level sufficient to allow for the payment of the services covered here. Termination must be by written or fax notice to the City. The State is not obligated to pay for any services that are provided after notice and effective date of termination. However, the City will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed to the extent that funds are available. The State will not be assessed any penalty if this Agreement is terminated because of the decision of the Minnesota Legislature, or other funding source, not to appropriate funds.

14. Force Majeure

No party will be responsible to the other for a failure to perform under this Agreement (or a delay in performance), if such failure or delay is due to a force majeure event. A force majeure event is an event beyond a party's reasonable control, including but not limited to, unusually severe weather, fire, floods, other acts of God, labor disputes, acts of war or terrorism, or public health emergencies.

[The remainder of this page has been intentionally left blank]

STATE ENCUMBRANCE VERIFICATION

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

Signed: _____

Date: _____

SWIFT Purchase Order: _____

CITY OF AUSTIN

The undersigned certify that they have lawfully executed this contract on behalf of the Governmental Unit as required by applicable charter provisions, resolutions, or ordinances.

By: _____

Title: _____

Date: _____

By: _____

Title: _____

Date: _____

DEPARTMENT OF TRANSPORTATION

Approved:

By: _____
(District Engineer)

Date: _____

COMMISSIONER OF ADMINISTRATION

By: _____
(With Delegated Authority)

Date: _____

INCLUDE COPY OF RESOLUTION APPROVING THE AGREEMENT AND AUTHORIZING ITS EXECUTION.

CITY OF AUSTIN

RESOLUTION

IT IS RESOLVED that the City of Austin enter into MnDOT Agreement No. 1053971 with the State of Minnesota, Department of Transportation for the following purposes:

To provide for routine maintenance by the City upon, along, and adjacent to Trunk Highway No. 105, the limits of which are defined in said Agreement.

IT IS FURTHER RESOLVED that the _____
(Title)

and the _____
(Title)

are authorized to execute the Agreement and any amendments to the Agreement.

CERTIFICATION

I certify that the above Resolution is an accurate copy of the Resolution adopted by the Council of the City of Austin at an authorized meeting held on the _____ day of
_____, 2023, as shown by the minutes of the meeting in my possession.

Subscribed and sworn to me this _____ day of _____, 2023	_____ (Signature)
Notary Public _____ My Commission Expires _____	_____ (Type or Print Name) _____ (Title)

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



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

Memorandum

To: Mayor & Council
From: Steven J. Lang, P.E.
Date: June 27, 2023
Subject: MnDNR Grant Amendment #3,
North Main Phase 1 and WWTP Levee

City staff has worked closely with the MnDNR over the past 15 years on the North Main Flood Mitigation projects. Phases of construction were completed in 2008, 2011, 2014, and 2018. Most recently we have discussed with them grant options for the moving forward construction of the Wastewater Treatment Plant Levee project.

The City of Austin received a grant for the construction of Phase 1 of the North Main Flood Control project in the amount of \$1,125,000 on April 15th, 2018. The grant was later amended to allow the remainder of the funds to be used for engineering and design of the WWTP Levee. With passage of the recent 2023 bonding bill, the State is in position to pass along additional grant dollars to the City in the amount of \$4,000,000 for construction of the WWTP levee project.

The total cost of the WWTP Levee project is estimated at \$8,000,000 and the remaining 50% of the project cost would be funded using Local Option Sales Tax. Attached for Council approval is a resolution authorizing the City Engineer to complete the grant application and certifying that the dollars are in place for the city share of the construction cost.

If all is approved, this would likely be a multi-phase project completed in conjunction with the 3-year WWTP Expansion and Phosphorus Reduction Project. If you have any questions, please let me know.

**CITY OF AUSTIN, MINNESOTA
RESOLUTION NO. _____**

***For Flood Hazard Mitigation Grant Funding Assistance to
the City of Austin Wastewater Treatment Plant Flood Mitigation Project***

BE IT RESOLVED that the City of Austin, hereinafter referred to as the "Grantee" acting as legal sponsor
(LGU)

for the flood risk reduction project or phase described in the State of Minnesota Flood Hazard Mitigation Grant # 3000129624, dated April 15, 2018 is hereby authorized to apply to the Department of Natural Resources for additional funding to complete this project or phase.

BE IT FURTHER RESOLVED that the Grantee has the legal authority and the institutional, administrative, and managerial capability to ensure adequate acquisition, construction, maintenance and protection of the proposed project or phase.

BE IT FURTHER RESOLVED that the Grantee has the financial capability to provide the required matching funds in the amount of \$ 4,000,000 and that the source of Grantee's matching funds shall be Fund 40000 Local Option Sales Tax, and will not include other State funding sources.

BE IT FURTHER RESOLVED that the Grantee hereby pledges to complete the project or phase if it exceeds the total funding provided by the Department of Natural Resources and the required local match.

BE IT FURTHER RESOLVED that upon approval of its request by the state, the Grantee will enter into an amended agreement with the State of Minnesota for the above- references project or phase, and that the Grantee certifies that it will comply with all applicable laws and regulations as stated in the amended contract agreement.

NOW, THEREFORE BE IT RESOLVED that the City Engineer is hereby authorized to execute such
(Title of Authorized Official)
agreements as are necessary to implement the project or phase on behalf of the Grantee.

I CERTIFY THAT the above resolution was adopted by the City Council of the City of Austin on July 3, 2023.
(LGU) (Date)

SIGNED:

WITNESSED:

(Signature)

(Signature)

(Title)

(Title)

(Date)

(Date)

City of Austin, Minnesota
Balance Sheet
Governmental Funds
December 31, 2022

**Balance at
12/31/22.**

	<u>General</u>	<u>Local Option Sales Tax</u>	<u>State Aid Street</u>
Assets			
Cash and investments	\$ 10,613,689	\$ 5,069,808	\$ 2,190,072
Taxes receivable	123,159	-	-
Accounts receivable	197,008	-	-
Notes receivable, net of allowance for uncollectibles	114,035	-	-
Special assessments receivable	315,071	-	412,531
Accrued interest receivable	180,247	-	-
Due from other funds	605,057	-	-
Due from other governments	286,276	385,636	3,934,868
Leases receivable	144,108	-	-
Prepaid items	12,234	-	-
Advances to component unit	-	-	-
Total assets	<u>\$ 12,590,884</u>	<u>\$ 5,455,444</u>	<u>\$ 6,537,471</u>
Liabilities			
Vouchers payable	\$ 196,260	\$ 24,785	\$ 165
Contractors' retained percentage	-	-	53,802
Deposits	110,776	-	-
Accrued expenditures	473,553	-	-
Due to other funds	57,675	-	-
Due to other governments	113,899	-	778
Unearned revenues	540	-	-
Total liabilities	<u>\$ 952,703</u>	<u>\$ 24,785</u>	<u>\$ 54,745</u>
Deferred inflows of resources			
Unavailable revenue	\$ 552,264	\$ -	\$ 4,346,779
Leases receivable related	144,108	-	-
Total deferred inflows of resources	<u>\$ 696,372</u>	<u>\$ -</u>	<u>\$ 4,346,779</u>
Fund balance			
Nonspendable:			
Prepaid amounts	\$ 12,234	\$ -	\$ -
Permanent fund principal	-	-	-
Restricted for:			
Police - operations	37,052	-	-
Fire - operations	11,124	-	-
Parks and recreation	12,718	-	-
Other capital projects	41,017	5,430,659	-
Library - programming	218	-	-
Committed to:			
Other capital projects	76,123	-	-
Library - programming	-	-	-
Parks and recreation - programming	-	-	-
Assigned to:			
Police - capital projects	-	-	-
Streets and highways - capital projects	-	-	2,135,947
Other capital projects	-	-	-
Library - programming	-	-	-
Unassigned:			
Total fund balance	<u>10,751,323</u>	<u>\$ 5,430,659</u>	<u>\$ 2,135,947</u>
Total liabilities, deferred inflows of resources, and fund balance	<u>\$ 12,590,884</u>	<u>\$ 5,455,444</u>	<u>\$ 6,537,471</u>

See accompanying Notes to Financial Statements.

Balance as of
06/23/23.

As of June 30, 2023

Description	Amounts			Change	
	Current	Last Month End	Last Year End		
40000 Local Option Sales Tax					
1000 Assets					
1001 Current Assets					
1010 Cash					
1010.01 Checking - Wells Fargo	6,219,431.99	6,059,033.01	5,304,100.30	160,398.98	915,331.69
1010 Cash	6,219,431.99	6,059,033.01	5,304,100.30	160,398.98	915,331.69
1042 Market Value Adjustment	234,293.17-	234,293.17-	234,293.17-		
1150 Accounts Receivable					
1320 Due From Other Governments					
1320.01 Due From State			385,636.43		385,636.43-
1320 Due From Other Governments			385,636.43		385,636.43-
1001 Current Assets	5,985,138.82	5,824,739.84	5,455,443.56	160,398.98	529,695.26
1000 Assets	5,985,138.82	5,824,739.84	5,455,443.56	160,398.98	529,695.26
2000 Liabilities					
2001 Current Liabilities					
2010 Accounts Payable					
2011 Accounts Payable (AAs)			24,785.18		24,785.18-
2010 Accounts Payable			24,785.18		24,785.18-
2070 Due To Other Funds					
2150 Accrued Payables					
2001 Current Liabilities			24,785.18		24,785.18-
2000 Liabilities			24,785.18		24,785.18-
3000 Fund Equity					
3501 Fund Balance					
3510 Reserved Fund Balance					
3510.01 Reserved F.B. - Expenditu	3,957,635.66	3,957,635.66	3,957,635.66		
3510 Reserved Fund Balance	3,957,635.66	3,957,635.66	3,957,635.66		
3520 Designated Fund Balance					
3530 Unreserved, Undes. Fund Balanc	1,473,022.72	1,473,022.72	1,473,022.72		
3999 Net of Revenues & Expenditures	554,480.44	394,081.46		160,398.98	554,480.44

R10111B

City of Austin

6/26/2023 7:46:45

LOGIS0006

Balance Sheet

Page - 2

As of June 30, 2023

Description	Amounts			Change	This Year
	Current	Last Month End	Last Year End		
3501 Fund Balance	5,985,138.82	5,824,739.84	5,430,658.38	160,398.98	554,480.44
3000 Fund Equity	5,985,138.82	5,824,739.84	5,430,658.38	160,398.98	554,480.44

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



Page 1 of 1

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

Memorandum

To: Mayor & Council
From: Steven J. Lang, P.E.
Date: June 29, 2023
Subject: Automatic Vehicle Locating (AVL) & Route Optimization

At the June 5th work session, we discussed Automatic Vehicle Locating (AVL) and Route Optimization for our snow plowing operations. We have received final quotes from our selected vendors. The quotes are summarized below.

Automatic Vehicle Locating

Provides AVL services for 11 snow plow trucks

Includes:

- Hardware
- Data hosting on CompassCom server
- 1-Year subscription costs
- 1-Year data plan costs

CompassCom \$7,867.20

Route Optimization

One time cost provides route optimization for the City's 10 snow plow routes.

C2Logix \$18,539.00

Total AVL & Route Optimization \$26,406.20

The \$26,406.20 in AVL and Route Optimization costs would be paid out of the 2023 contingency fund.

In addition, in the 2024 budget we will propose adding 28 vehicles to the AVL system at an estimated cost of \$6,000 and the yearly subscription fee for all vehicles at \$9,000.

We request Council approval for implementation of this program. Please let me know if you have any questions. Thanks.

RESOLUTION NO.

APPROVING CONTRACTS FOR AUTOMATIC
VEHICLE LOCATING AND ROUTE OPTIMIZATION

WHEREAS, the City of Austin desires to review the snow plowing routes for maximum efficiency, and

WHEREAS, the City solicited quotes for snow plowing operations route optimization; and

WHEREAS, C2Logix has provided a quote in the amount of \$18,539 for review and optimization of the snow plow routes; and

WHEREAS, CompassCom as provided a quote in the amount of \$7,867.20 for automatic vehicle locating services for 11 snow plow trucks; and

WHEREAS, funding would come from 2023 contingency; and

WHEREAS, City staff recommends entering into the contracts with C2Logix and CompassCom.

NOW THEREFORE, BE IT RESOLVED that the Austin City Council authorizes the Mayor and City Recorder to sign contracts with C2Logix and CompassCom for automatic vehicle locating and route optimization.

Passed by a vote of yeas and nays this 3rd day of July, 2023.

YEAS

NAYS

ATTEST:

APPROVED:

City Recorder

Mayor

RESOLUTION NO.

ACCEPTING DONATIONS TO THE CITY OF AUSTIN

WHEREAS, the City has received gift as follows:

Gift	Donor	For
9 AED's	Leona M. and Harry B. Helmsley Charitable Trust via the U of Minnesota	Police Department

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

Passed by a vote of yeas and nays this 3rd day of July, 2023.

ATTEST:

APPROVED:

City Recorder

CITY OF AUSTIN

POLICY FOR AFFILIATION WITH OUTSIDE ENTITIES

WHEREAS, administrative and professional staff, director level and department head staff, and other individuals directly employed by the City of Austin (hereafter "Employees") are often invited to serve on various bodies, boards, entities, committees, or commissions directly related to their employment with the City (hereafter "Outside Entities"); and

WHEREAS, these Outside Entities include professional groups, groups of similarly employed individuals, groups of similar governments or government departments, or other groups devoted to the advancement of issues or the education of similarly situated employees in matters related to the Employee's employment with the City or with City functions or City business (to be governed by this Policy, an Outside Entity must be reasonably consistent with the types of entities described in this paragraph); and

WHEREAS, an employee's participation in such Outside Entities places an additional burden on the Employee's time and recourses above-and-beyond the expectations placed upon them in the regular duties for the City of Austin; and

WHEREAS, some Outside Entities offer participants such things as mileage reimbursement, overnight lodging, per diem or honorarium payments, or other modest forms of compensation or reimbursement related to their actual participation; and

WHEREAS, Minnesota law is unclear whether such payments are provided to such Employees in the course of their employment or whether the Employee's participation in the Outside Entity is personal to them, and such lack of clarity gives rise to the need for a policy on how such Participation and compensation is to be treated;

NOW, THEREFORE, the Common Council for the City of Austin, Minnesota, hereby establishes the following policies for its Employees when participating in an Outside Entity:

- A. Employees are encouraged to consider participation in Outside Entities as such participation expands the Employee's knowledge and skills in their respective field and thereby improves the Employee's performance for the City of Austin;
- B. Employees who participate in an Outside Entity shall advise their supervisor of their participation and the expectations placed upon the Employee by the Outside Entity;
- C. Supervisors shall review the expectations placed upon the participating Employee and its impact on the performance by the participating Employee of their job functions for the City of Austin.

- D. Supervisors shall encourage an Employee's participation in Outside Entities unless such participation will create a material hardship on the department or undermine satisfactory performance of essential functions and services of the City.
- E. If an Employee's participation in an Outside Entity will create a material hardship on the department or undermine satisfactory performance of essential functions and services of the City, Supervisor's may place restrictions on the participation consistent with the needs of the City, any such restrictions shall not be based on the identity of the Outside Entity so long as the Outside Entity fits the definitions described above.
- F. If an Outside Entity provides a participating Employee with compensation, remuneration, reimbursement, or other benefits related to the Employee's participation in the Outside Entity, the participating Employee shall disclose to their supervisor the types of such benefits, how those benefits are determined, and the expected amounts of those benefits payable during the Employee's participation.
- G. Supervisors shall review the types of benefits the participating Employee expects to receive to determine of those benefits are of the type and amounts as described herein. For example, direct reimbursement of actual costs incurred or mileage driven in the course of participation, or modest per diem or honorariums not treated as payroll, salary, or based on an hourly rate or wage shall be considered consistent with this policy. All other forms of benefits shall be subject to approval by the Supervisor, or reviewable by the Council on a case-by-case basis.
- H. So long as the benefits received by the participating Employee related to that participating Employee's participation in the Outside Entity remain consistent with the disclosures made under F above and the standard described in G above, the participating Employee shall not be obligated to report actual receipt of such benefits during their participation in the Outside Entity. However, if the Employee receives any benefit outside the scope or magnitude of the previously disclosed benefits, the Employee shall promptly disclose to their supervisor such additional benefit for review and approval.
- I. Participating Employees shall be entitled to retain benefits approved under this policy without regard to their compensation or benefits as an employee of the City of Austin. This expressly includes retention of mileage reimbursement benefits even if the employee receives a car allowance as part of their employment with the City of Austin. However, no employee shall request specific mileage reimbursement (on a miles driven basis) from the City of Austin if they are already receiving a similarly determined reimbursement for the same miles driven from the Outside Entity.

J. For Purposes of this Policy, an Employee's supervisor shall be as follows:

1. For the City Administrator, the Mayor.
2. For Directors or Department Heads, the City Administrator.
3. For all other Employees, their Department Head or Director.

K. Any issue under this policy may be reviewed by the City Council and the City Council's determination shall be final.

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: Scott Hunn
308 12th Ave SW
Austin, MN 55912

From: Holly Wallace, Planning & Zoning Administrator

Re: Hazardous Structure located at **308 12th Ave SW, Austin MN 55912**

Date: **June 29, 2023**

May I ask the City Council to review and approve this resolution classifying the property located at 308 12th Ave SW, Austin, Minnesota, as hazardous pursuant to Minnesota Statues 463.15 – 463.261. City staff has been dealing with numerous complaints regarding this property and the owner has failed to repair these structural deficiencies. (See attached)

If you should have any questions regarding this matter, please call me at my office at 507-437-9952.

Thank You!



October 18th, 2022

Scott Hunn
308 12th Ave SW
Austin, MN 55912

RE: Housing Violations at 308 12th Ave SW, Austin, MN 55912

Dear Scott:

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 October 18th, 2022 at this site, and the following issues need to be resolved:

1. **House is dangerous, unsafe and unfit for human occupancy due to fire.**
2. **Structures repaired to current MN Building Codes, City of Austin Ordinances and International Property Maintenance Code (Contact the City of Austin Building Department) Permits required**
3. **Or demolish house- Permit required**

The violation of International Property Maintenance Code Sections 304 were found. These Property Maintenance Code Sections read as follows:

108.1.1 Unsafe structures. An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or the *occupants* of the structure by not providing minimum safeguards to protect or warn *occupants* in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is possible.

108.1.3 Structure unfit for human occupancy. A structure is unfit for human occupancy whenever the *code official* finds that such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is insanitary, vermin or rat infested, contains filth and contamination, or lacks *ventilation*, illumination, sanitary or heating facilities or other essential equipment required by this code, or because the location of the structure constitutes a hazard to the *occupants* of the structure or to the public.

108.1.5 Dangerous structure or premises. For the purpose of this code, any structure or premises that has any or all of the conditions or defects described below shall be considered:

1. Any door, aisle, passageway, stairway, exit or other means of egress that does not conform to the *approved* building or fire code of the jurisdiction as related to the requirements for existing buildings.

2. The walking surface of any aisle, passageway, stairway, exit or other means of egress is so warped, worn loose, torn or otherwise unsafe as to not provide safe and adequate means of egress.
3. Any portion of a building, structure or appurtenance that has been damaged by fire, earthquake, wind, flood, *deterioration, neglect*, abandonment, vandalism or by any other cause to such an extent that it is likely to partially or completely collapse, or to become *detached* or dislodged.
4. Any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof that is not of sufficient strength or stability, or is not so *anchored*, attached or fastened in place so as to be capable of resisting natural or artificial loads of one and one-half the original designed value.
5. The building or structure, or part of the building or structure, because of dilapidation, *deterioration, decay*, faulty construction, the removal or movement of some portion of the ground necessary for the support, or for any other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building or structure is likely to fail or give way.
6. The building or structure, or any portion thereof, is clearly unsafe for its use and *occupancy*.
7. The building or structure is *neglected*, damaged, dilapidated, unsecured or abandoned so as to become an attractive nuisance to children who might play in the building or structure to their danger, becomes a harbor for vagrants, criminals or immoral persons, or enables persons to resort to the building or structure for committing a nuisance or an unlawful act.
8. Any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the *approved* building or fire code of the jurisdiction, or of any law or ordinance to such an extent as to present either a substantial risk of fire, building collapse or any other threat to life and safety.
9. A building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, *ventilation*, mechanical or plumbing system, or otherwise, is determined by the *code official* to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease.
10. Any building or structure, because of a lack of sufficient or proper fire-resistance-rated construction, fire protection systems, electrical system, fuel connections, mechanical system, plumbing system or other cause, is determined by the *code official* to be a threat to life or health.
11. Any portion of a building remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned so as to constitute such building or portion thereof as an attractive nuisance or hazard to the public.

Please contact the Austin Planning & Zoning Department at 437-9950 to discuss the above mentioned Property Maintenance Code violations within the next **30 days**, or the City of Austin will take further action in efforts to resolve these violations. 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 is greatly appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "Brent Johnson".

Brent Johnson
Zoning Inspector



June 29, 2023
8:47 AM

TIME STAMP



October 18, 2022
10:15 AM

TIME STAMP L

RESOLUTION NO. _____

**RESOLUTION ORDERING SECURING AND RAZING OF A HAZARDOUS BUILDING
LOCATED AT 308 12th AVE SW AUSTIN, MINNESOTA
OWNED BY SCOTT HUNN**

WHEREAS, Pursuant to Minnesota Statutes, Section 463.15 to 463.61, the City Council of Austin, Minnesota, finds the building located at 308 12th Ave SW to be a hazardous building for the following reasons:

- 1. House is dangerous, unsafe and unfit for human occupancy due to fire.**
- 2. Structures repaired to current MN Building Codes, City of Austin Ordinances and International Property Maintenance Code (Contact the City of Austin Building Department) Permits required**

WHEREAS, The conditions listed above are more fully documented in the inspection report prepared by Brent Johnson on October 18th, 2022 a copy (or copies) of which is (are) attached to the resolution as Exhibit A.

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

1. Pursuant to the foregoing findings and in accordance with Minnesota Statutes, Sections 463.15 to 463.261, the City Council hereby orders the record owner(s) of the above hazardous buildings to make such buildings safe to the public health, welfare, and safety by taking the following actions:
 - 1. Structures repaired to current MN Building Codes, City of Austin Ordinances and International Property Maintenance Code (Contact the City of Austin Building Department) Permits required**
 - 2. Or demolish house- Permit required**
2. The repairs listed above must be made within 30 days after the order is served upon the record owner and in compliance with applicable codes, regulations and permits.
3. The City Council further orders that unless such corrective action is taken, the building(s) is/are ordered to be razed, the foundation(s) filled and the property left free of debris in compliance with all applicable codes, regulations and permits. The structures must be removed within 20 days after the initial 30 day repair period has expired.
4. If corrective action is not taken and an answer is not served within 20 days as specified in Minn. Stat. Section 463.18, a motion for summary enforcement of this order will be made to the District Court of Mower County.
5. In accordance with Minn. Stat. Section 463.24, the owner or occupant must remove all personal property and/or fixtures that will reasonably interfere with the work within 14 days. If the property and/or fixtures are not removed and the city enforces this order, the city may sell personal property, fixtures, and/or salvage materials at a public auction after three days posted notice.

6. The City Council further orders that if the city is compelled to take any corrective action herein, all necessary costs expended by the city will be assessed against the real estate concerned and collected in accordance with Minnesota Statutes, Section 463.22, 463.161 and 463.21.
7. The Mayor, City Recorder, City Attorney and other officers and employees of the City are authorized and directed to take such action, prepare, sign and serve such papers as are necessary to comply with this order and to assess the costs thereof against the real estate described above for collection along with taxes.
8. The city attorney is authorized to proceed with the enforcement of this order as provided in Minn. Stat. Sections 463.15 to 463.261.

Passed by a vote of Yeas and Nays this _____ day of _____, 2023

YEAS _____ NAYS _____

ATTEST:

APPROVED:

City Recorder

Mayor

**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: Ketorra Greene
909 3rd Ave NW, Austin, MN 55912

From: Holly Wallace, Planning & Zoning Administrator

Re: Accumulation of Refuse and Junk
At 909 3rd Ave NW, Greene Property

Date: June 30, 2023

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 909 3rd Ave NW. 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**

June 16th, 2023

Ketorra Greene
909 3rd Ave NW
Austin, MN 55912

RE: Zoning Violations at 909 3rd Ave NW, Austin, MN 55912

Dear Ketorra:

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 June 16th, 2023 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, junk or other debris;

D. *Public nuisances affecting peace and safety.*

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

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

NOTICE AND ABATEMENT.

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

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

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

City Code Section 10.14, Subd. 5:

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

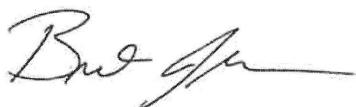
City Code Section 10.14, Subd. 6:

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

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

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

Sincerely,



Brent Johnson
Zoning Inspector



909 3rd
Ave NW

June 29, 2023
8:56 AM

TIME STAMP

**City of Austin
Zoning Department**



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

Memorandum

To: Mayor and City Council

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

From: Holly Wallace, Planning & Zoning Administrator

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

Date: June 30, 2023

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

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

Thank You

**City of Austin
Zoning Department**



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

June 30, 2023

Michelle Nystel
1011 4th St SE
Austin, MN 55912

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

Dear Sir or Madam:

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 June 28, 2023 at this site and the following issues need to be resolved:

1. Remove all garbage from property

This is a repeat offense and the matter has been referred to the Austin City Council for corrective action.
You are being fined under the following City Code:

1.98 CIVIL PENALTIES.

Subd. 1. Purpose.

- A. The City Council seeks to offer an alternative method of enforcement for city code violations rather than relying on the criminal court system. The formal criminal prosecution process does not provide an environment to adequately address the unique and sensitive issues that are involved in city code violations, including, but not limited to, neighborhood concerns, livability issues, economic impact, physical limitations of the offenders and the stigma and unintended consequences of being charged with or convicted of a misdemeanor offense. In addition, the court system is a slow, overburdened and methodical process that is not conducive to dealing with the violations in a prompt and timely manner. Finally, the penalties afforded the criminal court system are restricted to fines or physical confinement, which are not always effective solutions to address city code violations.

Subd. 4. Compliance letter.

- C. Exceptions to issuance of a compliance letter. For violations of any of the following sections, the city shall not be required to issue a compliance letter and may proceed directly to issuance of an administrative citation as provided in division (E) below.
 - 1. Repeat offender. If the same offender commits a subsequent violation within 24 months after a compliance letter has been issued for a same or similar offense.

Subd. 5. Administrative citation

- A. Generally.
 - 1. Upon the failure to correct the violation specified in the compliance letter within the time frame established in the compliance letter or any extension thereof granted by the city, or for any offense for which a compliance letter is not required, an administrative citation may be issued.

If you have any questions, please call me at my office at (507)437-9951.

Sincerely,

Brent Johnson
Zoning Inspector



**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: Shawn & Lola Olson
1200 4th St SE, Austin, MN 55912

From: Holly Wallace, Planning & Zoning Administrator

Re: Accumulation of Refuse and Junk
At 1200 4th St SE, Olson Property

Date: June 30, 2023

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 1200 4th St SE. The property owner has been notified of this violation to the City Code Sections 10.14 Subd.1(B), 10.14 Subd.4-6 but has failed to resolve this issue. (See Attached)

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

Thank You



May 26th, 2023

Shawn & Lola Olson
1200 4th St SE
Austin MN 55912

RE: Zoning Violations at 1200 4th St SE Austin, MN 55912

Dear Shawn & Lola:

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 May 23rd, 2023 this site and the following issues need to be resolved:

Remove all junk from property

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

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

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

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

B. Public nuisances affecting health

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

D. Public nuisances affecting peace and safety.

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

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

NOTICE AND ABATEMENT.

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

F. The notice shall be served in person or by certified or registered mail. If the premises are not occupied and the owner is unknown, the notice may be served by posting it on the

premises. The notice shall specify the steps to be taken to abate the nuisance and the time, not exceeding ten (10) days, within which the nuisance is to be abated.

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

City Code Section 10.14, Subd. 5:

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

City Code Section 10.14, Subd. 6:

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

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

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

Sincerely,



Brent Johnson
Zoning Inspector



1200
4th St SE

June 28, 2023
11:10 AM

**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: Justin & Shannon McFarland
1416 7th Ave NW, Austin, MN 55912

From: Holly Wallace, Planning & Zoning Administrator

Re: Accumulation of Refuse and Junk
At 1416 7th Ave NW, McFarland Property

Date: June 30, 2023

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 1416 7th Ave NW. 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**

April 24th, 2023

Justin & Shannon Mcfarland
1416 7th Ave NW
Austin MN 55912

RE: Zoning Violations at 1416 7th Ave NW, Austin, MN 55912

Dear Justin & Shannon:

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 April 24th, 2023 at this site and the following issues need to be resolved:

- 1. Remove all junk from property**
- 2. Provide current registration for all vehicles, and must be operable. Remove from property or store in an enclosed structure**

The violation of Austin City Code Sections 10.14 Subd.1(B) 4, 10.14 Subd.4-6 and 10.33 Subd. 1(G), 2 & 4 were found. These City Code sections read as follows:

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

- Accumulations of manure, refuse, junk or other debris;

D. Public nuisances affecting peace and safety.

- 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.

City Code Section 10.33 Subd. 1 (G)

Operable equipment for transportation of people, goods or material and equipment ordinarily used for recreational purposes. Including shall be, by way of example and not limitation, automobiles, trucks, pick-up trucks, trailers, marine crafts, snowmobiles, all terrain vehicles, motor homes, pick-up campers, buses, and camping trailers.

City Code Section 10.33 Subd. 2. *Off-street outside parking within residential districts.*

A. Vehicle outside parking shall be accessory to the permitted primary use of the property, and vehicles parked on a property must be owned by a licensed resident of the property except as follows:

B. The number of vehicles permitted for outside parking in rear yard and side yard areas shall be limited as follows:

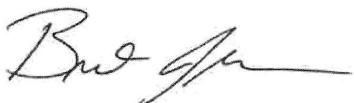
1. Two currently registered passenger vehicles registered to the licensed owner/occupant of the residence may be parked in the rear or side yard areas.
2. In addition to currently registered passenger vehicles, two recreational vehicles may be temporarily stored in the rear yard. If a recreational vehicle is of a type which is required to be registered, it must be currently registered.
3. C. Outside parking of vehicles shall not be permitted in any portion of the front yard unless the vehicle is parked on a driveway or on a hard-surfaced parking area directly adjacent to the side of the driveway and vehicles are currently registered. The square footage of the front yard which is devoted to green space shall always be as required by the applicable provisions of the City of Austin Zoning Ordinance.

City Code Section 10.33 Subd. 4. Procedure on violations. Any violation of this section is declared to be a nuisance. Upon ten days written notice to the owner of private premises on which such vehicle is found, as shown by the records in the office of the City Zoning Office or by the placarding of said vehicle, the city may remove the vehicle and certify the cost of such removal as any other special assessment.

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



June 28, 2023
10:46 AM