

A G E N D A
CITY COUNCIL MEETING
MONDAY, AUGUST 21, 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 August 7, 2023

3. Recognitions and Awards.

(mot) 4. *Consent Agenda

Licenses:

Edible Cannabinoid: Snak Atak #21, 901 West Oakland Avenue

Edible Cannabinod: Snak Atak #22, 3011 West Oakland Avenue

Food (transfer): Snak Atak #21, 901 West Oakland Avenue

Food (transfer): Snak Atak #22, 3011 West Oakland Avenue

Gas Station (transfer): Snak Atak #21, 901 West Oakland Avenue

Gas Station (transfer): Snak Atak #22, 3011 West Oakland Avenue

Mobile Food: Crock and Roll, Little Falls

Tobacco (transfer): Snak Atak #21, 901 West Oakland Avenue

Tobacco (transfer): Snak Atak #22, 3011 West Oakland Avenue

Claims:

a. Pre-list of bills

b. Investment Report.

Event Applications:

Austin ArtWorks Festival on August 25-27, 2023

Wyatt Strong Boys Hockey Fundraiser on September 16, 2023

PETITIONS AND REQUESTS:

(mot) 5. Approving Hormel Foundation grant request rankings.

(res) 6. Approving Austin Utilities service territory expansion.

(mot) 7. Adopting a policy for outside entity participation.

(res) 8. Approving a memorandum of agreement with Hormel Foods for the bike skills course.

9. Reviewing an ordinance for a cannabis moratorium.

(mot) a. For preparation of the ordinance.

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

10. Reviewing an ordinance for the use of cannabis and cannabinoid products.
 - (mot) a. For preparation of the ordinance.
 - (ord) b. For adoption and publication of the ordinance.
- (res) 11. Approving a limited use permit with MnDOT for the I-90 bridge replacement project.
- (res) 12. Approving an off-sale liquor license to Apollo Retail, LLC dba Snak Atak Liquor #3.
- (res) 13. Approving a memorandum of agreement with UAW 867 Parks for their participation in the Minnesota State retirement system health care savings plan.
14. 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. 406 2nd Street SE, Raygor Property.
 - (mot) b. 1110 11th Avenue SW, Titanium Property.

CITIZENS ADDRESSING THE COUNCIL

HONORARY COUNCIL MEMBER COMMENTS

REPORTS AND RECOMMENDATIONS:

City Administrator
City Council

(mot) Adjourn to **Tuesday, September 5, 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
August 7, 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, Park and Rec Director Dave Merrill, City Attorney Craig Byram, Library Director Julie Clinefelter, and City Clerk Ann Kasel

APPEARING IN PERSON: Austin Daily Herald, KAUS, Bob Hartman, Megan Dilley-Jones, Evan Fischer

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

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

Moved by Council Member Fischer, seconded by Council Member Postma, approving Council minutes from July 17, 2023. Carried.

CONSENT AGENDA

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

Licenses:

Edible Cannabinoid: Cheers Liquor, 502 12th Avenue NW
Exempt Gambling: Austin Morning Lions on October 27, 2023
Massage Therapist: Betsy House, Ellsworth, Wisconsin
Massage Therapist: Ehler Paw, 506 Wayside Avenue, Albert Lea
Sign Installer: Rose City, Inc, Eagle Bend

Claims:

- a. Pre-list of bills
- b. Credit Card Report
- c. Settlement Agreement with Chad Norman

Appointments:

Katie Stromlund to the Pillars of the City Committee, term expiring December 31, 2025

Carried.

PETITIONS AND REQUESTS

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

Public Works Director Steven Lang reviewed an annexation ordinance which would annex portions of Interstate 90 within Austin city limits.

Moved by Council Member Baker, seconded by Council Member Postma, for adoption and publication of the annexation ordinance. Carried.

Moved by Council Member Fischer, seconded by Council Member Poshusta, for publication of the annexation ordinance. Carried 7-0.

City Administrator Craig Clark stated the City entered into a lease in October of 2019 with KSMQ Public Service Media for the City owned KSMQ building. As part of the lease, the City is required to set a lease value based on the cost of construction, term of the agreement and comparable lease rates. The City determined that the lease rate would be \$22,916 per month if the City were to charge, which it does not.

Council Member Baker asked how the lease rate was determined.

City Administrator Craig Clark stated the lease rate is determined by the cost of building along with comparable rents.

Bob Hartman, 1003 10th Street NW, stated the total build value was divided by the end of useful life of the lease, which is 20 years, to determine the lease rate. They also compared the building to other commercial properties in Austin.

Moved by Council Member Baker, seconded by Council Member Fischer, approving an amendment to lease with KSMQ Public Service Media, Inc. Carried 7-0.

City Administrator Craig Clark stated he received a letter requesting the City sign off on a small easement area in Oakwood Cemetery. Mr. Clark stated the City Attorney reviewed the letter and it is unlikely the City has any interest in the property.

Moved by Council Member Fischer, seconded by Council Member Baskin, approving a quitclaim deed to the State of Minnesota as part of an eminent domain acquisition. Carried 7-0.

Public Works Director Steven Lang requested the Council approve an ICM agreement with NuTek Biosciences, LLC. The agreement specifies the strong waste charges that the business can discharge into the Waste Water Treatment Plant. The agreement runs through December 31, 2023.

Moved by Council Member Baker, seconded by Council Member Postma, approving an ICM agreement with NuTek Biosciences, LLC. Carried 7-0.

Director of Administrative Services Tom Dankert reviewed the Public Facilities Authority loan for the Waste Water Treatment Plant. He stated it is a requirement that the Council review the loan each year to ensure that the City has adequate deposits in the debt service fund balance to make the debt service payments. He stated the total loan is proposed to be \$42 million but the City has only drawn \$50,001 on the loan so far. Mr. Dankert stated that no Council action is required.

Moved by Council Member Baskin, seconded by Council Member Baker, adopting a resolution declaring the property at 922 2nd Avenue NE a hazardous structure. Carried 7-0.

Moved by Council Member Postma, seconded by Council Member Poshusta, granting the Planning and Zoning Department the power to contract for the removal of junk and/or illegally stored vehicles at 1202 4th Street SE, Anthenat Property. Carried. Carried.

REPORTS

City Administrator Craig Clark stated he federal government rejected the City's request for funding for the waste water treatment plant.

Council Member Fischer thanked Dave Merrill for his service to the City.

Council Member-at-Large Austin also thanked Mr. Merrill for his service and wished him luck in the future.

Council Member Postma thanked the agencies participating in National Night Out.

Council Member Helle stated the mural on the east wall of the pool building is going up and stated murals are less likely to be vandalized than a blank wall. She complimented the Library and Library Board drag queen story hour. She also thanked Dave Merrill for service to the City of Austin.

Park and Rec Director Dave Merrill thanked the summer seasonal staff for their hard work. He stated the pool managers Megan Dilley-Jones and Evan Fischer did a fantastic job.

Moved by Council Member-at-Large Austin, seconded by Council Member Baker, adjourning the meeting to August 21, 2023. Carried.

Adjourned: 5:47 p.m.

Approved: August 21, 2023

Mayor: _____

City Recorder: _____



Street/Special Event Permit

Permit Type: Street or Special Event

Permit Number: 2023-038

Applicant Information	
Organizer Name	Austin Area Arts, Laura Helle
Organizer Address	300 N Main St
Organizer City	Austin
Organizer State	MN
Organizer Zipcode	55912
Organizer Phone	5074340934
Organizer Email	director@austinareaarts.org
Alternate Name	Kelsey Ritchie
Alternate Phone	5074340934
Alternate Email	kelsey@austinareaarts.org

Permit Information

Event Title	Austin ArtWorks Festival		
Event Description	The Austin ArtWorks Festival is a free two-day event in Austin, Minnesota held annually each August...a celebration of visual, performing and literary artists, many with ties to Austin and the area.		
Event Start Date	August 25, 2023	Event End Date	August 27, 2023
Approximate Number of Participants	7500		
Event Start Time	09:00	Event End Time	16:00
Portion of Street Width Being Used	1st St NE from 4th Ave (Paramount) to 2nd Ave (Downtown Grill): exhibitor displays and food trucks in parking lanes, center remains open. 3rd Ave NE Between 1st St NE one-way to Main. (SPAM® Museum), art-making such as Brush the Beetle in parking lanes only, center to remain open.		
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	5
Food Truck Information	Food Truck 1: Sunny's Ice Cream, Sunny, 507-219-1093 Food Truck 2: Tienda Guerrero Taco Truck, Custodio Serrano, 507-219-2085 Food Truck 3: Stagecoach BBQ, Mike Rumsey, 507-438-6777 Food Truck 4: Crock & Roll, Deborah Karnowski, 702-334-0636 Food Truck 5: Just Take the Cake, Kathi Finley, 507-460-0259		
Alcoholic Beverages Available	Yes		
Location of Alcohol	Austin ArtWorks Center, 300 N Main St (Friday, August 25 only)		
Licensed Establishment(s) Serving Alcohol	Gravity Storm Brewery, 309 Main St N; Dusty's, 422 Main St N; B & J Bar & Grill, 114 4th Ave NE; The Bakery/Downtown Grill, 139-155 2nd Ave NE		
Types of Alcohol	3.2 beer, Wine, Strong Beer, Liquor		
Live Entertainment	Yes		
Recorded Entertainment	No		
Date and Time Clean Up will be Accomplished	Sunday, August 27 starting at 4pm; generally done by 6pm	Responsible Person(s) for Clean Up	Laura Helle
Will Event be Advertised?	Yes	Describe Invited People	Public
Designated Adult Name	Laura Helle	Designated Adult Phone	5074340934
Designated Adult Address	300 N Main St		

Additional Information	Cell: 507-438-3988
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Engineering Department					
Determination	Approved	Date of Approval	July 14, 2023	Approved By	Mitch Wenum
Comments	City to provide barricades in locations as requested				

Police Department					
Determination	Approved	Date of Approval	July 10, 2023	Approved By	David McKichan
Comments					

City Clerk					
Determination	Approved	Date of Approval	August 15, 2023	Approved By	Ann Kasel
Comments					

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

Date: July 7, 2023

To: City of Austin, Craig Clark, Steven Lang, Dave Merrill, Dave McKichan
CC: Jim McCoy, Ann Kasel
From: Austin Area Arts
RE: Austin ArtWorks Festival Request

As you know, plans are underway for the Austin ArtWorks Festival on August 26 and 27, 2023 at the green space south of the Paramount Theatre.

In support of this event, which brings thousands of visitors to the heart of Downtown Austin, the Austin Area Arts is requesting the following:

1. Close the Downtown Bar parking lot on the morning of Thursday, August 24 which will allow for set up in that area. (See map A)
2. Mow and sweep Downtown Bar parking lot as appropriate before set up.
3. Donate use of outdoor stage; set up on Friday morning on the 2nd Avenue end of the Downtown Bar parking lot. Stage faces north starting at the NE corner of the Downtown Grill building, running to the east. Please invoice Austin Area Arts for staff overtime as appropriate. (See map B & C)
4. Donate use of thirty-five (35) 6-foot banquet tables, one hundred five (105) chairs, twenty (20) park benches, twenty (20) picnic tables, two (2) 6-8 inch high 4 ft by 8 ft risers, two (2) two-way stop signs to wheel out at the intersection of 4th Ave NE and 1st St NE and 3rd Ave NE and Main St during event hours. Delivery location and times to be determined with Dave Merrill.
5. Donate use of two (2) Toro Utility Vehicle. Delivery location and times to be determined with Dave Merrill.
6. Permission to sink tent stakes into Downtown Bar parking lot, asphalt area only. (No tent stakes in concrete.)
7. Approval to close vehicle traffic* on 1st St NE from 4th Ave (Paramount) to 2nd Ave (Downtown Grill) from 4 p.m. Friday through 6 p.m. Sunday. Use of appropriate street barriers. Remains closed all night. (See map B & C)

8. Approval to close vehicle traffic* on 3rd Ave NE Between 1st St NE one-way to Main. (SPAM® Museum) from 4 p.m. Friday through 6 p.m. Sunday. Use of appropriate street barriers. Remains closed all night. (See map B & C)
9. Support for designated handicap parking on the north curb of 4th Ave NE between the Paramount and the Tendermaid and on a portion of 1st St NE between the Jail and Justice Center and the Downtown Grill. (See map B & C)
10. Donate use of one (1) city snow plow for Paint the Plow activity on 3rd Ave NE. (See map C)
11. City to remove stage, tables, chairs, park benches, picnic tables, street barricades, portable stop signs, risers, plow, etc. on Sunday after 4 p.m. or appropriate time on Monday morning to allow regular traffic to resume. Please invoice Austin Area Arts for staff overtime as appropriate.

*Street set up allows for emergency vehicles to access a clear path down the center of the street at all times.

Please note that the emergency shelter for the event is the VFW at 300 4th Ave NE.

A map is attached showing our set up plans.

Our plan is to return all city lots and streets for traffic as usual on Monday, August 28. Thank you for the consideration of these requests. We look forward to continuing our partnership with the City of Austin to host the Austin ArtWorks Festival.

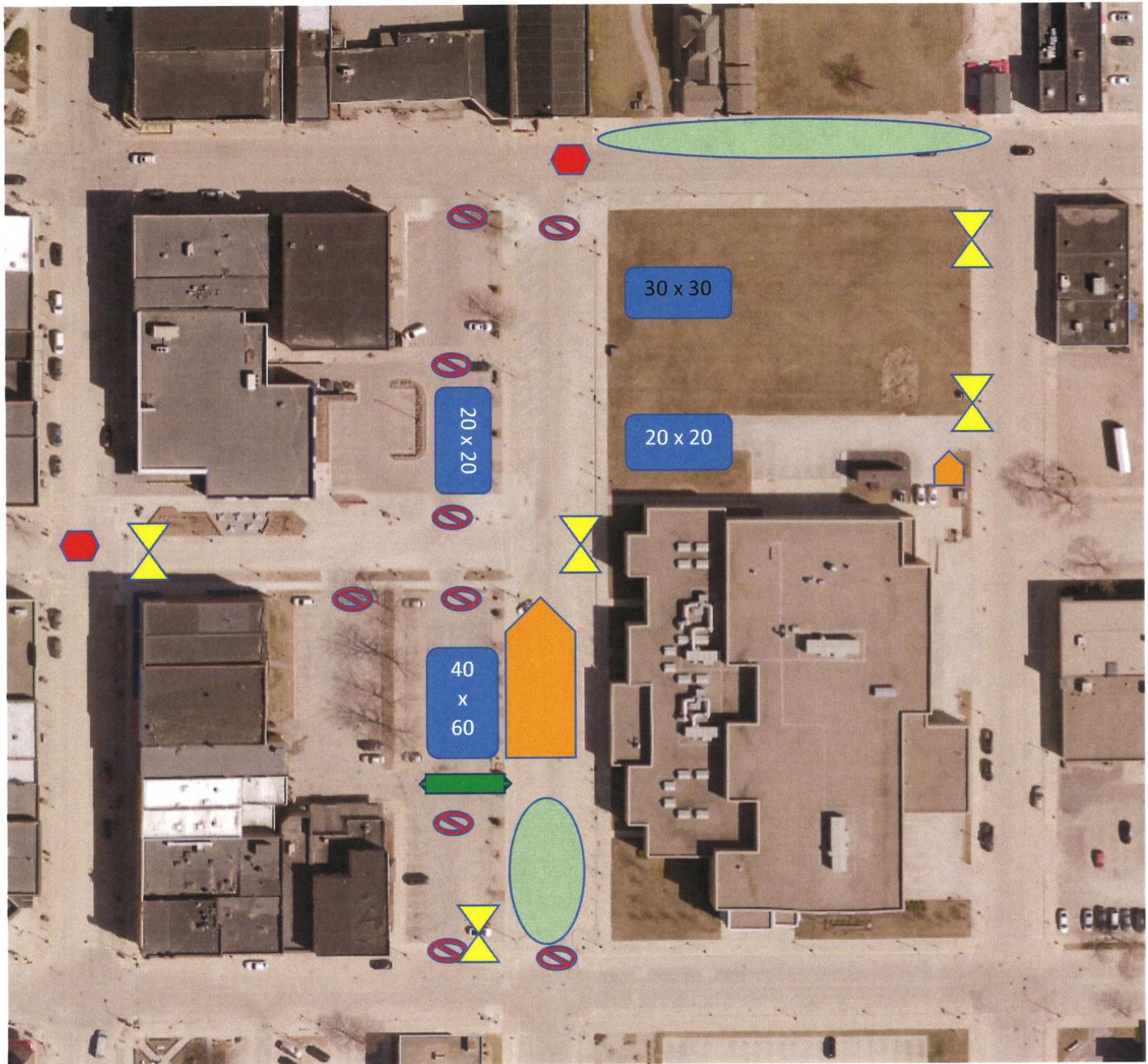
Questions may be directed to Laura Helle, Austin Area Arts Executive Director at 507-434-0934.



Thursday MORNING Barricade's



TENTS



BARRICADE'S



Handicap Parking Signs to post



TENTS



Stop signs



INFO TENTS



Stage



Cones & Delineators





Street/Special Event Permit

Permit Type: Street or Special Event

Permit Number: 2023-042

Applicant Information	
Organizer Name	Danielle Finley
Organizer Address	506 20th St NW
Organizer City	Austin
Organizer State	MN
Organizer Zipcode	55912
Organizer Phone	507-440-1902
Organizer Email	schaefer1974@gmail.com
Alternate Name	Katie Carney
Alternate Phone	507-440-6312
Alternate Email	katiecarney645@hotmail.com

Permit Information

Event Title	WyattStrong Boys Hockey Fundraiser		
Event Description	AHS Boys vs Alumni will have ice time 6p-8p, Silent Auction, Food & WyattStrong items for sale.		
Event Start Date	September 16, 2023	Event End Date	September 16, 2023
Approximate Number of Participants	unsure - 300		
Event Start Time	16:00	Event End Time	21:00
Portion of Street Width Being Used	Riverside Stop Sign to Riverside Parking Lot.		
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?	No	Number of Food Trucks	
Food Truck Information	Food Truck 1: , , Food Truck 2: , , Food Truck 3: , , Food Truck 4: , , Food Truck 5: , ,		
Alcoholic Beverages Available	No		
Location of Alcohol			
Licensed Establishment(s) Serving Alcohol			
Types of Alcohol			
Live Entertainment	No		
Recorded Entertainment	Yes		
Date and Time Clean Up will be Accomplished	Right after the event	Responsible Person(s) for Clean Up	Danielle Finley
Will Event be Advertised?	Yes	Describe Invited People	The Community of Austin
Designated Adult Name	Danielle Finley	Designated Adult Phone	507-440-1902
Designated Adult Address	506 20th St NW		
Additional Information	We are asking for a small portion of the road to be blocked off to use for vendor tents & silent auction items if weather permits. There will also be many kids at this event & would like traffic eliminated from this area for safety reasons. The red arrow in the attached map shows the portion we would like blacked off		

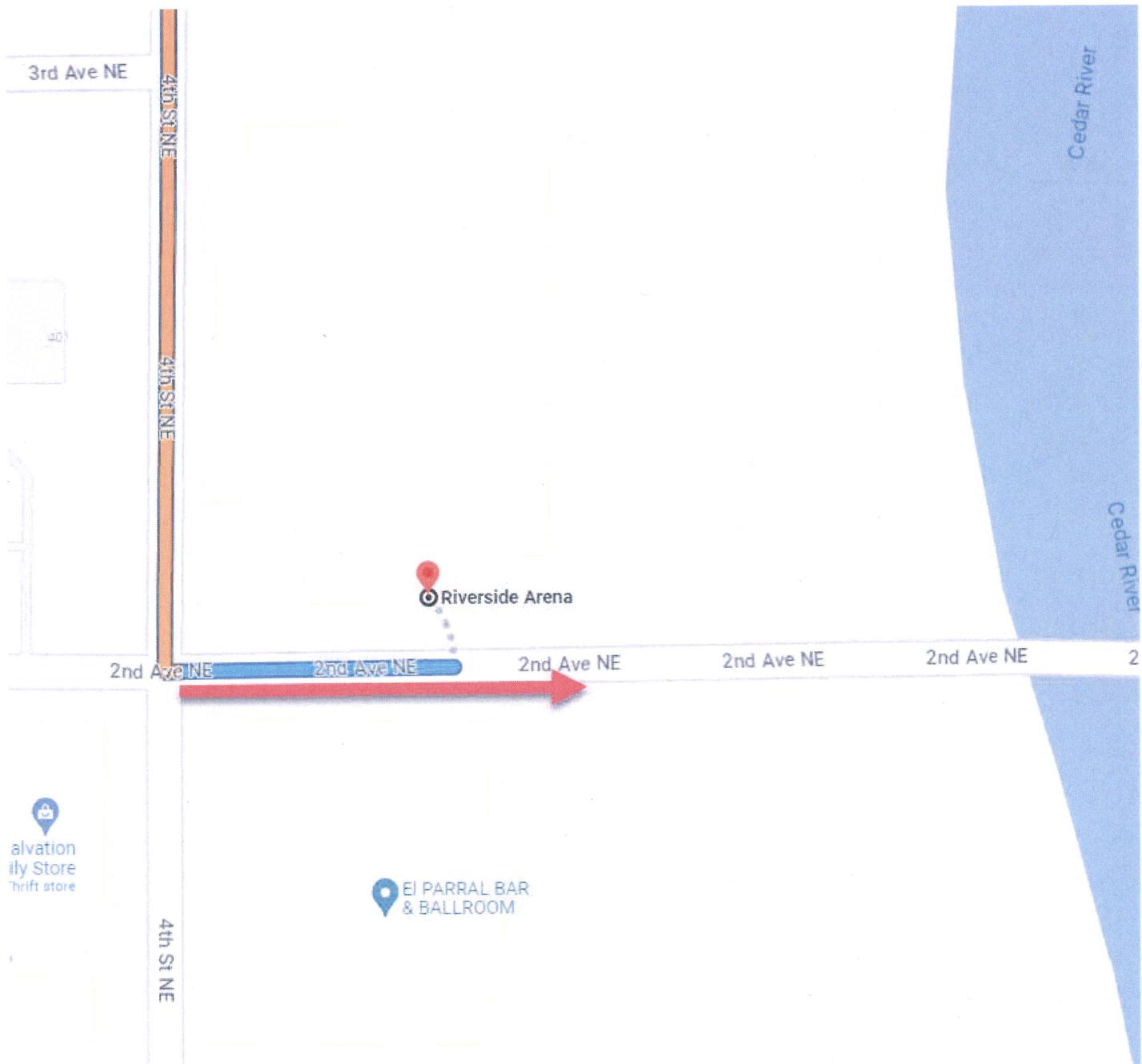
Engineering Department					
Determination	Approved	Date of Approval	August 7, 2023	Approved By	Mitch Wenum
Comments	City to provide barricades in locations as requested				

Police Department					
Determination	Approved	Date of Approval	August 7, 2023	Approved By	David McKichan
Comments					

City Clerk					
Determination	Approved	Date of Approval	August 7, 2023	Approved By	Ann Kasel
Comments					

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



Phone: 507-437-9940

www.ci.austin.mn.us

MEMO

TO: Mayor and City Council

TJD

FROM: Tom Dankert

DATE: August 16, 2023

SUBJECT: Hormel Foundation Grant Requests for 2024

<U:\Word\2023\Hormel Foundation 2023\Hormel Foundation 2024 Grant Requests to CC.doc>

The listing below is the final listing of the 10 projects as decided by the Mayor and City Council at the August 7 work session. These are now listed in order of priority, as follows:

1. CHIP Program - \$225,000
2. Emerald Ash Borer Treatment/Planting - \$75,000
3. Single Family Lot Incentive - \$200,000
4. Bandshell Improvements - \$71,250
5. Delivering the Data: Hotspot Data Plans 2024 - \$60,000
6. Riverside Arena Handicap Lift Elevator - \$50,000
7. Jay C. Hormel Nature Center Education Programs - \$50,000
8. Fire Prevention and Education - \$5,000
9. Ruby Rupner Facility Upgrades - \$75,000
10. Jay C. Hormel Nature Center Radios - \$13,000

Not included in the rankings is one project that is being requested to be funneled through the City of Austin, but is not our specific request and as such is not ranked:

- Quality of Life - \$97,078 (this includes \$23,000 for the 4th of July festival; \$74,078 to the Austin Artworks Center for operations support, rent and property tax reimbursement).

We would request Council approval of the above rankings for submittal to The Hormel Foundation. Please call if you have any questions.



To: Mayor and Council

From: Mark Nibaur, Austin Utilities General Manager

Date: 7/25/2023

RE: City action - resolution supporting the expansion of Austin Utilities electric service territory.

Austin Utilities (AU) and Freeborn Mower Electric Cooperative (FMEC) are finalizing a transfer of electric service territory. The two utilities have been working on the transfer language agreement and terms for over a year. Due to city expansion and recent annexation efforts, this has allowed AU to potentially expand electric service territory into FMEC service territory.

Minnesota Statutes 216B.37-216B.47, provides the terms and conditions under which Utilities may extend retail electric service throughout the corporate limits of a city, as well as authorize and permit electric utilities to define and revise their electric service territories by written consent and agreement.

At the work session, I will provide more detail on these items:

- Why it is important for AU to expand service territory.
 - o Investment in infrastructure
 - o Adding load assists the current rate payer, by spreading our operating costs over more Kwh sales.
- History of AU service territory expansion
 - o First expansion for AU
- AU costs to incur
 - o FMEC distribution facilities – minimal
 - o Integration costs for FMEC facilities – minimal
 - o Loss revenue staggered 10-year period
- Currently 3 customers are affected by the transfer
- Greatly appreciate city expansion now and into the future
 - o Review map

The Austin Utilities Board of Commissioners has made it a priority for the utility to expand electric service territory when opportunities arise. Earlier in the year the Board approved AU resolution No. 327-Service Territory Expansion.

Attached is a council resolution which hereby declares that the City of Austin supports the continued expansion of electric service territory when financial and business merits justify the action.

If you have questions, please let me know.

Thank you,
Mark

**AUSTIN UTILITIES
RESOLUTION NO. 327**

AUSTIN UTILITIES SERVICE TERRITORY EXTENSION

BE IT RESOLVED by the Austin Utilities Board of Commissioners that:

- (1) in order to provide support to Austin Utilities (AU) with intermediate and long-range planning for electric generation, transmission, and distribution facilities; and,
- (2) in order to apprise operation utility companies, and the Minnesota Public Utilities Commission of AU policy with respect to furnishing electric service to customers within the corporate boundaries of the City of Austin;

IT IS HEREBY DECLARED AND RESOLVED to be the continuing policy and intention of Austin Utilities, acting through its Board of Commissioners, to furnish electric power and service to all residential, commercial, and industrial customers located within the corporate boundaries of the City of Austin, and to continue to furnish electric power and service to all such customers in each and every area annexed to the City in the future.

BE IT FURTHER RESOLVED that in carrying out this declared policy, AU will, in accordance with law, by negotiation or otherwise, extend its service territory consistent with the municipal boundary upon any such annexation or upon the discovery of any electric utility serving property located within the City of Austin, including the purchase of the facilities from the electric utility formerly serving such areas. See Minnesota Statutes §§ 216B.37 to 216B.47.

BE IT FURTHER RESOLVED that the Austin Utilities Board of Commissioners deems this policy, to be necessary:

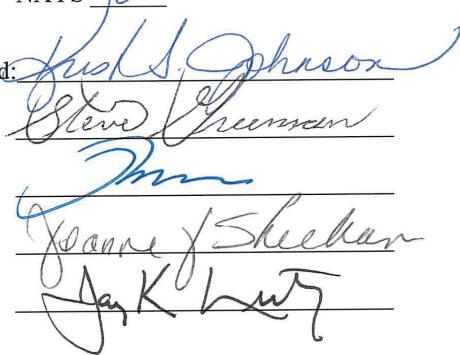
- (1) for the general welfare of the citizens and residents of this community;
- (2) for the positive contribution which such policy makes toward ensuring and preserving the financial stability and fiscal integrity of AU's overall financial structure and credit ratings;
- (3) for the provision of adequate, reliable, efficient, and safe electric service to all residents and users in the City of Austin, at reasonable rates subject to the control and regulation of AU;
- (4) for the avoidance of unnecessary duplication of electric facilities;
- (5) for the promotion of continued orderly, planned growth of the City of Austin and AU; and
- (6) as stated above, for the guidance of all concerned with regard to intermediate and long-range planning for electric generation, transmission and distribution facilities.

PASSED by the Austin Utilities Board on this 18th day of April, 2023.

YEAS 5

NAYS 0

Signed:


Bush Johnson
Steve Freeman
Tom
Janet Sheekan
Jay K. Hurt

Attest: Mark Abram
Secretary

RESOLUTION
Austin Utilities Service Territory Extension

BE IT RESOLVED by the Council of the City of Austin that:

- (1) in order to provide support to Austin Utilities (AU) with intermediate and long-range planning for electric generation, transmission, and distribution facilities; and,
- (2) in order to apprise operation utility companies, and the Minnesota Public Utilities Commission of AU policy with respect to furnishing electric service to customers within the corporate boundaries of the City of Austin;

IT IS HEREBY DECLARED AND RESOLVED to be the continuing policy and intention of the City of Austin, acting through the Austin Utilities Board of Commissioners, to furnish electric power and service to all residential, commercial, and industrial customers located within the corporate boundaries of the City of Austin, and to continue to furnish electric power and service to all such customers in each and every area annexed to the City in the future.

BE IT FURTHER RESOLVED that in carrying out this declared policy, AU will, in accordance with law, by negotiation or otherwise, extend its service territory consistent with the municipal boundary upon any such annexation or upon the discovery of any electric utility serving property located within the City of Austin, including the purchase of the facilities from the electric utility formerly serving such areas. See Minnesota Statutes §§ 216B.37 to 216B.47.

BE IT FURTHER RESOLVED that the City deems this policy, to be necessary:

- (1) for the general welfare of the citizens and residents of this community;
- (2) for the positive contribution which such policy makes toward ensuring and preserving the financial stability and fiscal integrity of AU's overall financial structure and credit ratings
- (3) for the provision of adequate, reliable, efficient, and safe electric service to all residents and users in the City of Austin, at reasonable rates subject to the control and regulation of AU;
- (4) for the avoidance of unnecessary duplication of electric facilities;
- (5) for the promotion of continued orderly, planned growth of the City of Austin and AU; and
- (6) as stated above, for the guidance of all concerned with regard to intermediate and long-range planning for electric generation, transmission and distribution facilities.

Passed and adopted by the council of the city of Austin this _____ day of _____ 2023.

YEAS _____

NAYS _____

APPROVED:

Steve King, Mayor

Attest:

Tom Dankert, 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 resources 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.

Schindler's Way Mountain Bike Skills Course Proposal - DRAFT

Project Manager Information

Name: Brian Andrews

Organization: Southern Minnesota Bicycling Club

Cell Telephone: 507-206-7216

E-mail: bsandrews@hormel.com

Background Information

The Southern Minnesota Bicycling Club (SMBC) is a nonprofit organization dedicated to bringing together riders of all ages and backgrounds to enjoy cycling. The SMBC has been a local advocacy for community cycling by working with local agencies to design, construct, and maintain the Shooting Star Trail and Schlinder's Way mountain bike trail.

In 2015, the SMBC built their first phase of an off-road, mountain bike trail on land owned by Hormel Foods. This project required collaboration between the City of Austin, Hormel Foods, and the SMBC. This relationship has prospered and has benefited the community over the last 9 years as evident by the many riders that enjoy the mountain bike trail year-round, has been the main training area for the Austin middle and high school mountain teams, has been the host location for 5 National Interscholastic Cycling Association (NICA) and 1 Minnesota Cycling Association middle and high school races. Moreover, hosting these races in Austin has further benefited our community by bringing in several schools that have required overnight stays and enjoyed local dining over the two-day event.

Project Goal and Objectives:

The project goal is to develop an off-road, single track mountain bike skills development area on Hormel Foods' property adjacent to the existing Schlinder's Way mountain bike trial. The skills development area offers riders of all experience levels the ability to practice valuable skills including bike handling, balancing, jumping, and cornering/turning in a safe, fun, and controlled environment. Skills areas are purposely designed and built to provide a progression in various technical and challenging elements that will appeal to a broad experience level of off-road bike enthusiasts. The features contained within this skills area will be designed and constructed in compliance with conservation, sustainability, and community recreation objectives and made from natural materials such as stone, wood, and earth.

Project Details:

The single-track skills area will provide a unique off-road cycling experience to the Austin community and will complement the extensive paved surface trails located around Austin and Schindler's Way mountain bike trail systems. Our skills development

areas will be specifically built for mountain bikes with progressive features for riders of all skill levels. These features often include but not be limited to berms, rollers, jumps, skinny rails, and drop-ins (See Appendixes below for examples). These features are often fun to ride as they create a gravity sensation where mountain bikers can better understand proper balance, improve bike handling, and build confidence in their riding abilities. The proposed skills development area would include these features, designed with rider safety in mind.

A sustainable bike trail balances many key elements and minimizes its effect on the environment. They are designed and constructed in such a way to minimize trail erosion, blend into the surrounding areas, and are easily maintained without interfering with local habitat. When built correctly, trails are low in maintenance and user friendly, while helping to mitigate risk, habitat impact, and rider conflict. Trail design, construction guidance, and skills development area planning can be found in a variety of resources, such as Trail Solutions: IMBA's Guide to Building Sweet Singletrack, Managing Mountain Biking: IMBA's Guide to Providing Great Riding, and Bike Parks: IMBA's Guide to New School Trails.

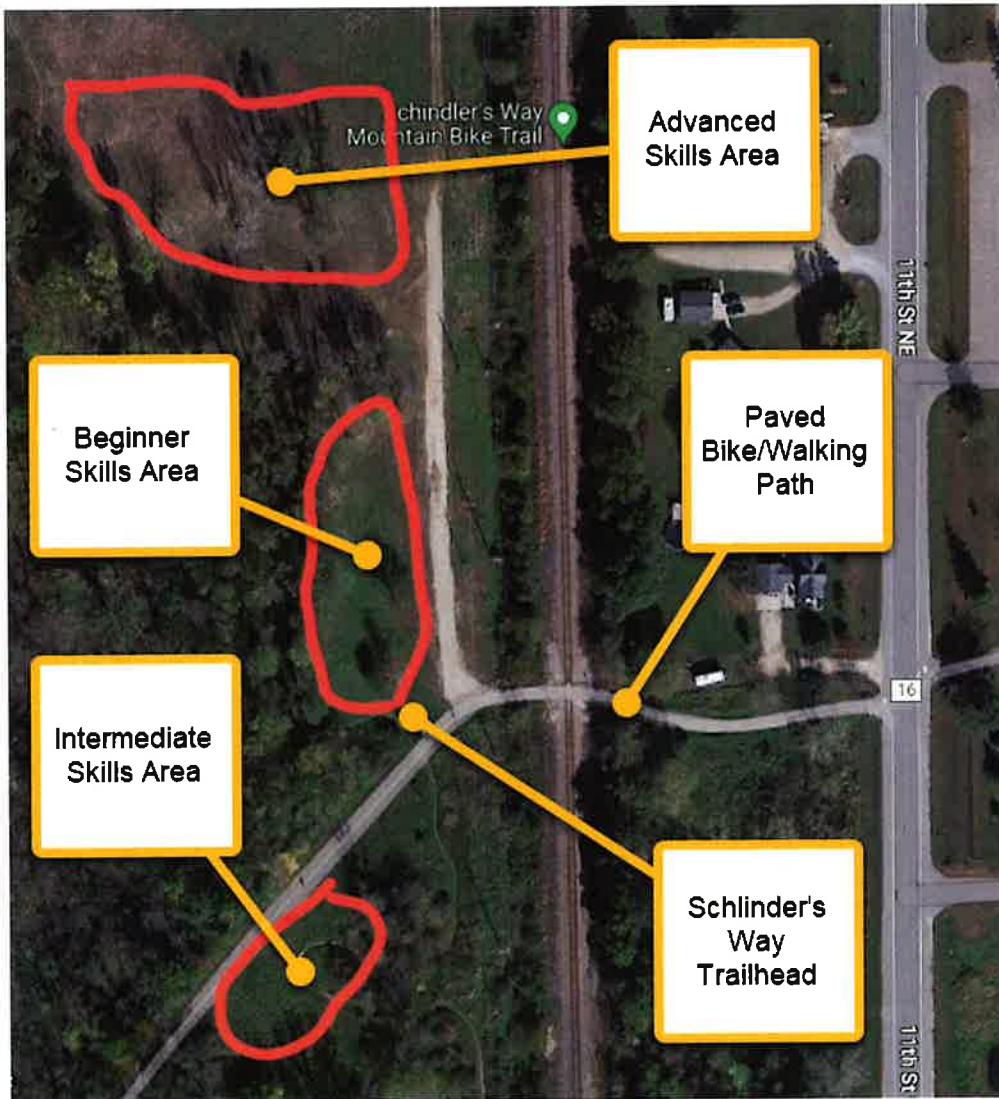
Creating the proposed skills development area with challenging mountain bike features will ensure a unique destination to attract riders from the surrounding areas and provide local residents a great opportunity to hone their bike skills. Construction will be provided by the combination of experienced trail builders, avid mountain bike enthusiasts, and volunteers to provide much of the preparation and finishing tasks. Much of the heavy lifting will be conducted with machines typically used in small landscape projects, such as but not limited to mini-excavators, skid steer loaders, and plate tampers. There are no plans for permanent outside structures at this time other than the skills area signage, trail route/direction markings, and/or specific features that are made of milled lumber.

Furthermore, we would like to install natural barriers (wood, earth, and/or stone) surrounding the skills area to indicate the space's purpose from the surrounding areas and alert drivers during the winter months of snow dumping. Keeping pedestrian safety at the forefront of our minds, these natural barriers will be utilized to minimize any crossover between the paved trail and "jumping" on the skills area without riding the trail system. Examples of these barriers will use natural wooden posts connected with rope, small, native shrubbery, elevated berms and/or small boulders.

Project location

The SMBC has identified three areas on Hormel Foods' property for this project that run adjacent to the MTB trail and will be segregated by the appropriate progressive features based on rider skill level (i.e. beginner, intermediate, and advanced). These three areas are outlined in Figure 1 below and are accessed through the trail system.

Figure 1: The proposed skills development areas will be located in the southern section of the large open field, adjacent to Schlinder's Way trail head, and south of the paved bike/walking path.



We purposely selected the “beginner” skills area to be close in proximity to the Schlinder’s Way trail head and immediately off the paved trail to encourage new and/or young riders to experience the excitement of mountain biking. The features in this area will be specifically designed to have low risk, less progressive introductory features to allow the young riders to learn proper balance and handing on their bicycles. Moreover, we wanted to have this introductory skills area at the trail head for ease of access off the paved trail and not be intimidated by the need to ride the trail system as one would in the case of the other two locations.

As riders progress in their skill level, they can begin utilizing the trail system to access the “intermediate” skills area located south of the Schlinder’s Way trail head, along the paved trial or the “advanced” skills area located on the south end of the infield. Both of these skills areas will have larger, more progressive features typically seen on other mountain bike trails in the area to safely build on their skillsets. The south infield area offers more elevation change that would allow for more advanced progressive features while minimizing building materials for the project.

Project Maintenance:

Once completed, it will be the responsibility of SMBC board of directors to appoint an individual to schedule and organize maintenance of the skills development area. They would work with area volunteers to make sure the trails are maintained and properly used by the community.

Typical maintenance could include the following at no additional cost to Hormel Foods:

- Grooming trails to address damage that may occur from heavy use, rain, and/or repair any drainage and water erosion concerns.
- Trim trees, bushes, and weeds to maintain trail corridor and ensure they do not interfere with rider safety.
- Repack and/or rebuild rollers and berms to ensure safe rideability.
- Replace, repair, and maintain any wooden features that are incorporated into the skills area.
- Ensure proper signage is presented on upcoming obstacles/features.

Timeline:

Phase 1 – Land Use Approval

- Seek approval from Hormel Foods for three green space areas adjacent to Schlinder’s Way bike trail for development of bike specific skills course.

Phase 2 – City Support

- Seek approval from the City of Austin for additional liability coverage of skills development area on Hormel Foods’ property.

Phase 3 – Design

- Work with local designers to layout and design skills development area.
- Use layout to determine costing for construction.

Phase 4 – Fund Raising

- Seek out and apply for grants to help fund the skill development area project.
- Understand funding through local businesses and personal contributions.

Phase 5 - Construction

- Features: Easily maintain, single direction 2 to 3 feet wide single-track trail with multiple feature lines to address different rider skill levels.
- Install additional signage for new skills develop area rules and additional supplemental information on use.
- Ability Level: Beginner (Green) & Intermediate (Blue).
- Timeline: 6 months
- Cost: In-kind donations by volunteers (~\$10/Linear Foot)

References

Allen, Bob. *Bike Parks: IMBA's Guide to New School Trails*. Denver, CO. International Mountain Bicycling Association. 2014

Felton, Vernon. *Trail Solutions IMBA's Guide to Building Sweet Singletrack*. Boulder, CO. International Mountain Bicycling Association. 2004

Webber, Pete. *Managing Mountain Biking IMBA's Guide to Providing Great Riding*. Boulder, CO. International Mountain Bicycling Association. 2007

Appendix: Trail Features:

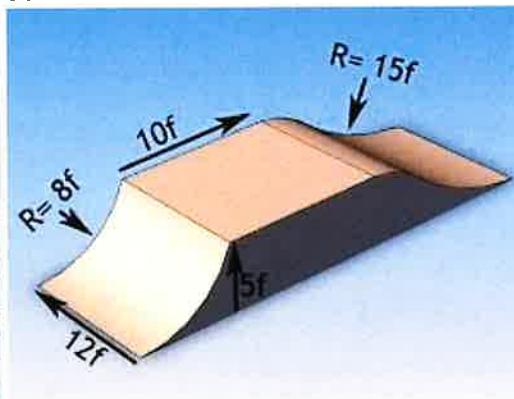
Berms

A berm is often referred to as a corner on a mountain bike trail that has been banked to support the rider cornering at elevated speeds. Berms can range in height, length, and steepness. They can be made of natural materials such as earth, stone, and/or wood. A berm can be designed to support a gentle curve or a full 180 degrees switchback corner. Berms can also be placed on a trail or in a sequence to generate a sense of "flow" on the trail.



Table-Top Jumps

Shown below are examples of rollable table-top jumps. Jumping principles revolve around exerting adequate pressure to the bike as well as your ability to control the timing of this pressure through each wheel. Jumps teach the rider to keep your weight center over both wheels and lower your chest into the front of the pedals. Jumps are a fundamental skill riders should possess.



Rollers

Rollers are essentially a “hump” in the trail that can be designed to use a single or multiple sequential humps. They are usually positioned around straightaways in slow and/or fast areas of the trail. When ridden correctly, the rider can “pump” the rollers to generate speed quickly. To accomplish this, the rider will need to remain balanced, able to quickly pump, unweight, and pump quickly maneuver their bike.



Skinny Rails

Shown below are examples of skinny rails or “skinny.” A skinny is typically a narrow feature, often made of wood or logs that challenge the rider to practice their bike handling skills and balance to maneuver their bikes at low speeds.



Drops

Features often referred to as drops can come in many different forms and sizes that can range from a small curb on the road to several feet in the air with much experience. Drops can come in different materials, such as roots, earth, rocks, or logs. With the proper technique, these features can be fun and safe. To ride drops correctly, the rider will need to manage the combination of speed, shifting of rider's weight, and balance.



MEMORANDUM OF AGREEMENT

THIS MEMORANDUM OF AGREEMENT is made and entered into as of this _____ day of _____, 2023, by and between Hormel Foods Corporation, a Delaware corporation ("Hormel Foods") and the City of Austin, Minnesota, a municipal corporation under the laws of Minnesota ("City of Austin") and Southern Minnesota Bicycling Club, a non-profit corporation organized under the laws of the State of Minnesota (the "Club").

Recitals

The parties hereto entered into that certain Skills Course Easement Donation Agreement (the "Agreement") dated _____, 2023, under which City of Austin has been granted an easement interest over and across portions of the land located in Mower County, Minnesota, legally described on Exhibit A attached hereto, together with the exclusive right to use, or permit the use of, for the purpose of a publicly accessible recreational mountain bike skills area, the easement area shown on Exhibit B attached hereto. Said land and easement area are referred to collectively herein as the "Easement Premises".

NOW, THEREFORE, in consideration of the mutual covenants contained in the Agreement and for other good and valuable consideration, Hormel Foods hereby grants an easement to the City of Austin, upon the terms and conditions set forth in the Agreement, which is hereby incorporated herein and made a part hereof, of the Easement Premises for a term commencing _____, 2023, and terminating upon termination of the Agreement. The parties will cooperate to revoke the easement at the time of termination of the agreement.

IN WITNESS WHEREOF, the parties hereto have set their hands the day and year first written above.

[SIGNATURE PAGES TO FOLLOW]

[SIGNATURE PAGE OF HORMEL FOODS CORPORATION
TO MEMORANDUM OF AGREEMENT]

HORMEL FOODS CORPORATION

By: _____

Its: _____

STATE OF MINNESOTA)
)ss.
COUNTY OF MOWER)

The foregoing instrument was acknowledged before me this _____ day of
_____, 2023, by _____ the _____ of Hormel Foods Corporation, a corporation under the laws of
Delaware, on behalf of the corporation.

(SEAL)

Notary Public

[SIGNATURE PAGE OF CITY OF AUSTIN TO
MEMORANDUM OF AGREEMENT]

CITY OF AUSTIN

By: Stephen M. King
Its: Mayor

By: Tom Dankert
Its: City Recorder

STATE OF MINNESOTA)
)ss.
COUNTY OF MOWER)

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

(SEAL)

Notary Public

[SIGNATURE PAGE OF SOUTHERN MINNESOTA BICYCLING CLUB TO
MEMORANDUM OF AGREEMENT]

SOUTHERN MINNESOTA BICYCLING CLUB

By: Gareth Hataye
Its: President

STATE OF MINNESOTA)
)ss.
COUNTY OF MOWER)

The foregoing instrument was acknowledged before me this _____ day of
_____, 2023, by Gareth Hataye the President of the Southern Minnesota Bicycling Club.

(SEAL)

Notary Public

Craig M. Byram
Hoversten, Johnson, Beckmann & Hovey
807 W. Oakland Ave
Austin, MN 55912
(507) 433-3483

Exhibit A

All of the following described tracts and property lying and being in the County of Mower, State of Minnesota:

(Part of Parcel no: 34-890-0020)

All that part of the following-described real estate lying and being West of the right of way of the Chicago, Milwaukee, St. Paul and Pacific Railroad right of way, Section 26, Township 103 North, Range 18 West:

The South Half of the Northwest Quarter of Section 26, lying and being East of the Cedar River, except the north 600 feet;

And also, the East Half of the Southwest Quarter of Section 26, except the South 340 feet.

(Parcel no: 08-026-0140)

All that part of the Northwest Quarter of the Southwest Quarter of Section 26, Township 103 North, Range 18 West, which lies East of the Center line of the main channel of the Red Cedar River as it flowed in the month of December 1970.

(Parcel no: 28-002-0181)

The North 10 rods of the Southwest Quarter of the Southwest Quarter of Section 26, Township 103 North, Range 18 West" which lies East of the centerline of the main channel of the Red Cedar River as it flowed on October 29, 1970.

(Parcel no: 28-002-0140)

All of that portion of the land described as "Outlots 6, 7, 8, 9 and 10, Village of Maplevue", except the South 25 feet of Outlot 6; which lies East of the centerline of the main channel of the Red Cedar River as it flowed on October 29, 1970.

(Part of Parcel no: 08-026-0170)

That part of the Southwest Quarter of the Southwest Quarter of Section 26, Township 103 North, Range 18 West, lying South of Out Lot 1 in Maple View Addition to the Town of Lansing, also described as the West 20 rods of the South 327 feet of the South Half of the Southwest Quarter of the Southwest Quarter of said Section 26.

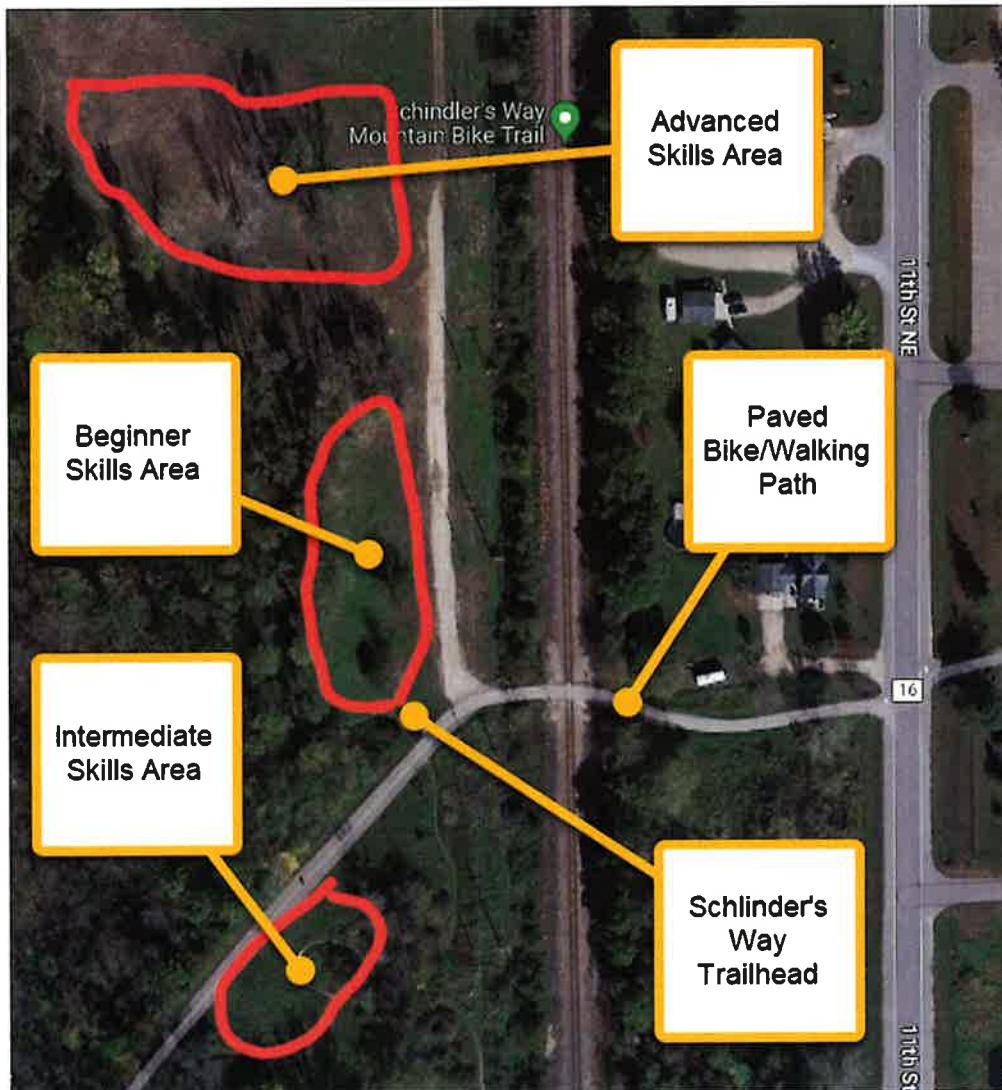
And also:

Commencing on the South line of Section 26, Township 103 North, Range 18 West, 20 rods East from the SW corner of said Section, thence North parallel with the West line of said Section 40 rods, thence East parallel with the South line of said Section 60 rods, thence South along the East

line of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of said Section 40 rods to the South line of Section 26, thence along said section line West 60 rods to the place of beginning, containing 15 acres more or less, subject to a 10 foot right of way easement along the East line of said tract granted the Tri State Telephone Company, Mower County, Minnesota.

Subject to easements and restrictions of record,

Exhibit B



RESOLUTION NO.

**APPROVING MEMORANDUM OF AGREEMENT FOR THE BIKE SKILLS TRAIL
EASEMENT WITH HORMEL FOODS
AND THE SOUTHERN MINNESOTA BICYCLING CLUB**

WHEREAS, Hormel Foods owns property used privately as a bike trail for the Southern Minnesota Bicycling Club; and

WHEREAS, The City of Austin and Hormel Foods have previously entered into an easement for a publicly accessible recreational mountain bike trail over the property; and

WHEREAS, the parties wish to enter into an additional memorandum of agreement for the addition of a bike skills course;

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Austin does hereby authorize the Mayor and City Recorder to enter into and sign the Memorandum of Agreement for the Bike Skills Course with Hormel Foods and the Southern Minnesota Bicycling Club.

Passed by a vote of yeas and nays this 21st day of August, 2023.

YEAS

NAYS

ATTEST:

APPROVED:

City Recorder

Mayor

MEMORANDUM

DATE: August 3, 2023
TO: Mayor and Council
FROM: Craig M. Byram, City Attorney
RE: Interim Ordinance/Moratorium THC
OUR FILE: 23.0000

I was asked to prepare an interim ordinance for your consideration. An interim ordinance is often referred to as a moratorium and is a temporary restriction of certain land uses pending a more permanent regulatory program. A moratorium is often used when a new use is suddenly made legal and the local zoning regulations have not be updated to manage that use appropriately.

Recently, THC products were legalized under state statutes that will be implemented over the next 17 months or so. THC production, distribution, and sales were never lawful and thus our zoning code does not address where those uses are most appropriate or any regulations of such uses. The Minnesota Legislature expressly authorized municipalities to put a moratorium in place until January 1, 2025. This is expressly intended to allow municipalities to be thoughtful in crafting local regulations.

In reality, THC Businesses are going to require a state issued license to operate and those licenses are no expected prior to January 1, 2025. So, technically, we may not experience any attempt to establish such a business in Austin prior to January 1, 2025, but this is all somewhat fluid and confusing and there are local merchants already positioning themselves and their businesses for such use.

As a result, a moratorium will clearly establish that any such business should wait and see what the zoning regulations will look like before solidifying their plans.

Between now and January 1, 2025, we will attempt to study and monitor what experiences other cities might have and what 'best practices' develop. The intent is to ensure that whatever regulations we ultimately put in place are a good fit for Austin and its citizens.

The moratorium does not cover things like CBD products (not a drug), or lower-potency edibles (we have an established licensing program for these as they were legalized last year). This moratorium is focused more on the THC products that are used as a drug.

The City Council will be asked to consider zoning regulations during the moratorium and if the Council adopts a set or regulations, the Council can end the moratorium earlier than January 1, 2025. But at this point, the intent is to simply use the expiration date found in the state statutes.

ORDINANCE NO. _____

**AN INTERIM ORDINANCE IMPOSING
A TEMPORARY MORATORIUM ON THE SALE OF
CANNABIS FLOWER AND CANNABINOID PRODUCTS**

THE CITY OF AUSTIN ORDAINS:

SECTION 1: PURPOSE AND INTENT

The City of Austin recognizes the significant public interest and concern regarding recent State of Minnesota legislation legalizing the manufacture, distribution, and sale of certain products, including tetrahydrocannabinol (THC) products defined by the legislature as "cannabis flower" and "cannabinoid products." The City desires to regulate the sale of such products in a manner that is consistent to public health, welfare, and safety, as well as in accordance with the City's interest in fairness and due process toward potential future retail establishments and purveyors of such products.

Given the abrupt nature of the Legislature's passage of relevant law and the significant public interest and concern resulting therefrom, the City further recognizes that the specific contours of such regulation have not yet been vetted with appropriate diligence.

Minnesota Statutes Section 462.355, subd. 4, permits municipalities to implement a moratorium on certain land uses within its jurisdiction to allow for the completion of appropriate study and subsequent adoption of relevant land use controls. State law generally permits such moratoria to persist for a period of up to twelve (12) months. However, the legislature has allowed a moratorium related to this subject to extend to January 1, 2025. See Minnesota Statutes 342.13, Subd. 13(e).

The City hereby concludes that additional study and research is required to formulate and adopt appropriate regulations governing the manufacture, distribution, and sale of cannabis flower and cannabinoid products (as defined by statute) within its jurisdiction.

Therefore, the City finds that a moratorium on the manufacture, distribution and sale of cannabis flower and cannabinoid products (as defined by statute) is necessary to protect the planning process and to protect the health, welfare, and safety of its citizens.

SECTION 2: STUDY

The City Administrator and the relevant City staff, professional staff, and others under the direction of the City Administrator are authorized and instructed to undertake a study of best practices, actions by other similar cities to regulate the subject matter of this moratorium, the advice and guidance of the League of Minnesota Cities and/or relevant statewide agencies and departments, and collect other useful and relevant information for presentation to and consideration by the Council from time to time during the term of this interim ordinance. Should such study require the incurrence of any cost or expense, such cost or expense shall be presented to the Council for approval or disapproval in advance. Such study shall have as its purpose the ultimate drafting of appropriate and necessary local regulations governing the subject matter of

this interim ordinance for adoption prior to the expiration of the term of this interim ordinance. The City Administrator's work on this study shall be subject to oversight and guidance by the Council as necessary.

SECTION 3: PROHIBITION

Pursuant to Minnesota Statutes Sections 462.355 and 342.13, Subd. 13(e), the manufacture, sale, and distribution of cannabis flower or cannabis products (as defined by statute) is prohibited until such time as this interim ordinance expires or is terminated by action of the City Council.

SECTION 4: EXCLUSIONS

This interim ordinance does not impact, limit, or prohibit the sale of Edible Cannabinoid Products under Austin Code Section 6.34, or Edible Cannabis Products under Minnesota Statutes Section 342.01, Subd. 31, Hemp-derived Topical Product under Minnesota Statutes Section 342.01, Subd. 38, or Lower-Potency Hemp Edibles under Minnesota Statutes Section 342.01, Subd. 50 (hereafter collectively referred to as "Edible Cannabinoid Products"), so long as such sales are otherwise lawful.

This interim ordinance does not impact, limit, or prohibit the application for and issuance of any Edible Cannabinoid Product licenses pursuant to Austin Code Section 6.34.

This interim ordinance does not impact, limit, or prohibit the sale of products meeting the description of Edible Cannabinoid Products under Austin Code Section 6.34, so long as such sales are lawful under state law and a license has been issued by the State of Minnesota for the location of said sales.

SECTION 5: EFFECTIVE DATE AND EXPIRATION

This interim ordinance shall take effect upon its passage and publication, and shall expire on January 1, 2025 unless lawfully terminated or extended pursuant to state law.

Passed by the following vote of yeas and nay by the City Council of the City of Austin this 21st day of August, 2023.

YEAS

NAYS

CITY OF AUSTIN

BY:

Stephen M. King, Mayor

ATTEST:

Tom Dankert, Recorder

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF AUSTIN, MINNESOTA AMENDING CHAPTER 6.60 OF THE CITY CODE

The Council of the City of Austin does ordain:

Section 1. Austin City Code Chapter 6, Section 6.60 Subd. 2 and Subd 3 are hereby repealed.

Section 2. A new Section 6.60 Subd. 2, Subd. 3 and Subd. 4 hereby enacted.

Section 3. All subsequent subdivisions are to be renumbered.

Section 6.60

Subd. 2 *Definitions*.

A. *Application of Definitions*. All terms shall be given their commonly accepted definitions. The singular shall include the plural and the plural shall include the singular. The masculine shall include the feminine and neuter, and vice-versa. The term “shall” means mandatory and the term “may” means permissive. Definitions in this section shall pertain only to this section and shall have the meanings stated herein.

B: **CANNABIS FLOWER**: the harvested flower, bud, leaves, and stems of a cannabis plant. Cannabis flower includes adult-use cannabis flower and medical cannabis flower.

C. **CANNABINOID PRODUCT**: cannabis products, hemp-derived consumer products, or lower-potency hemp edible, as those terms are defined under Minnesota Statutes Section 342.01.

B.D. **ELECTRONIC DELIVERY DEVICE**. Any product containing or delivering tetrahydrocannabinol, nicotine, lobelia, or any other substance intended for human consumption that can be used by a person to simulate smoking in the delivery of tetrahydrocannabinol, nicotine or any other substance through inhalation of vapor from the product, an activity commonly referred to as vaping. Electronic delivery devices include but are not limited to what is commonly referred to as e-cigarettes. **ELECTRONIC DELIVERY DEVICE** shall include any component part of such a product whether or not sold separately. **ELECTRONIC DELIVERY DEVICE** shall also include any device used for vaporizing medical cannabis pursuant to M.S. § 152.22, Subd. 6. **ELECTRONIC DELIVERY DEVICE** shall not include any product that has been approved or otherwise certified by the United States Food and Drug Administration for legal sales for use in tobacco cessation treatment or for other medical purposes, and is being marketed and sold solely for that approved purpose.

C.E. **FOOD ESTABLISHMENT**. Any establishment, however designated, engaged in the preparation or serving of food or beverages for consumption either on or off the premises, or anywhere consumption of food occurs on the premises. This term includes any establishment that

has an on-sale non-intoxicating malt liquor license, an on-sale intoxicating liquor license, an on-sale wine license, and/or a strong beer liquor license issued by the state or the city.

D.F. *HOOKAH.* A pipe with a long, flexible tube by which the smoke is drawn through a jar of water and thus cooled for the use of tobacco products.

E.G. *INDOOR AREA.* All space between a floor and a ceiling that is bounded by walls, doorways, or windows, whether open or closed, covering more than 50% of the combined surface area of the vertical planes constituting the perimeter of the area. A wall includes any retractable divider, garage door, or other physical barrier, whether temporary or permanent. A 0.011 gauge window screen with an 18 by 16 mesh count is not a wall.

F.H. *OTHER PERSON IN CHARGE.* The agent of the proprietor authorized to provide administrative direction to, and general supervision of, the activities within a public place or place of work at any given time.

G.I. *PLACE OF WORK.* Any indoor area at which one or more individuals offer products or perform any type of a service in person for members of the public for consideration of payment under any type of contractual relationship. This includes, but is not limited to, an employment relationship with or for a private corporation, partnership, individual, or government agency. This term includes any location where products or services are offered gratuitously. Examples of a **PLACE OF WORK** include, but are not limited to, indoor areas of an office, a factory, a hotel or motel; a vehicle used in whole or in part for work purposes during hours of operation if more than one person is present; a warehouse; indoor areas of private clubs and rooms used for private meetings or social functions, and other locations where products are offered and/or services are performed under an employment relationship. An area in which work is performed in a private residence is a place of work during hours of operation if:

1. The homeowner uses the area exclusively and regularly as a principal place of business and has one or more on-site employees; or
2. The homeowner uses the area exclusively and regularly as a place to meet or deal with patients, clients, or customers in the normal course of the homeowner's trade or business.

H.J. *PROPRIETOR.* The party who ultimately controls, governs, or directs the activities within the public place or place of work, regardless of whether the party is owner or lessee of the public place or place of work. The term **PROPRIETOR** may apply to a corporation as well as an individual.

I.K. *PUBLIC PLACE.* Any indoor area used by the general public or serving as a place of work including, but not limited to, arenas, auditoriums, bars, bowling alleys, bingo halls, commercial establishments including licensed retail tobacco establishments, educational facilities hospitals, offices and other commercial establishments, pool halls, public conveyances, restaurants, retail stores, and common areas of rental apartment buildings. This term includes taxis, limousines, and other for-hire vehicles used to transport the public during hours of operation. **PUBLIC PLACE** also means an outdoor area of a public recreation center or public park, including, but not limited to, a public playground, swimming pool or other recreational area when in use by youth under the age of 18.

J.L. **SMOKING.** Inhaling or exhaling smoke from any lighted or heated cigar, cigarette, pipe, or any other lighted or heated tobacco, cannabinoid product, or other plant product, or inhaling or exhaling vapor from any electronic delivery device, an activity which is commonly known as vaping. Smoking shall include possessing or carrying a lighted or heated cigar, cigarette, pipe, hookah, or any other lighted or heated tobacco product or plant product intended for inhalation.

K.M. **TOBACCO PRODUCT.** Any products containing, made, or derived from tobacco that is intended for human consumption, whether chewed, smoked, absorbed, dissolved, inhaled, sorted, sniffed, or ingested by any other means or any component, part, or accessory of a tobacco product, including, but not limited to, any substance or item containing tobacco leaf, cigarettes; cigars; pipe tobacco; snuff, fine cut or other chewing tobacco; cheroots; stogies; perique; granulated, plus cut, crimp cut, ready-rubbed, and other smoking tobacco; snuff flowers; cavendish; shorts; plug and twist tobaccos; dipping tobaccos; refuse scraps, clippings, cuttings, and sweepings of tobacco; and other kinds and forms of tobacco leaf prepared in such manner as to be suitable for chewing, sniffing, or smoking or both for chewing and smoking. **TOBACCO PRODUCTS** excludes any tobacco product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product, as a tobacco dependence product, or for other medical purposes, and is being marketed and sold solely for such an approved purpose.

Subd. 3. *Smoking Prohibitions.*

- A. *Smoking Prohibited.* Except as provided in Subd. 3, smoking is prohibited in the following locations:
 1. Public places and places of work;
 2. Outdoor dining or bar areas, including sidewalk seating, of any food establishments that provide wait staff or any other staff services to patrons in those areas; and
 3. Within 15 feet of entrances, exits, open windows, and ventilation intakes of public places and places of work, to help prevent tobacco smoke from entering public places and places of work and to protect individuals entering such places from being exposed involuntarily to secondhand smoke, e-cigarette vapor and vaporized medical cannabis.
- B. *Exceptions.* The prohibitions of this section subdivision 3 do not apply to the following places or situations:
 1. Private residences;
 2. Motor vehicles in private use;
 3. Motor vehicles that serve as a place of work for no more than one employee;
 4. The use of tobacco by an enrolled member of a federally-recognized Indian tribe as part of a traditional Indian spiritual or cultural ceremony;
 5. Twenty percent of the guest rooms offered as sleeping accommodations to guests in hotels, motels, or similar lodging places, provided that:
 - a. All smoking-permitted guest rooms on the same floor of a hotel, motel, or similar lodging place are contiguous; and
 - b. All smoking-permitted guest rooms are clearly marked as "smoking permitted" on, or next to, entrances to each room.
 6. Situations where members of the public are passing through on an outdoor street, alley, or sidewalk where smoking is prohibited by this section while enroute to another location.

7. Use of vaporized medical cannabis by a person legally authorized to use in any place not prohibited by M.S. § 152.23.

Subdivision 4. Additional Prohibitions for Smoking Cannabis Flower or Cannabinoid Products.

- A. *Smoking Cannabis Flower or Cannabinoid Products Prohibited.* Except as provided in this Subdivision 4, smoking cannabis flower or cannabinoid products is prohibited in the following locations:
 1. Anywhere smoking is prohibited under Subdivision 3.
 2. Anywhere within the City that is not an exception under this Subdivision 4.
- B. *Exceptions.* The prohibitions of this subdivision 4 do not apply to the following places or situations.
 1. A private residence, including the curtilage and yard of such residence.
 2. Private property not generally accessible by the public, unless a person is explicitly prohibited from consuming cannabis flower or cannabinoid products on the property by the owner of the property; and
 3. The premises of an establishment or event licensed to permit on-site consumption of cannabis flower or cannabinoid products.
 4. Use of vaporized medical cannabis by a person legally authorized to use in any place not prohibited by M.S. § 152.23.
 5. Smoking by means of an Electronic Delivery Device.
- C. *Penalty.* Violation of this subdivision 4 is a petty misdemeanor as defined by Minnesota law. This Section may be enforced by Administrative Citation under Austin Code § 1.98.

All subsequent subdivisions to be renumbered.

Passed by a vote of yeas and nays this ____ day of _____, 2023

YEAS

NAYS

APPROVED:

Stephen M. King, Mayor

ATTEST:

Tom Dankert, City Recorder

This ordinance was introduced on _____, 2023; approved on _____, 2023; was published in the Austin Daily Herald on _____, 2023 and becomes effective _____ 2023.

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: August 14, 2023
Subject: Limited Use Permit (LUP), Multiple Locations

Attached for your review is a Limited Use Permit with MnDOT for the construction of pedestrian trails and sidewalk within I-90 MnDOT right-of-way as part of the I-90 Corridor Bridge Replacement project.

Permit Locations:

- Oakland Avenue West, bridge sidewalk and trail connection
- 14th Street NW, bridge sidewalk and sidewalk/trail connections
- 4th Street NW, sidewalk and trail connections
- 11th Drive NE, bridge sidewalk and trail connection
- 21st Street NE, bridge sidewalk and trail connections
- 8th Avenue NE, East Side Lake Trail and Park area, 12th St. to 15th St North Side
- 21st Street & 28th Street NE, trail connections (Nature Center Trail)

Details of the permit include:

- LUP requires renewal every 10-year, expires 09/01/2033.
- Permittee is responsible for all construction costs.
- Permittee is responsible for any maintenance or repairs.
- Permittee is responsible for removal upon expiration of the permit.
- Permittee shall indemnify, hold harmless and release the State of Minnesota from and against any claims or damages resulting from the sign.

We request Council authorize the Mayor and Recorder to execute the LUP. Please let me know if you have any questions. Thanks

STATE OF MINNESOTA
DEPARTMENT OF TRANSPORTATION

LIMITED USE PERMIT

C.S. 5080 (T.H. 90)
County of Mower
LUP # 5080-0021
Permittee: City of Austin
Expiration Date: 09/01/2033
Maint. Agmt #1026883 (11th St.)

In accordance with Minnesota Statutes Section 161.434, the State of Minnesota, through its Commissioner of Transportation, ("MnDOT"), hereby grants a Limited Use Permit (the "LUP") to City of Austin, ("Permittee"), to use the area within the right of way of Trunk Highway No. 90 as shown in yellow (new construction), red (existing trail), and blue (beautification area) on Exhibit "A", (the "Area") attached hereto and incorporated herein by reference. This Limited Use Permit is executed by the Permittee pursuant to resolution, a certified copy of which is attached hereto as Exhibit B.

Non-Motorized Trail

The Permittee's use of the Area is limited to only the constructing, maintaining and operating a nonmotorized trail ("Facility") and the use thereof may be further limited by 23 C.F.R. 652 also published as the Federal-Aid Policy Guide.

The permittee agrees that this permit totally replaces and supersedes the previously issued Non-Motorized Trail permits affecting the Areas, specifically: The first permit, #5080-0014, was issued on 11/30/2021 on CS 5080 (TH 90). The second permit, #5080-0015, was issued on 10/01/2021 on CS 5080 (TH 90). The third permit, #5080-0010, was never issued on CS 5080 (TH 90). Upon issuance of this permit each of these earlier issued permits are cancelled.

In addition, the following special provisions shall apply:

SPECIAL PROVISIONS

1. TERM. This LUP terminates at 11:59PM on 09/01/2033 ("Expiration Date") subject to the right of cancellation by MnDOT, with or without cause, by giving the Permittee ninety (90) days written notice of such cancellation. This LUP will not be renewed except as provided below.

Provided this LUP has not expired or terminated, MnDOT may renew this LUP for a period of up to ten (10) years, provided Permittee delivers to MnDOT, not later than ninety (90) days prior to the Expiration Date, a written request to extend the term. Any extension of the LUP term will be under the same terms and conditions in this LUP, provided:

- (a) At the time of renewal, MnDOT will review the Facility and Area to ensure the Facility and Area are compatible with the safe and efficient operation of the highway and the Facility and Area are in good condition and repair. If, in MnDOT's sole determination, modifications and repairs to the Facility and Area are needed, Permittee will perform such work as outlined in writing in an amendment of this LUP; and
- (b) Permittee will provide to MnDOT a certified copy of the resolution from the applicable governmental body authorizing the Permittee's use of the Facility and Area for the additional term.

If Permittee's written request to extend the term is not timely given, the LUP will expire on the Expiration Date.

Permittee hereby voluntarily releases and waives any and all claims and causes of action for damages, costs, expenses, losses, fees and compensation arising from or related to any cancellation or termination of this LUP by MnDOT. Permittee agrees that it will not make or assert any claims for damages, costs, expenses, losses, fees and compensation based upon the existence, cancellation or termination of the LUP. Permittee agrees not to sue or institute any legal action against MnDOT based upon any of the claims released in this paragraph.

2. **REMOVAL.** Upon the Expiration Date or earlier termination, at the Permittee's sole cost and expense Permittee will:
 - (a) Remove the Facility and restore the Area to a condition satisfactory to the MnDOT District Engineer; and
 - (b) Surrender possession of the Area to MnDOT.
- If, without MnDOT's written consent, Permittee continues to occupy the Area after the Expiration Date or earlier termination, Permittee will remain subject to all conditions, provisions, and obligations of this LUP, and further, Permittee will pay all costs and expenses, including attorney's fees, in any action brought by MnDOT to remove the Facility and the Permittee from the Area.
3. **CONSTRUCTION.** The construction, maintenance, and supervision of the Facility shall be at no cost or expense to MnDOT.
Before construction of any kind, the plans for such construction shall be approved in writing by the MnDOT's District Engineer. Approval in writing from MnDOT District Engineer shall be required for any changes from the approved plan.

The Permittee will construct the area of the Facility identified in yellow at the location shown in the attached Exhibit "A", and in accordance with MnDOT-approved plans and specifications. Further, Permittee will construct the Facility using construction procedures compatible with the safe and efficient operation of the highway. The construction of the existing trails, shown in red and the beautification area shown in blue, occurred prior to this LUP.

Upon completion of the construction of the Facility, the Permittee shall restore all disturbed slopes and ditches in such manner that drainage, erosion control and aesthetics are perpetuated.

The Permittee shall preserve and protect all utilities located on the lands covered by this LUP at no expense to MnDOT and it shall be the responsibility of the Permittee to call the Gopher State One Call System at 1-800-252-1166 at least 48 hours prior to performing any excavation.

Any crossings of the Facility over the trunk highway shall be perpendicular to the centerline of the highway and shall provide and ensure reasonable and adequate stopping sight distance.

4. **MAINTENANCE.** Any and all maintenance of the Facility shall be provided by the Permittee at its sole cost and expense, including, but not limited to, plowing and removal of snow and installation and removal of regulatory signs. No signs shall be placed on any MnDOT or other governmental agency sign post within the Area. MnDOT will not mark obstacles for users on trunk highway right of way.
5. **USE.** Other than as identified and approved by MnDOT, no permanent structures or no advertising devices in any manner, form or size shall be allowed on the Area. No commercial activities shall be allowed to operate upon the Area.

Any use permitted by this LUP shall remain subordinate to the right of MnDOT to use the property for highway and transportation purposes. This LUP does not grant any interest whatsoever in land, nor does it establish a permanent park, recreation area or wildlife or waterfowl refuge. No rights to relocation benefits are established by this LUP.

This LUP is non-exclusive and is granted subject to the rights of others, including, but not limited to public utilities which may occupy the Area.

6. **APPLICABLE LAWS.** This LUP does not release the Permittee from any liability or obligation imposed by federal law, Minnesota Statutes, local ordinances, or other agency regulations relating thereto and any necessary permits relating thereto shall be applied for and obtained by the Permittee.

Permittee at its sole cost and expense, agrees to comply with, and provide and maintain the Area, Facilities in compliance with all applicable laws, rules, ordinances and regulations issued by any federal, state or local political subdivision having jurisdiction and authority in connection with said Area including the Americans with Disabilities Act ("ADA"). If the Area and Facilities are not in compliance with the ADA or other applicable laws MnDOT may enter the Area and

perform such obligation without liability to Permittee for any loss or damage to Permittee thereby incurred, and Permittee shall reimburse MnDOT for the cost thereof, plus 10% of such cost for overhead and supervision within 30 days of receipt of MnDOT's invoice.

7. **CIVIL RIGHTS.** The Permittee for itself, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that in the event improvements are constructed, maintained, or otherwise operated on the Property described in this Limited Use Permit for a purpose for which a MnDOT activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the Permittee will maintain and operate such improvements and services in compliance with all requirements imposed by the Acts and Regulations relative to nondiscrimination in federally-assisted programs of the United States Department of Transportation, Federal Highway Administration, (as may be amended) such that no person on the grounds of race, color, national origin, sex, age, disability, income-level, or limited English proficiency will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said improvements.
8. **SAFETY.** MnDOT shall retain the right to limit and/or restrict any activity, including the parking of vehicles and assemblage of Facility users, on the highway right of way over which this LUP is granted, so as to maintain the safety of both the motoring public and Facility users.
9. **ASSIGNMENT.** No assignment of this LUP is allowed.
10. **IN WRITING.** Except for those which are set forth in this LUP, no representations, warranties, or agreements have been made by MnDOT or Permittee to one another with respect to this LUP.
11. **ENVIRONMENTAL.** The Permittee shall not dispose of any materials regulated by any governmental or regulatory agency onto the ground, or into any body of water, or into any container on the State's right of way. In the event of spillage of regulated materials, the Permittee shall notify in writing MnDOT's District Engineer and shall provide for cleanup of the spilled material and of materials contaminated by the spillage in accordance with all applicable federal, state and local laws and regulations, at the sole expense of the Permittee.
12. **MECHANIC'S LIENS.** The Permittee (for itself, its contractors, subcontractors, its materialmen, and all other persons acting for, through or under it or any of them), covenants that no laborers', mechanics', or materialmens' liens or other liens or claims of any kind whatsoever shall be filed or maintained by it or by any subcontractor, materialmen or other person or persons acting for, through or under it or any of them against the work and/or against said lands, for or on account of any work done or materials furnished by it or any of them under any agreement or any amendment or supplement thereto.
13. **NOTICES.** All notices which may be given, by either party to the other, will be deemed to have been fully given when served personally on MnDOT or Permittee or when made in writing addressed as follows: to Permittee at:

500 Fourth Avenue NE
Austin, MN 55912

and to MnDOT at:

State of Minnesota
Department of Transportation
District 6 Right of Way
2900 48th Street NW
Rochester, MN 55901-5848

The address to which notices are mailed may be changed by written notice given by either party to the other.

14. INDEMNITY. Permittee shall indemnify, defend to the extent authorized by the Minnesota Attorney General's Office, hold harmless and release the State of Minnesota, its Commissioner of Transportation and employees and any successors and assigns of the foregoing, from and against:

- (a) all claims, demands, and causes of action for injury to or death of persons or loss of or damages to property (including Permittee's property) occurring on the Facility or connected with Permittee's use and occupancy of the Area, except when such injury, death, loss or damage is caused solely by the negligence of State of Minnesota, but including those instances where the State of Minnesota is deemed to be negligent because of its failure to supervise, inspect or control the operations of Permittee or otherwise discover or prevent actions or operations of Permittee giving rise to liability to any person;
- (b) claims arising or resulting from the temporary or permanent termination of Facility user rights on any portion of highway right of way over which this LUP is granted;
- (c) claims resulting from temporary or permanent changes in drainage patterns resulting in flood damages;
- (d) any laborers', mechanics', or materialmens' liens or other liens or claims of any kind whatsoever filed or maintained for or on account of any work done or materials furnished; and
- (e) any damages, testing costs and clean-up costs arising from spillage of regulated materials attributable to the construction, maintenance or operation of the Facility.

MINNESOTA DEPARTMENT
OF TRANSPORTATION
RECOMMENDED FOR APPROVAL

CITY OF AUSTIN
By _____
Its _____

By: _____
District Engineer

And _____

Date _____

Its _____

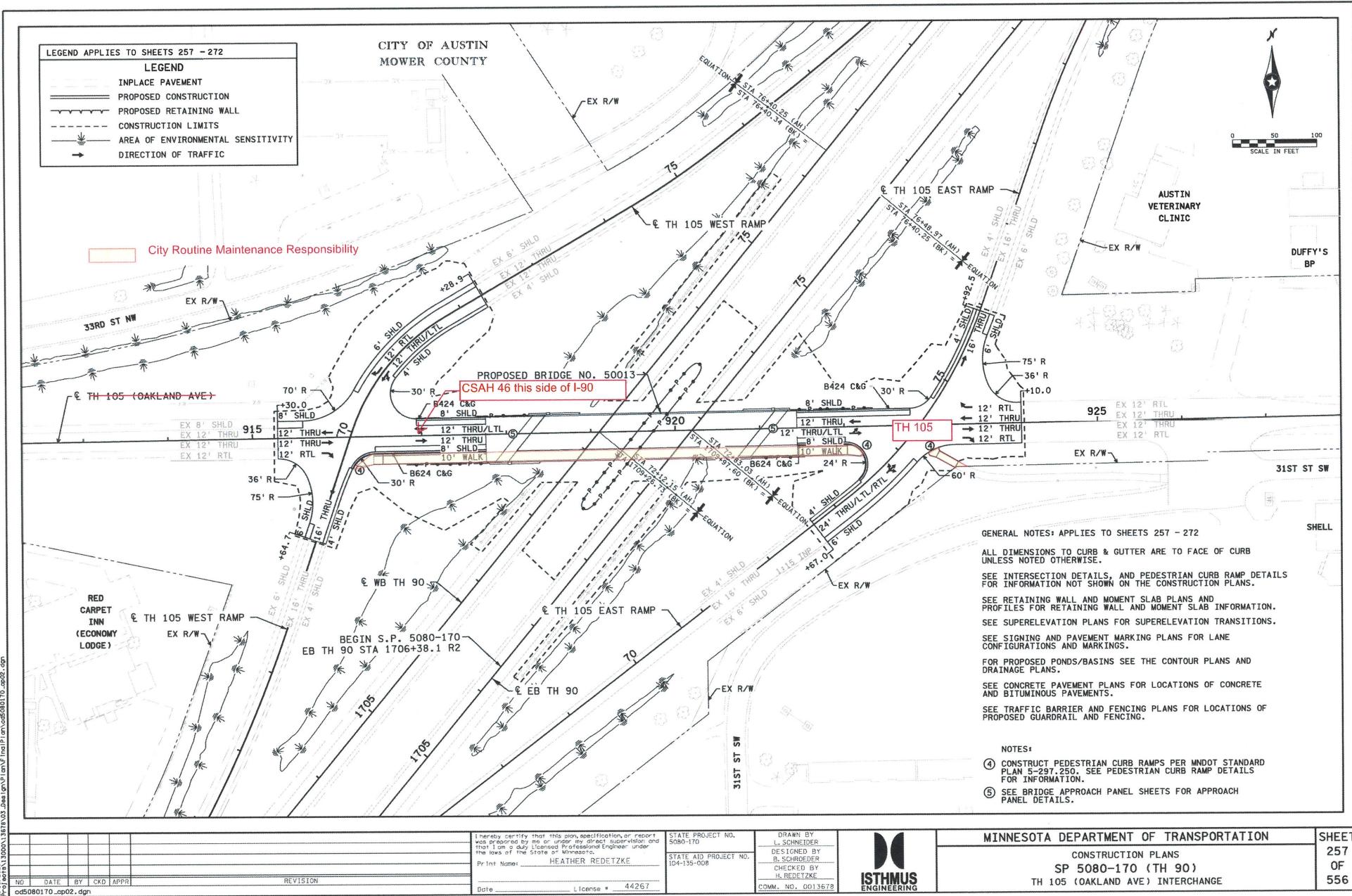
APPROVED BY:

COMMISSIONER OF TRANSPORTATION

By: _____
Director, Office of Land Management

Date _____

The Commissioner of Transportation
by the execution of this permit
certifies that this permit is
necessary in the public interest
and that the use intended is for
public purposes.



NOTES

- ① CONSTRUCT CONCRETE APPROACH NOSE PER MMDOT STANDARD PLATE 7113.
- ⑤ SEE BRIDGE APPROACH PANEL SHEETS FOR APPROACH PANEL DETAILS.
- ⑩ 10' CURB TYPE TRANSITION.
- ⑪ 6' CONCRETE WALK



City Routine Maintenance Responsibility

City Jurisdiction/Full Maintenance Responsibility

Routine Maintenance by Property Owner

SEE SHEET NO. 261 FOR DETAIL

CONSTRUCTION

EX R/W

€ SB TH 218N S
€ NB TH 2
R/W
12TH AVE NW
EX

BEGIN CONSTR
E SB TH 218N
STA 102+00.9

100
100

EX R/W

15TH AVE NW

SEARCH LINE STA 111+25.0
SEE SHEET NO. 260

SEE SHEET NO. 257 FOR GENERAL NOTES AND LEGEND.

4:10:55 PM
5/15/2021

NO	DATE	BY	CK
cd5080170-cp03.dgm			

D APPR

REVISION

1000

	I hereby certify that was prepared by me or that I am a duly licensed the laws of the State Print Name: _____

	Date: _____

this plan, specification, or report
under my direct supervision and
used Professional Engineer under
the laws of Minnesota.

STATE PROJECT NO.	5080-170
STATE AID PROJECT NO.	050-645-010
	104-135-008
CITY PROJECT NO.	23108
	23203
	COM

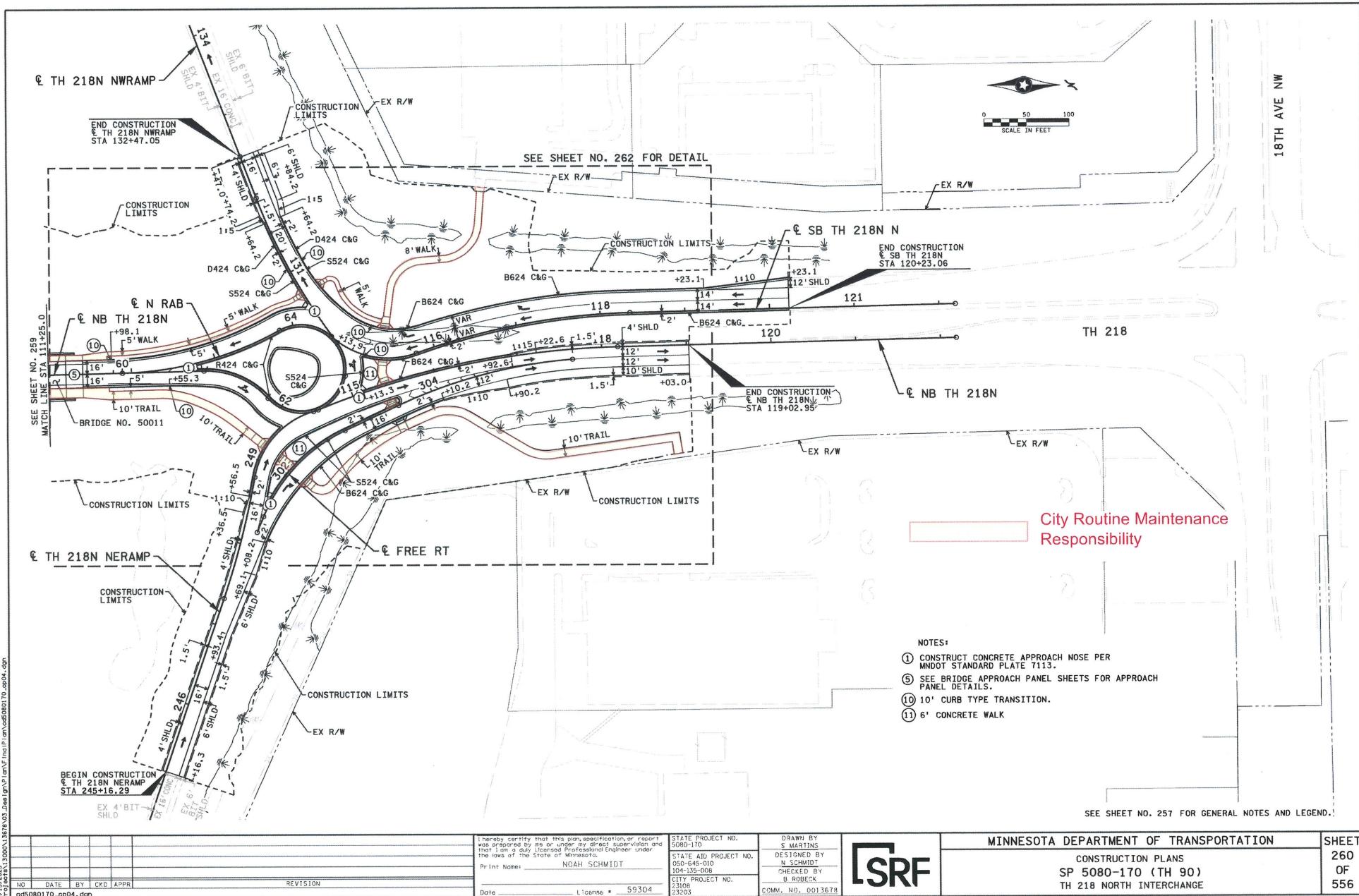
DRAWN BY S MARTINS	
DESIGNED BY N SCHMIDT	
CHECKED BY B ROBECK	
MM. NO. 001367 E	

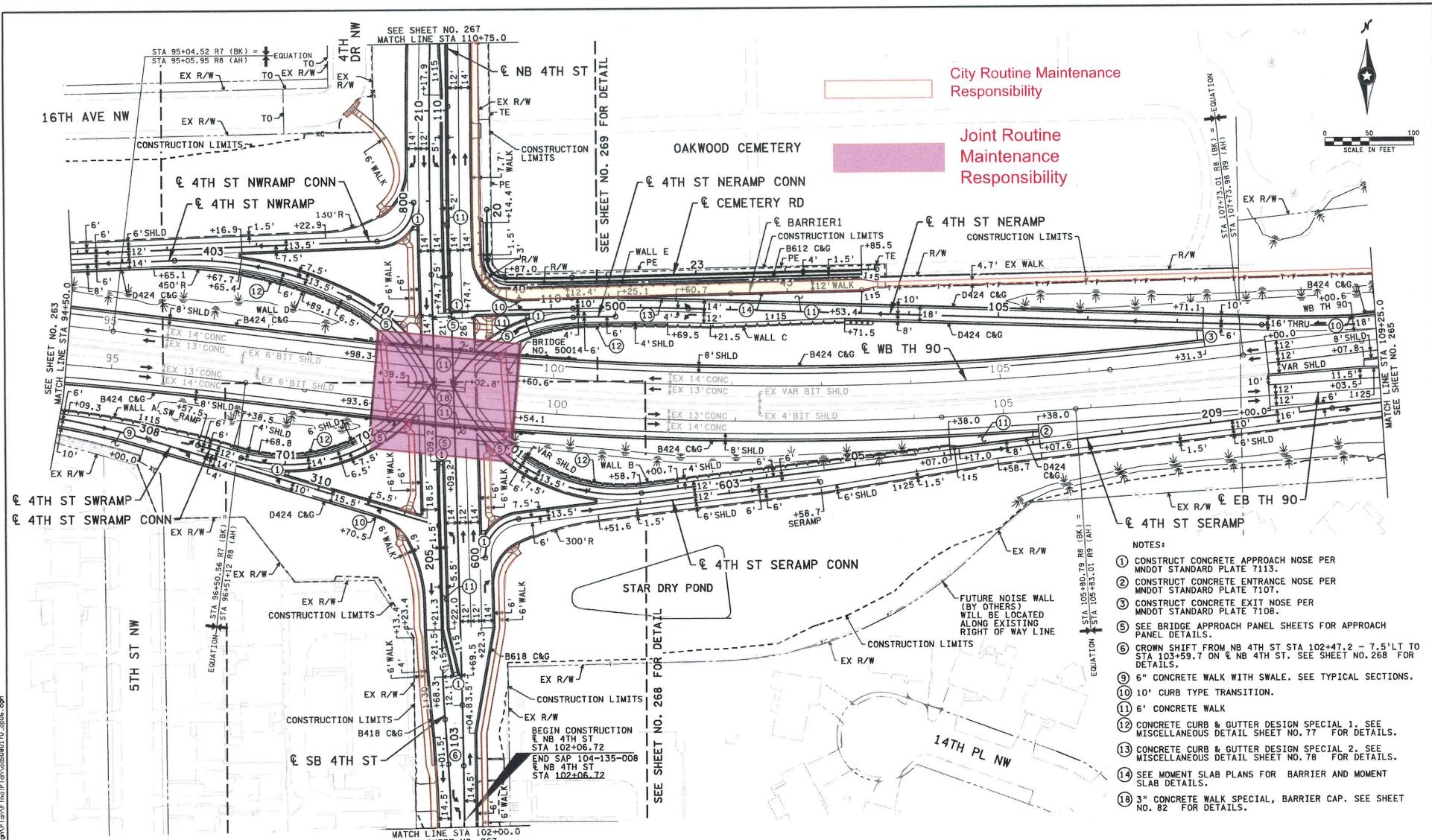
5

MINNESOTA DEPARTMENT OF TRANSPORTATION

CONSTRUCTION PLANS
SP 5080-170 (TH 90)
TH 218 NORTH INTERCHANGE

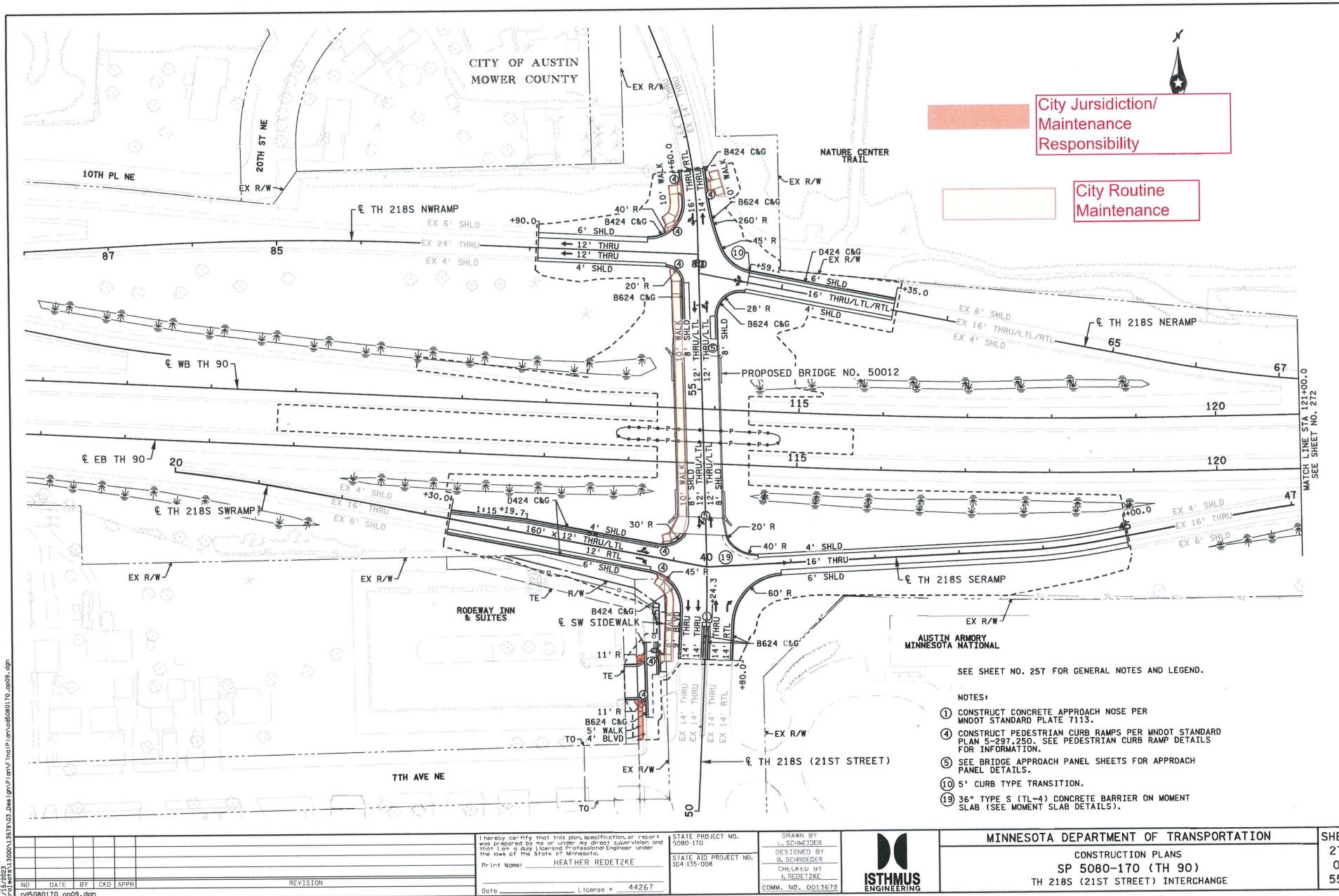
SHEET
259
OF
556





SEE SHEET NO. 257 FOR GENERAL NOTES AND LEGEND.

REVISION										I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and control, and that it has been reviewed by an Engineer under the laws of the state of Minnesota.		STATE PROJECT NO. 5080-170		DRAWN BY S. MARTINS		MINNESOTA DEPARTMENT OF TRANSPORTATION		SHEET 264	
Print Name: BENJAMIN P. ROBECK										STATE AID PROJECT NO. 001367-001		DESIGNED BY S. SCHMID		CONSTRUCTION PLANS		OF			
										0101367-001		CHECKED BY B. ROBECK		SP 5080-170 (TH 90)		556			
										0101367-001		CITY PROJECT NO. 23203		4TH ST INTERCHANGE					
										Date: 12/10/01		LIC. NO. 536BD		COMM. NO. 001367B					
										ad5080170.cdrp.dwg									





Sec 35
T103R18W

Mower

Sec 2
T102R18W

**LUP #5080-0021
EXISTING TRAIL**

EXHIBIT "A"

Legend

- Approx. Right of Way Limits
- Trail in Right of Way





Park

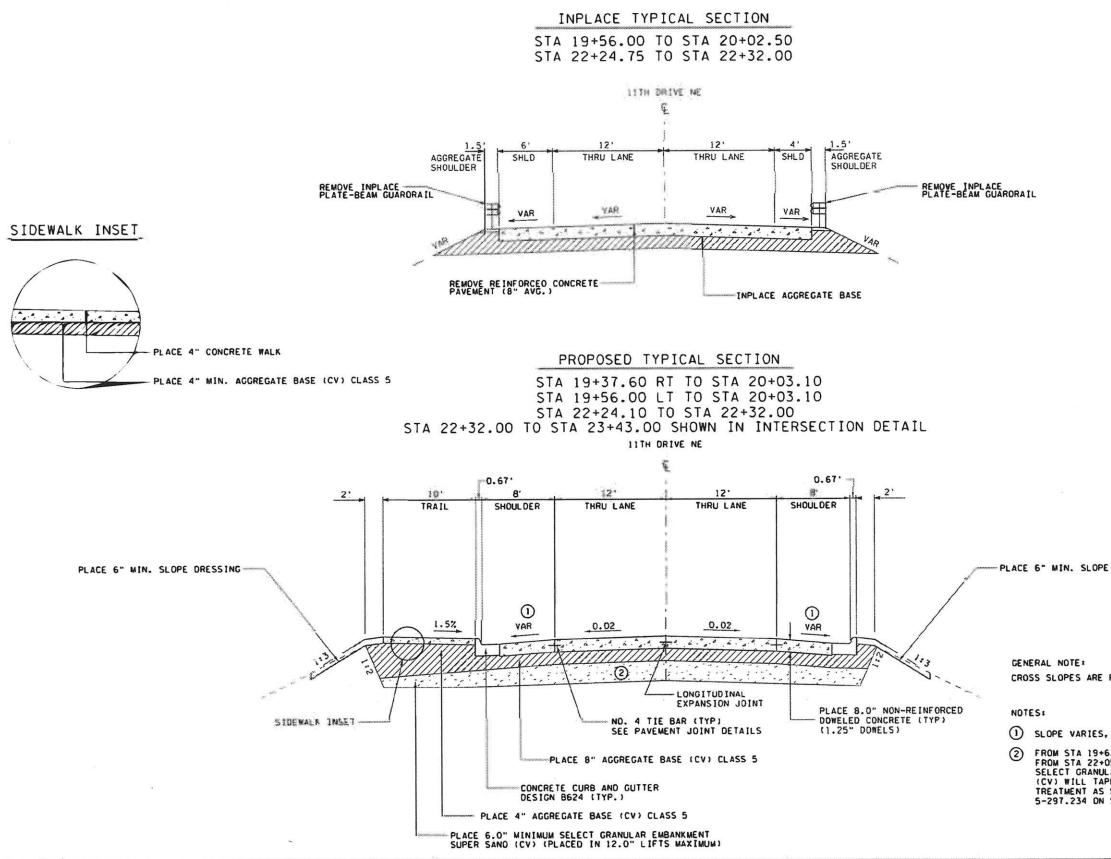
Sec 35
T103 R18W

Mower

Sec 2
T102 R18W

0 100 200ft





NO.	DATE	SP.	CAD APPN	REVISION

I hereby certify that the plan, specification, or report
herein is my original work and is the result of my own
knowledge, skill, and independent judgment.
Printed Name: MATTHEW E. FORSTNER
Signature:

Date: OCT 27, 2016 License #: 50922

DRAWN BY
PMJ
DESIGNED BY
ATY
CHECKED BY
MEF

AECOM

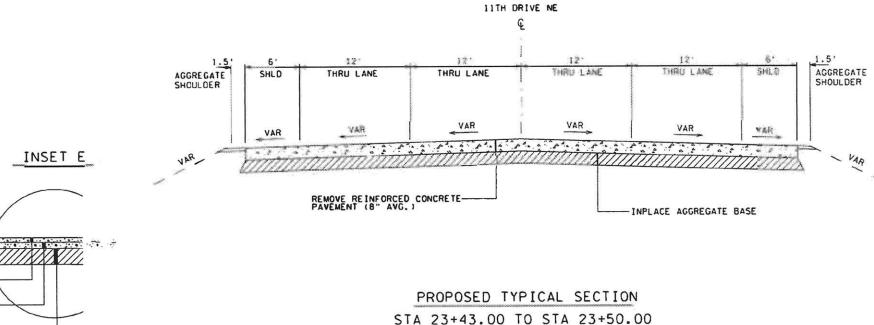
1000 16th AVENUE, SUITE 500
SEATTLE, WA 98101-3143
602.376.2000 TEL
602.376.2001 FAX
WWW.AECOM.COM

STATE PROJ. NO. 5080-161 (TH90)
BRIDGE 50808
TYPICAL SECTIONS

12
OF
105

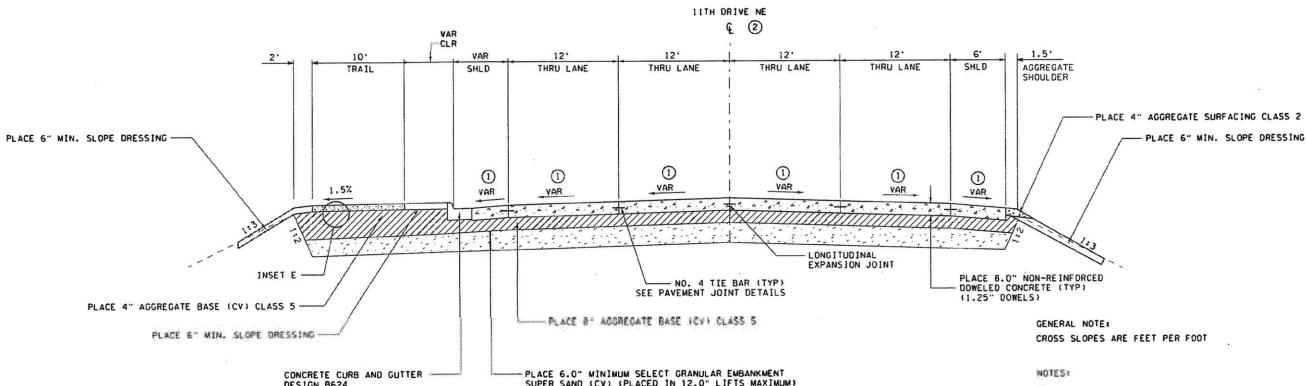
INPLACE TYPICAL SECTION

SIA 23+43.00 10 SIA 23+50.00



PROPOSED TYPICAL SECTION
STA 23+43.00 TO STA 23+50.00

PLACE 1.5" TYPE SP 12.5 WEARING COURSE
MIXTURE (3,B) (SPWEB340B)
PLACE 2.0" TYPE SP 12.5 WEARING COURSE
MIXTURE (3,B) (SPWEB340B)
PLACE 4.0" AGGREGATE BASE (CV) CLASS 5



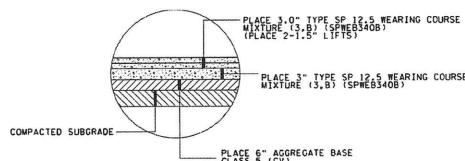
GENERAL NOTE:

NOTES:

- ① SLOPE VARIES, SEE INTERSECTION DETAILS
- ② DIMENSIONS VARY SEE CONSTRUCTION PLANS AND INTERSECTION DETAILS

NO.	DATE	BY	CXD	APPR	REVISION	<p>I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and was prepared for the use of a Professional Engineer under the laws of the State of Minnesota.</p> <p>Print Name: WATTHEEN, FORTSYTH</p> <p>Date: OCT 21, 2016 License # 30922</p>			DRAWN BY FMJ	DEIGNED BY KTY	CHECKED BY MEF	<p>STATE PROJ. NO.5080-161 (TM90)</p> <p>BRIDGE 5080B</p> <p>13 OF 105</p> <p>TYPICAL SECTIONS</p>		
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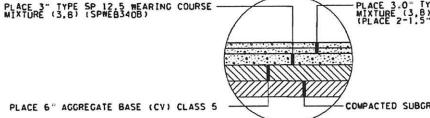
UTILITY TRENCH SECTION
TH90 WB STA 81+28 TO STA 81+51 (10TH PL NE)
TH90 EB STA 84+12 TO STA 84+35 (8TH AVE NE)



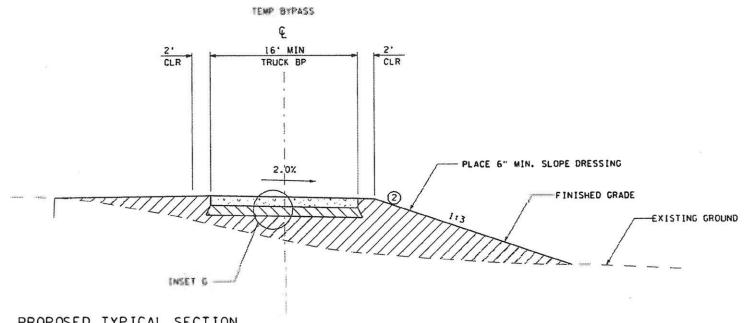
INSET F

PLACE 1.5" TYPE SP 12.5 WEARING COURSE MIXTURE (3, B) (SPMFB340B)
PLACE 2.0" TYPE SP 12.5 WEARING COURSE MIXTURE (3, B) (SPMFB340B)
PLACE 4.0" AGGREGATE BASE (CV) CLASS 5
PLACE COMMON EMBANKMENT (CV) MAX 6" LIFTS

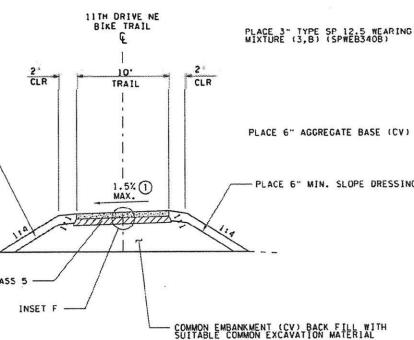
DRIVEWAY SECTION



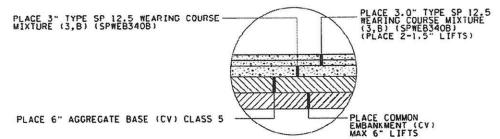
TEMPORARY BYPASS TYPICAL SECTION
STA 0+45.55 TO STA 1+84.00



PROPOSED TYPICAL SECTION
STA 0+53.00 TO STA 1+82.33



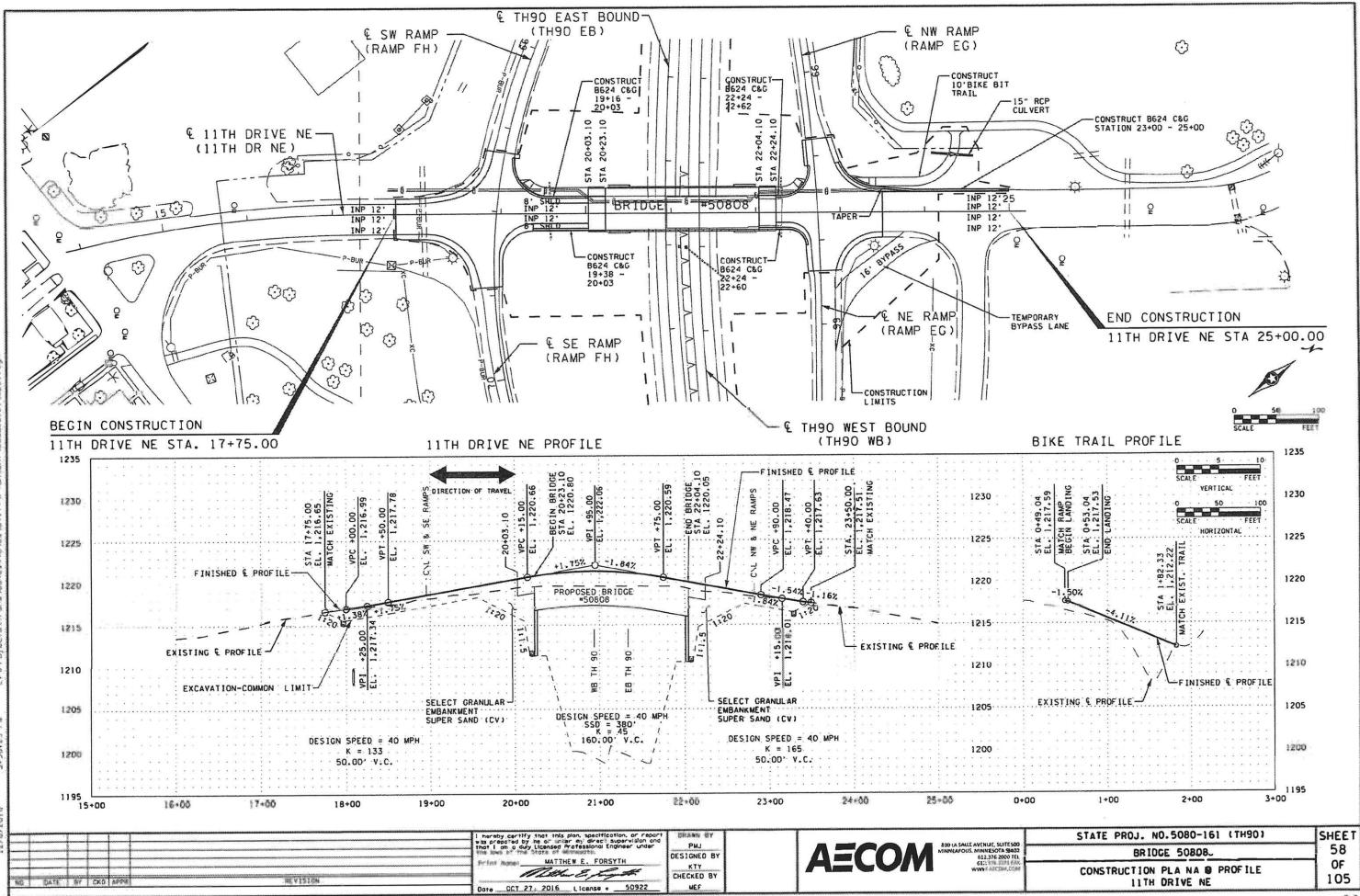
INSET G



NOTES:
 ① TYPICAL TRAIL SECTION TO BE USED ON SOUTH SIDE OF 8TH AVE NE STA TH90 EB 84+11.85 TO STA TH90 EB 84+34.36
 ② TEMPORARY BYPASS SHALL BE REMOVED AS REMOVE TEMPORARY CROSS-OVER.

12/8/2016
15154486 PM

NO	DATE	BY	CKD	APPR	REVISION	I hereby certify that this drawing, specification, or project was prepared by me or under my direct supervision and was drawn in accordance with the laws of the State of Minnesota. Print Name: <i>Matthew E. Forsyth</i>	DRAWN BY PMI DESIGNED BY KIT CHECKED BY MEF	AECOM 600 LAFAYETTE AVENUE, SUITE 100 MINNEAPOLIS, MN 55402 612.276.2020 TEL 612.276.2021 FAX WWW.AECOM.COM	STATE PROJ. NO. 5080-161 (TH90) BRIDGE 50808 TYPICAL SECTIONS	SHEET 14 OF 105
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RESOLUTION NO.

Limited Use Permit 5080-0021

BE IT RESOLVED by the City Council of the City of Austin, Minnesota that the City enter into a permit No. 5080-0021 with the State of Minnesota, Department of Transportation for the following purposes:

To provide for maintenance and use by the City of Austin upon, along and adjacent to Truck Highway No. 90 for the limits of which are defined in said Limited Use Permit.

BE IT FURTHER RESOLVED that the City Council of the City of Austin does hereby approve said limited use permit and authorizes and directs the Mayor and City Recorder to execute said permit on behalf of the City.

Passed by a vote of yeas and nays this 21st day of August, 2023

YEAS

NAYS

ATTEST:

APPROVED:

City Recorder

Mayor

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 21st day of August, 2023, as shown by the minutes of the meeting in my possession.

Ann M. Kasel, City Clerk

Subscribed and sworn to before me
this 21st day of August, 2023.

Notary Public

My Commission Expires: _____

City of Austin
Ann M. Kasel, City Clerk



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

MEMORANDUM

To: Mayor & Council
From: Ann M. Kasel, City Clerk
Re: Apollo Liquor License
Date: August 16, 2023

As shown on the consent agenda, all the licenses for the Apollo stores and Apollo Liquor store are being transferred to Apollo Retail, LLC dba Snak Atak.

I would request the Council authorize the transfer of the off-sale liquor license from Apollo Liquors to Snak Atak Liquor.

Please contact me if you have any questions.

RESOLUTION NO.
APPROVING OFF-SALE LIQUOR LICENSE TRANSFER

WHEREAS, the corporation hereinafter named has applied to the City Council at Austin, Minnesota, for license to transfer their off-sale liquor license to the respective corporation name listed below; and

WHEREAS, after due investigation, it appears said applicants for said license for sale of off-sale liquor have complied with all the provisions of the law relative thereto and are entitled to have a license issued to them, subject to the approval of the Minnesota Alcohol and Gambling Enforcement, for the address listed below the name.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Austin, Minnesota does hereby grant a license for the sale of off-sale liquor to the following named licensee at the following location in Austin, Minnesota, which license shall expire December 31, 2023.

Kolokithas & Sons Inc
dba Apollo Liquors
903 Oakland Avenue W
Austin, MN 55912

to

Apollo Retail LLC
dba Snak Atak Liquor #3
903 West Oakland Avenue
Austin, MN 55912

Passed by a vote of Yeas and Nays this 21st day of August, 2023.

YEAS

NAYS

ATTEST:

City Recorder

APPROVED:

Mayor

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



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

MEMORANDUM

TO: Mayor and City Council

FROM: Tricia Wiechmann
Human Resources Director

RE: UAW – Parks, Healthcare Savings Plan (HCSP) change

DATE: August 16, 2023

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

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

Currently, members of the Parks labor agreement do not make any contribution into their HCSP at the time of retirement. However, at this time, the members represented by this labor agreement wish to modify the current language to allow for the contribution of 100% accrued unused sick leave into their HCSP, at the time of retirement.

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

RESOLUTION NO.

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

WHEREAS, the City of Austin and UAW Local 867, Parks have entered into a contract addendum by resolution #14475, dated March 4, 2013, outlining terms for participation in a Post Employment Healthcare Savings Plan.

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

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

Eligible employees shall deposit 100% of accrued unused sick leave, as accrued and accumulated per Article 8 of the UAW – Parks Department contract, upon retirement into a Post Employment Healthcare Savings Plan with the Minnesota State Retirement System.

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

Approved by the Austin City Council this 21st day of August 2023

YEAS _____ NAYS _____

ATTEST:

APPROVED:

City Recorder

Mayor

ADDENDUM VI

HEALTH CARE SAVINGS PLAN

This Addendum, entered into this 21st day of August 2023, between the City of Austin, hereinafter referred to as the City or Employer, and the International Union, United Automobile, Aircraft, Aerospace, Agricultural Implement Workers of America (UAW) – Parks Department, and its Local 867, hereinafter referred to as the "UNION". Its purpose is to establish a Post Employment Healthcare Savings Plan through Minnesota State Retirement System for all employees in the bargaining unit.

All employees of UAW, Local 867, Parks Department are eligible for participation.

Eligible employees shall deposit 100% of accrued unused sick leave, as accrued and accumulated per Article 8 of the UAW – Parks Department contract, upon retirement into a Post Employment Healthcare Savings Plan with the Minnesota State Retirement System.

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, sick leave will be paid as outlined in the union contract.

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

IN WITNESS WHEREOF, the parties hereto have executed this Addendum to the contract on this 21st day of August 2023.

SIGNATURE OF UNION
REPRESENTATIVES
UAW – PARKS DEPARTMENT, LOCAL 867
BARGAINING COMMITTEE

SIGNATURE OF CITY
REPRESENTATIVES
CITY OF AUSTIN, MINNESOTA

Mayor

ATTEST:

City Recorder

**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: Raygor Homes LLC
302 Wedgewood Rd, Albert Lea, MN 56007

From: Holly Wallace, Planning & Zoning Administrator

Re: Accumulation of Refuse and Junk
At 406 2nd St SE, Raygor Property

Date: August 18, 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 406 2nd St SE. The property owner has been notified of this violation to the City Code Sections 10.14 Subd.1(B), 10.14 Subd.4-6 but has failed to resolve this issue. (See Attached)

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

Thank You

City of Austin
Zoning Department



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

August 18, 2023

Raygor Homes LLC
302 Wedgewood Rd
Albert Lea, MN 56007

RE: Zoning Violations at 406 2nd 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 August 17, 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

400 E 2nd St
S + SE



**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: Titanium Housing Inc
6296 Oxford Rd N, Shakopee, MN 55379

From: Holly Wallace, Planning & Zoning Administrator

Re: Accumulation of Refuse and Junk
At 1110 11th Ave SW, Titanium Property

Date: August 18, 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 1110 11th Ave SW. 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**

July 24th, 2023

Titanium Housing Inc.
6296 Oxford Rd N
Shakopee MN 55379

RE: Zoning Violations at 1110 11th Ave SW Austin, MN 55912

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 July 24th, 2023 at this site and the following issues need to be resolved:

- 1. Remove all junk and garbage from property and in dump trailer**
- 2. Watertight container requirements for household garbage**
- 3. Garbage lawfully disposed of, at least once each week during the year**

The violation of Austin City Code Sections 10.01 Subd 2, 3 & 4 and 10.14 Subd.1, 4, 5 & 6 were found. These City Code sections read as follows:

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

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

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

City Code Section 10.01 Subd. 4 Containers

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

white goods need not be accepted as refuse by licensed garbage haulers, but shall be disposed of at the depository as designated by the County Board.

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

C. *Placement.*

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

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

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

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

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

B. *Public nuisances affecting health*

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

D. *Public nuisances affecting peace and safety.*

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

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

NOTICE AND ABATEMENT.

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

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

G. If an emergency exists that presents an immediate danger to citizens affecting their safety, the officer shall require immediate abatement of such nuisance. If the notice is not

complied with within the time specified, the enforcing officer shall report that fact forthwith to the Council and may take such other appropriate action as may be necessary. The Council may, after notice to the owner or occupant, provide for the abating of the nuisance by the City.

City Code Section 10.14, Subd. 5:

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

City Code Section 10.14, Subd. 6:

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

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

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

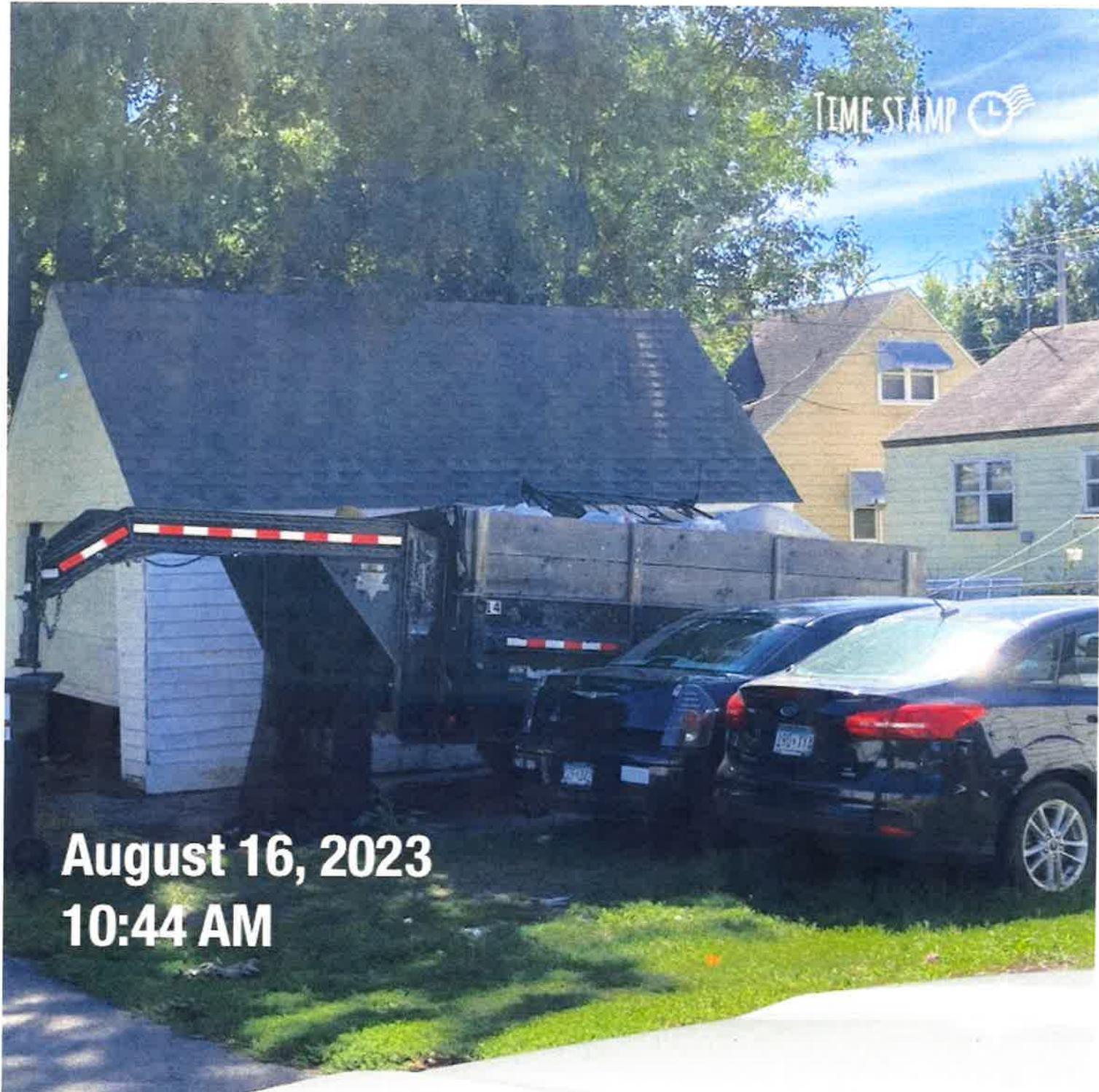
Sincerely,



Brent Johnson
Zoning Inspector

1110 1/44
Aug 2023





1110
August 16, 2023
10:44 AM