

**A G E N D A**  
**CITY COUNCIL MEETING**  
**MONDAY, JUNE 3, 2024**  
**5:30 P.M.**  
**COUNCIL CHAMBERS**

Call to Order.

Pledge of Allegiance.

Roll Call.

(mot) 1. Adoption of Agenda.

(mot) 2. Approving Minutes from May 20, 2024.

3. Recognitions and Awards.

(mot) 4. \*Consent Agenda

Licenses:

Exempt Gambling: Mower County Veterans Council on July 3 & 4, 2024

Mobile Business: Sunny's Ice Cream, 1013 5th Avenue NE

Mobile Business: La Michoacana Minnesota Inc, Waseca, MN

Mobile Business: Mami Churros & Creamery, Albert Lea, MN

Right of Way: Universal Service's LLC, Woodbury, MN

Temporary Liquor: Gravity Storm Brewery Cooperative on July 3 & 4, 2024

Temporary Liquor: Austin Community Education Fund on July 9, 2024

Claims:

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

Event Applications:

Freedom Festival on July 3 & 4, 2024

Algorithm 4th Annual Bike Show on June 16, 2024

**PETITIONS AND REQUESTS:**

(res) 5. Approving a Lease Agreement with Thompson Sanitation Inc.

(mot) 6. Request to Obtain Bids for Tree Removal

(res) 7. Accepting Donations to the City of Austin

8. 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. 506 12th Street NE, Brito De Rouge Property

(mot) b. 1306 11th Street NW, Hastings Property

**CITIZENS ADDRESSING THE COUNCIL**

**HONORARY COUNCIL MEMBER COMMENTS**

**REPORTS AND RECOMMENDATIONS:**

City Administrator

City Council

(mot)      **Adjourn to Monday, June 17, 2024 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  
May 20, 2024  
5:30 PM  
Council Chambers

MEMBERS PRESENT: Mayor Steve 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 Captain Todd Clennon, Public Works Director Steven Lang, Planning and Zoning Administrator Holly Wallace, Park and Rec Director Jason Sehon, and City Clerk Brianne Wolf

APPEARING IN PERSON: Austin Daily Herald, KAUS Radio

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 Baker, seconded by Council Member Postma, approving Council minutes from May 6, 2024. Carried.

AWARDS AND RECOGNITIONS

Nancy Schnable from the Discover Austin organization spoke to the Council about the Discover Austin Annual Report. Ms. Schnable spoke about the events Discover Austin held in 2023. She stated Discover Austin partnered with outside organizations to bring awareness to our area.

Discover Austin has a new mascot named Cris P. Bacon that helps to promote Austin. Ms. Schnable stated funding for Discover Austin comes from lodging tax and she stated lodging tax revenue has decreased for the 2023 year.

Mayor King asked about the horseshoe tournament. Ms. Schnable stated we have a two-year contract with this organization. She said that registration is still ongoing. Mayor King noted great work as usual.

Council Member Baker stated that we as a community have not recovered as well as the state has. He would like to know what the organization needs or what we need to do differently to get on trend line with the state. Ms. Schnable stated they are doing a lot of local promotions.

CONSENT AGENDA

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

Licenses:

Temporary Liquor: Pacelli Catholic Schools on June 21, 2024

Claims:

- a. Pre-list of Bills
- b. Financial Report
- c. Investment Report

Event Applications:

4<sup>th</sup> Ave Fest on June 5, 2024

Cedar River Farmers Market, June 7, 2024 to October 25, 2024

Appointments:

Isaac Oboya as the Honorary Council Member – June 3, 2024 to August 19, 2024

Carried.

## PUBLIC HEARINGS

A public hearing was held for a tax abatement requested by New Horizon Homes, LLC. They are proposing to build a single-family home at 1306 18<sup>th</sup> Street NE valued at approximately \$425,900.00. City Administrator Craig Clark stated the application is in conformance with the City's policy for tax abatement.

There were no public comments.

Moved by Council Member Baker, seconded by Council Member-at-Large Austin, approving a tax abatement application from New Horizon Homes, LLC. Carried 7-0.

A public hearing was held for a tax abatement requested by Housing and Redevelopment Authority of Austin, MN. They are proposing to build a single-family home at 905 24<sup>th</sup> Avenue NW valued at approximately \$350,000.00. City Administrator Craig Clark stated the application is in conformance with the City's policy for tax abatement.

There were no public comments.

Moved by Council Member Baker, seconded by Council Member Baskin, approving a tax abatement application from the Housing and Redevelopment Authority of Austin, MN. Carried 7-0.

## PETITIONS AND REQUESTS

Director of Administrative Services Tom Dankert stated at the last work session, Clifton Larson Allen presented the audit report to the Council. The audit presented a clean opinion, and Mr. Dankert requests Council approval.

Moved by Council Member-at-Large Austin, seconded by Council Member Poshusta. Carried.

Director of Administrative Services Tom Dankert stated a resident is requesting a deferred assessment. The resident qualifies for the deferment and has been given extensive information about the deferment. Mr. Dankert recommends approval for the deferment at the location of 214 15<sup>th</sup> Street NW.

Moved by Council Member Baker, seconded by Council Member Poshusta, approving the senior deferral application. Carried 7-0.

Planning and Zoning Administrator Holly Wallace stated Schad Tracy Signs and Hormel Foods Corp are requesting a sign appeal due to their new signage not being in compliance with the City's ordinances. The Planning and Zoning Commission approved the request and Ms. Wallace requested approval from the City Council.

Moved by Council Member Baker, seconded by Council Member-at-Large Austin. Carried 6-0. Baskin Abstain

Planning and Zoning Administrator Holly Wallace stated Lance Pogones, o/b/o Turtle Creek Construction, is requesting a variance on a corner lot of a twin home. Ms. Wallace stated that during the Planning and Zoning meeting on March 14, many neighbors attended the hearing and were in favor of the variance. The Planning and Zoning Commission approved the request and Ms. Wallace requested approval from the City Council.

Moved by Council Member Postma, seconded by Council Member-at-Large Austin. Carried.

City Administrator Craig Clark stated at the prior meetings work session Council agreed upon the amount of \$10,000.00 to donate to the Mower County Veterans Memorial out of the contingency budget.

Moved by Council Member Baker, seconded by Council Member Fischer. Carried

City Administrator Craig Clark stated that the City now owns the Austin Daily Herald site, and Mower County would like to lease the parking spaces, as they have done this in previous years. The lease amount would be \$950.00 per year. Mr. Clark requests the Council approve the parking lot agreement lease with Mower County.

Moved by Council Member Fischer, seconded by Council Member Poshusta, approving the parking lot lease with Mower County. Carried 7-0.

Moved by Council Member-at-Large Austin, seconded by Council Member Baker, accepting donations to the City of Austin. Carried 7-0.

Moved by Council Member Fischer, seconded by Council Member Baskin, to grant the Planning and Zoning Department the power to contract for the removal of junk and/or illegally stored vehicles at 2021 5th Avenue NE, Capital Home Improvements LLC Property. Carried.

Moved by Council Member Baskin, seconded by Council Member Fischer, to grant the Planning and Zoning Department the power to contract for the removal of junk and/or illegally stored vehicles at 2115 5th Avenue NE, Elliott Property. Carried.

Moved by Council Member Fischer, seconded by Council Member Poshusta, to grant 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.

Park, Recreation, and Forestry Director Jason Sehon gave a short presentation on Emerald Ash Borer. There was no action required. He stated the Park and Rec department had created a forestry team including himself, Jenna Kaiser and Kris Hahn from AmeriCorps, Luke Reese the Director of the Nature Center, and Randy Hofner the Parks Supervisor. They have been meeting weekly to talk about the issues surrounding the Emerald Ash Borer. He stated they are currently treating five hundred trees in the community. There are 2,000 trees on maintained City property. They are trying to identify the most dangerous trees to remove. Their initiative is called "Treat Now." This is in hopes of saving trees that are not too far damaged. Mr. Sehon stated once the Park and Rec department has the tree removal under control, they will start replanting trees in neighborhoods.

#### HONORARY COUNCIL MEMBER REPORT

Miguel Garate thanked the Council and Mayor for giving him the opportunity to serve on the City Council as an Honorary Council Member.

#### REPORTS AND RECOMMENDATIONS

City Administrator Craig Clark relayed that they are waiting on the legislature but a bill is being passed, where the City would be receiving \$350,000.00 towards Wastewater Operator Education in cooperation with Riverland Community College.

Public Works Director Steven Lang congratulated Mike Loucks on his promotion to Street Superintendent. Mr. Lang also gave an update on the I-90 bridges.

#### COUNCIL REPORTS

Council Member Poshusta stated she had a great time at the Taste of Nations and commended everyone who plan, attended, and worked the event.

Council Member Baskin stated the DCA annual meeting was last week, and there is a lot of good economic momentum going on in Austin.

Council Member Baker stated he spent last Saturday getting a tour of all of the local parks with the Park and Rec department. He is very shocked at the amount of repair work that needs to be

done in our parks. Mr. Baker stated we need to think hard about that as we come into a budget cycle.

Council Member Postma echoed the sentiment on the great tour from Randy Hofner and Jason Sehon of the Parks and Rec Department. He stated we are really going to have to look at this budget for replacement costs of the parks and long-term goals. He also stated he likes to see the promotion opportunities available for city staff to step into.

Council Member Helle also agreed with Council Member Baker about having too many acres of parkland that we cannot take care of. She stated when we review the master plan, creating a few parks with a phase-out plan and what would be a good use of the land might be an option. She noted the 4<sup>th</sup> Avenue Fest will be on June 5, 2024.

Mayor King acknowledged the City Employees with May Anniversaries.

Moved by Council Member Baker, seconded by Council Member Austin, adjourning the meeting to June 3, 2024. Carried.

Adjourned: 6:28 p.m.

Approved: June 3, 2024

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

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

City of Austin  
500 Fourth Avenue N.E.  
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## Memorandum

**To:** Mayor & Council  
**From:** Steven J. Lang, P.E.  
**Date:** May 30, 2024  
**Subject:** Austin Transfer Station (ATS) Lease

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The City of Austin owns the waste transfer station located on the east side of the airport. The operation of the facility has been leased to Waste Management for the past 25+ years. Waste from Austin and the surrounding area is taken to the transfer station in garbage trucks and rolloff dumpsters, where it is compacted into semi-trailers and hauled to Waste Management's Central Disposal facility landfill in Lake Mills, IA.

The lease has fluctuated over the years, but typically generates revenue to the City of approximately \$60,000 per year, which is rolled into the transfer station fund. The transfer station fund is then used for improvements at the facility, such as, scale, compactor, pavement and building improvements. This fund is also used for costs associated with operation and advertising for the fall leaf collection.

<b><u>Lease Agreements</u></b>	<b><u>Yearly Revenue</u></b>
• 1999 to 2003	\$54,000
• 2004 to 2010	\$55,620 - \$66,412
• 2011 to 2013	\$61,200 - \$64,800
• 2015 to 2017	\$6,000 - \$32,000
• 2018 to 2024	\$49,900 - \$55,093

### **Current Garbage Service Providers**

- 60% Thompson Sanitation
- 20% Waste Management
- 15% Red Can
- 5% Harters

Waste volumes through the ATS have dropped from 16,000 tons in 2019 to 9,300 tons in 2023. Tipping fees at the ATS are around \$70/ton, resulting in a decrease in revenue for the operator from \$1,120,000 in 2019 down to \$651,000 in 2023. In 2023, waste through the ATS was supported by the following:

• 35% Thompson Sanitation	22% Waste Management	16% Red Can
• 12% Cash Customers Public	8% VEIT/Freeborn Coop	7% Other

In order to make the ATS financially viable, the tipping fees and volume of waste need to generate enough revenue to cover:

- Staff and operations
- Utilities
- Transportation costs to Central Disposal Landfill, Lake Mills, IA
- Tipping fees at Central Disposal Landfill, Lake Mills, IA

Building Hours:

Open to Commercial Haulers	Monday – Friday	7:00am to 3:00pm
	Saturday	7:00am to 12:00pm
Open to Public	Tuesday/Thursday	1:00pm to 5:00pm
	Saturday	7:00am to 12:00pm

The “Public” disposes of about 1,100 tons per year of waste directly to the ATS. Our city ordinance requires the following:

*§ 6.39 GARBAGE AND REFUSE HAULERS.*

*J. All haulers of refuse and garbage, either commercial or residential shall be required to deposit the refuse and garbage at the City Transfer Station, located on Austin airport property. This requirement shall apply to all garbage and refuse generated within the city, excepting:*

1. Demolition materials, as defined in this section;
2. Materials that are, in fact, recycled and not deposited in a landfill;
3. Hazardous waste, as defined in M.S. § 116.06, Subd. 13, as it may be amended from time to time;
4. Any other wastes that are not acceptable for deposit in sanitary landfills, including, but not limited to liquids and other sledges, raw animal manure and hog hair; and

*(Ord. 72, Second Series, passed 10-4-83)*

5. Grass clippings and leaves may be collected at a site approved by the Council for ultimate disposal at a site approved by the Council and other appropriate governmental authority in accordance with City Code provisions, federal and state laws, regulations and permits.

*(Ord. 240, Second Series, passed 4-30-91)*

Our current lease agreement with Waste Management expires on June 30<sup>th</sup>, 2024. The agreement details multiple 2-year extensions, but WM has indicated that they no longer want or can operate the facility under the current lease terms.

Options for continued operation of the ATS include:

- 1) Close the Austin Transfer Station;
  - a. Garbage haulers currently using the ATS would need to coordinate other disposal options, such as, hauling directly to a landfill, hauling to another transfer station or other disposal options.
  - b. Residents would need to coordinate their garbage collection with a local hauler or find an alternate location to dispose of their waste.
  - c. City would need to send out mailers, radio announcements and newspaper articles notifying haulers, business and the public of the pending closure.

- 2) City operate the Austin Transfer Station:
  - a. Hire employees to operate the facility
  - b. Coordinate with a municipal solid waste landfill to contract tipping fees for disposal of material collected at the transfer station.
  - c. Purchase trailers and contract with a hauler to haul the material to the landfill. Trailers cost about \$125K to purchase.
- 3) County to take over operations of the Austin Transfer Station
  - a. Same tasks as listed above for City operations
- 4) Enter into a month to month agreement with WM to manage the Austin Transfer Station until a final decision can be made....this would likely involve the City paying WM in the range of \$25K-\$30K to continue operations on a monthly basis beginning in July 2024.
- 5) Continue to lease the facility for private operations
  - a. Waste Management
    - i. 1-year agreement
    - ii. City to pay Contractor annual operating fee of \$350,000
  - b. Thompson Sanitation
    - i. 7-year agreement
    - ii. Contractor to pay City annual operating fee starting at \$21,600 and increasing 1% each year thereafter.
    - iii. Building Hours:
      - Open to Commercial Haulers:

Monday-Friday	8:00 AM to 4:00 PM
1 <sup>st</sup> & 3 <sup>rd</sup> Saturday	8:00 AM to 12:00 Noon
      - Open to Public:

Monday-Friday	8:00 AM to 4:00 PM
1 <sup>st</sup> & 3 <sup>rd</sup> Saturday	8:00 AM to 12:00 Noon
    - iv. Tipping Fees:
      - \$86.56 per ton Residential
      - \$88.16 per ton Commercial
      - \$12.00 per CY Demolition Material
    - v. Other changes
      - Monthly tonnage over 1800 results in \$1.<sup>00</sup>/ton payment to city
      - Minimum 3 suitable trailer requirement

This was discussed at a recent work session and it was recommended to move forward with an operational lease agreement with Thompson Sanitation. Feel free to contact me if you have any questions. Thanks

## LEASE FOR TRANSFER STATION OPERATION

This lease entered into on May \_\_\_, 2024, by and between Thompson Sanitation Inc. (hereinafter, "Contractor") and the City of Austin, Minnesota, (hereinafter, the "City"), for the purpose of the operation of the City's Solid Waste Transfer Station located at 102 18th Street SE, Austin, Mower County, Minnesota, including the building and grounds thereon (hereinafter the "Transfer Station").

Contractor agrees to lease from the City and the City agrees to lease to Contractor the Transfer Station according to the terms described herein.

Contractor has investigated all conditions that will affect its cost of operating the Transfer Station and based solely upon its own such inspection, agrees to accept the Transfer Station subject to the General Conditions described below, agrees to meet or exceed the Technical Specifications outlined below and agrees to pay the Lease Payments to the City as outlined below.

### I. LEASE PAYMENTS

Contractor shall pay to the City, as and for its Lease Payments, annual Lease Payments as follows:

July 1 <sup>st</sup> , 2024, through June 30 <sup>th</sup> , 2025	\$21,600.00/Yr.
July 1 <sup>st</sup> , 2025, through June 30 <sup>th</sup> , 2026	\$21,816.00/Yr.
July 1 <sup>st</sup> , 2026, through June 30 <sup>th</sup> , 2027	\$22,034.16/Yr.
July 1 <sup>st</sup> , 2027, through June 30 <sup>th</sup> , 2028	\$22,254.50/Yr.
July 1 <sup>st</sup> , 2028, through June 30 <sup>th</sup> , 2029	\$22,477.05/Yr.
July 1 <sup>st</sup> , 2029, through June 30 <sup>th</sup> , 2030	\$22,701.82/Yr.
July 1 <sup>st</sup> , 2030, through June 30 <sup>th</sup> , 2031	\$22,928.84/Yr.

Said payments shall be paid as described below.

Contractor shall make monthly payments to the City equal to 1/12th of the annual Lease Payments. Each monthly payment is due on the first day of each month. If Contractor fails to make any monthly payment after ten (10) days' notice from City of such failure, Contractor shall pay an administration fee of 5% to the City. In the event the Lease does not commence on the first day of a calendar month, or terminate on the last day of a calendar month, the monthly payment shall be paid by Contractor to City on a pro-rata basis for the actual number of days that Contractor has leased the Transfer Station during such partial calendar month.

### II. GENERAL CONDITIONS

#### A. General Terms

The Transfer Station shall only be used for the purposes described herein. The City shall be responsible for securing and maintaining all applicable permits and licenses necessary for the Transfer Station to conduct its operations in compliance with applicable laws and regulations.

Except as otherwise set forth herein, the Transfer Station will be operated and maintained by Contractor. Contractor shall make payments as described herein. Contractor shall accept all solid waste from all residential customers and commercial haulers; provided, however, that Contractor is not obligated to accept solid waste from customers or haulers that have outstanding balances or otherwise have violated any rules or regulations for the Transfer Station. "Solid waste" means conforming wastes such as garbage, refuse and rubbish and organic wastes and including wastes which are recyclable but excludes "Excluded Materials." Excluded Materials means any materials that contain any of the following: (i) waste or material that is prohibited from being received, managed or disposed of at the disposal facility utilized by Contractor; (ii) hazardous substances, hazardous materials or hazardous wastes, as those terms are defined by federal, state and local law; or (iii) materials containing information protected by federal, state or local privacy and security laws or regulation.

Contractor will be responsible for staffing the Transfer Station, providing all required equipment, except for the transfer station compactor, transporting the solid waste to the designated landfill, arranging for a landfill, paying all landfill bills, billing all customers, collecting all revenues from customers and, except as otherwise set forth herein, all other responsibilities associated with the operation of the Transfer Station. The City is responsible for providing Contractor with a transfer station compactor and scale. The City is responsible for maintenance and repairs of the transfer station compactor and scale.

**B. Insurance:**

Contractor shall during the term of the contract or any extension thereof at Contractor's sole cost and expense, maintain a insurance to cover the following:

- (i) Broad form Commercial General Liability insurance policy with a minimum policy limit of \$1,000,000 per occurrence, \$2,000,000 in the aggregate;
- (ii) Automobile Liability insurance for each automobile owned or leased by Contractor, with a \$1,000,000 per occurrence policy limit; and
- (iii) Workers' Compensation/Employer's Liability with statutory coverage with a \$1,000,000/accident, \$1,000,000/Disease-Policy, \$1,000,000/Disease-per employee.

The insurance policy or policies shall insure the hazards of the Transfer Station and the operations conducted in and on the Transfer Station, independent contractors, contractual liability (covering indemnity included in this contract) and shall name the City as an additional insured party. Such coverage shall be primary and non-contributing with any insurance carried by the City.

The City shall be provided with a certificate of insurance on or before commencement of the Term and thereafter upon reasonable request of the City indicating the insurance required by these specifications has been provided. All such policies shall be insured with the companies authorized to do business in the State of Minnesota. Notwithstanding anything to the contrary set

forth herein, Contractor may insure under its blanket insurance policy DI ·policies or elect to self-insure such risks.

The City shall maintain casualty insurance (on an occurrence basis) against all risks of direct physical loss ("Causes of Loss - Special Form"), including loss by fire, lightning, flooding (if the Transfer Station is in a flood zone), earthquakes (if the Transfer Station is in an earthquake zone), and other risks which at the time are included under "extended coverage endorsements, in amounts not less than 100% of the actual replacement value of the building, exclusive of foundations and excavations, without any exclusions other than standard printed exclusions and without exclusion for terrorism and with deductibles of not more than \$50,000 per occurrence.

**C. Performance Bond:**

Contractor shall deposit and maintain with the City, a good and sufficient corporate surety bond satisfactory to the City Council in the amount of Fifty Thousand Dollars (\$50,000). Such performance bond is to be conditioned upon the faithful performance of the Lease.

**D. Cancellation:**

In the event that the services for the operation of the Transfer Station are considered to be unsatisfactory in City's reasonable discretion, the City will submit a letter to Contractor outlining all corrections to be made. Contractor will have thirty (30) days from the date of receipt of the letter to make such corrections. If the corrections are not made at the end of the thirty (30) day period, or if the corrections are of such a nature that they cannot be cured within such time and Contractor does not commence within thirty (30) calendar days and proceed with due diligence to cure such corrections, the City may terminate the Lease by sixty (60) days written notice to Contractor. The City will not be liable to pay any costs incurred by Contractor arising out of termination of the Lease pursuant to this Section, it being understood that the City shall have the absolute right to terminate this Lease as provided in this Section.

**E. Lease Term and Optional Extensions:**

This Lease will be for a period of seven (7) years (the "Initial Term") whichever is the case, unless Contractor shall notify City in writing no less than thirty (30) days prior to the expiration date of the Initial Term or the then current Optional Lease Period that it does not elect to extend the Term. "Term" means the period of time commencing on the Commencement Date (as defined herein) and ending on the expiration or termination of this Lease in accordance with the terms and conditions hereof.

Initial Term: \_\_\_\_\_, 2024 (the "Commencement Date") through \_\_\_\_\_, 2031.

**F. Alterations; Trade Fixtures:**

I. Contractor shall have the right to make any such alterations, changes and improvements (collectively, the "Alterations") to the Transfer Station without City's prior written consent,

unless (i) the cost of such Alterations exceeds Fifty Thousand Dollars (\$50,000); or (ii) the Alterations materially impact the structural portions or mechanical systems of the building. If Contractor shall alter or change the Transfer Station during the Term of this Lease, Contractor shall comply with all applicable federal, state and local laws, ordinances and regulations in making such Alterations.

2 . Contractor shall have the right to install in the Transfer Station all trade fixtures and equipment which Contractor, in its sole discretion, may deem necessary or desirable. City and Contractor agree that any and all Alterations, except movable furniture, furnishings, decorations, trade fixtures, equipment and other personal property of Contractor, made to the Transfer Station by Contractor shall become the property of City upon termination of the Lease. Notwithstanding anything to the contrary herein, Contractor shall be allowed to remove from the Transfer Station all movable furniture, furnishings, decorations, trade fixtures, equipment and other personal property owned or leased by Contractor and shall repair any damage to the Transfer Station occasioned by such removal.

#### **G. Taxes and Assessments:**

City shall pay all real estate taxes and assessments, general and special, which may be levied, assessed or imposed upon the Transfer Station.

#### **H. Landfill Costs:**

In order to protect Contractor against increased costs imposed by federal, state or local units of government at the Transfer Station and/or landfill, the Maximum Rates (as defined herein) shall be adjusted to pass through increased costs Contractor incurs due to uncontrollable circumstances such as changes in local, state or federal laws or regulations. The increased costs considered for a rate adjustment will be those costs associated with surcharges, truces, host fees or other similar fees imposed by federal, state or local units of government. Additional costs associated with construction or operation will not be considered for any rate adjustment.

#### **I. Casualty: Transfer Station Closure:**

If the Transfer Station is damaged by fire or other casualty Contractor shall give prompt notice thereof to City, and City, as soon as practicable, shall repair, restore, and rebuild the Transfer Station to a condition equivalent to that existing prior to such casualty. In the event of damage to or destruction of the whole any part of the improvements comprising the Transfer Station by fire or any other casualty during the Term, such that it would be commercially unreasonable or unfeasible for Contractor, in Contractor's sole but reasonable discretion, to conduct its business upon the Transfer Station, then, at Contractor's option, either (i) the Lease Payments and any other payments hereunder shall be proportionately suspended and abated to reflect the adverse effect on Contractor of such casualty until the damaged portion of the Transfer Station is repaired, restored or rebuilt provided such casualty was not caused by the gross negligence or willful misconduct of Contractor, or (ii) Contractor shall have the right to terminate this Lease upon giving City written notice of such termination no later than sixty (60) days after the date of such fire or casualty. In addition, in the event of such a fire or any other casualty.

Contractor shall not be liable or responsible to the City, nor be deemed to have defaulted under or breached this Lease, for any failure or delay in fulfilling or performing any term of this Lease if the Transfer Station is made inoperable by reason of any other event not within the control of the parties, including but not limited to any necessary permit being revoked by permit authorities. The Lease Payments and any other payments hereunder shall abate during the period which the Transfer Station is inoperable. The parties shall use diligent efforts to end the failure or delay and minimize the effects of closure of the Transfer Station. Contractor shall resume the performance of its obligations as soon as reasonably practicable after the removal of the cause.

**J. Lease Administration;**

In the event Mower County purchases the City's interest in the Transfer Station. The Lease will be transferred from the City to Mower County and Mower County shall assume all obligations of the City set forth herein. The City shall provide notice to Contractor upon such transfer. All terms and conditions herein shall remain as stated herein.

**K . Right of Entry;**

The City Engineer and authorized City personnel shall have right of entry during the Term of the Lease at reasonable times and during Contractor's regular business hours. Except in emergency, City shall give at least forty-eight (48) hours advance notice, written or oral, of its intent to gain such access to the Transfer Station.

**L. Condemnation;**

1. If the use, occupancy or title of the entire Transfer Station shall be taken, requisitioned or sold in, by or on account of any actual or threatened eminent domain proceeding or other action by any person having the power of eminent domain (the "Condemnation"), then and in that event the Term of this Lease shall terminate upon Condemnation any award, compensation or damages shall be retained by City; provided, however, that City shall not be entitled to any separate award which may be made to Contractor for the cost of realigning, relocating or removing its personal property, or for relocation expenses or loss of business, and which does not reduce the amount payable to City.
2. In the event that a material portion (but less than all) of the Transfer Station or any interest therein, including but not limited to the right or free access to the Transfer Station, shall be so taken, requisitioned or sold as to render the remaining portion of the Transfer Station, in the reasonable opinion of Contractor, unsuitable for Contractor's use, then Contractor may, at its option, terminate this Lease and the Term hereof and any award shall be paid in the same manner and upon the same conditions as set forth in the foregoing Section. Such option shall be exercised by Contractor by written notice to City on or before thirty (30) days after the date on which possession of such portion of the Transfer Station shall be taken.

**M. Indemnification:**

1. Contractor shall indemnify, protect and save harmless City and each and every shareholder, officer, director, member, partner, employee, manager, affiliate, subsidiary, and agent of City, and the respective heirs, personal representatives, successors, and assigns, against and from all liabilities, obligations, damages, judgments, penalties, claims, losses, costs and expenses of every nature, including, without limitation, reasonable and documented out-of-pocket attorneys' fees, which may be imposed on or incurred by or asserted against them or any of them in connection with the gross negligence or willful misconduct in the use and operation of the Transfer Station by Contractor and those claiming through or under Contractor except to the extent resulting from negligence or willful misconduct of City or any of its agents, contractors, subcontractors, servants, employees, licensees or invitees.
2. City shall indemnify, protect and save harmless Contractor and each and every shareholder, officer, director, member, partner, employee, manager, affiliate, subsidiary, and agent of Contractor, and the respective heirs, personal representatives, successors, and assigns, against and from all liabilities, obligations, damages, judgments, penalties, claims, losses, costs and expenses of every nature, including, without limitation, reasonable and documented out-of-pocket attorneys' fees, which may be imposed on or incurred by or asserted against them or any of them in connection with, arising out of or relating to the negligence or willful misconduct in the use and operation of the Transfer Station by City or its agents, servants, employees or contractors, except to the extent resulting from gross negligence or willful misconduct of Contractor or any of its agents, contractors, subcontractors, servants, employees, licensees or invitees.

## **N. Environmental.**

1. Definitions:
  - A. The term "Environmental Laws" shall mean and include the Resource Conservation and Recovery Act, amended by the Hazardous and Solid Waste Amendments of 1984, the Comprehensive Environmental Response, Compensation and Liability Act, the Hazardous Materials Transportation Act, the Toxic Substances Control Act, the Federal Insecticide, Fungicide and Rodenticide Act and all applicable federal, state and local environmental laws, ordinances, rules, requirements, and regulations, as any of the foregoing may have been or may be from time to time amended, and any and all other federal, state or local laws, ordinances, rules, requirements, and regulations, now or hereafter existing, relating to (i) the protection of the environment or the preservation or regulation of the public health from exposure to toxic or hazardous substances in the environment, (ii) the regulation or control of toxic or hazardous substances or materials, or (iii) any wrongful death, personal injury or property damage that is caused by or related to the presence, growth, proliferation, reproduction, dispersal, or contact with molds, fungi, bacteria or other microorganisms or any etiologic agents or materials.
  - B. The term "Hazardous Substance" means any substance that is toxic, ignitable, reactive, corrosive or radioactive and that is regulated by any local government, the state in which the Transfer Station is located or the United States government. "Hazardous Substance"

includes any and all materials or substances that are now or hereafter defined as "hazardous waste," "extremely hazardous waste," "toxic substance," or a "hazardous substance" pursuant to state, federal, or local governmental law, including without limitation Environmental Laws. "Hazardous Substance" includes but is not restricted to friable asbestos, polychlorinated biphenyls ("PCB's"), and petroleum products.

2. Contractor shall:

In no event shall Contractor have any obligations or liability under this Agreement with respect to any liabilities, obligations, damages, judgments, penalties, claims, losses, costs and expenses of every nature, including, without limitation, documented out of pocket costs and expenses of remedial actions and attorneys' fees, which may be imposed on or incurred by or asserted against them or any of them relating to handling, storage, transportation or disposal of Hazardous Substances or Excluded Materials (Environmental Damages,) to the extent that the Environmental Damages are caused by City or its agents, employees or representatives, or their respective successors, assigns or affiliates or any third party or to the extent any Environmental Damages existed on the Transfer Station prior to the Commencement Date of this Lease. The indemnity contained in this Section shall survive the expiration or earlier termination of this Lease.

3. City shall indemnify, protect and save harmless Contractor and each and every shareholder, officer, director, member, partner, employee, manager, affiliate, subsidiary, and agent of Contractor, and the respective heirs, personal representatives, successors, and assigns, against and from all liabilities, obligations, damages, judgments, penalties, claims, losses, costs and expenses of every nature, including, without limitation, documented out-of-pocket cost and expenses or remedial actions and attorneys' fees, which may be imposed on or incurred by or asserted against them or any of them relating to (i) City's and any of its agents, contractors, subcontractors, servants, employees, subtenants, licensees or invitees use, handling, storage, transportation or disposal of Hazardous Substances, Excluded Materials or other environmental matters concerning the Transfer Station and/or other property of City located adjacent to the Transfer Station; and (ii) any Hazardous Substances or Excluded Materials existing prior to the Commencement Date of this Lease. The indemnity contained in this Section shall survive the expiration or earlier termination of this Lease.

**Assignment and Subletting:**

Except as set forth herein, Contractor shall not assign or sublease this Lease without the prior consent of City, not to be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, Contractor may, without obtaining City's consent, assign this Lease or sublease to (1) any entity which is a successor to Contractor either by merger, consolidation or operation of law, (2) a purchaser of all or substantially all of Contractor's assets, (3) any entity which, at the time of the assignment, has a net worth equal to or greater than Contractor's net worth or any entity whose obligations are guaranteed by an entity with a net worth equal to or greater than Contractor's net worth, or (4) any entity that shall control, be under the control of, or be under common control with Contractor, including without limitation, Thompson Sanitation, Inc. ("TSI") or any subsidiary or designee of TSI.

**P. Notices or Demands:**

All notices, waivers, demands, requests or other communications required or permitted hereunder shall, unless otherwise expressly provided, be in writing and be deemed to have been properly given, served and received (a) if mailed, on the third (3rd) business day after deposit in the United States certified or registered mail, postage prepaid, return receipt requested, or (b) if delivered by reputable overnight express courier, freight prepaid, the next business day after delivery to such courier, in every case addressed to the party to be notified as following:

\_\_\_\_ City of Austin \_\_\_\_      \_\_\_\_ Thompson Sanitation \_\_\_\_

\_\_\_\_ P.O. Box 154 \_\_\_\_

Attention: \_\_\_\_\_      \_\_\_\_\_ Clarks Grove, MN 56016 \_\_\_\_\_

or to such other address(es) or addressee(s) as any party entitled to receive notice hereunder shall designate to the others in the manner provided herein for the service of notices. Rejection, refusal to accept, or inability to deliver because of changed address or because no notice of changed address was given, shall be deemed receipt.

**III. TECHNICAL SPECIFICATIONS**

These technical specifications are intended to describe the minimum requirements the City requires for the operation of the Transfer Station. Contractor agrees to lease the facility from the City for the amount as specified above and to operate the facility as a Transfer Station according to the requirements above and in this Section III. Contractor shall provide, at a minimum, the services herein described.

**A. General Terms:**

1. Contractor will be required to make monthly payments to the City as described in Article I above. Said payments are due on the first of each month. An administration fee of 5 % of the rental payment will be due for any payment paid more than 10 days after due date.
2. Contractor shall charge no more than the following rates to customers of the Transfer Station:
  - a) \$86.66 per ton for solid waste delivered by residential customers.
  - b) \$88.16 per ton for solid waste delivered by commercial haulers, except for solid waste delivered by Contractor.
  - c) \$12.00 per cubic yard for all demolition material from any source (not including any loads containing metal, glass, paper, plastic, carpet, or cloth).

- d) All loads entering the facility must be covered or tarp ed. The contractor may institute a fee of \$10 for public and \$50 for commercial haulers for uncovered loads.
- e) Contractor may institute a minimum charge of \$20 for small loads.
- f) Contractor may charge additional charges for appliances, air conditioners, dehumidifiers, televisions and electronic recycling items.

Contractor may annually increase, during the initial and extension lease periods, the fees charged under paragraph 2 above by 1.25% of the then current fee with the first such increase occurring on \_\_\_, 2025, and the last such increase occurring on \_\_\_, 2030.

- 3. The Lease Payments established herein are based on the anticipated handling of no more than an average of 1800 tons of solid waste material per month by Contractor at the Transfer Station. Contractor shall pay an additional \$1.00/ton for all solid waste handled that exceeds 1800 tons during any calendar month. Said payment shall be made with the next monthly payment due under this Lease.
- 4. Contractor shall have no less than three suitable trailers designated and used in conjunction with the Transfer Station operation at all times.
- 5. Contractor shall perform bi-yearly service inspections of the compactor and complete any necessary repairs identified by the inspection at its cost. The City shall supply, at its cost, all parts and materials necessary to complete each repair.

**B. Landfill:**

Contractor shall make all arrangements for the disposal of the municipal solid waste and the demolition material at a properly permitted (by any appropriate or applicable local, state, or federal agency or agencies) landfill(s). At execution or the Lease, Contractor shall submit the required permit for the landfill(s) to the City. Throughout the Term or this Lease, Contractor shall notify the City of any changes in its identified landfill(s) and provide the required permit for such landfill(s) no less than thirty (30) days prior to making the change. For the initial selection of landfill(s) and for each subsequent change in landfill(s), Contractor shall use the Landfill Designation Sheet attached hereto as Exhibit A.

Contractor is responsible for all payments or other charges to deposit the solid waste or demolition material in the landfill.

**C. Minimum Operational Requirements:**

Contractor will perform or cause to be performed the following minimum requirements:

- 1. Contractor is responsible for, and shall furnish at its expense, all equipment and staff required for the transportation of the municipal solid waste, demolition, and branch disposal.
- 2. At the end of each day, all trailers will be pulled away from the building.

3. Contractor will be responsible to keep all refuse hauled away. It will be its responsibility to ensure that it has capable and sufficient amount of equipment to perform this operation.
4. Contractor shall pay all operating expenses such as fuel, oil, tires, landfill tipping fees, landfill taxes, etc. Contractor assumes all responsibility for costs and expenses for all licensing, registration permits and such other certificates as may be required for the lawful operation of any equipment. Contractor shall observe all safety rules and other requirements of regulatory bodies having jurisdiction and shall pay all fines due to lack of plates or permits, speeding, overweight or similar charges that may be duly and lawfully imposed or assessed by reason of Contractor's failure to comply with the rules and regulations and orders of regulatory bodies having jurisdiction.
5. The City does not guarantee the number of loads per day. The volume of refuse will vary according to Contractor's ability to market the facility.
6. Contractor shall have no less than three suitable trailers designated and used in conjunction with the Transfer Station operation at all times. Trailers shall be fully enclosed rear load style with walking floor. Downtime due to trailer shortage will be considered a default under this agreement.
7. Contractor will be responsible for the trucking operation five (5) days per week, Monday through Friday, and 1<sup>st</sup> & 3<sup>rd</sup> Saturday. Contractor will not be required to provide service on Sundays and the following holidays:

New Year's Day  
Thanksgiving Day

Labor Day  
Independence Day

Memorial Day  
Christmas Day

If any of the above holidays fall on Sunday, Monday will be celebrated as the holiday.

#### **D. Building Operation**

The following minimum conditions will be followed in the operation of the Transfer Station:

Building Hours:

Open to Commercial Haulers:	Monday-Friday 1 <sup>st</sup> & 3 <sup>rd</sup> Saturday	8:00 AM to 4:00 PM 8:00 AM to 12:00 Noon
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Open to Public:	Monday-Friday 1 <sup>st</sup> & 3 <sup>rd</sup> Saturday	8:00 AM to 4:00 PM 8:00 AM to 12:00 Noon
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These are the hours the building is open for dumping. Any additional time required for cleanup and trailer removal, is in addition to the above listed hours. The Contractor shall supply qualified personnel to operate the Transfer Station

8. All of Contractor's personnel shall be capable of running the respective Transfer Station

equipment utilized by such employee. The Contractor shall have the ability to effectively meet, communicate and deal with the public in a positive manner.

9. Contractor shall charge all users uniform rates established as set forth herein.
10. Contractor shall issue a monthly report to the City summarizing all volumes of refuse deposited at the Transfer Station. Contractor will receive all revenues collected from this operation. All receipts and money are the property of Contractor. Contractor's records will be subject to audit and inspection at any time during regular business hours, upon at least twenty-four (24) hours advance notice, written or oral, by the City.
11. The following non-exhaustive list of materials will not be accepted:

Hazardous waste, Empty pesticide containers, Liquids, Tires, Dead animals, Batteries, Asbestos, Oil, Manure, Excluded Materials, and/or any waste prohibited by the designated permitted landfill. The Parties agree that title to and liability for any Excluded Materials shall not transfer to Contractor, but shall remain with the generator at all times.
12. Contractor will be held responsible for all building and site maintenance, including mowing and snow removal. This shall be performed to the satisfaction of the City Engineer or designated staff. It is of great importance to prevent any refuse from being visible. Contractor shall patrol the building grounds daily and clean up any scattered refuse. Contractor will not be allowed any outside storage for any solid waste including white goods, tires, batteries, etc.
13. Contractor shall be held responsible for all ordinary equipment maintenance and repair. This shall include, but not be limited to, checking oil, hydraulic fluid, grease fillings and all other daily maintenance. The City will inspect the facility monthly, upon at least twentyfour (24) hours advance notice, written or oral, to ensure that all required maintenance is being performed.
14. The Transfer Station shall be locked at end of each day.
15. Contractor shall provide for the following:
  - a) A telephone for the office in the Transfer Station.
  - b) Paying for all utilities, such as, L.P. for heat and electricity.
  - c) Any office equipment such as desks, chairs, computers, office supplies, etc.
  - d) Receipt pads. A receipt is to be issued to everyone that deposits waste. A duplicate copy shall be maintained and shall be subject to the City audit requirements
  - e) Providing for a water conditioning service.
16. Except as otherwise set forth herein, the City will provide the following:
  - a) All building repairs and replacements, not caused by Contractor's gross negligence or willful misconduct
  - b) All equipment repairs and replacements, including well & scale, not caused by Contractor's gross negligence or willful misconduct.
  - c) The disposal of all sanitary waste in the holding tank. The City represents that the Transfer Station is serviced by a holding tank for sanitary wastes.

Contractor and its personnel may perform duties in excess of these that are listed in Contractor's sole discretion.

**D. Demolition Material Site:**

Contractor shall be responsible for operating a demolition receiving site at the Transfer Station. The Contractor may use the City's dump ramp facility set up for demolition material. If this facility is used, Contractor will be responsible for monitoring the wastes that are allowed to be dumped and charge all users according to the rates established herein. Contractor will receive all revenues collected from this operation. This site shall be operated the same hours as the Transfer Station. Contractor shall furnish all equipment, arrange for demolition landfill and pay all costs associated with the operation. Contractor will be responsible for enforcing the type of materials that may be dumped at the demolition site. The materials that may be dumped are as what are permitted by the landfill, local and state agencies. Contractor will be held responsible for Maintenance of the demolition site. which shall be kept in good order and repair. Contractor will be responsible for providing covered storage for the demolition materials.

**E . Electronics and White Goods:**

Contractor shall develop a system for recycling of electronics and white goods. Contractor will receive all revenues collected from this operation. Contractor will be responsible for providing covered storage for these materials.

**F. Septic System:**

The City will provide for the pumping of the septic tank at no charge to Contractor. This will be done as requested by Contractor.

**G. Equipment and Vehicles:**

The contractor shall maintain a fleet of vehicles and equipment necessary to operate the Transfer Station, except that City shall be responsible for providing and maintaining the transfer station compactor and scale. Vehicles and equipment include, but are not limited to, over the road trucks, trailers, yard spotter truck and skid loader. A maximum of four (4) vehicles will be allowed to be stored on the site at any one time.

**H. Capital Improvements:**

The City represents and Contractor acknowledges that certain capital improvements are presently planned for the Transfer Station. These planned capital improvements are more specifically described in the City's five-year Capital improvement Plan for years 2018-2031, and include such improvements as pavement upgrades, compactor slides-cylinder power unit replacement, building siding, scale electronics upgrades and compactor replacement. The City is not contractually bound in this Lease to complete said improvements as such Capital Improvement

Plans are subject to revision or delay based upon budgetary limitations and other factors. However, Contractor acknowledges that such improvements may interrupt, interfere with or otherwise infringe on its ability to operate the Transfer Station. Contractor and the City commit to working cooperatively to minimize such disruptions as such minimization is considered mutually beneficial. However, neither party shall have a claim against the other, other than a claim for payments specifically required hereunder, which said payments shall continue during any such interruptions.

#### **IV. MISCELLANEOUS**

- A. The captions of this Lease are for convenience only and are not to be construed as defining or limiting in any way the scope or intent of the provisions hereof.
- B. If any term or provision of this Lease shall to any extent be held invalid or unenforceable, the remaining terms and provisions of this Lease shall not be affected thereby but each term and provision of this Lease shall be valid and be enforced to the fullest extent permitted by law.
- C. This Lease shall be construed and enforced in accordance with the laws of the state of Minnesota.
- D. CITY AND CONTRACTOR HEREBY WAIVE ANY RIGHT TO A TRIAL BY JURY IN CONNECTION WITH ANY ACTION, PROCEEDING OR COUNTERCLAIM WITH RESPECT TO THIS LEASE.
- E. City and Contractor agree that this Lease is not in consideration for or dependent or contingent in any manner upon any other contract, lease or agreement between them and that the Term, rental and other provisions of this Lease are not intended by said parties to be tied in with any other such contract, lease or agreement; but on the contrary, this Lease and all of its provisions are entirely and completely independent of any other transactions or relationship between the parties.
- F. The failure of any party hereto to enforce any term, covenant, condition, or agreement hereof shall not be deemed to avoid or affect the right of such party to enforce the same term, covenant, condition or agreement on the occasion of the subsequent default or breach.
- G. All signatories to this Lease represent and warrant that he/she is authorized to enter this Lease on behalf of their respective parties.
- H. This Lease may be executed in separate counterparts. It shall be fully executed when each party whose signature is required has signed at least one counterpart even though no one counterpart contains the signatures of all the parties. Delivery of an executed counterpart's signature page of this Lease, by facsimile, electronic mail in portable document format (.pdf) or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document, has the same effect as delivery of an executed original of this Lease.

**HAVING READ THE TERMS AND CONDITIONS ABOVE, AND HAVING HAD THE OPPORTUNITY TO SEEK THE ADVICE OF COUNSEL, EACH PARTY HEREBY EXECUTES THIS DOCUMENT AND AGREES TO BE BOUND ACCORDING TO THE TERMS STATED ABOVE.**

**The City of Austin**

By: \_\_\_\_\_  
Its: Mayor

By: \_\_\_\_\_  
Its: City Recorder

**Thompson Sanitation Inc.**

By: Frank Thompson \_\_\_\_\_  
Its: President \_\_\_\_\_

Exhibit A

**DESIGNATION OF LANDFILL(S)**

A. Pursuant to that certain Lease for Transfer Station Operation dated 2018, and by and between Waste Management of Minnesota, Inc and the City of Austin Minnesota, the undersigned proposes to dispose of all municipal solid waste collected at the Transfer Station located at 102 28<sup>th</sup> Street SE, Austin, Mower County, Minnesota, at the following landfill(s):

Central Disposal Land Fill, 21265 430<sup>th</sup> Street, Lake Mills, Iowa 50450,  
Name Address

(A current permit from any and all authorities having authority to issue permits shall be submitted with this Designation of Landfill(s)

B. The undersigned proposes to arrange for the disposal of all demolition material at the following landfill(s):

SKB Land Fill, 52906 243<sup>rd</sup> St, Austin, Minnesota 55912,  
Name Address

Thompson Sanitation, Inc.

By:  
Frank Thompson, President

**RESOLUTION NO.**

**Resolution Authorizing a Transfer Station Lease Agreement with  
Thompson Sanitation Inc.**

**WHEREAS**, the City has negotiated a lease agreement with Thompson Sanitation Inc, for the dates of July 1, 2024, to June 30, 2031, for the lease of the Austin Transfer Station;

**WHEREAS**, the City would like to lease out the transfer station located at 102 18th Street SE, Austin, Minnesota;

**WHEREAS**, the City has negotiated a lease agreement with Thompson Sanitation for the following amounts:

July 1st, 2024, through June 30th, 2025 \$21,600.00/Yr.  
July 1st, 2025, through June 30th, 2026 \$21,816.00/Yr.  
July 1st, 2026, through June 30th, 2027 \$22,034.16/Yr.  
July 1st, 2027, through June 30th, 2028 \$22,254.50/Yr.  
July 1st, 2028, through June 30th, 2029 \$22,477.05/Yr.  
July 1st, 2029, through June 30th, 2030 \$22,701.82/Yr.  
July 1st, 2030, through June 30th, 2031 \$22,928.84/Yr. and;

**NOW, THEREFORE, BE IT RESOLVED** that the Austin City Council approves the transfer station lease agreement with Thompson Sanitation Inc from July 1, 2024, to June 30, 2031.

Passed by a vote of yeas and nays this 3rd day of June, 2024.

YEAS

NAYS

ATTEST:

---

City Recorder

APPROVED:

---

Mayor

City of Austin  
 Jason Sehon, Director  
 Parks, Recreation & Forestry  
 507-433-1881  
 jsehon@ci.austin.mn.us



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

## MEMORANDUM

**TO:** Honorable Mayor and Council  
**FROM:** Jason Sehon, Director of Parks, Recreation & Forestry  
**DATE:** June 3, 2024  
**SUBJECT:** Contract Ash Tree Removal

---

Staff is requesting authorization from City Council to begin the bid process for the removal of ash trees located on City properties, boulevards and right of ways.

Our Forestry team estimates there are approximately 2,000 ash trees located on maintained City properties. With help from a matching grant in the amount of \$40,000 from The Hormel Foundation, the City is currently in the process of treating 500 ash trees in efforts to save them from the emerald ash borer (EAB).

Trees on City properties:	2,000
Trees being treated:	500
Remaining ash trees needed removed:	1,500
Trees treated by Parks crews (over 4 years):	800
Trees recommended to contract for removal (over 4 years):	700

Our Forestry team has developed a four (4) year plan for the removal of these 1,500 ash trees. We are proposing to have Parks crews remove 200 + trees annually over a 3-4 year period. We are also proposing to contract out for the removal of an additional 175 ash trees annually over a four (4) year period.

We are also considering to add a bid alternate in the bid specifications for the removal of additional trees in amounts of fifty (50) so the City could consider contracting for the removal of more than 175 trees if funding is available.

It is possible that the overall total cost to contract for the removal of seven hundred (700) ash trees over a four (4) year period could be in excess of \$1 million. The City has been building up fund balance in the General Fund in an effort to save up for this project. This issue will not go away and these ash trees, if not removed, will become a hazard and liability as they deteriorate quickly.

If staff's request to bid to contract for the removal of trees is authorized, staff will complete the bid process and bring the bid results to Council for consideration. At that time, we would also ask Council for a budget amendment to officially transfer funds to cover the cost of this project. Again, this only covers the cost of removal, and does not include any costs related to the replanting of trees.

Staff is requesting authorization from City Council to begin the bid process to contract for the removal of ash trees located on City properties, boulevards and right of ways.

Please let me know if you have any questions.

## RESOLUTION NO.

**ACCEPTING DONATIONS TO THE CITY OF AUSTIN**

WHEREAS, the City has received gift as follows:

Gift	Donor	For
\$ 500.00	Austin Area Foundation	Culture and Arts Commission
\$3,078.00	Fraternal Order of Eagles	Nature Center Canoes
\$2,500.00	Fraternal Order of Eagles	City Flags
\$ 100.00	Steven and Lynn Price	2024 Flower Program

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

Passed by a vote of yeas and nays this 3rd day of June, 2024.

YEAS

NAYS

ATTEST:

APPROVED:

---

City Recorder

---

Mayor

**City of Austin  
Zoning Department**



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

## **Memorandum**

**To:** Mayor and City Council

**Cc:** Edith Brito De Rouge  
506 12<sup>th</sup> St NE, Austin, MN 55912

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

**Re:** Accumulation of Refuse and Junk  
At 506 12<sup>th</sup> St NE, Brito De Rouge Property

**Date:** May 31, 2024

---

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 506 12<sup>th</sup> St NE. The property owner has been notified of this violation to the City Code Sections 10.14 Subd.1(B), 10.14 Subd.4-6 but has failed to resolve this issue. (See Attached)

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

Thank You

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

May 10<sup>th</sup>, 2024

Edith Brito De Rogue  
506 12<sup>th</sup> St NE  
Austin, MN 55912

RE: Zoning Violations at 506 12<sup>th</sup> St NE Austin, MN 55912

Dear Edith:

The City of Austin Planning and Zoning Department has observed a violation of City Code on your property. An investigation of this complaint was conducted on May 10<sup>th</sup>, 2024 at this site and the following issues need to be resolved:

1. Remove all junk/garbage from property
2. All refuse must be in watertight containers and lawfully disposed of, at least once each week during the year.

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

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

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

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

**City Code Section 10.01 Subd. 4 Containers**

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

except tune-up parts, inflammable liquids, tree trunk sections over four inches in diameter. Tires and white goods need not be accepted as refuse by licensed garbage haulers, but shall be disposed of at the depository as designated by the County Board.

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

**C. Placement.**

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

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

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

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

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

**B. Public nuisances affecting health**

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

**D. Public nuisances affecting peace and safety.**

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

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

**NOTICE AND ABATEMENT.**

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

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

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

**City Code Section 10.14, Subd. 5:**

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

**City Code Section 10.14, Subd. 6:**

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

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

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

Sincerely,



Brent Johnson  
Zoning Inspector



May 29, 2024  
10:36 AM

506 12th St NE

**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:** Walter & Audrey Hastings 1306 11<sup>th</sup> St NW Austin, MN 55912

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

**Re:** Accumulation of Refuse and Junk  
At 1306 11<sup>th</sup> St NW, Hastings Property

**Date:** May 31<sup>st</sup>, 2024

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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 1306 11<sup>th</sup> St NW. The property owner has been notified of this violation to the City Code Sections 10.14 Subd.1(B), 10.14 Subd.4-6 but has failed to resolve this issue. (See Attached)

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

Thank You

City of Austin  
Zoning Department



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Austin, Minnesota 55912-3773  
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Fax: 507-437-7101  
[www.ci.austin.mn.us](http://www.ci.austin.mn.us)

December 1<sup>st</sup>, 2023

Walter & Audrey Hastings  
1306 11<sup>th</sup> St NW  
Austin, MN 55912

RE: Zoning Violations at 1306 11<sup>th</sup> St NW, Austin, MN 55912

Dear Walter & Audrey:

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 December 1<sup>st</sup>, 2023 at this site and the following issues need to be resolved:

1. Remove all junk/garbage from property
2. All refuse must be in watertight containers and lawfully disposed of, at least once each week during the year.

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

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

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

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

**City Code Section 10.01 Subd. 4 Containers**

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

except tune-up parts, inflammable liquids, tree trunk sections over four inches in diameter. Tires and white goods need not be accepted as refuse by licensed garbage haulers, but shall be disposed of at the depository as designated by the County Board.

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

**C. Placement.**

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

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

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

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

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

**B. Public nuisances affecting health**

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

**D. Public nuisances affecting peace and safety.**

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Sincerely,



Brent Johnson  
Zoning Inspector



May 29, 2024  
11:03 AM

1306 11th St NW



May 29, 2024  
11:03 AM

1306