

A G E N D A
CITY COUNCIL MEETING
MONDAY, DECEMBER 2, 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 November 18, 2024
- 3. Recognitions and Awards
- (mot) 4. *Consent Agenda

Claims:

- a. Pre-list of bills

Appointments:

Kandace Feist to the Culture and Arts Commission – term through December 31, 2024

PUBLIC HEARINGS:

- (res) 5. Reviewing a Tax Abatement Application from Bigelow and Lennon Construction.
 - a. Approval or Denial of Abatement
- (res) 6. Reviewing a currency exchange license application from Tienda y Taqueria Guerrero, Inc.
 - a. Approving Currency Exchange License

AWARDING BID:

- (res) 7. Receiving Bids for Dam Rip Rap (backup to follow).
 - a. Awarding Bid

PETITIONS AND REQUESTS:

- (mot)
(ord)
(res) 8. Requesting Approval of the Cannabis Ordinance.
 - a. For preparation of the ordinance
 - b. For adoption of the ordinance
 - c. For summary publication of the ordinance
- (res) 9. Approving 2025 Fee Schedule.
- (mot) 10. Approving T-Hangar Lease Agreement Template.
- (res) 11. Approving 2025 Hormel Foundation Grant Awards.

- (res) 12. Approving a Release of Easement.
- (res) 13. Approving LOST Collection Agreement.
- (res) 14. Requesting feasibility reports for 2025 reconstruction projects.
- 15. Granting the Planning and Zoning Department the Power to Contract for the Removal of Junk and/or Illegally Stored Vehicles at the Following Locations:
 - (mot) a. 503 8th Avenue SE, Wakefield Property

CITIZENS ADDRESSING THE COUNCIL

HONORARY COUNCIL MEMBER COMMENTS

REPORTS AND RECOMMENDATIONS:

City Administrator
City Council

- (mot) Adjourn to **Monday, December 16, 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
November 18, 2024
5:30 PM
Council Chambers

MEMBERS PRESENT: Mayor Steve King, Council Members Paul Fischer, Laura Helle, Jason Baskin, Geoff Baker

MEMBERS ABSENT: Council Member Michael Postma, Council Member Joyce Poshusta, Council Member-at-Large Jeff Austin

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

APPEARING IN PERSON: Austin Daily Herald, Honorary Council Member James Arop Majak

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

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

Moved by Council Member Baker, seconded by Council Member Fischer, approving Council minutes from November 4, 2024. Carried.

AWARDS AND RECOGNITION

Public Works Director Steven Lang acknowledged Mitch Wenum, Assistant City Engineer, for his work over the last ten years in the public works department. Mr. Wenum will be leaving for new employment and Mr. Lang wanted to recognize the contributions he has made to the City during his tenure. Mr. Wenum has developed a street rating program, a street mapping tool, he has assisted in expanding the GIS program, and has been successfully in obtaining multiple grants for the City of Austin. He has also been a city lead for the White Water Project. Mr. Lang thanked him for his dedication. Mayor King thanked Mr. Wenum for his years of service.

CONSENT AGENDA

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

Licenses:

Right of Way: Landmark Concrete and Landscaping, LLC, Albert Lea, MN

Liquor Catering: ALGM, LLC, Albert Lea, MN
Exempt Gambling (raffle): United Catholic Schools Foundation of Austin,
MN on January 25, 2025
Exempt Gambling (raffle): United Catholic Schools Foundation of Austin,
MN on multiple dates in 2025

Claims:

- a. Pre-list of Bills
- b. Financial and Credit Card Reports
- c. Investment Report

Carried.

PETITIONS AND REQUESTS

City Clerk Brianne Wolf presented a resolution certifying the results of the 2024 election. She stated Mower County had a 77% voter turnout and the City of Austin had an 81% voter turnout, and registered 1,450 new voters on election day. She thanked the election judges, Mower County, and Citizens of Austin for a successful election.

Mayor King thanked the Clerk's Office and election judges for their hard work.

Council Member Baker also thanked City Clerk Brianne Wolf for her work on elections and stated he has confidence in the quality of work that comes out of the City Clerk's office especially when it comes to elections.

Council Member Baskin stated we have a long-standing tradition of safe and secure elections in Mower County and in Austin, and there is a high level of confidence. He thanked City Clerk Brianne Wolf and her team for all their efforts.

Moved by Council Member Baker, seconded by Council Member Baskin, approving a resolution certifying the 2024 election results. Carried. 4-0.

Moved by Council Member Baker, seconded by Council Member Baskin, approving a public hearing for December 16, 2024 on the adoption of the 5-year Capital Improvement Plan. Carried.

Moved by Council Member Fischer, seconded by Council Member Helle, adopting a resolution granting 2025 off-sale liquor licenses, club on-sale licenses, wine on-sale, and brewer off-sale licenses. Carried 4-0.

Moved by Council Member Baker, seconded by Council Member Baskin, accepting donations to the City of Austin. Carried 4-0.

Public Work Director Steven Lang requested Council approval for the sale of a 1999 Dodge 1500 pickup, a 2005 Chevy 3500 pickup, and a pickup topper for an F150. He would like to take the following equipment to an upcoming Hamilton auction.

Moved by Council Member Baker, seconded by Council Member Fischer, authorizing the sale of two pickup trucks and a topper from the public works department at auction. Carried.

CITIZENS ADDRESSING THE COUNCIL

Mia Eckert, 2104 6th Ave NE, stated she received citations for having her car parked in her driveway. Her grandfather, former Mayor Tom Stiehn, also appeared with her. Mr. Stiehn stated Ms. Eckert called him about the fines and he stated that it was a scam and to ignore it. He then found out that the fines were increasing and that it wasn't a scam. He stated it was his fault the citations were ignored.

Planning and Zoning Administrator Holly Wallace stated they had sent out citations and they never received any response from Ms. Eckert. She stated she had spoken with Mr. Stiehn prior to the public hearing.

Ms. Wolf relayed there were five citations issued against the property for illegal storage of vehicles. She stated the public hearing had been held and now these assessments had been certified to the County.

Mayor King advised Ms. Eckert to speak with Ms. Wallace about the citations after the Council meeting as she had missed the public hearing before the city makes any recommendations on the matter.

Doug Bathke, 808 Oakland Pl NE, cited City Code 10.31 Section E on vehicle noise. He stated there is an issue with increased jack breaking in his area. He stated these are usually ag related or livestock trucks causing this issue. With this issue being in the City Code he would ask that it be enforced. He would like to know what could be done. He would also like to know what alternative route could be used instead of 8th Avenue NE as large trucks are using this road, the road is deteriorating and the snow plows are also ruining this road. He would like to know if there is anything that can be done.

Mayor King stated that unless an officer hears it, they cannot enforce it or write a citation.

Chief McKichan stated the City are not allowed to place signs related to said ordinance on Interstate 90.

Council Member Baker stated if the City were to ticket and place signs in this area it would make a difference. He stated within the City we can put up more signs. He stated selected enforcement over a short period of time would impact this area.

Council Member Fischer acknowledged that he has received multiple complaints about this matter.

Mayor King stated that if the Police Department is able to enforce this they will.

COUNCIL REPORTS

Honorary Council Member James Arop Majak thanked Council for allowing him to be a part of the Council meetings.

Administrative Services Director Tom Dankert stated the Truth in Taxation documents are uploaded to the website and will be available for council to view. The hearing will be held on

December 4th. He also thanked Brianne Wolf and Wanda Hatfield in the Clerk's Office and all of the election judges for their great work on the elections.

Public Works Director Steven Lang stated this last weekend was the Minnesota Association of Flood Plain Managers conference and it was held in Austin. They conducted a tour of the City and Mr. Lang showed them different places within the City related to flood mitigation. He thanked all involved.

Council Member Helle thanked the residents of Austin for their patience as work is conducted on the bridges on I-90 and the 4th Street Bridge.

Council Member Baker is frustrated with MnDOT and the way they are handling this project. He reminded the citizens of Austin that there are businesses that are negatively impacted by this project and he asked that citizens please go out of their way to support these businesses.

Council Member Baker asked Mr. Lang to explain summer averaging. Mr. Lang stated residential properties in the City have summer averaging on their sewer bill. The resident has one meter in their home that monitors water consumption and use of sanitary sewer.

Mr. Lang stated in the summer, people may be watering their lawns, watering their gardens, and washing their vehicles. That is water usage that occurs outside and doesn't go down the sanitary sewer. He stated generally it is a five-month period, May through September, that they take the average of the winter water usage and apply that to the summer water bill.

Council Member Baskin thanked Steven, Mitch and their staff for advocating for the City during these state construction projects.

Council Member Fischer thanked Brianne Wolf and Wanda Hatfield in the Clerk's Office for their work during elections.

Mayor King stated the bridge construction is the price of progress but the City will be better for it in the future. He congratulated Mitch Wenum on his new employment and thanked him for his service to the City of Austin.

Moved by Council Member Baker, seconded by Council Member Baskin, adjourning the meeting to December 2, 2024. Carried.

Adjourned: 6:02 p.m.

Approved: December 2, 2024

Mayor: _____

City Recorder: _____

HOUSING TAX ABATEMENT APPLICATION

(Application Period 1-1-2023 through 12-31-2025)

Property Owner / Applicant: Bigelow & Lennon Construction
 Current Address: 211 1st St SW Byron, MN 55920
 Telephone: 507-775-7068 E-Mail: jill@bigelowlennon.com
 Has applicant ever defaulted on property taxes? ☐ Yes ☒ No *If Yes, provide details on separate page(s).*
 Are property taxes current? ☒ Yes ☐ No

PROJECT		(check all that apply)
Single-Family <input checked="" type="checkbox"/> New Construction ("stick build") <input type="checkbox"/> Modular <input type="checkbox"/> Manufactured on permanent foundation <input type="checkbox"/> Shouse		Multi-family Complex <input type="checkbox"/> Duplex <input type="checkbox"/> Townhomes <input type="checkbox"/> Apartment Building <input type="checkbox"/> Other:
Is this an application for a replacement of an existing housing unit on the same parcel? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
Is this application for an existing housing unit you intend to move to this parcel? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If YES, where is the unit being relocated from? <input type="checkbox"/> Outside Mower County OR <input type="checkbox"/> Within Mower County but currently unlivable		
Project Address: <u>1302 17th St NE Austin, MN 55912</u>		
Project Legal Description: <u>Lot 11, Block 1 Nature Ridge 3rd</u>		
Parcel Number: <u>3A,468,0110</u>		Estimated Project Valuation: \$ <u>360,000.00</u>

Attach building plans, site plan, certification from zoning entity that housing project complies with zoning regulations and there are no outstanding land use issues. (Include letter of consent from property owner if subject to purchase agreement or include a copy of the purchase agreement.)

I / We as applicant(s) for the Housing Tax Abatement submit this application having read the policy and understand the provisions as outlined including, but not limited to, the potential of a partial abatement in year one, due to % of completion on January 2nd, there are not any non-compliance or non-conformity outstanding land use issues on the parcel, construction must commence within one year of the approval, assessors cannot be refused access to the property for assessment purposes and the abatement is awarded annually following full payment of real estate taxes due.

Signature of Applicant(s) Jill Bigelow

Date 10/23/24

FOR OFFICE USE ONLY: ELIGIBLE / APPLICABLE APPROVALS

Mower County

Date:

☐ City or ☐ Township of

Date:

School District of

Date:

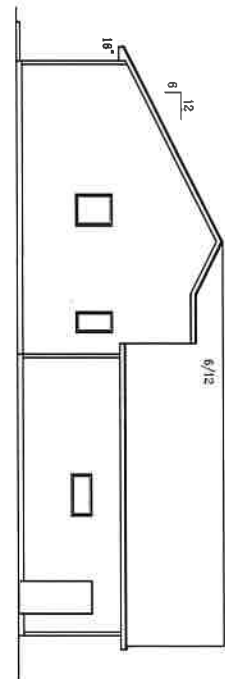
Disclaimer: Each taxing entity makes its own decision on approval or denial of application for tax abatement. Applications must comply with all requirements of the policy/program as outlined in the policy/program guidelines and build within allotted timeframe or tax abatement offer will be automatically terminated.

Please submit completed application with attachments to:

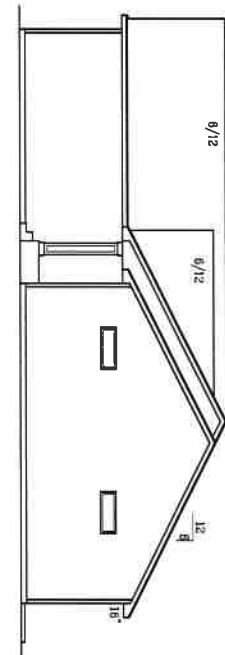
Notice – City of Austin Housing Projects

This application must be approved prior to the building permit being issued by the City of Austin.

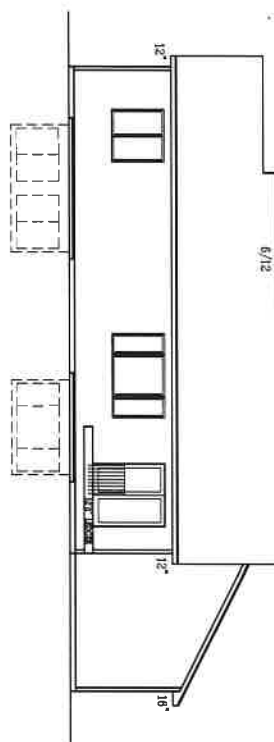
Mower County Administration
 201 1st Street NE, Suite 9, Austin MN 55912
 507-437-9549
 Office Hours: M-F 8 a.m. – 4:30 p.m.
 deniseb@co.mower.mn.us



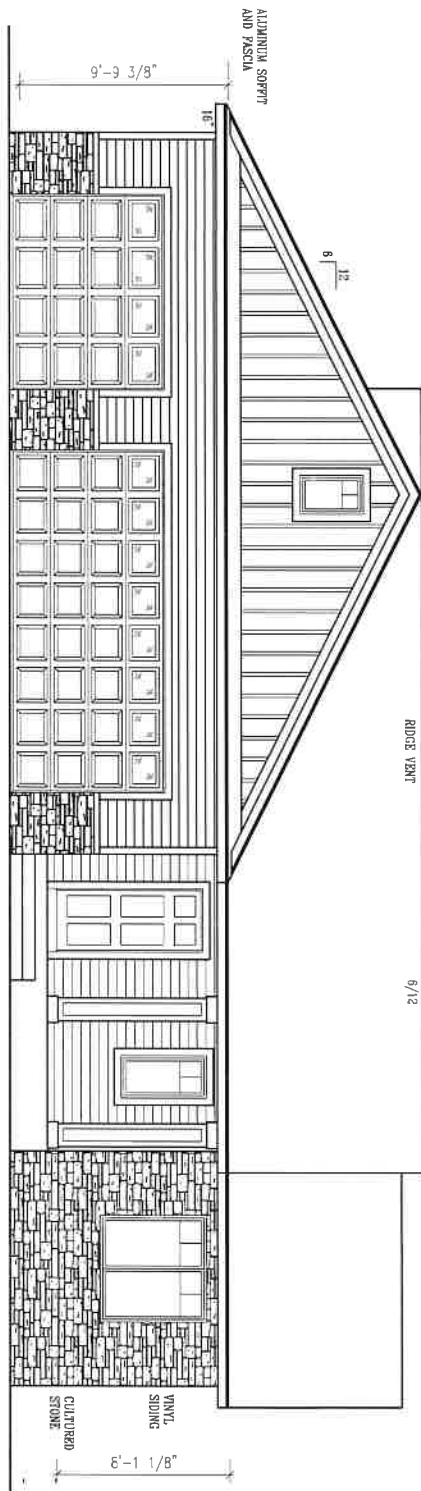
LEFT ELEVATION
SCALE 1/8"=1'-0"



RIGHT ELEVATION
SCALE 1/8"=1'-0"



REAR ELEVATION
SCALE 1/8"=1'-0"



FRONT ELEVATION
SCALE 1/4"=1'-0"

**NOT APPROVED
FOR CONSTRUCTION**
Elevation view may
change

DATE	10-28-22
BY	B.B.
DATE	1-3-24-00
BY	2213365
DATE	NOTED
BY	

CONTRACTOR:
BIGELOW / LENNON

OWNER:
Duane + Jan Hanger

These drawings have been prepared using information provided by the customer/contractor who is solely responsible for the accuracy of the information provided. The drawings are not to be used for permit drawings prepared by a contractor or architect and may not meet applicable state and local building codes which can vary widely. These plans are intended as a guide for owners who are responsible for obtaining all necessary permits and meeting all applicable building codes. Contractors should consult a competent professional to determine if the drawings need to be changed to reflect the local building codes or regulations. It is the customer's responsibility to determine if the drawings are specific to project or project site. Consult local building officials to determine if a building permit is required. We assume no responsibility for claims or damages arising from errors, omissions, deficiencies, improper construction, or defects in the drawings.

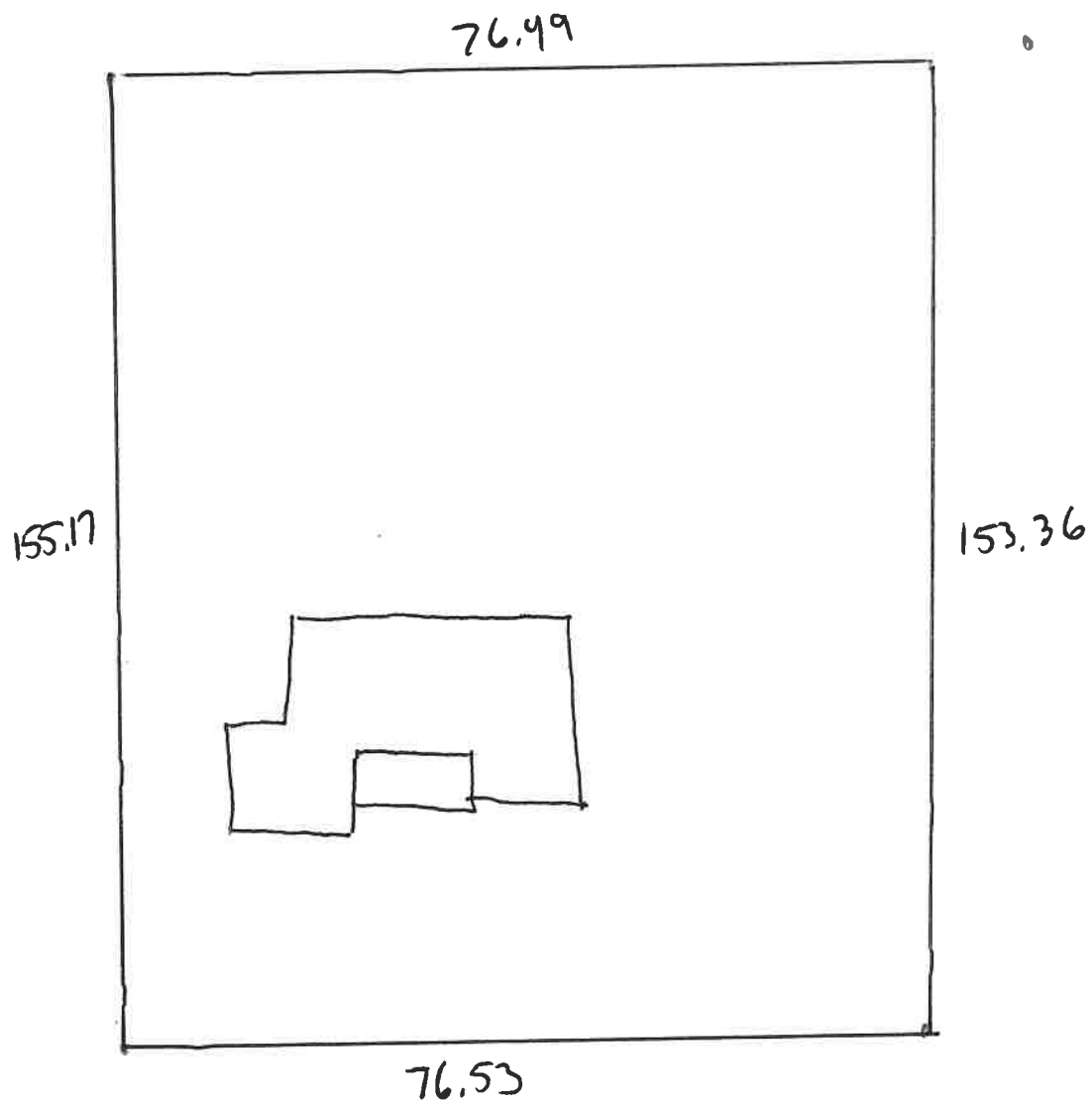
Acknowledged by _____ Date _____

Customer/Contractor Signature _____ Date _____

**PROGRESSIVE PLAN
DESIGN LLP**

RESIDENTIAL ARCHITECTURE
714 County RD 3 NW Byron MN 55920
(507-775-8877) progressiveplandesign@gmail.com

Hamer:
Lot 11 Block 1
Nature Ridge 3rd



RESOLUTION NO.

RESOLUTION APPROVING TAX ABATEMENT FOR CERTAIN PROPERTY PURSUANT TO MINN. STAT. 469.1813

WHEREAS, the Austin Home Initiative's purpose is to provide incentives to encourage the construction of new owner occupied and residential housing units within the City of Austin for the public benefit including, but not limited to, capturing future taxes from units that would not have otherwise been constructed and increasing housing inventory to support local business growth.

WHEREAS, Minnesota Statute 469.1813 gives authority to the City of Austin to grant an abatement of taxes imposed by the City if certain criteria are met; and

WHEREAS, in addition to the statutory requirements, the City of Austin has adopted the Austin Home Initiative guidelines which must be met before an abatement of taxes will be granted for residential development; and

WHEREAS, Bigelow & Lennon Construction is the owner of certain property within the City of Austin legally described as follows:

Lot 11, Block 1, Nature Ridge 3rd Addition, City of Austin, County of Mower

WHEREAS, Bigelow & Lennon Construction has made an application to the City of Austin for the abatement of taxes as to the above-described parcel; and

WHEREAS, Bigelow & Lennon Construction has met the statutory requirements outlined under Minnesota Statute 469.1813 Subdivision (1) and Subdivision 2(i) as well as the Austin Home Initiative guidelines for abatement;

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

The City of Austin does hereby grant an abatement of the City of Austin's share of real estate taxes upon the above-described parcel for the construction of a single family dwelling on the subject property.

The tax abatement will commence with the receipt of the Certificate of Occupancy, or not more than one year following approval of the taxing authority's resolution, whichever is first, and shall continue for five years.

The City shall provide the awarded abatement payments following the payment of due real estate taxes annually. Payments shall be made to the owner of record at the time of the payment.

The tax abatement shall be limited to the increase in property taxes resulting from the improvement of the property. Land values are not eligible and will not be abated.

The abatement shall be null and void if construction is not commenced within one year of the approval of this resolution or if the real estate taxes are not paid on or before the respective payment deadlines annually.

Passed by a vote of yeas and nays this 2nd day of December, 2024.

Yeas

Nays

ATTEST:

APPROVED:

City Recorder

Mayor

**City of Austin
Brianne Wolf,
City Clerk**



**500 Fourth Avenue N.E.
Austin, Minnesota 55912-3773
Phone: 507-437-9944
briannew@ci.austin.mn.us
www.ci.austin.mn.us**

TO: Mayor and City Council Members

FROM: Brianne D. Wolf, City Clerk

DATE: November 19, 2024

RE: Hearing for Currency Exchange License Renewal for Tienda Y. Taqueria Guerrero

The State of Minnesota issues currency exchange licenses and requires cities to hold public hearings for the renewals. We received the attached letter dated November 1, 2024 for the renewal of a currency exchange license for Tienda Y. Taqueria Guerrero. The license was originally issued in 2013 and the City has not received any complaints regarding the establishment.

We would recommend the approval of the license renewal.

Please let me know if you have any questions.

November 1, 2024

Sent via e-mail to:

BrianneW@ci.austin.mn.us

City of Austin

Attention: City Clerk – Brianne Wolf

500 4th Ave NE

Austin, MN 55912

RE: Currency Exchange License Renewal for 2025

Dear Ms. Wolf:

The following currency exchange licensee has applied to renew their currency exchange license to operate at:

Tienda y Taqueria Guerrero Inc.
301 D 4th Ave NE
Austin, MN 55912
NMLS #1543380

Pursuant to Minnesota Statutes Chapter 53A.04, we are notifying your office that a complete currency exchange license renewal application has been filed with the Department of Commerce. The renewal application included the names of the officers and owners of the licensee, background checks on each of the owners and officers from the Minnesota Bureau of Criminal Apprehension, a fee schedule of all fees to be charged by the currency exchange office, a \$10,000 surety bond valid through December 31, 2025, and the \$500 renewal fee. If you wish to receive a copy of the complete currency exchange license renewal application form that was filed with this office, please call Gail Groop at 651-539-1593 or email to gail.groop@state.mn.us, and the renewal application form will be emailed to you.

Minnesota Statutes Chapter 53A.04 requires the Department of Commerce to submit any application for licensure as a currency exchange to the governing body of the local unit of government in which the currency exchange business is located. The law further requires the governing body to give published notice of its intention to consider the issue and shall solicit testimony from interested persons, including those in the community in which the licensee is located. If the governing body has not approved or disapproved the issue within 60 days of receipt of the application, concurrence is presumed. The governing body shall have the sole responsibility for its decision. The state shall have no responsibility for that decision. Your cooperation in forwarding this information to the proper unit within your organization is appreciated.

Your reply must be received within 60 days of receipt of this emailed letter. If you have any questions, please contact me at the telephone number or email listed below.

Warm regards,

Melissa Knoepfler

Melissa Knoepfler

Financial Institutions Division

651-539-1722

melissa.knoepfler@state.mn.us

RESOLUTION NO.

**RESOLUTION APPROVING THE APPLICATION OF TIENDA Y TAQUERIA GERRERO, INC.
FOR A CURRENCY EXCHANGE OPERATION REGULATED BY
THE MINNESOTA DEPARTMENT OF COMMERCE**

WHEREAS, Tienda Y Taqueria Guerrero, Inc. originally submitted an application to the Minnesota Department of Commerce on May 23, 2013 for a currency exchange license; and

WHEREAS, the City of Austin approved the license on September 3, 2013; and

WHEREAS, the Minnesota Department of Commerce mailed the application for renewal the City of Austin on November 1, 2024; and

WHEREAS, pursuant to Minnesota Statute Section 53A-04 (a) states as follows:

Within 30 days after the receipt of a complete application, the commissioner shall deny the application or submit the application to the governing body of the local unit of government in which the applicant is located or is proposing to be located. The commissioner may not approve the application without the concurrence of the governing body. The governing body shall give published notice of its intention to consider the issue and shall solicit testimony from interested persons, including those in the community in which the applicant is located or is proposing to be located. If the governing body has not approved or disapproved the issue within 60 days of receipt of the application, concurrence is presumed. The commissioner must approve or disapprove the application within 30 days from receiving the decision of the governing body. The governing body shall have the sole responsibility for its decision. The state shall have no responsibility for that decision.

WHEREAS, the matter was set for a public hearing on December 2, 2024. Notice for said public hearing was published on November 20, 2024; and

NOW THEREFORE, BE IT RESOLVED, that the Austin City Council hereby approves of the renewal application submitted to the Minnesota Department of Commerce for the request of a currency exchange operation at Tienda Y Taqueria Guerrero, Inc. located at 301-D 4th Avenue NE, Austin, Minnesota.

Passed by the Austin City Council this 2nd day of December, 2024.

YEAS

NAYS

ATTEST:

APPROVED:

City Recorder

Mayor

ORDINANCE NO. _____
ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AUSTIN
TO REGULATE CANNABIS BUSINESSES

THE CITY OF AUSTIN HEREBY ORDAINS:

SECTION 1. Austin Code **Chapter 5A “CANNABIS AND CANNABIS MANAGEMENT”** is hereby adopted as follows:

Section 5A.01. Administration

5A.01.1 Findings and Purpose: The City of Austin makes the following legislative findings:

- A. The purpose of this ordinance is to implement the provisions of Minnesota Statutes, chapter 342, which authorizes the City of Austin to protect the public health, safety, welfare of the City of Austin residents by regulating cannabis businesses within the legal boundaries of the City of Austin.
- B. The City of Austin finds and concludes that the proposed provisions are appropriate and lawful land use regulations for the City of Austin, that the proposed amendments will promote the community’s interest in reasonable stability in zoning for now and in the future, and that the proposed provisions are in the public interest and for the public good.

5A.01.2 Authority & Jurisdiction: The City of Austin has the authority to adopt this ordinance pursuant to:

- A. Minn. Stat. 342.13(c), regarding the authority of a local unit of government to adopt reasonable restrictions of the time, place, and manner of the operation of a cannabis business provided that such restrictions do not prohibit the establishment or operation of cannabis businesses.
- B. Minn. Stat. 342.22, regarding the local registration and enforcement requirements of state-licensed cannabis retail businesses and lower-potency hemp edible retail businesses.
- C. Minn. Stat. 152.0263, Subd. 5, regarding the use of cannabis in public places.
- D. Minn. Stat. 462.357, regarding the authority of a local authority to adopt zoning ordinances.

This Ordinance shall be applicable to the legal boundaries of the City of Austin.

5A.01.3 Severability: If any section, clause, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.

5A.01.4 Enforcement:

The City Clerk is responsible for the administration and enforcement of this ordinance. Any violation of the provisions of this ordinance or failure to comply with any of its requirements constitutes a misdemeanor and is punishable as defined by law. Violations of

this ordinance can occur regardless of whether or not a permit is required for a regulated activity listed in this ordinance.

5A.01.5 Definitions:

- A. Unless otherwise noted in this Chapter 5A, words and phrases contained in Minn. Stat. 342.01 and the rules promulgated pursuant to any of these acts, shall have the same meanings in this ordinance.
- B. **Cannabis Cultivation:** A cannabis business licensed to grow cannabis plants within the approved amount of space from seed or immature plant to mature plant, harvest cannabis flower from mature plant, package and label immature plants and seedlings and cannabis flower for sale to other cannabis businesses, transport cannabis flower to a cannabis manufacturer located on the same premises, and perform other actions approved by the office.
- C. **Cannabis Retail Businesses:** A retail location and the retail location(s) of a mezzobusinesses with a retail operations endorsement, microbusinesses with a retail operations endorsement, medical combination businesses operating a retail location, (and/excluding) lower-potency hemp edible retailers.
- D. **Cannabis Retailer:** Any person, partnership, firm, corporation, or association, foreign or domestic, selling cannabis product to a consumer and not for the purpose of resale in any form.
- E. **Daycare:** A location licensed with the Minnesota Department of Human Services to provide the care of a child in a residence outside the child's own home for gain or otherwise, on a regular basis, for any part of a 24-hour day.
- F. **Lower-potency Hemp Edible:** As defined under Minn. Stat. 342.01 subd. 50.
- G. **Office of Cannabis Management:** Minnesota Office of Cannabis Management, referred to as “OCM” in this ordinance.
- H. **Place of Public Accommodation:** A business, accommodation, refreshment, entertainment, recreation, or transportation facility of any kind, whether licensed or not, whose goods, services, facilities, privileges, advantages or accommodations are extended, offered, sold, or otherwise made available to the public.
- I. **Preliminary License Approval:** OCM pre-approval for a cannabis business license for applicants who qualify under Minn. Stat. 342.17.
- J. **Public Place:** A public park or trail, public street or sidewalk; any enclosed, indoor area used by the general public, including, but not limited to, restaurants; bars; any other food or liquor establishment; hospitals; nursing homes; auditoriums; arenas; gyms; meeting rooms; common areas of rental apartment buildings, and other places of public accommodation.
- K. **Residential Treatment Facility:** As defined under Minn. Stat. 245.462 subd. 23.
- L. **Retail Registration:** An approved registration issued by the City of Austin to a state-licensed cannabis retail business.

- M. **School:** A public school as defined under Minn. Stat. 120A.05 or a nonpublic school that must meet the reporting requirements under Minn. Stat. 120A.24.
- N. **State License:** An approved license issued by the State of Minnesota's Office of Cannabis Management to a cannabis retail business.

Section 5A.02. Registration of Cannabis Businesses

5A.02.1 Consent to registering of Cannabis Businesses: No individual or entity may operate a state-licensed cannabis retail business within the City of Austin without first registering with the City of Austin.

Any state-licensed cannabis retail business that sells to a customer or patient without valid retail registration shall incur a civil penalty of up to \$2,000 for each violation (see the City of Austin Fee Schedule).

5A.02.2 Compliance Checks Prior to Retail Registration: Prior to issuance of a cannabis retail business registration, the City of Austin shall conduct a preliminary compliance check to ensure compliance with local ordinances.

Pursuant to Minn. Stat. 342, within 30 days of receiving a copy of a state license application from OCM, the City of Austin shall certify on a form provided by OCM whether a proposed cannabis retail business complies with local zoning ordinances and, if applicable, whether the proposed business complies with the state fire code and building code.

5A.02.3 Registration & Application Procedure:

5A.02.3.1 Fees.

- A. The City of Austin shall not charge an application fee.
- B. A registration fee, as established in the City of Austin's fee schedule, shall be charged to applicants depending on the type of retail business license applied for. An initial retail registration fee shall not exceed \$500 or half the amount of an initial state license fee under Minn. Stat. 342.11, whichever is less. The initial registration fee shall include the initial retail registration fee and the first annual renewal fee. Any renewal retail registration fee imposed by the City of Austin shall be charged at the time of the second renewal and each subsequent renewal thereafter. A renewal retail registration fee shall not exceed \$1,000 or half the amount of a renewal state license fee under Minn. Stat. 342.11, whichever is less. A medical combination business operating an adult-use retail location may only be charged a single registration fee, not to exceed the lesser of a single retail registration fee, defined under this Chapter 5A, of the adult-use retail business.

5A.02.3.2 Application Submittal.

The City of Austin shall issue a retail registration to a state-licensed cannabis retail business that adheres to the requirements of Minn. Stat. 342.22.

- A. An applicant for a retail registration shall fill out an application form, as provided by the City of Austin. Said form shall include, but is not limited to:
 - i. Full name of the property owner and applicant;

- ii. Address, email address, and telephone number of the applicant;
 - iii. The address and parcel ID for the property which the retail registration is sought;
 - iv. Certification that the applicant complies with the requirements of local ordinances established pursuant to Minn. Stat. 342.13.
- B. The applicant shall include with the form:
 - i. the registration fee as required in Section 5A.02.3.1;
 - ii. a copy of a valid state license or written notice of OCM license preapproval;
 - iii. Certification of Compliance for Minnesota Workers' Compensation under Minn. Stat. Section 176.182.
- C. Once an application is considered complete, the City Clerk shall inform the applicant as such, process the registration fees, and forward the application to the City Council for approval or denial.
- D. The registration fee shall be non-refundable once processed.

5A.02.3.3 Application Approval:

- A. A state-licensed cannabis retail business application shall not be approved if the cannabis retail business would exceed the maximum number of registered cannabis retail businesses permitted under Section 5A.02.6.
- B. A state-licensed cannabis retail business application shall not be approved or renewed if the applicant is unable to meet the requirements of this ordinance.
- C. A state-licensed cannabis retail business application that meets the requirements of this ordinance shall be approved.

5A.02.3.4 Annual Compliance Checks: The City of Austin shall complete at minimum one compliance check per calendar year of every cannabis business to assess if the business meets age verification requirements, as required under Minn. Stat. 342.22 Subd. 4 and this Ordinance.

The City of Austin shall conduct at minimum one unannounced age verification compliance check at least once per calendar year.

Age verification compliance checks shall involve persons at least 17 years of age but under the age of 21 who, with the prior written consent of a parent or guardian if the person is under the age of 18, attempt to purchase adult-use cannabis flower, adult-use cannabis products, lower-potency hemp edibles, or hemp-derived consumer products under the direct supervision of a law enforcement officer or an employee of the local unit of government.

Any failures under this Chapter 5A must be reported to the Office of Cannabis Management.

5A.02.3.5 Location Change: A state-licensed cannabis retail business shall be required to submit a new application for registration under Section 5A.02.3.2 if it seeks to move to a new location still within the legal boundaries of the City of Austin.

5A.02.4 Renewal of Registration: The City of Austin shall renew an annual registration of a state-licensed cannabis retail business at the same time OCM renews the cannabis retail business' license. A state-licensed cannabis retail business shall apply to renew registration on a form established by the City of Austin. A cannabis retail registration issued under this ordinance shall not be transferred.

5A.02.4.1 Renewal Fees: The City of Austin may charge a renewal fee for the registration starting at the second renewal, as established in the City of Austin's fee schedule.

5A.02.4.2 Renewal Application: The application for renewal of a retail registration shall include, but is not limited to:

- i. Items required under Section 5A.02.3.2 of this Ordinance.
- ii. A certification of the registrant's violation history covering the previous five-year period (violations related to cannabis related offenses, or violations of the Minnesota regulations governing the State License).

5A.02.5 Suspension of Registration

5A.02.5.1 When Suspension is Warranted: The City of Austin may suspend a cannabis retail business's registration if it violates the ordinance of the City of Austin or poses an immediate threat to the health or safety of the public. The City of Austin shall immediately notify the cannabis retail business in writing the grounds for the suspension.

5A.02.5.2 Notification to OCM: The City of Austin shall immediately notify the OCM in writing the grounds for the suspension. OCM will provide the City of Austin and cannabis business retailer a response to the complaint within seven calendar days and perform any necessary inspections within 30 calendar days.

5A.02.5.3 Length of Suspension. The suspension of a cannabis retail business registration may be for up to 30 calendar days, unless OCM suspends the license for a longer period. The business may not make sales to customers if their registration is suspended. The City of Austin may reinstate a registration if it determines that the violations have been resolved. The City of Austin shall reinstate a registration if OCM determines that the violation(s) have been resolved.

5A.02.5.4 Civil Penalties: Subject to Minn. Stat. 342.22, subd. 5(e) the City of Austin may impose an administrative citation, as specified in the City of Austin's city code, for registration violations, not to exceed \$2,000.

5A.02.6 Limiting of Registrations: The City of Austin shall limit the number of cannabis retail businesses to no fewer than one registration for every 12,500 residents within the City of Austin. If Mower County has one active cannabis retail businesses registration for every 12,500 residents, the City of Austin shall not be required to register additional state-licensed cannabis retail businesses.

Section 5A.03. Requirements for Cannabis Businesses

5A.03.1 Zoning and Land Use:

5A.03.2.1. Cultivation. Cannabis businesses licensed or endorsed for cultivation are permitted as a Conditional Use in the following zoning districts:

- i. **Cultivation to occur outdoors:** No zoning districts.
- ii. **Cultivation to occur indoors:** Industrial Districts.

5A.03.2.1. Cannabis Manufacturer: Cannabis businesses licensed or endorsed for cannabis manufacturer are permitted as a Conditional Use in the following zoning districts:

- i. I-2 and I-3 Districts, with all processing, handling, and storage indoors.

5A.03.2.1. Hemp Manufacturer: Businesses licensed or endorsed for lower-potency hemp edible manufacturers permitted as a Conditional Use in the following zoning districts:

- i. I-2 and I-3 Districts, with all processing, handling, and storage indoors.

5A.03.2.1. Wholesale: Cannabis businesses licensed or endorsed for wholesale are permitted as a Conditional Use in the following zoning districts:

- i. Industrial Districts, with all storage indoors.

5A.03.2.1. Cannabis Retail: Cannabis businesses licensed or endorsed for cannabis retail are permitted as a Conditional Use in the following zoning districts:

- i. B-2 and B-3 Districts.

5A.03.2.1. Cannabis Transportation: Cannabis businesses licensed or endorsed for transportation are permitted as a Conditional Use in the following zoning districts:

- i. Industrial Districts.

5A.03.2.1. Cannabis Delivery: Cannabis businesses licensed or endorsed for delivery are permitted as a Conditional Use in the following zoning districts:

- i. B-2 and B-3 Districts.

5A.03.3 Hours of Operation – On-Sale Consumption: No sale of cannabis flower, cannabis products, lower potency hemp edibles, or hemp-derived consumer products by a holder of a state issued Retail Registration/License under which on-site consumption of such products is authorized may be made between the hours of 1:00 a.m. and 8:00 a.m.

5A.03.4 Hours of Operation – Off-Sale Consumption: No sale of cannabis flower, cannabis products, lower potency hemp edibles, or hemp-derived consumer products by a holder of a state issued Retail Registration/License under which on-site consumption of such products is prohibited may be made between the hours:

- A. Before 8:00 a.m. or after 10:00 p.m.;
- B. On Thanksgiving Day;

- C. On Christmas Day, December 25; or
- D. After 8:00 p.m. on Christmas Eve, December 24.

Section 5A.04. Temporary Cannabis Events: Any individual or business seeking to obtain a cannabis event license must provide OCM information about the time, location, layout, number of business participants, and hours of operation. A cannabis event organizer must receive local approval, including obtaining any necessary permits or licenses issued by a local unit of government before holding a cannabis event. No such events will be permitted in any city owned park, recreation area or facility, or in or on any City owned property.

5A.04.1 License or Permit Required for Temporary Cannabis Events

5A.04.1.1 License Required.

A cannabis event organizer license entitles the license holder to organize a temporary cannabis event lasting no more than four days. A jurisdiction should determine what type of approval is consistent with their existing ordinances for events.

A license or permit is required to be issued and approved by the City of Austin prior to holding a Temporary Cannabis Event.

5A.04.1.2 Registration & Application Procedure: A registration fee, as established in the City of Austin's fee schedule, shall be charged to applicants for Temporary Cannabis Events.

5A.04.1.3 Application Submittal & Review. The City of Austin shall require an application for Temporary Cannabis Events.

- (A) An applicant for a Temporary Cannabis Event registration shall fill out an application form, as provided by the City of Austin. Said form shall include, but is not limited to:
 - i. Full name of the property owner and applicant;
 - ii. Address, email address, and telephone number of the applicant;
 - iii. Location of the event.
 - iv. Dates and times of the Event including setup and tear down.
 - v. Description of the Event sufficient for review of the security, traffic, sanitation, and sanitary needs of the event.
 - vi. Whether food is to be served, by whom, and whether other vendors or providers are intended sufficient to ensure proper licensure of those vendors or providers and sufficient utility services, sanitation, and traffic controls are available.
 - vii. Whether the event will include any amplification of sounds, voices, or music.

- viii. Whether the event is to be advertised and if so the scope of advertising, with information sufficient to allow planning for crowd control and security.
- ix. A detailed map of the event layout.
- x. The application fee as required in Section 5A.04.1.2;
- xi. A copy of the OCM cannabis event license application, submitted pursuant to Minn. Stat. § 342.39 subd. 2.

The application shall be submitted to the City Clerk, or other designee for review. If the designee determines that a submitted application is incomplete, they shall return the application to the applicant with the notice of deficiencies.

- (A) Once an application is considered complete, the designee shall inform the applicant as such, process the application fees, and forward the application to the City Clerk for approval or denial.
- (B) The application fee shall be non-refundable once processed.
- (C) The application for a license for a Temporary Cannabis Event shall meet the following standards:
 - i. The application will be reviewed by the Austin Police Department, Austin Public Works Department, and any other local department or agencies whose jurisdiction is reasonably related to the Temporary Cannabis Event.
 - ii. The application will be reviewed for conformance with local ordinances, health safety, wellness, welfare concerns related to but not limited to traffic flow and congestion, provision of sufficient sanitation and sanitary services and supplies, crowd control and security, and impacts on neighboring properties or the public in general.
- (D) A request for a Temporary Cannabis Event that meets the requirements of this Section 5A.04 shall be approved.
- (E) A request for a Temporary Cannabis Event that does not meet the requirements of this Section 5A.04 shall be denied. The City Clerk shall notify the applicant of the standards not met and basis for denial.
- (F) Temporary cannabis events shall only be held between the hours of 8:00 a.m. and 10:00 p.m.

Section 5A.05. Use in Public Places: No person shall use cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products in a public place or a place of public accommodation unless the premises is an establishment or an event licensed to permit on-site consumption of adult-use. See also Austin Code Section 6.60.

SECTION 2. Austin Code Section 11.030 “USE TABLE” is amended to include uses licensed under Austin Code Chapter 5A consistent with the provisions of Austin Code Section 5A.03.

Passed by the City Council of the City of Austin this ____ day of December, 2024.

YEAS _____

NAYS _____

APPROVED:

Stephen M. King, Mayor

ATTEST:

Tom Dankert, Recorder

This ordinance was introduced on December ____, 2024; approved on December ____, 2024; was published in the Austin Daily Herald on December ____, 2024, and becomes effective December ____, 2024.

SUMMARY OF ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AUSTIN
TO REGULATE CANNABIS BUSINESSES**

The Austin City Council adopted an ordinance governing the zoning and registration of Cannabis Businesses that are licensed by the State of Minnesota Office of Cannabis Management.

SUMMARY: Minnesota Statutes empower the City of Austin to adopt reasonable restrictions of the time, place, and manner of the operation of a cannabis business, cannabis events, and use or consumption of cannabis. This ordinance contains these restrictions, including zoning, registration, and application processes and fees. This ordinance also governs enforcement, inspections, and both renewal and suspension of local cannabis business registrations. This ordinance also limits the number of cannabis retail licenses allowed within the City of Austin to one registration for every 12,500 residents of the City, and allows the City to reject a cannabis retail license of Mower County has already approved one active cannabis retail registration for every 12,500 residents of Mower County.

COPIES OF ORDINANCE: The above is only a summary of the essential elements of the ordinance. A printed copy of the full ordinance is available for inspection by any person during regular office hours at the Clerk's Office located at 500 4th Avenue NE, Austin, Minnesota 55912, or at the Austin Public Library located at 323 4th Avenue NE, Austin, Minnesota 55912.

Passed by the Austin City Council this _____ day of December, 2024.

YEAS

NAYS

ATTEST:

APPROVED:

Tom Dankert, City Recorder

Stephen M. King, Mayor

This ordinance was introduced on December ____, 2024; approved on _____, 2024; was published in the Austin Daily Herald on _____ 2024; and becomes effective _____, 2024.

RESOLUTION NO.

ESTABLISHING AND FIXING LICENSE FEES AND MISCELLANEOUS
OPERATIONAL FEES OF THE CITY OF AUSTIN FOR THE YEAR 2025

WHEREAS, pursuant to Austin City Code, Section 6.04 requires that the City Council by resolution fix and determine fee for licenses; and

WHEREAS, the City of Austin has certain fees for miscellaneous business operations.

NOW, THEREFORE, BE IT HEREBY RESOLVED, that the City Council of the City of Austin sets the following miscellaneous business operational fees to be effective January 1, 2025, and that a copy of this resolution which sets forth the approved fees shall be on file in the office of the City Clerk.

Administrative Citations	\$300 – Building code violations \$200 – MN State Fire code violations \$100 – All other code violations Repeat violations within 24 months 25%, 50% and 100% increased, doubling after the 4 th violation to a maximum of \$2,000
Administrative Billing Fee (for nuisance type billings)	\$75.00
Air Tank Fill	\$15.00
Airport Hangar Fees	\$.10 per sq. ft annually
Airport T-Hangar Fees	\$250.00 per unit monthly 2% annual increase for multi-year leases \$250 admin fee due at lease signing
Animal Adoption	\$10.00
Animal Impounding Fees	\$20.00 25.00 - 1st time \$30.00 35.00 - 2nd time \$40.00 45.00 - 3rd time \$50.00 55.00 - 4 th or more times \$15.00 20.00 + per day boarding
Assessment Searches	\$25.00
Auto Extrication or Haz Mat/ Gas Line Strike	\$250.00/hour, Engine/Ladder, one-hour minimum \$125.00/hour, Rescue/Tanker, one-hour minimum \$100.00/hour, Command/Brush/Utility, one-hour minimum Duty fire personnel, one hour minimum Paged fire personnel, two hour minimum

Cat Permanent License	\$10.00 - Spayed/neutered \$25.00 - Not spayed/neutered \$5.00 - Replacement
Daycare/Foster Care Inspections	\$50.00
Dog Permanent License	\$10.00 - Spayed/neutered \$25.00 - Not spayed/neutered \$5.00 – Replacement
Cannabis Registration Fees	The City of Austin will follow the guidance under Minn. Stat. 342.11 in issuing cannabis registration fees.
Copy Fees	\$.25 - one-sided \$.50 - two-sided \$.50 - 11x17 paper \$.50 – color copies
Code Book	\$100.00
Code Book Supplement	\$15.00
Credit Card Fee	4% on all charges
False Alarms (after two false alarms)	\$100.00
Filing Fees	\$25.00 (per City Charter)
Finance Fees	1% unpaid balance per month after 30 days or a minimum of \$10.00 per month
Fire Reports	\$15.00
Fire Watch	Hourly rate billed per each fire fighter
Fireworks Permit	\$100.00
Flow Test	\$30.00
Liquor Catering	\$200.00
Maps	\$8.00 4' x 5' (approx. size) \$4.00 2' x 3' (approx. size)
Media Copies	\$10.00 DVD
Moving Permits	\$160.00 Police escort (minimum), if required

Notarial Services	\$1.00 per document
NSF Check Fees	\$40.00
Parking Permit Fees	\$20.00 per month (individual marked spot) \$20.00 per month (rental permit) \$100.00 per year (designated lot)
Parking Violation	\$10.00 over time \$20.00 fire hydrant
Parking Violation – Snow Emergency	\$25.00
Pawn Fees Electronic Transactions	\$1.50 per billable transaction
Pawn Fees Manual Transaction	\$2.50 per billable transaction
Police Officer Use Two Hour Minimum	\$100.00 \$105.00 per hour – Officer \$110.00 \$115.00 per hour – Detective \$125.00 \$130.00 per hour – Supervisor
Rental Licensing Fees	\$120 Single family property \$100 + \$20 per unit Multi family property 20% of license fee for late fee \$50 reinspection fee \$500 failure to register fee
Right-of-Way Management Fees	\$75.00 \$85.00 Registration Fee \$60.00 Excavation Permit Fee \$92.50 Hole-Spot Excavation \$0.20/lf Trenching/Directional Boring \$60.00 Lane Closure \$60.00 Overweight/Width Load \$100.00 House Moving \$60.00 Garage Moving \$30.00 Permit Extension
Sanitary Sewer Cleaning Jetter/Vac Rental	\$450.00 1 st hour \$350.00 every hour thereafter \$125.00 disposal \$30.00 per hour additional for overtime \$200.00 per hour televising service

Residential Equivalent Unit (REU), 1 REU = \$1,500.00

Sewer Lateral Development Charge:

Sewer Service Charge:

\$.65 per linear foot

\$.25 per linear foot

\$250.00 sign & post replacement
\$125.00 every additional sign

\$120.00 per property

\$150.00 administration fee
\$20.00 per day storage

\$2,500 Annual Administration
 \$250 Sample Collection (per round)
~~\$72.55~~ \$77.63 Tanker (per 6000 gal.load)
 \$20.00 RV Dump Station (per visit)

\$300.00	Conditional Use Permit
\$400.00	Platting(plus \$25.00 per lot)
\$300.00	Rezoning
\$300.00	Variance
\$150.00	\$200.00 Fence Appeal
\$150.00	\$200.00 Sign Appeal
\$225.00	Interim Use Permit (1-2 years)
\$300.00	Interim Use Permit (3-5 years)

\$30.00	Residential
\$100.00	Commercial
\$50.00	Rush Fee (2 days)

Passed by a vote of yeas and nays this 2nd day of December, 2024.

YEAS

NAYS

ATTEST:

APPROVED:

City Recorder

Mayor

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



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

Memorandum

To: Mayor & Council
From: Steven Lang, P.E.
Date: November 21, 2024
Subject: T-Hangar Lease Agreement Template

Council previous approved a rate structure for the T-Hangar leases in the amount of \$250 per month, with a 2% yearly increase and a \$250 admin fee due at signing. Attached for your consideration is a T-Hangar lease agreement template drafted with review from the City Attorney.

We request approval of the lease agreement template for staff to begin securing leases for the T-Hangars. Please let me know if you have any questions.

AIRPORT T-HANGAR LEASE AGREEMENT

This Airport Lease Agreement (this "Lease") is made effective _____, 20__ by and between the City of Austin, Minnesota, a Minnesota municipal corporation with a principal address of 500 4th Ave NE, Austin, MN 55912 (Lessor"), and John Smith a person under the laws of the State of Minnesota with a principal address of 100 1st Street NE, Austin, MN 55912 ("Lessee")

1. **Leased Premises** Lessor hereby leases and demises unto Lessee, and Lessee hereby leases and accepts from Lessor, for the purpose of aviation activities, the following described portion of the Austin Airport:

T-Hangar Plat No. 603, Unit 1 ± 1,092 sq.ft.

as designated on the map in the City Engineer's Office which is hereby incorporated by reference and made a part of this Lease for the purpose of showing the actual area leased (the "Premises"). The Premises consists of approximately 1,092 sq.ft. as follows:

T-Hangar Unit	42 ft x 19 ft	= 798 sq.ft.
	21 ft x 14 ft	= 294 sq.ft.
		1,092 sq.ft.

2. **Term of Lease** This Lease shall be for a term of ten (10) months commencing on March 1st, 2025, and ending on December 31st, 2025.

3. **Rent** Lessee agrees to pay Lessor as rent for the Premises according to the following rent schedule:

Plat No. 603, Unit 1	<u>Calendar Year 1</u>
	\$250 per month = \$2,500 Annually
	\$250 activation fee at the start of each lease
	<u>Calendar Year 2 and beyond</u>
	\$255 per month = \$3,060 Annually
	2% annual increase during the term of the lease

The annual rent payment is due in advance of March 1st, 2025 and on or before the 1st day of January each year thereafter during the term of this Lease. A \$250 activation fee will be charged at the start of each lease agreement.

4. **Renewal** At least ninety (90) days prior to the expiration of the term of this Lease, Lessee shall give written notice to Lessor of Lessee's intention to either vacate the Premises at the end of the initial Lease term or to renew the Lease. Provided Lessee has not defaulted under any of the terms or conditions of this Lease, Lessee shall have the option to renew this Lease for a specified duration upon the same terms and conditions herein, except for the rent, which shall be negotiated in good faith and mutually agreed to by the parties. In the event Lessee and Lessor do not mutually agree upon such rent at least thirty (30) days prior to the expiration of the term of this Lease, then this Lease shall terminate at the end of such term.
5. **Use of Premises** Lessee shall use the Premises for aviation related purposes only. Lessee shall not do anything to materially or adversely effect the quiet enjoyment by

other Lessees of other units within the Hanger. Material alterations to said hangar must be submitted to the City Engineer and the Austin Airport Committee for approval. Material Alterations are those that modify, expand, construct, or otherwise impact structural components, flooring, roofing, interior walls, or any mechanical or utility services or systems. Material Alterations include the installation, removal, replacement, or modification of any fixture or any personal property that is attached to or affixed to any surface or component of Lessor's existing hangar. Lessee shall keep the premises maintained so that the premises do not become unsafe or unsightly, and shall promptly repair any damage done by Lessee to the condition the premises were in at the commencement of the lease, normal and ordinary wear and tear excepted.

Lessee shall not sell or provide for the sale of aviation fuel, oil or other fuel products or repair and maintenance services to non-Lessee owned or leased aircraft. This clause shall not prevent Lessee from repairing, or servicing its owned or leased aircraft on the Premises.

Lessee shall have the right store any plane on the premises so long as such plane is owned or leased directly by Lessee or by a corporation, limited liability company, or partnership in which Lessee has an ownership interest.

6. **Utilities; Roadways and Taxiways** Lessor has provided existing separately metered electrical service for the premises. Lessee accepts the same as sufficient for its intended use of the Premises. Lessee will not alter the existing electrical service or installations. Lessee will be solely responsible for all costs associated with the electrical service to the Premises. Lessor will provide and maintain, at its expense, roadways and taxiways that are not solely used by Lessee for Lessee operation.
7. **Lessor's Right of Entry** Lessor shall have the right to enter the Premises at any reasonable time with reasonable advance notice to Lessee for purposes of inspection or in exercise of its governmental function. Said right of entry shall not unreasonably interfere with Lessee's business operations.
8. **Subletting and Assignment** Lessee will not sublet the Premises, or any part thereof, or transfer or assign this Lease without the prior written consent of Lessor, which consent shall not be unreasonably withheld. No consent is necessary if Lessee assigns or subleases this Lease to a wholly-owned subsidiary of Lessee.
9. **Hazardous Materials** Lessee shall not construct underground fuel tanks on the Premises, and shall not store any hazardous material or any product, material or equipment which is not incidental to use of the hangar for storage of and/or service to its owned or leased aircraft stored thereon unless written permission therefore is granted by Lessor, and such construction and storage is in accordance with applicable federal, state and local environmental and land use requirements.

Lessee shall not use or conduct its operation on the Premises in such manner as would cause contamination of the Premises and places it in violation of the pollution laws and regulations of either the State of Minnesota, or the United States. Lessee shall immediately cause to be removed or corrected, as may be necessary in order to comply with the laws of the State of Minnesota and/or the United States, any hazardous waste or materials that may intentionally, accidentally or otherwise be deposited or accumulated by Lessee on the Premises.

10. **Legal Compliance** This Lease is subject to, and the parties agree to abide by, all applicable laws and regulations, including without limitation the nondiscrimination regulations contained in 49 Code of Federal Regulations Part 21. Any clause required by law to be included in this Lease is by this reference incorporated into this Lease as if fully set forth herein.

11. **Insurance and Indemnification** Lessee shall, at all times during the term of this Lease and at Lessee's sole expense, obtain and maintain its own property insurance, Workers' Compensation Insurance at statutory limits, and General Liability Insurance. Within ten (10) days of Lessor's written request, Lessee shall provide Lessor with a Certificate of Insurance evidencing said insurance.

Each party shall indemnify and hold harmless the other party from any and all liabilities, damages, claims, judgments, costs and expenses (including reasonable attorneys' fees) arising out of or in connection with its negligence, its breach of any of the provisions of this Agreement, or its failure to comply with any applicable laws or regulations, except to the extent such liabilities, damages, claims, judgments, costs or expenses result from the other party's negligence.

12. **Default By Lessee** This Lease is made upon the express condition that if default is made in any of the covenants and agreements contained in this Lease to be kept by Lessee, and such default shall continue for ten (10) days after written notice by Lessor to Lessee in the case of default in payment of any rent herein provided, or for thirty (30) days after written notice by Lessor to Lessee in the case of any other default, then it shall be lawful for Lessor to terminate this Lease and to re-enter and take possession of the Premises and to hold and enjoy the same for the balance of the Lease term. In the event Lessor does terminate this Lease pursuant to this Section 13, Lessee shall forfeit any pre-paid rents. Should Lessee wish to terminate this lease before the end of its term, Lessee shall give Lessor no less than 60 days' notice of its intention to terminate, and upon such termination and vacation of the Premises consistent with the terms of this lease, Lessee shall be entitled to a proportionate refund of the rent paid in advance for the unused term of this Lease remaining after such termination and vacation. Should Lessee fail to provide such notice, but still terminate and vacate the Premises as stated above, Lessee shall only be entitled to a proportionate refund of the rent paid in advance for the unused term of this Lease remaining after a date that is 60 days after such termination and vacation.

13. **Quiet Enjoyment** Lessor agrees that so long as Lessee shall duly and punctually perform and preserve all of the terms, covenants and agreements of this Lease by Lessee to be performed and observed, Lessee shall quietly and peaceably hold, possess and enjoy the Premises for the purposes herein permitted without any hindrance or molestation from Lessor or any person claiming by, through or under Lessor.

14. **Notices** Any notice or other information required or authorized by this Lease to be given by either party to the other may be given by hand with receipt, by reputable express delivery service, or by U.S. Mail sent certified mail, return receipt requested to the other party at the address stated below. Such address may be changed by either respective party at any time by giving thirty (30) days prior written notice as

herein provided. Any notice or information given pursuant to this Section shall be deemed to have been given when received by the party to whom it has been directed.

TO LESSOR:
City of Austin
500 4th Ave NE
Austin, MN 55912
Attn: Steven Lang, City Engineer

TO LESSEE:
Joe Smith
100 1st Street NE
Austin, MN 55912
507-438-1111
joesmith@gmail.com

15. **Miscellaneous** This Lease may be amended only in a writing signed by duly authorized representatives of both Lessor and Lessee. This Lease shall bind and inure to the benefit of the parties and their successors and permitted assigns.

IN WITNESS WHEREOF, Lessor and Lessee have executed this Lease as of the date first above written.

CITY OF AUSTIN, "Lessor"

Joe Smith, "Lessee"

By: _____

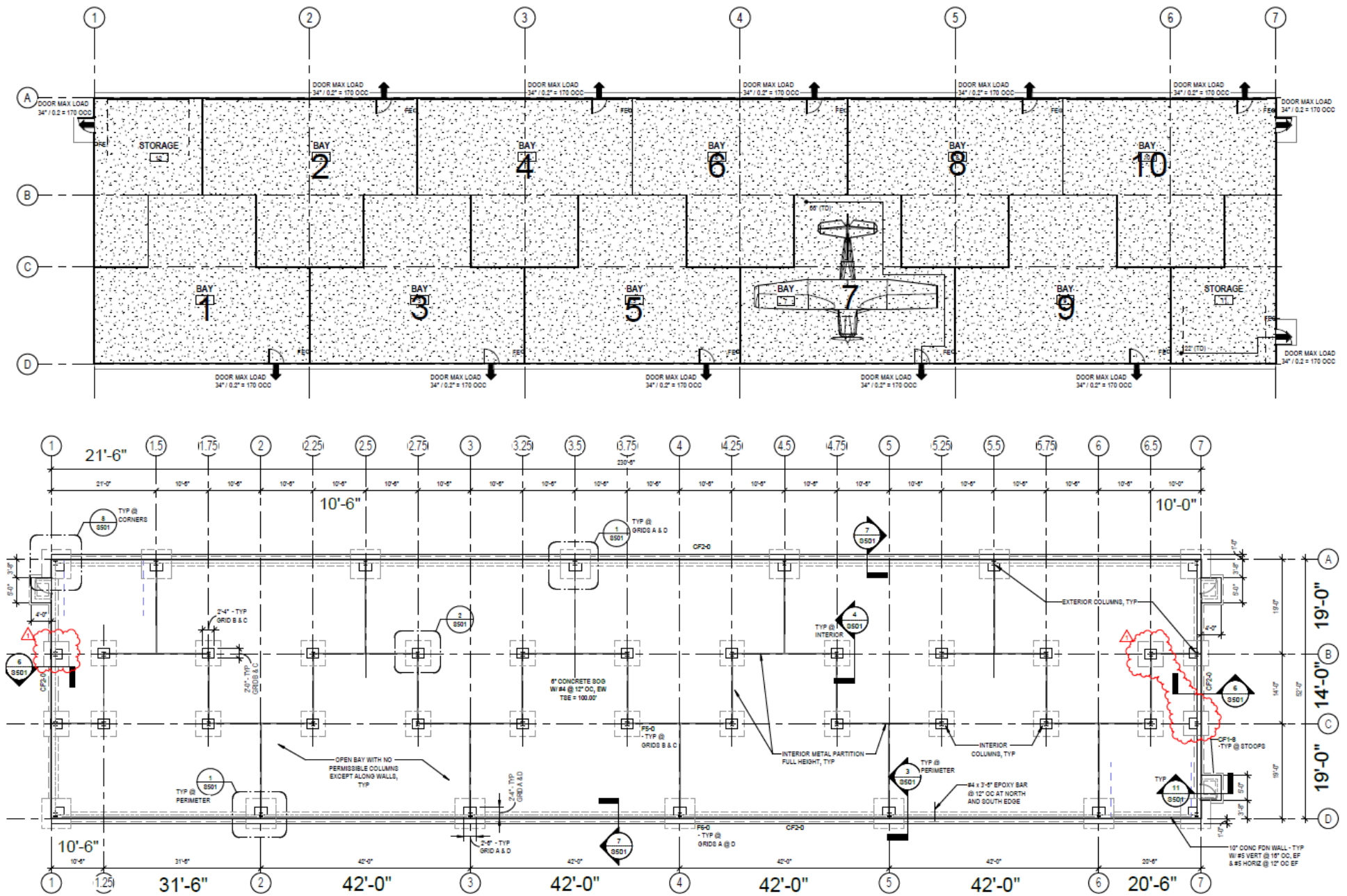
By: _____

Name: Steven Lang

Name: **Joe Smith**

←North

T-Hangar Layout



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



Phone: 507-437-9940

www.ci.austin.mn.us

MEMO

TO: Mayor and City Council

FROM: Tom Dankert

DATE: December 2, 2024

SUBJECT: Hormel Foundation Grants approved for 2025
U:\HORMEL FOUNDATION\Hormel Foundation - 2024\Hormel Foundation 2025 Grants approved for CC.doc

The listing below are the grants that have been approved by The Hormel Foundation for 2025:

- Emerald Ash Borer Treatment/Planting – partial funding of \$250,000 (requested \$400,000)
- Affordable Housing Project - \$900,000
- 4th of July Fireworks - \$23,000 (requested \$25,000)
- Police Chaplaincy Program - \$15,600
- Police Drones - \$18,185
- Todd Park Playground Equipment - \$80,000
- Jay C. Hormel Nature Center Education Programs - \$45,000 (requested \$50,000)
- ADA Walkways - \$20,000
- HRA Daycare Program - \$10,000
- Delivering the Data: Hotspot Data Plans 2025 - \$60,000
- Fire Prevention and Education - \$5,000

Additionally, we were approved the following grants that benefit other City partners:

Quality of Life - \$73,253 (Austin Artworks Center for rent and property tax reimbursement) and \$3,670,155 for the Paramount Theater renovation.

The only grant request that was not partially or fully funded, was the \$11,000 requested for speakers and picnic tables.

We would request Council approve the above grants via resolution up front as opposed to when the funds are actually received in 2025. Additionally, in 2025 we will pass a budget amendment to include the revenues/expenses into our budgets that have not already been budgeted for.

We would also like to thank The Hormel Foundation for their generous grants to the City of Austin. In total we have been approved for \$5,170,193 (including partner grants) for 2025!

RESOLUTION NO.

ACCEPTING DONATIONS FROM HORMEL FOUNDATION

WHEREAS, the City has submitted the applications for the 2025 Hormel Foundation grant awards; and

- Emerald Ash Borer Treatment/Planting – partial funding of \$250,000 (requested \$400,000)
- Affordable Housing Project - \$900,000
- 4th of July Fireworks - \$23,000 (requested \$25,000)
- Police Chaplaincy Program - \$15,600
- Police Drones - \$18,185
- Todd Park Playground Equipment - \$80,000
- Jay C. Hormel Nature Center Education Programs - \$45,000 (requested \$50,000)
- ADA Walkways - \$20,000
- HRA Daycare Program - \$10,000
- Delivering the Data: Hotspot Data Plans 2025 - \$60,000
- Fire Prevention and Education - \$5,000

WHEREAS, the Hormel Foundation also approved the following pass-thru grants:

Quality of Life - \$73,253 (Austin Artworks Center for rent and property tax reimbursement) and \$3,670,155 for the Paramount Theater renovation.

WHEREAS, according to M.S. §465.03, the City Council must accept the donations by a two-thirds majority.

NOW, THEREFORE, BE IT RESOLVED that the Austin City Council graciously accepts the Hormel Foundation grants for 2025.

Passed by a vote of yeas and nays this 2nd day of December, 2024.

YEAS

NAYS

ATTEST:

APPROVED:

City Recorder

Mayor

Thursday, November 21, 2024

To: Austin City Council
From: Keven Maxa, Engineering Supervisor

Re: Release of Easement, 510 2 St NW

Austin Utilities has received a request to release an electric utility easement at 510 2 St NW in Austin, the former Mayo Eye Clinic. The easement was originally obtained in 1978.

AU staff have reviewed the situation. There are no electric facilities currently in the easement. AU staff do not anticipate there will be any need to install electric or other utility facilities in the easement in the future.

The Austin Utilities Board has approved the Release of Easement at their Nov. 19, 2024 Board Meeting. City Charter requires that all release of property rights be approved by both the AU Board and City Council.

AU staff recommend the City Council approve this Release of Easement.

Sincerely,



Keven Maxa, Engineering Supervisor

RELEASE OF EASEMENT

COMES NOW Austin Utilities, a body politic under the Charter of the City of Austin, Minnesota, and for valuable consideration received, releases the real property described below from the Easement recorded on September 28, 1978, as Document 336135. The real property is described as follows:

The South 5 feet of the North 88 feet of Lots 4 and 5, in Block 2, of Morgan's Addition to Austin, Mower County, Minnesota; also, the East 5 feet of the North 88 feet of Lot 4, in Block 2, of Morgan's Addition to Austin, Mower County, Minnesota.

IN WITNESS WHEREOF, Austin Utilities has hereunto set its signature this ____ day of November, 2024.



Mark Nibaur
General Manager

STATE OF MINNESOTA

SS:

COUNTY OF MOWER

On this 19th day of November, 2024, before me, a Notary Public within and for said County, personally appeared Mark Nibaur, to me personally known, who, being by me duly sworn, did say that he is the General Manager of Austin Utilities, a body politic and corporate under the Charter of the City of Austin, Minnesota, and that said instrument was executed on behalf of said corporation by authority of its Board of Directors and that said person acknowledged that he executed

the same as the free act and deed of said company.



Sarah J. Douty
Notary Public

This instrument was drafted by:
Marty G. Helle (#0307476)
Hoversten, Johnson, Beckmann & Hovey, LLP.
807 W. Oakland Ave.
Austin, MN 55912
(507) 433-3483

Keven –

I'm writing on behalf of Rebound, Inc. (Austin Real Estate Fund), the owner of the old Mayo Optical building at 510 2nd Ave. N.W. They are in the process of selling that building and would like Austin Utilities to release an easement over the premises. The easement was recorded as Document 336135 in 1978. A copy of it is attached, as is a photograph with the easement area drawn in, and a rough plat of the premises. Also attached is a draft release of the easement that I drafted.

I know you have looked at this issue before, and it is my understanding that Austin Utilities has no need for this easement. For that reason, I am assuming that the release of the easement will not be controversial. It is my understanding that the matter needs to go before the Utility Board and then the City Council for approval.

Please put this matter on the next Utility Board agenda. If there is anything else you need from me concerning this request, please let me know.

Thanks!

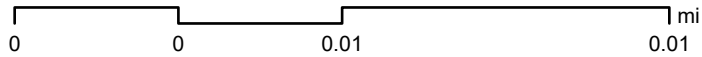
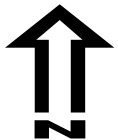
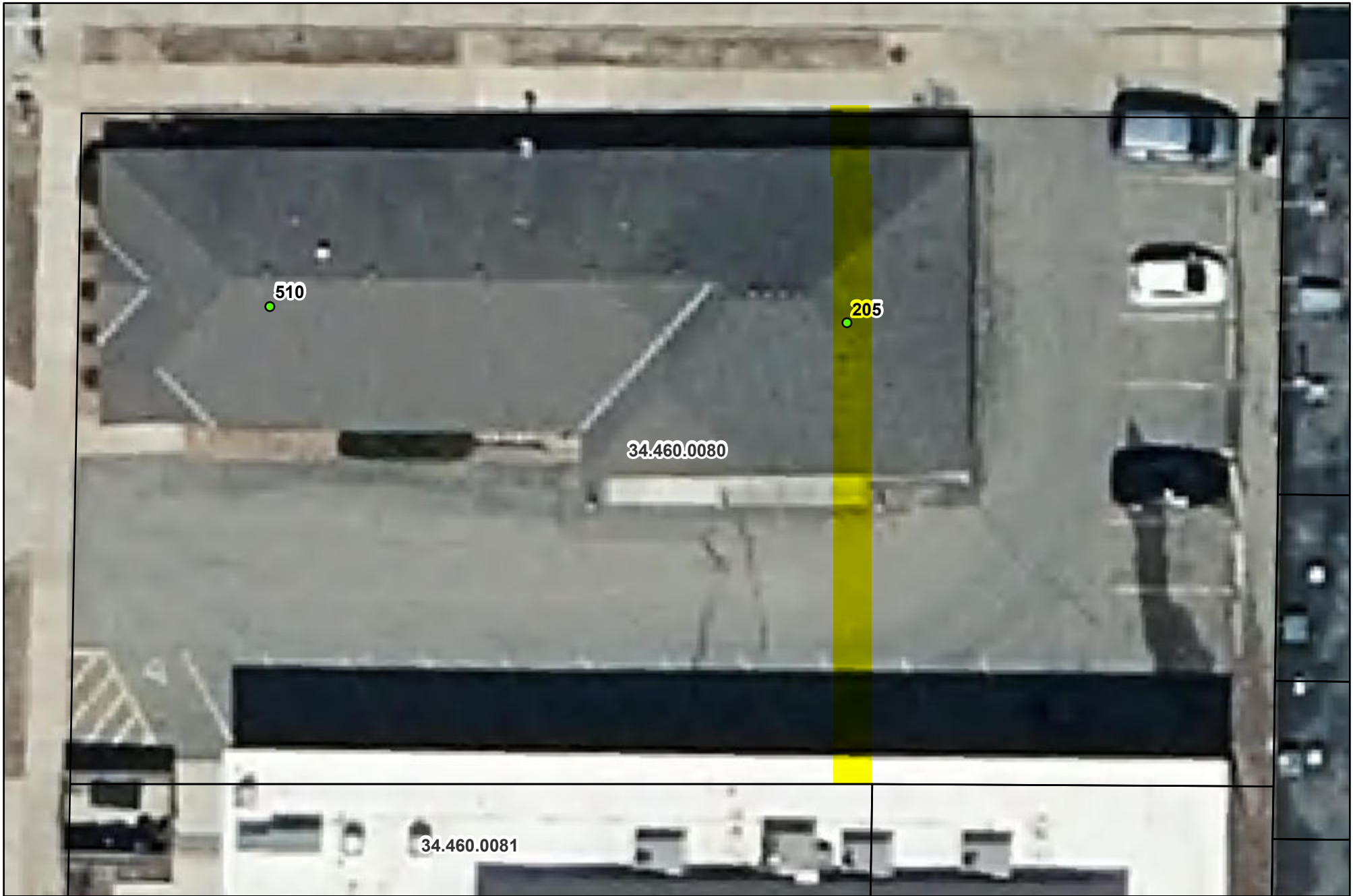
Marty G. Helle

Attorney at Law

Hoversten, Johnson, Beckmann & Hovey, LLP.

807 W. Oakland Ave.

Austin, MN 55912



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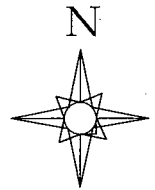
Mower County Public GIS

Date/Time: 10/17/2024 9:16 PM

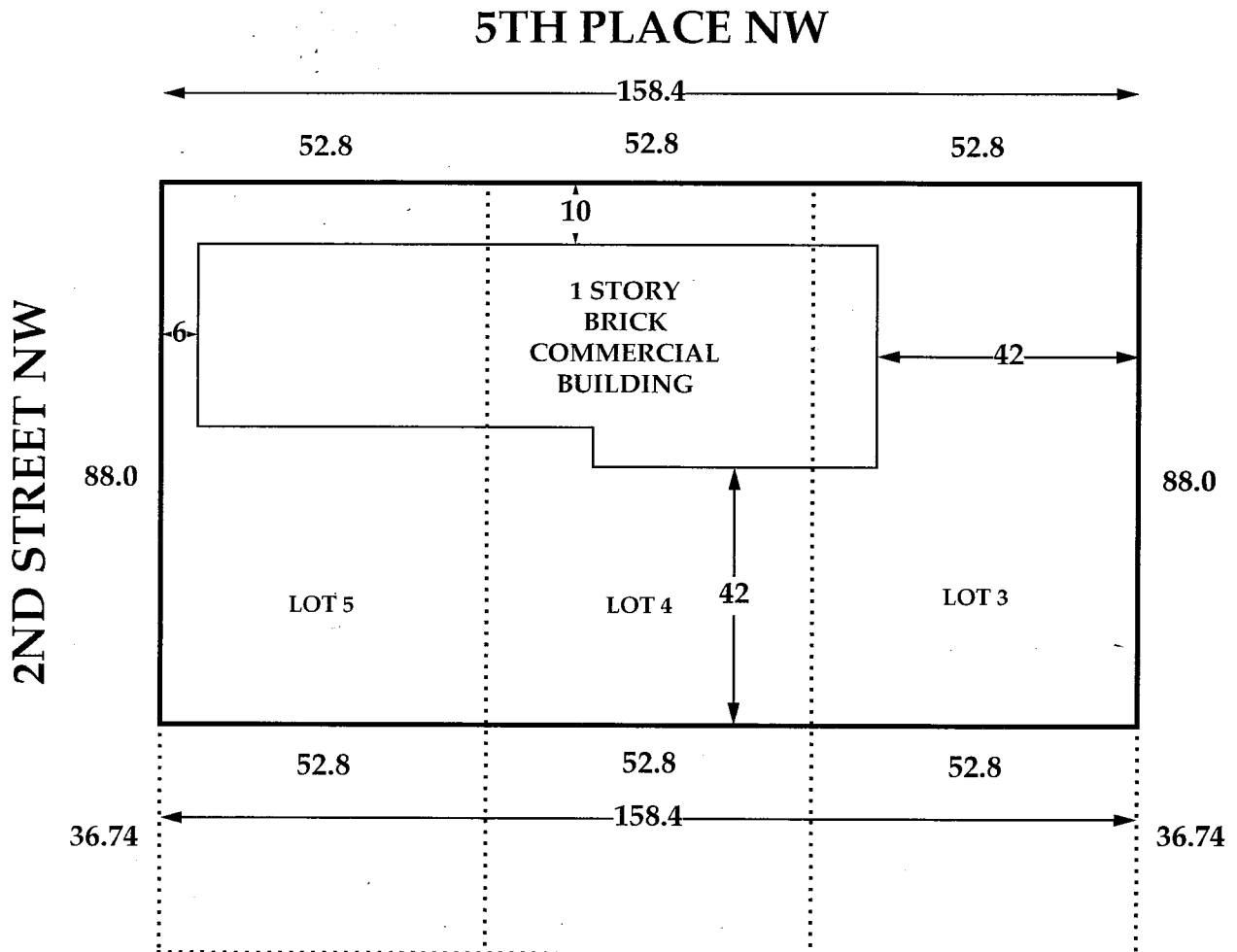
NEAR NORTH TITLE GROUP

510 2ND STREET NW, AUSTIN
LOTS 3-5 EXCEPT SOUTH 36.74', BLOCK 2, MORGANS ADDITION
MOWER COUNTY

FILE# MN2416547



1" = 30'



NO PLATTED
EASEMENTS

Accommodation sketch;
plat drawing not a survey.

"The location of the improvements shown on this drawing are approximate and are based on a visual inspection of the premises.

The lot dimensions are taken from the record plat drawings or county records.

This drawing is for informational purposes and should not be used as a survey.

It does not constitute a liability of the company and is intended for mortgage purposes only."

FILE # MN2416547

ADDRESS: 510 2ND STREET NW, AUSTIN

LEGAL : LOTS 3-5 EXCEPT SOUTH 36.74', BLOCK 2, MORGANS ADDITION, MOWER COUNTY

CHARACTER OF DWELLING?

Residence ☐
Flat ☐
Apartment ☐
Townhouse ☐
Condominium ☐
Vacant ☐
Other ☒

COMMERCIAL

GARAGE

Attached ☐
Not attached ☐
None ☒

AGE OF IMPROVEMENTS

None ☐
Under 6 months ☐
6 months to 1 year ☐
1 to 5 years ☐
5 to 10 years ☐
10 years and over ☒

RECENT IMPROVEMENTS ?

None Apparent ☒
Excavation ☐
Foundation ☐
Under Roof ☐
Plastered ☐
Dry Wall Up ☐
Int. Dec. in Process ☐
Completed- no lands. ☐
Landscaping to come ☐
Completed ☐
Driveway not in ☐
Driveway completed ☐
Contractor signs on property ☐
Building Permits Displayed ☐

PERSONS IN POSSESSION (NAME)?

Occupied (no response) ☐
Unoccupied ☒
Tenants ☐
Owner ☐
Buyer ☐
Workmen ☐
Owner (via Security Cam) ☐

OWNERS IDENTIFIED?

No ☒
Name _____

OTHER INFORMATION?

Date: 10-9-24

By: D. SCHMIDT

DO IMPROVEMENTS ON ADJOINING PROPERTY ENCROACH?

No ☒
If yes, explain _____

FENCE ENCROACHMENTS NO ☒

Neighbor's fences run up to: _____
Our fences run up to: _____

ARE IMPROVEMENTS (EXCEPT FENCES) ON ALL ADJOINING PROPERTIES ONE FOOT DISTANT FROM ALL LOT LINES?

Yes ☒
If no, _____ neighbor's
_____, is 1' +/- off our
lot line.
Improvement is NEW _____
OLD _____

PARTY WALLS

No ☒
If yes, explain _____

ARE IMPROVEMENTS ON PROPERTY WITHIN BOUNDARY LINES?

Yes ☒
If no, describe _____

SIGNS ON PROPERTY NO ☐

HAMILTON Realty Company
Realty Co. Sold Sign
OTHER SIGNS _____

APPARENT WETLANDS ON PROPERTY

NO ☒
YES ☐

WHAT MEANS OF INGRESS AND EGRESS TO PARCEL?

Street and alley adjoining ☐
Street adjoining ☒
Easement ☐
Common drive with _____ neighbor
SEE SKETCH
CONDO/ TOWNHOUSE
Common Area / Drive to _____
Subject property has benefit of drive
easement across _____ neighbor's
property. SEE SKETCH
Private road easement out to _____
Public road easement across _____

VISUAL LINES OF OCCUPATION

By fence(s) along _____
Tree line(s) along _____
Telephone pole(s)/line(s) along _____
Retaining wall(s) located along _____
Street on WEST / NORTH
Alley on _____
Other ☐

Boundary lines ill - defined

APPARENT EASEMENTS

No ☒
Overhead utility lines run along
border(s)
Overhead utility feeder lines run across
Underground utility cable runs along
border(s)
See Plat for Recorded Easements,
for others see sketch.

ARE THERE ANY SOLAR PANELS ON THE PROPERTY?

NO ☒
YES ☐

RIGHT OF WAY EASEMENT

KNOW ALL MEN BY THESE PRESENTS THAT James A. Bohrer and Kathleen C. Bohrer,
husband and wife of the County of Mower and State of Minnesota for and in
consideration of Value Received do hereby
GRANT, REMISE, SELL AND CONVEY to the AUSTIN UTILITIES, of the City of Austin, (which
UTILITIES is a body corporate under the laws of the State of Minnesota), its successors
and assigns, the RIGHT, PRIVILEGE AND EASEMENT to construct, maintain and operate the
following: UTILITY EASEMENT for electrical distribution and service and
appurtenances thereto, over, through, under, on and across the following described lands
situated in Mower County, State of Minnesota, to-wit:

The South 5 feet of the North 88 feet of Lots 4 and 5, in Block 2, of
Morgan's Addition to Austin, Mower County, Minnesota; also, the East
5 feet of the North 88 feet of Lot 4, in Block 2, of Morgan's Addition
to Austin, Mower County, Minnesota.

TO HAVE AND TO HOLD unto said AUSTIN UTILITIES of THE CITY OF AUSTIN, its
successors and assigns, so long as such line, pipe, main or service, and appurtenances
thereto shall be maintained together with the right of ingress to and egress from said
premises, for the purpose of constructing, inspecting, repairing, maintaining and
replacing the property of the Grantee located thereon, or the removal thereof, in whole
or in part, at the will of the Grantee; it being the intention of the parties hereto
that Grantor(s) James A. Bohrer and Kathleen C. Bohrer, husband and wife hereby
granting the uses herein specified without divesting Grantor (named above) of
the rights to use and enjoy said above described premises, subject only to the right of
the Grantee to use the same for the purposes herein expressed.

WITNESS the execution hereof this 27th day of September, 19 78

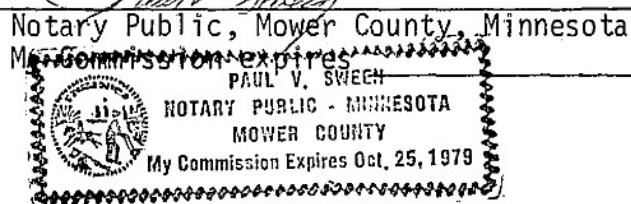
Witness:

James A. Bohrer
Kathleen C Bohrer

CERTIFICATE OF ACKNOWLEDGMENT

STATE OF MINNESOTA)
) ss
COUNTY OF MOWER)

On this 27th day of September, 19 78, before me, a NOTARY PUBLIC
within and for said County, personally appeared James A. Bohrer + Kathleen C. Bohrer
to me known to be the person (s) described in and who executed the foregoing instrument,
and acknowledged that he executed the same as their free act and deed.



RECORDED
INDEXED
NOV 11 1978

Utilities
(ATT: Bernell)
Austin

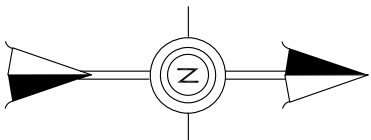
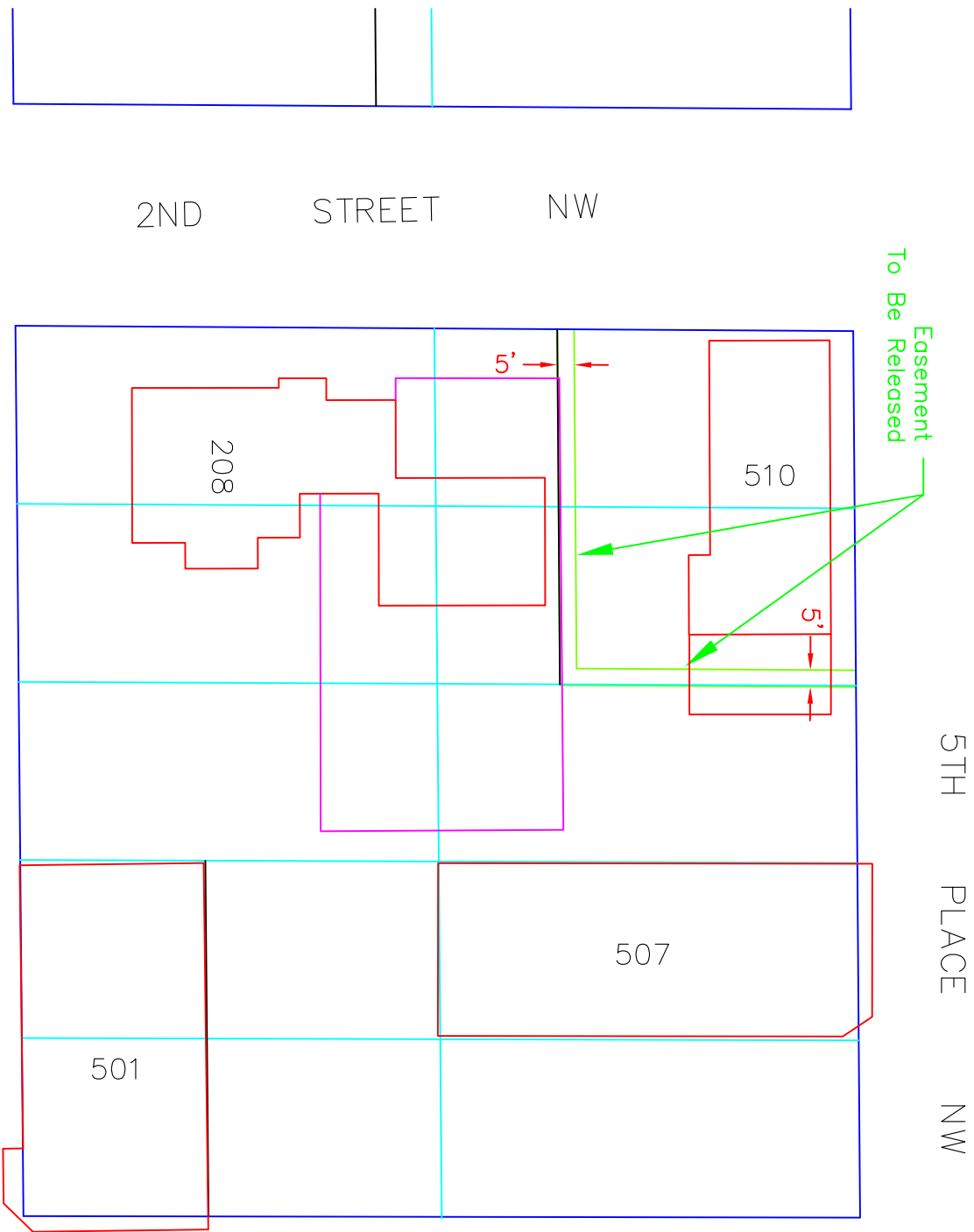
336135

Office of County Recorder
Mower County, Minnesota } SS

I hereby certify that the within instrument was filed
for record on the 28 day of Sept A.D. 19 78
at 2 o'clock P.M. and duly recorded in Book 353
of Deeds on page 91

Charles Enger
CHARLES ENGER, COUNTY RECORDER
By Dwight Johnson Deputy

Easement Release



RELEASE OF EASEMENT

COMES NOW Austin Utilities, a body politic under the Charter of the City of Austin, Minnesota, and for valuable consideration received, releases the real property described below from the Easement recorded on September 28, 1978, as Document 336135. The real property is described as follows:

The South 5 feet of the North 88 feet of Lots 4 and 5, in Block 2, of Morgan's Addition to Austin, Mower County, Minnesota; also, the East 5 feet of the North 88 feet of Lot 4, in Block 2, of Morgan's Addition to Austin, Mower County, Minnesota.

IN WITNESS WHEREOF, Austin Utilities has hereunto set its signature this ____ day of November, 2024.

Mark Nibaur
General Manager

STATE OF MINNESOTA

SS:

COUNTY OF MOWER

On this _____ day of November, 2024, before me, a Notary Public within and for said County, personally appeared Mark Nibaur, to me personally known, who, being by me duly sworn, did say that he is the General Manager of Austin Utilities, a body politic and corporate under the Charter of the City of Austin, Minnesota, and that said instrument was executed on behalf of said corporation by authority of its Board of Directors and that said person acknowledged that he executed

the same as the free act and deed of said company.

Notary Public

This instrument was drafted by:
Marty G. Helle (#0307476)
Hoversten, Johnson, Beckmann & Hovey, LLP.
807 W. Oakland Ave.
Austin, MN 55912
(507) 433-3483

RESOLUTION _____
Austin Utilities Easement Release

WHEREAS, Austin Utilities, a body politic under the Charter of the City of Austin, Minnesota, secured a, electric utility easement, recorded on September 28, 1978, as Document 336135, allowing it to install electrical utilities over, through, under, on and across real property described as follows:

The South 5 feet of the North 88 feet of Lots 4 and 5, in Block 2, of Morgan's Addition to Austin, Mower County, Minnesota; also, the East 5 feet of the North 88 feet of Lot 4, in Block 2, of Morgan's Addition to Austin, Mower County, Minnesota;

WHEREAS, Austin Utilities, through its Board of Commissioners, has received, reviewed, and approved a request to release said easement as it has determined that such easement is not presently used nor anticipated to be used by Austin Utilities for any public purpose;

WHEREAS, the Section 4.15 of the Charter of the City of Austin, Minnesota, requires any conveyance or disposition of real property owned by the City be approved the City Council by two-thirds vote of all the members of the Council;

WHEREAS, The City of Austin has reviewed the requested release of said easement and has also determined that the easement does not presently serve a public purpose, nor is it reasonably expected to serve any public purpose, and as such there is no public benefit to preserving this easement.

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

- (1) the Council concurs with and approves Austin Utilities' release of the above-described easement;
- (2) Austin Utilities is authorized to proceed with the execution and delivery of such documents as are necessary to effectuate said release of easement;
- (3) if necessary, the Mayor and City Recorder are also authorized to execute and deliver such additional documents as are necessary to effectuate said release of easement.

Passed and adopted by the council of the city of Austin this ____ day of December 2024.

YEAS _____

NAYS _____

APPROVED:

Steve King, Mayor

Attest:

Tom Dankert, City Recorder

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



Phone: 507-437-9940

www.ci.austin.mn.us

TO: Mayor and City Council

FROM: Tom Dankert *TD*

DATE: December 2, 2024

RE: Sales Tax Agreement - Updated
S:\Fund 40 LOST\2024\Sales Tax Agreement cover letter to council - 2024.doc

The Minnesota Department of Revenue collects the local option sales taxes (LOST) for most of Minnesota, and has been doing such for Austin since the inception of our local option sales tax. The Minnesota Department of Revenue has been reviewing operational costs and has requested an update to the agreement that authorizes the state to collect sales/use taxes on behalf of Austin (and all other cities).

The big change has come about in regards to the fee's paid to The Minnesota Department of Revenue for such services. Currently, Austin pays approximately 1.35% as a floating fee of LOST collections to the state to administer our program. After further evaluation by the Minnesota Department of Revenue on all city's they collect for, a statute was passed last session that will now charge a flat rate "of up to 1%" going forward. The Minnesota Department of Revenue is expected to charge Austin 0.90% based on recent correspondence.

We would request Council approve a resolution authorizing entering into the agreement with the Minnesota Department of Revenue to continue to collect LOST on our behalf.

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

Tom Dankert

From: MN_MDOR_Local Government Services <LocalGovernmentServices.mdor@state.mn.us>
Sent: Wednesday, November 20, 2024 10:07 AM
Cc: MDOR_SUT Local Government Services
Subject: New Local Sales Tax Agreement

CAUTION: This email originated outside of our organization.
Do not click links or open attachments unless you recognize the sender and know the content is safe.

Greetings,

The updated local option sales and use tax agreement will be ready for your local government to review by the end of this week. The new agreement includes an updated rate for the administrative fee found in the Reimbursement of Costs section. This new administrative fee begins with payments made to local governments in January 2025, for the local sales tax collected from the November 2024 revenue period.

The new language for the administrative fee states the Department will collect a flat rate of up to 1.0% of local sales taxes collected. The language is updated to allow for adjustments to reflect the fluctuation of sales tax revenues. By doing this, updates to the agreements will only be required if the administrative costs exceed the flat rate. To which the 180-day notice is required. Starting in January 2025, the rate will be 0.90%. We will provide the actual administrative rate with your monthly spreadsheet the Department emails with your payment.

We will upload the new agreements into the virtual room. You may already have access to the virtual room. If you do not have access, the main contact for the local government will receive a separate email with instructions to log in. If you had access to the virtual room in the past, but you are unsure of your log in information, please let us know by responding to this email. We can reset your account if necessary.

After logging in to the virtual room you will be able to see the local option sales and use tax agreement to download for your local government to review and sign.

Once your local government signs the agreement, upload the signed agreement to the virtual room. We will forward the agreement to the Commissioner of Revenue for his signature. After all signatures are obtained, the agreement will be uploaded to the virtual room for you to keep a copy and we will also retain a copy.

Please return the updated signed agreement before January 31, 2025. If you need additional time, please let us know.

If you have questions or concerns, contact us by phone or email listed below.

Sincerely,

Sales & Use Tax Division
Local Government Services

Minnesota Department of Revenue
Phone: 651-556-6117

Fax: 651-556-3102

Email: LocalGovernmentServices.mdor@state.mn.us

www.revenue.state.mn.us

Working together to fund the future for all of Minnesota.



Emails are answered in the order that they are received. This email is advisory only. It is based on the particular facts and circumstances outlined in the email and on the laws in effect at the time. Different circumstances, statutory changes, or subsequent court decisions could affect the information given in this email.

If you or your client are currently under audit by the Minnesota Department of Revenue, the Revenue Tax Specialist should be answering any questions or concerns as they would have first-hand knowledge regarding your business.

CONFIDENTIALITY NOTICE

This message and any attachments are solely for the intended recipient and may contain "not public" data. If you received this message in error, you must not disclose, copy, use, or distribute any of this information. Please immediately notify me by reply email and permanently delete this message and any attachments.



Agreement Between the Minnesota Department of Revenue and City of Austin for Collection of a Local Sales and Use Tax

Introduction

This agreement concerns administration of local taxes identified below:

- Austin sales tax
- Austin use tax

Laws of Minnesota 2006 Chapter 259, Article 3, Section 9 authorize the above taxes. The taxes are imposed by Austin Ordinance Number 548 adopted December 4, 2006.

Administration, collection and enforcement

The Department of Revenue (department) will administer, collect, and enforce the Austin taxes identified in the introduction, as authorized under:

- Minnesota Statutes, section(s) 297A.99, and
- any other governing laws or statutes identified in the introduction

The administration, collection, and enforcement process will follow:

- Minnesota Statutes, Chapters 297A, 289A, and 270C
- Minnesota rules Chapter 8130, and
- Administrative procedures

Local tax administration also includes processing refunds, litigation, and authority to enter into settlement agreements on behalf of Austin. If the local tax revenues collected are not sufficient to cover actions taken, Austin must provide the department with sufficient funding to process all adjustments.

Austin agrees to update the ordinance listed above as needed to remain consistent with current language and definitions used in the governing Minnesota Statutes. Austin further agrees to take corrective action within 90 days if notified by the department of required ordinance language changes. The department will not enforce or engage in compliance activities for local taxes administered by the department if any portion of Austin's ordinance is not consistent with the governing Minnesota statutes. Local special taxes imposed before 2010 are not subject to this limitation.

Registration of vendors

The department is responsible for notifying vendors that are registered for state sales and use tax of their obligations to collect and remit Austin taxes covered by this agreement. The department is also responsible for informing newly registered businesses of their obligations to collect and remit Austin sales and use taxes covered by this agreement.

Accounts registered for state sales and use tax who have a ZIP Code in the Austin tax jurisdiction will be registered for the Austin taxes by the department. We will mail an informational notice of registration to these businesses.

Outreach and education

The department will register and notify all vendors that are currently registered for state sales and use tax and the general public about the Austin taxes by posting a notice on the department's website (www.revenue.state.mn.us). Other notifications will be made at the time of registration, through the department's website.

Austin acknowledges that there is no cost-effective way to identify specific vendors located outside the Austin taxing jurisdiction who are required to be registered for Austin taxes. Identification of these vendors will be voluntary by vendor response to general notifications by the department and through other contacts that the vendor has with the department or the Streamlined Sales Tax Governing Board's (SSTGB) central registration system.

Publicity

If Austin maintains an official website, it will display (on its main web page) a link to a notice that residents and businesses may reference for more information about the local taxes. Austin will briefly describe the taxes and provide a link to the department's website (www.revenue.state.mn.us). Also state in the description that local use taxes on purchases of goods and services made outside of the political subdivision that are used in the political subdivision, are subject to local use taxes.

Local governments that bill residents and businesses for utilities must include a notice of the local taxes at least once per year. The notice must include a brief description of both the local sales and use taxes and reference the department's website link.

Returns and remittance

Vendors will collect and remit Austin taxes covered by this agreement as part of their Minnesota sales and use tax returns, which include simplified electronic returns (SER's) authorized by the SSTGB. Revenues collected by the department are deposited in the State Treasury and credited to a special account. The department will draw from this account to recover department costs as provided in this agreement, and to transmit collections to Austin. Austin will accrue no interest on this amount.

Transmittal of tax

The department will transmit the taxes reported on returns monthly through the automatic clearinghouse system.

For each month of collection, the department will transmit taxes reported for that month in one monthly payment. The transmittal will be sent approximately 40 days after month end. The department retains a fee for administering, collecting, and enforcing the Austin taxes as provided in this agreement. The department sends notification each month to Austin with the month's sales and use tax collections and the administrative fees deducted.

Reports

Upon request, the department will provide Austin with a report showing information about taxpayers and the amount of taxes remitted. This report can be requested once per year at no additional cost.

Austin must submit a written request via email or US mail. The department will consider requests for more frequent reports for an additional administrative fee.

Disclosure

Austin understands that any local sales and use tax account information given to it by the department is subject to the classification and disclosure provisions in Minnesota Statutes, chapters 13 and 270B. Pursuant to Minnesota Statutes, section 270B.12, subdivision 2, such information can only be used to the extent necessary to administer the local sales or use tax.

The department will provide disclosure training materials to Austin's designated representative. Austin must train any employees with a business need to access not public Minnesota sales and use tax information provided by the department. All employees who have a business reason to access not public tax information must complete the required training annually. New employees and other users who did not previously have a business reason to access not public tax information must complete the training before they may be granted access it.

Austin must update its disclosure authorization form by December 31 of each year, providing a list of all personnel who are trained and authorized to view not public Minnesota sales and use tax information. If an authorized employee or official no longer needs access to tax information due to a change of duties, separation from employment, or any other reason, it is Austin's obligation to instruct the department's local tax liaison to terminate access rights for that individual by the start of the next calendar quarter.

Failure to conduct the required disclosure trainings or update the user access list as described above will result in the department suspending Austin's access to not public Minnesota sales and use tax information until such training is completed.

Inspection of records and audit information

The department will allow Austin to inspect and audit all data, records, and other information relating to its local sales or use tax, the cost of collecting the tax, and the performance by the department under this agreement. Austin will submit any requests to inspect the sales or use tax data to the department in writing, as prescribed by the department.

Reimbursement of costs

The Department will review its own direct and indirect costs for administering, collecting, and auditing local taxes, and as needed adjust costs accordingly.

For each month of collection, the following calculation of reimbursement for administrative costs will apply.

Minnesota Statutes, section 297A.99, subdivision 11 states the Department shall deduct the direct and indirect costs to administer local taxes. Austin will pay a flat rate of up to 1.0% of sales taxes collected to cover the administration, collection, and auditing of all local sales taxes administered by the Department. If the reimbursement of costs increases, the Department will notify Austin at least 180 days prior to the rate change. An updated agreement is only required when an increase to the flat rate of 1.0% is determined. Any shortfalls or reserves will be managed across years to the extent possible.

Termination of a local tax

The department will provide a report to Austin after the last month that the tax is in effect. The report will indicate the total amount of Austin taxes, corresponding adjustments made, prior month corrections, and administrative fees retained. In addition, when a tax ends, the department will work with Austin to determine a reserve amount the department will retain which will be used as a fund to make adjustments or refunds. Please see the Responsibilities section below for more details. The portion of this fund not used for refunds or adjustments will be transmitted to Austin at the close of the period of limitations. The account remains open for a period equal to the statute of limitations provided in Minnesota Statutes, section 289A.40, for sales and use tax returns. The account will be reconciled, and Austin will be notified of the final settlement.

Responsibilities

When the boundary limits for Austin change, it is the responsibility of Austin to notify and provide the department with the updated boundary information. The department will only update the rate calculator and ZIP Code guide upon receiving this information. Minnesota Statute requires that the department notify vendors of their tax obligations when boundaries change. Vendors not notified will be relieved of liability until notification occurs. The department will not engage in compliance activities for vendors in the new boundary area who have not been formally notified of the change.

If Austin updates or amends the city ordinance relating to the Austin tax covered by this agreement, Austin must provide a draft of the changes to the department for review before it is made final. The department will review the changes to ensure compliance with governing statutes. Austin will then provide the department with a signed copy of the revised or amended ordinance.

Austin must provide the department with current contact information annually and advise when any changes occur. This includes, but is not limited to, the contact person, phone number, address, and email.

Austin will notify the department prior to the 90-day notification requirement for when the tax will end. The department will work with Austin to project an estimated amount to retain for the reserve fund. This amount retained will allow for adjustments and refunds as mentioned in the "Termination of local tax" section. In the event the Department does not retain enough revenues to cover any adjustments once the tax ends, a bill will be sent for the outstanding amount. See Minnesota Statutes, section 297A.99, subdivision 9.

Effective date

This agreement is effective the day following imposition of the tax and supersedes any previous agreement.

Modifications

Any portion of this agreement may be modified. Modifications must be in writing and signed by the Commissioner of Revenue and an authorized representative of Austin.

Minnesota Department of Revenue

Signature: _____

Paul Marquart
Commissioner of Revenue

Date: _____

Austin Representative

Signature: _____

Print Name: _____

Print Title: _____

Date: _____

Signature: _____

Print Name: _____

Print Title: _____

Date: _____

RESOLUTION NO.

**APPROVING AN UPDATED AGREEMENT WITH THE DEPARTMENT OF REVENUE FOR THE
COLLECTION OF A LOCAL SALES AND USE TAX**

WHEREAS, the City of Austin entered into an agreement with the Department of Revenue for the Collection of a Local Sales and Use Tax by resolution number 13173 dated March 19, 2007; and

WHEREAS, the City of Austin amended that agreement with the Department of Revenue for the Collection of a Local Sales and Use Tax by resolution number 16797 dated June 20, 2023; and

WHEREAS, under said agreement, the Department of Revenue has been collecting sales and use tax on behalf of the City of Austin; and

WHEREAS, the Department of Revenue would like to modify the current agreement to reduce the administrative costs from 1.35% to a flat rate up to 1.00%; and

AND WHEREAS, staff recommends approving the updated agreement with the Department of Revenue.

NOW, THEREFORE, BE IT RESOLVED, the City Council of the City of Austin authorizes the Mayor and City Recorder to execute an agreement with the Minnesota Department of Revenue for the Collection of a Local Sales and Use Tax.

Passed by a vote of yeas and nays this 2nd day of December, 2024.

YEAS

NAYS

ATTEST:

APPROVED:

City Recorder

Mayor

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



Steven J. Lang, P.E.
City Engineer/P.W. Director
507-437-9950
Fax 507-437-7101
slang@ci.austin.mn.us

Memorandum

To: Mayor & Council
From: Steven Lang, PE
Date: November 25, 2024
Subject: 2025 Construction Projects, Request for Feasibility Reports

In preparation for 2025 construction projects, we have prepared a timeline to meet the critical dates required of the assessment process. The initial step in the process is for Council to request feasibility reports. The projects that will be involved with this schedule are those listed below:

Project	Project #
1) 6th Street NE	19106
• 6 th Street NE – 30 th Avenue to 1800ft North	
2) 21st Avenue SW	25102
• 21 st Avenue SW – 4 th Drive to 12 th Street	
3) Oakland Avenue & 1st Avenue SW	25103
• Oakland Avenue – 1 st Street NE to 12 th Street NW	
• 1 st Avenue SW – South Main Street to 12 th Street SW	
4) 8th Street SE	25104
• 8 th Street SE – 8 th Avenue to 15 th Avenue	
5) 13th Street NW & 11th Avenue NW	25105
• 13 th Street NW – 8 th Avenue to 11 th Avenue	
• 11 th Avenue NW – 11 th Street to Apartments (14 th St)	
6) 6th Avenue NE & 18th Drive NE	25106
• 6 th Avenue NE – 18 th Drive to 19 th Street	
• 18 th Drive NE – 5 th Avenue to 6 th Avenue	
7) 25th Street SW	25107
• Oakland Avenue to 8 th Avenue	

If you have any questions, please feel free to contact me.

RESOLUTION NO.

RESOLUTION ORDERING PREPARATION OF REPORT ON IMPROVEMENTS

WHEREAS, it is proposed to make the following improvements:

	<u>Project #</u>
1) 6th Street NE	
• 6 th Street NE – 30 th Avenue to 1800 ft. north	19106
2) 21st Avenue SW	25102
• 21 st Avenue SW – 4 th Drive to 12 th Street	
3) Oakland Avenue and 1st Avenue SW	25103
• Oakland Avenue – 1 st Street NE to 12 th Street NW	
• 1 st Avenue SW – South Main Street to 12 th Street SW	
4) 8th Street SE	25104
• 8 th Street SE – 8 th Avenue to 15 th Avenue	
5) 13th Street NW & 11th Avenue NW	25105
• 13 th Street NW – 8 th Avenue to 11 th Avenue	
• 11 th Avenue NW – 11 th Street to Apartments (14 th Street)	
6) 6th Avenue NE – 18th Drive NE	25106
• 6 th Avenue NE – 18 th Drive to 19 th Street	
• 18 th Drive NE – 5 th Avenue to 6 th Avenue	
7) 25th Street SW	25107
• Oakland Avenue to 8 th Avenue	

and to assess the benefited property for all or a portion of the cost of the improvement, pursuant to Minnesota Statutes, Section 429.001 to 429.111 (Laws 1953), Chapter 398, as amended.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF AUSTIN, MINNESOTA, that the proposed improvements were referred to Steven Lang, City Engineer, to study and that he is instructed to report to the Council with all convenient speed advising the Council in a preliminary way as to whether the proposed improvements are feasible and as to whether they should best be made as proposed or in connection with some other improvement, and the estimated cost of the improvements as recommended.

Passed by a vote of yeas and nays this 2nd day of December, 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

Memorandum

To: Mayor and City Council

Cc: William & Deborah Wakefield
503 8th Ave SE, Austin, MN 55912

From: Holly Wallace, Planning & Zoning Administrator

Re: Accumulation of Refuse and Junk
At 503 8th Ave SE, Wakefield Property

Date: November 27, 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 503 8th Ave 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**

January 10th, 2024

William & Deborah Wakefield
503 8th Ave SE
Austin, MN 55912

RE: Zoning Violations at 503 8th Ave SE, Austin, MN 55912

Dear William & Deborah:

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 January 10th, 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 maximum of \$2,000, 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,

A handwritten signature in black ink, appearing to read "Brent Johnson", with a stylized flourish at the end.

Brent Johnson
Zoning Inspector



November 20, 2024

10:18 AM

503 8th Ave SE



November 20, 2024
10:19 AM

503