SPECIAL JOINT CITY COUNCIL AND RICHFIELD SCHOOL BOARD OF EDUCATION (ISD NO. 280) WORKSESSION
RICHFIELD MUNICIPAL CENTER, BARTHOLOMEW ROOM
AUGUST 8, 2017
6:00 PM

Call to order

1. Discuss issues of mutual interest:
   • Update on housing and project development
   • City's housing policy
   • Overview of the School District's levy request and referendum
   • Improving communication and collaboration
   • City's equity initiatives
   • Additional joint City Council and School Board meetings
   • Other items of mutual interest

Adjournment

Auxiliary aids for individuals with disabilities are available upon request. Requests must be made at least 96 hours in advance to the City Clerk at 612-861-9738.
INTRODUCTORY PROCEEDINGS

Call to order

Open forum (15 minutes maximum)

Each speaker is to keep their comment period to three minutes to allow sufficient time for others. Comments are to be an opportunity to address the Council on items not on the agenda. Individuals who wish to address the Council must have registered prior to the meeting.

Pledge of Allegiance

Approval of the minutes of the: (1) Special Joint City Council and Housing and Redevelopment Authority Work Session of July 17, 2017; (2) Special City Council Work Session of July 25, 2017; and (3) Regular City Council Meeting of July 25, 2017.

PRESENTATIONS

1. Richfield in Bloom Award

COUNCIL DISCUSSION

2. Hats Off to Hometown Hits

AGENDA APPROVAL

3. Approval of the Agenda

4. Consent Calendar contains several separate items, which are acted upon by the City Council in one motion. Once the Consent Calendar has been approved, the individual items and recommended actions have also been approved. No further Council action on these items is necessary. However, any Council Member may request that an item be removed from the Consent Calendar and placed on the regular agenda for Council discussion and action. All items listed on the Consent Calendar are recommended for approval.

   A. Consideration of the first reading of an ordinance amending City Code Subsection 802 related to small cell wireless installation in the City right-of-way and schedule a second reading for September 12, 2017.
      Staff Report No. 110

   B. Consideration of:
      1. Approval of design engineering contract with Bolton & Menk, Inc. for the Lyndale Avenue Street Reconstruction between 66th St. and 76th Street.
      2. Approval of a resolution for reimbursement of certain expenditures from the proceeds of street reconstruction bonds to be issued by the City of the Lyndale Avenue Street Reconstruction.
C. Consideration of the approval of an agreement with Safe Water Commission to assist with administering the updated cross connection program.

D. Consideration of the approval of a resolution granting a site plan amendment to allow additional parking space at 6941 Nicollet Avenue.

E. Consideration of the approval of a resolution granting a subdivision waiver, allowing the division of 7445 Humboldt Avenue into two lots.

F. Consideration of the approval of a resolution granting a site plan amendment and variance to allow a building addition and reconfigured parking lot for a K-8 school at 1401 76th Street West.

G. Consideration of the approval of a two-year use and indemnification agreement between the City of Richfield and Tom Price for the use of a 4,690 square-foot strip of land along the edge of Lincoln Field.

H. Consideration of the approval of a resolution to execute Addendum A - Sponsoring Agency Agreement between and Minnesota Task Force One Urban Search and Rescue Team and the City of Richfield.

I. Consideration of the approval of a resolution granting a conditional use permit and variance to allow a restaurant at 6436 Penn Avenue. This item was continued from the July 11, 2017, City Council meeting.

5. Consideration of items, if any, removed from Consent Calendar

PUBLIC HEARINGS

6. Public hearing and consideration of a resolution providing host approval for the issuance of tax-exempt revenue bonds by the City of Deephaven for the benefit of Seven Hills Preparatory Academy.

OTHER BUSINESS

7. Consideration of approval of the implementation of interim improvements to the 69th Street Pilot Project as recommended by the Transportation Commission.

CITY MANAGER’S REPORT

8. City Manager’s Report

CLAIMS AND PAYROLLS

9. Claims and Payrolls

Open forum (15 minutes maximum)

Each speaker is to keep their comment period to three minutes to allow sufficient time for others. Comments are to be an opportunity to address the Council on items not on the agenda. Individuals who wish to address the Council must have registered prior to the meeting.

10. Adjournment

Auxiliary aids for individuals with disabilities are available upon request. Requests must be made at least 96 hours in advance to the City Clerk at 612-861-9738.
CALL TO ORDER

The joint work session was called to order by Chair Supple at 7:22 p.m. in the Bartholomew Room.

Council Members Present: Pat Elliott, Mayor; Edwina Garcia; Maria Regan Gonzalez, and Michael Howard

Council Members Absent: None

HRA Members Present: Mary Supple, Chair; Pat Elliott; Michael Howard; Doris Rubenstein, and Sue Sandahl.

Staff Present: Steven L. Devich, City Manager/Executive Director; John Stark, Community Development Director; Julie Urban, Housing Specialist

Item #1 AFFORDABLE HOUSING STRATEGIES

Community Development Director Stark presented staff and attorney feedback on the affordable housing preservation tools that were presented at the joint City Council and Housing and Redevelopment Authority work session on April 25, 2017. Director Stark suggested that goals be set and also shared data on the city’s current affordability status.

Discussion followed on the need to focus on helping existing families stay in the community and on providing quality, stable housing for everyone.

Director Stark reviewed the status of identifying the buildings that are at risk of becoming less affordable. He reviewed the issues relating to requiring building owners to provide advanced notice of any sale. City Attorney Tiejten explained the legal concerns of balancing property rights and city rights and the difficulty of enforcing and monitoring such a requirement. Director Stark explained that this strategy can be implemented immediately by the Housing and Redevelopment Authority through Development Agreements.

Director Stark affirmed staff’s commitment to help preservation buyers buy at-risk buildings when possible and suggested that the right of first refusal tool would be better dealt with at a state level.

Discussion followed regarding the use of Economic Development Authority funds for apartment rehabilitation. Mayor/Commissioner Elliott suggested that the City has many needs and that all need to be weighed before funding is committed to any one item.

City Manager/Executive Director Devich explained the process that would be undertaken to prioritize EDA funding and establish the budget.

Director Stark continued his presentation, reviewing the tools of 4d property tax classification and prohibiting Section 8 discrimination. City Attorney Tiejten explained that there were no clear legal
answers regarding the Section 8 discrimination prohibition. Director Stark recommended that any City action on this prohibition wait until the lawsuit filed against the City of Minneapolis progresses.

Director Stark reviewed staff recommendations regarding Just Cause Eviction, Incentives to address landlord concerns, Inclusionary housing, Increasing local leverage through zoning, rental assistance, the Comprehensive Plan, and building permit fee deferment.

Council Member/Commissioner Howard asked staff to also explore using the City’s rental licensing program to require that landlords provide 60-day notice to tenants and reminded staff of the urgency of the issues.

City Manager/Executive Director Devich offered a reminder that staff and the city are limited in how much can be done and encouraged everyone to focus on identifying the right things to do and then doing them well given limited resources.

Director Stark explained that staff would identify a short list of tools and strategies to focus on at a future study session.

ADJOURNMENT

The joint work session was adjourned by unanimous consent at 9:10 p.m.

Date Approved: August 8, 2017

Pat Elliott
Mayor

Jared Voto
Executive Aide/Analyst

Steven L. Devich
City Manager
CITY COUNCIL MEETING MINUTES
Richfield, Minnesota
Special City Council Work Session
July 25, 2017

CALL TO ORDER

The work session was called to order by Mayor Elliott at 5:30 p.m. in the Municipal Center.

Council Members Present: Pat Elliott, Mayor; Edwina Garcia; Michael Howard; Maria Regan Gonzalez; and Simon Trautmann

Staff Present: Steven L. Devich, City Manager; Mary Tietjen, City Attorney; Kristen Asher, Public Works Director; Jeff Pearson, City Engineer; Jack Broz, Transportation Engineer; and, Jared Voto, Executive Aide/Analyst.

Item #1 UPDATE ON SMALL CELL ANTENNA LEGISLATION

Bob Vose of Kennedy and Graven spoke regarding the recently passed legislation related to small cell antenna. He discussed the work of the League of Minnesota Cities in negotiating the final legislation with the wireless carriers and legislators, and some of the changes in this legislation as opposed to the current model right-of-way (ROW) ordinance the League provides. He spoke that the City must amend their current ROW ordinance to include wireless companies and new provisions of state law.

Council Members discussed and asked questions on the new legislation and its implementation, as it impacts Richfield.

Item #2 METRO TRANSIT – D-LINE DISCUSSION

Scott Janowiak, Planner, of Metro Transit's BRT/Small Starts Project Office provided an overview of the D Line project, on Portland Avenue, including the scope, schedule, planning process, and locations for D Line bus stops in Richfield. Currently it is proposed to have a stop at 66th Street and 76th Street, and looking at a station at either 70th or 73rd Street. He stated they are gathering feedback and doing public outreach on the potential locations, and asked Council if they had suggestions on places to go for feedback.

Council Members gave suggestions on Metro Transit’s outreach efforts.

Item #3 69TH STREET PILOT PROJECT

Jack Broz, Transportation Engineer, presented an overview of the 69th Street Pedestrian Pilot Project. He discussed that 69th Street is a collector street and is without a sidewalk, which is not consistent with City policies. He explained the before conditions on 69th Street, the pilot project, the
public outreach process before and after the project to gather feedback, and the conditions after the pilot project. He also discussed the results of the pilot project and the Transportation Commission’s recommendation to develop a permanent solution for 69th Street, and interim solution to modify the vehicle lane widths to better accommodate adjacent neighbors and eastbound bicyclists.

Council Member Howard spoke in favor of the Transportation Commission’s recommendation based on the data presented from the study.

Mayor Elliot spoke again the recommendation based on narrowing the driving lanes to 10 feet and spoke about the difficulty driving eastbound when a bicycle is in the lane. He did not voice a solution at this time, but would discuss the issue further with staff.

ADJOURNMENT

The work session was adjourned by unanimous consent at 6:55 p.m.

Date Approved: August 8, 2017

_____________________________
Pat Elliott
Mayor

_____________________________
Jared Voto
Executive Aide/Analyst

_____________________________
Steven L. Devich
City Manager
CALL TO ORDER

The meeting was called to order by Mayor Elliott at 7:01 p.m. in the Council Chambers.

Council Members Present: Pat Elliott, Mayor; Edwina Garcia; Michael Howard; Maria Regan Gonzalez; and Simon Trautmann.

Staff Present: Steven L. Devich, City Manager; Mary Tietjen, City Attorney; Jay Henthorne, Public Safety Director/Police Chief; Jim Topitzhofer, Recreation Services Director; and Jared Voto, Executive Aide/Analyst.

OPEN FORUM

None.

PLEDGE OF ALLEGIANCE

Mayor Elliott led the Pledge of Allegiance.

APPROVAL OF MINUTES

M/Regan Gonzalez, S/Howard to approve the minutes of the: (1) Special City Council Work Session of July 11, 2017; (2) Special Joint City Council, Housing and Redevelopment Authority, and Planning Commission Work Session of July 11, 2017; (3) Regular City Council Meeting of July 11, 2017; and (4) Special City Council Closed Executive Session of July 11, 2017.

Motion carried 5-0.

Item #1 COUNCIL DISCUSSION

- Hats Off to Hometown Hits

Council Member Trautmann spoke regarding the gardener’s market at House of Prayer Lutheran Church.

Council Member Garcia spoke regarding Night to Unite on August 1 and thanked block captains for their work.
Mayor Elliott spoke regarding Night to Unite on August 1 and a candle light vigil for Jonathan O'Shaughnessy at 7 p.m. that night.

Council Member Howard spoke regarding coffee with a cop on July 26 and the communication efforts of the 66th Street Reconstruction team and reminded people the businesses on 66th Street are open.

Council Member Regan Gonzalez spoke regarding the League of Women Voter’s bench dedication at Wood Lake Nature Center and the Urban Wildland Half Marathon and 5K on July 29.

<table>
<thead>
<tr>
<th>Item #2</th>
<th>APPROVAL OF THE AGENDA</th>
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<tr>
<td>M/Howard, S/Garcia to approve the agenda.</td>
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<td>Motion carried 5-0.</td>
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<tr>
<th>Item #3</th>
<th>CONSENT CALENDAR</th>
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<tr>
<td>City Manager Devich presented the Consent Calendar.</td>
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<tr>
<td>A. Consideration of the approval of a contract from the City of Edina to provide dispatching service to the City of Richfield’s Police and Fire Departments. (S.R. No. 107)</td>
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<tr>
<td>M/Elliott, S/Trautmann to approve the consent calendar.</td>
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<td>Motion carried 5-0.</td>
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<tr>
<th>Item #4</th>
<th>CONSIDERATION OF ITEMS, IF ANY, REMOVED FROM THE CONSENT CALENDAR</th>
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<td>None.</td>
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<tr>
<th>Item #5</th>
<th>PUBLIC HEARING AND CONSIDERATION OF THE APPROVAL OF A RESOLUTION REGARDING THE REMOVAL OF A UTILITY EASEMENT WITHIN THE PLAZA 66 DEVELOPMENT AREA AT APPROXIMATELY 16TH AVENUE AND 66TH STREET EAST. (S.R. NO. 108)</th>
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<tbody>
<tr>
<td>Council Member Regan Gonzalez presented Staff Report No. 108.</td>
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<tr>
<td>M/Garcia, S/Elliott to close the public hearing.</td>
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<td>Motion carried 5-0.</td>
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<tr>
<td>M/Regan Gonzalez, S/Trautmann to approve a resolution vacating a utility easement within the area of the approved Plaza 66 in Richfield plat.</td>
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Motion carried 5-0.

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<tr>
<th>Item #6</th>
<th>CONSIDERATION OF THE FOLLOWING ITEMS RELATED TO THE RICHLAND COMMUNITY BAND SHELL PROJECT:</th>
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<td>2. CONSIDERATION OF THE AWARD OF A CONTRACT TO LOWEST BIDDER, FENDLER PATTERSON CONSTRUCTION IN THE AMOUNT OF $376,821 AND AUTHORIZE STAFF TO EXECUTE THE CONTRACT.</td>
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<tr>
<td></td>
<td>3. CONSIDERATION OF THE APPROVAL OF THE PROPOSED FUNDING AGREEMENT BETWEEN THE CITY OF RICHLAND AND FRIENDS OF THE BAND SHELL TO PROVIDE $146,056 AS A GRANT TO THE CITY TO HELP FUND THE PROJECT. (S.R. NO. 109)</td>
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Mayor Elliott presented Staff Report No. 109.

Jim Topitzhofer, Recreation Services Director, presented information on the design, timeline for construction, featured and other potential uses, project budget, and information on the alternates.

Council Member Garcia spoke in support of the project and thanked the community for their work and support.

Council Member Trautmann spoke in support and wanted to make this a destination for our community.

Council Member Howard spoke in support and congratulated those who worked on the project.

Council Member Regan Gonzalez spoke in support of community building and did not believe this project did that and stated she would not support the project.

Mayor Elliott read a statement from Sue Sandahl of the Friends of the Bandshell.

M/Elliott, S/Garcia to accept the bid minutes/tabulation dated July 11, 2017; award a construction contract to lowest bidder, Fendler Patterson Construction, in the amount of $376,821 and authorize staff to execute the contract; and approve the funding agreement between the City of Richfield and Friends of the Band Shell to provide $146,056 as a grant to the City to help fund the project.

Motion carried 4-1. (Regan Gonzalez oppose)

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<th>Item #7</th>
<th>CITY MANAGER’S REPORT</th>
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City Manager Devich discussed a date for the budget meeting starting at 5 p.m. and would send a Council Memo on a proposed date. He also discussed how the Richfield liquor operations fund recreational spaces and requires reinvestment to continue bringing in proceeds. There has been reinvestment in the Lyndale and Cedar stores, and the Penn store also needs reinvestment. He will be bringing a proposal to Council to reinvest in the Penn store.
Item #8  CLAIMS AND PAYROLLS

M/Garcia, S/Elliott that the following claims and payrolls be approved:

<table>
<thead>
<tr>
<th>U.S. Bank</th>
<th>07/25/17</th>
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<tbody>
<tr>
<td>A/P Checks: 260473 - 260895</td>
<td>$ 1,322,402.08</td>
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<tr>
<td>Payroll: 129002 - 129376, 42778</td>
<td>$ 657,358.37</td>
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<tr>
<td>TOTAL</td>
<td>$ 1,984,550.01</td>
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Motion carried 5-0.

OPEN FORUM

None.

Item #9  ADJOURNMENT

The City Council Meeting was adjourned by unanimous consent at 7:47 p.m.

Date Approved: August 8, 2017

Pat Elliott
Mayor

Jared Voto
Executive Aide/Analyst

Steven L. Devich
City Manager
ITEM FOR COUNCIL CONSIDERATION:
Consideration of the first reading of an ordinance amending City Code Subsection 802 related to small cell wireless installation in the City right-of-way and schedule a second reading for September 12, 2017.

EXECUTIVE SUMMARY:
Legislation was passed in 2017 that established statewide requirements for cities to allow wireless companies to install small cell facility networks in the public right-of-way. The small cell facility networks are commonly known as "small cell wireless" equipment and distributed antenna systems.

Although the legislation limits many actions the City can take on controlling the placement of the small cell facilities in the public right-of-way, it does allow for the City to enact a permitting process for the facilities. The proposed amendments to the current right-of-way ordinance provide additional controls and management if small cell wireless companies choose Richfield as an installation site.

RECOMMENDED ACTION:
By Motion: Approve of the first reading of an ordinance amending City Code Subsection 802 related to small cell wireless installation in the City right-of-way and schedule a second reading for September 12, 2017.

BASIS OF RECOMMENDATION:

A. HISTORICAL CONTEXT

- Wireless and cellular service providers are looking for solutions to providing better and more reliable service to customers.
- One method of enhancing service is to install "Small Cell" antennas to fill in areas of poor coverage.
- To date, applications for these small cell devices have been submitted by third parties which are not recognized as telecommunication companies and lease the antennas to providers.
- Legislation was passed that allows these antennas to be installed in the right-of-way.
- The City of Richfield and other cities passed resolutions stating their opposition to the legislation. City Council passed the resolution at the March 16, 2017 Meeting.
- The ability for the City to control its right-of-way and negotiate use and fees from utility companies
for that public asset currently exists.
- Updates to the existing right-of-way ordinance will allow the City to establish a permitting process for the installation of the small cell facilities when proposed within public rights-of-way.

B. **POLICIES (resolutions, ordinances, regulations, statutes, etc):**
- Section 802 of Richfield City Code depicts the City's current practices of permitting the use within right-of-ways, which includes permitting for excavation, obstruction, and installation.
- Minnesota Statutes, Section 237.162 defines public right-of-way including management of standards and costs.
- Minnesota Statutes Sections 237.16, 237.162, 237.163, 237.79, 237.81, and 238.086 (the "Act") and 2017 Session Laws, Chapter 94 amending the Act are interpreted with consideration of small cell wireless technology.

C. **CRITICAL TIMING ISSUES:**
- The state legislation is officially passed and the City is not allowed to have a moratorium to further discuss the process.
- The City has 90 days to review and approve/deny any small cell application.

D. **FINANCIAL IMPACT:**
- The City is allowed to charge fees on the permit review as well as charge rent for facilities located in the right of way and on City owned poles.

E. **LEGAL CONSIDERATION:**
- The City Attorney has reviewed the ordinance amendment and will be available to answer questions.

**ALTERNATIVE RECOMMENDATION(S):**
- None

**PRINCIPAL PARTIES EXPECTED AT MEETING:**
None

**ATTACHMENTS:**
<table>
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<tr>
<th>Description</th>
<th>Type</th>
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<tr>
<td>Proposed Ordinance</td>
<td>Ordinance</td>
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AN ORDINANCE AMENDING SUBSECTION 802 OF THE RICHFIELD CODE OF ORDINANCES ADDING NEW REGULATIONS FOR SMALL CELL WIRELESS FACILITY INSTALLATION

THE CITY OF RICHFIELD DOES ORDAIN:

Section 1. Subsection 802 of the Code of Ordinances of the City of Richfield is hereby deleted in its entirety and replaced with the following:

802.01. - Findings, purpose, and intent.

To provide for the health, safety and welfare of its citizens, and to ensure the integrity of its streets and the appropriate use of the rights-of-way, the City strives to keep its rights-of-way in a state of good repair and free from unnecessary encumbrances.

Accordingly, the City enacts this Section of this code relating to right-of-way permits and administration. This Section imposes reasonable regulation on the placement and maintenance of facilities and equipment currently within the City's rights-of-way or to be placed therein at some future time. It is intended to complement the regulatory roles of state and federal agencies. Under this Section, persons excavating and obstructing the rights-of-way will bear financial responsibility for their work through the recovery of out-of-pocket and projected costs from persons using the public rights-of-way.

This Section shall be interpreted consistently with 1997 Session Laws, Chapter 123, substantially codified in Minnesota Statutes Sections 237.16, 237.162, 237.163, 237.79, 237.81, and 238.086 (the "Act") and 2017 Session Laws, Chapter 94 amending the Act and the other laws governing applicable rights of the City and users of the right-of-way. This Section shall also be interpreted consistent with Minnesota Rules 7819.0050 - 7819.9950 where possible. To the extent that any provision of this Section cannot be interpreted consistently with the Minnesota Rules, the interpretation most consistent with the Act and other applicable statutory and case law is intended.

802.03. - Election to manage the public rights-of-way.

Pursuant to the authority granted to the City under state and federal statutory, administrative and common law, the City elects pursuant Minnesota Statutes, section 237.163, subdivision 2(b), to manage rights-of-way within its jurisdiction.

802.05. - Definitions.

The following definitions apply in this Section of this code. References to "subdivisions" are unless otherwise specified references to subdivisions in this Section:

Subdivision 1. Abandoned facility. "Abandoned facility" means a facility no longer in service or physically disconnected from a portion of the operating facility, or from any other facility, that is in use or still carries service. A facility is not abandoned unless declared so by the right-of-way user. Abandoned facilities should be removed and not left in place.
**Subd. 2. Applicant.** "Applicant" means any person requesting permission to excavate or obstruct a right-of-way.

**Subd. 3. City.** "City" means the City of Richfield, Minnesota. For purposes of Section 802.57, City means its elected officials, officers, employees and agents.

**Subd. 4. Collocate or Collocation.** To install, mount, maintain, modify, operate, or replace a small wireless facility on, under, within, or adjacent to an existing wireless support structure or utility pole that is owned privately, or by the city or other governmental unit.

**Subd. 5. Commission.** "Commission" means the Minnesota Public Utilities Commission.

**Subd. 6. Congested Right-of-Way.** "Congested Right-of-Way" means a crowded condition in the subsurface of the public right-of-way that occurs when the maximum lateral spacing between existing underground facilities does not allow for construction of new underground facilities without using hand digging to expose the existing lateral facilities in conformance with Minnesota Statutes, section 216D.04 subdivision 3, over a continuous length in excess of 500 feet.

**Subd. 7. Construction Performance Bond.** "Construction Performance Bond" means any of the following forms of security provided at permittee's option:

(a) Individual project bond, including a "license and permit" bond;

(b) Cash deposit;

(c) Security of a form listed or approved under Minnesota Statutes, section. 15.73, subdivision;

(d) Letter of Credit, in a form acceptable to the City;

(e) Self-insurance, in a form acceptable to the City;

(f) A blanket bond for projects within the City, or other form of construction bond, for a time specified and in a form acceptable to the City.

**Subd. 8. Degradation.** "Degradation" means a decrease in the useful life of the right-of-way caused by excavation in or disturbance of the right-of-way, resulting in the need to reconstruct such right-of-way earlier than would be required if the excavation or disturbance did not occur.

**Subd. 9. Degradation Cost.** "Degradation Cost" subject to Minnesota Rules 7819.1100 means the cost to achieve a level of restoration as determined by the City at the time the permit is issued, not to exceed the maximum restoration shown in plates 1 to 13, set forth in Minnesota Rules parts 7819.9900 to 7819.9950.

**Subd. 10. Degradation Fee.** "Degradation Fee" means the estimated fee established at the time of permitting by the City to recover costs associated with the decrease in the useful life of the right-of-way caused by the excavation, and which equals the degradation cost.

**Subd. 11. Department.** "Department" means the Department of Public Works of the City.
**Subd. 12.** **Department Inspector.** "Department Inspector" means any person authorized by the City to carry out inspections related to the provisions of this Section.

**Subd. 13.** **Director.** "Director" means the Director of the Department of Public Works of the City, or her or his designee.

**Subd. 14.** **Delay penalty.** "Delay penalty" is the penalty imposed as a result of unreasonable delays in right-of-way excavation, obstruction, patching, or restoration as established by permit.

**Subd. 15.** **Emergency.** "Emergency" means a condition that:

1. Poses a danger to life or health, or of a significant loss of property; or

2. Requires immediate repair or replacement of facilities in order to restore service to a customer.

**Subd. 16.** **Equipment.** "Equipment" means any tangible asset used to install, repair, or maintain facilities in any right-of-way.

**Subd. 17.** **Excavate.** "Excavate" means to dig into or in any way remove or physically disturb or penetrate any part of a right-of-way.

**Subd. 18.** **Excavation permit.** "Excavation permit" means the permit which, pursuant to this Section, must be obtained before a person may excavate in a right-of-way. An excavation permit allows the holder to excavate that part of the right-of-way described in such permit.

**Subd. 19.** **Excavation permit fee.** "Excavation permit fee" means money paid to the City by an applicant to cover the costs as provided in Section 802.23.

**Subd. 20.** **Facility or facilities.** "Facility or facilities" means tangible asset in the public right-of-way required to provide utility service. The term does not include Facilities to the extent the location and relocation of such Facilities are preempted by Minnesota Statutes, section 161.45, governing utility facility placement in state trunk highways.

**Subd. 21.** **Five-year project plan.** "Five-year project plan" shows projects adopted by the City for construction within the next five (5) years.

**Subd. 22.** **High density corridor.** "High density corridor" means a designated portion of the public right-of-way within which telecommunications right-of-way users having multiple and competing facilities may be required to build and install facilities in a common conduit system or other common structure.

**Subd. 23.** **Hole.** "Hole" means an excavation in the right-of-way, with the excavation having a length less than the width of the pavement or adjacent pavement.

**Subd. 24.** **Local representative.** "Local representative" means a local person or persons, or designee of such person or persons, authorized by a registrant to accept service and to make decisions for that registrant regarding all matters within the scope of this Section.
Subd. 25. Management costs. "Management costs" means the actual costs the City incurs in managing its rights-of-way, including such costs, if incurred, as those associated with registering applicants; issuing, processing, and verifying right-of-way or small wireless facility permit applications; inspecting job sites and restoration projects; maintaining, supporting, protecting, or moving user facilities during right-of-way work; determining the adequacy of right-of-way restoration; restoring work inadequately performed after providing notice and the opportunity to correct the work; and revoking right-of-way or small wireless facility permits. Management costs do not include payment by a telecommunications right-of-way user for the use of the right-of-way, unreasonable fees of a third-party contractor used by the city including fees tied to or based on customer counts, access lines, or revenues generated by the right-of-way or for the city, the fees and cost of litigation relating to the interpretation of Minnesota Session Laws 1997, chapter 123; Minnesota Statutes, sections 237.162 or 237.163 or any ordinance enacted under those sections, or the City fees and costs related to appeals taken pursuant to Section 802.61.

Subd. 26. Obstruct. "Obstruct" means to place any tangible object in a right-of-way so as to hinder free and open passage over that or any part of the right-of-way.

Subd. 27. Obstruction permit. "Obstruction permit" means the permit which, pursuant to this Section, must be obtained before a person may obstruct a right-of-way, allowing the holder to hinder free and open passage over the specified portion of that right-of-way, for the duration specified therein, including a blanket permit for a period of time and for types of work specified by the Director, if deemed appropriate in his discretion.

Subd. 28. Obstruction Permit fee. "Obstruction permit fee" means money paid to the City by a permittee to cover the costs as provided in Section 802.23.

Subd. 29. Patch or patching. "Patch or patching" means a method of pavement replacement that is temporary in nature. A patch consists of (1) the compaction of the subbase and aggregate base, and (2) the replacement, in kind, of the existing pavement for a minimum of two (2) feet beyond the edges of the excavation in all directions. A patch is considered full restoration only when the pavement is included in the City's five (5) year project plan.

Subd. 30. Pavement. "Pavement" means any type of improved surface that is within the public right-of-way and that is paved or otherwise constructed with paver blocks, bituminous, concrete, aggregate, or gravel.

Subd. 31. Permit. "Permit" has the meaning given "right-of-way permit" in Minnesota Statutes, section 237.162.

Subd. 32. Permittee. "Permittee" means any person to whom a permit to excavate or obstruct a right-of-way has been granted by the City under this Section.

Subd. 33. Person. "Person" means an individual or entity subject to the laws and rules of this state, however organized, whether public or private, whether domestic or foreign, whether for profit or nonprofit, and whether natural, corporate, or political.
**Subd. 34. Public right-of-way.** "Public right-of-way" has the meaning given it in Minnesota Statutes, section 237.162, subdivision 3.

**Subd. 35. Registrant.** "Registrant" means any person who (1) has or seeks to have its equipment or facilities located in any right-of-way, or (2) in any way occupies or uses, or seeks to occupy or use, the right-of-way or place its facilities or equipment in the right-of-way.

**Subd. 36. Restore or restoration.** "Restore or restoration" means the process by which an excavated right-of-way and surrounding area, including pavement and foundation, is returned to the same condition and life expectancy that existed before excavation.

**Subd. 37. Right-of-way permit.** "Right-of-way permit" means either the excavation permit or the obstruction permit, or both, depending on the context, required by this Section.

**Subd. 38. Right-of-way user.** "Right-of-way user" means (1) a telecommunications right-of-way user as defined by Minnesota Statutes, section 237.162, subdivision 4; or (2) a person owning or controlling a facility in the right-of-way that is used or intended to be used for providing utility service, and who has a right under law, franchise, or ordinance to use the public right-of-way.

**Subd. 39. Service or Utility Service.** "Service or Utility Service" means and includes:

1. Services provided by a public utility as defined in Minnesota Statutes 216B.02, subdivisions 4 and 6;

2. Services of a telecommunications right-of-way user, including transporting of voice or data information;

3. Services of a cable communications system as defined in Minnesota Statutes, chapter 238.02, subdivision 3;

4. Natural gas or electric energy or telecommunications services provided by a local government unit;

5. Services provided by a cooperative electric association organized under Minnesota Statutes, chapter 308A; and

6. Water, sewer, steam, cooling or heating services.

**Subd. 40. Small Wireless Facility.** A wireless facility that meets both of the following qualifications:

(i) each antenna is located inside an enclosure of no more than six cubic feet in volume or could fit within such an enclosure; and

(ii) all other wireless equipment associated with the small wireless facility provided such equipment is, in aggregate, no more than 28 cubic feet in volume, not including electric meters, concealment elements, telecommunications demarcation boxes, battery backup power systems, grounding equipment, power transfer switches, cutoff switches, cable, conduit, vertical cable runs for the
connection of power and other services, and any equipment concealed from public view within or behind an existing structure or concealment.

**Subd. 41. Supplemental Application.** "Supplemental Application" means an application made to excavate or obstruct more of the right-of-way than allowed in, or to extend, a permit that had already been issued.

**Subd. 42. Temporary Surface.** "Temporary Surface" means the compaction of subbase and aggregate base and replacement, in kind, of the existing pavement only to the edges of the excavation. It is temporary in nature except when the replacement is of pavement included in the City's two-year plan, in which case it is considered full restoration.

**Subd. 43. Trench.** "Trench" means an excavation in the right-of-way, with the excavation having a length equal to or greater than the width of the pavement or adjacent pavement.

**Subd. 44. Telecommunication right-of-way User.** "Telecommunication right-of-way User" means a person owning or controlling a facility in the right-of-way, or seeking to own or control a Facility in the right-of-way, that is used or is intended to be used for providing wireless service, or transporting telecommunication or other voice or data information. For purposes of this Section, a cable communication system defined and regulated under Minn. Stat. Chap. 238, and telecommunication activities related to providing natural gas or electric energy services, by a public utility as defined in Minnesota Statutes, section 216B.02, a municipality, a municipal gas or power agency organized under Minnesota Statutes, chapters 453 and 453A, or a cooperative electric association organized under Minnesota Statutes, chapter 308A, are not telecommunications right-of-way users for purposes of this Section except to the extent such entity is offering wireless service.

**Subd. 45. Two Year Project Plan.** "Two Year Project Plan" shows projects adopted by the City for construction within the next two (2) years.

**Subd. 46. Utility Pole.** A pole that is used in whole or in part to facilitate telecommunications or electric service.

**Subd. 47. Wireless Facility.** Equipment at a fixed location that enables the provision of wireless services between user equipment and a wireless service network, including equipment associated with wireless service, a radio transceiver, antenna, coaxial or fiber-optic cable, regular and backup power supplies, and a small wireless facility, but not including wireless support structures, wireline backhaul facilities, or cables between utility poles or wireless support structures, or not otherwise immediately adjacent to and directly associated with a specific antenna.

**Subd. 48. Wireless Service.** Any service using licensed or unlicensed wireless spectrum, including the use of Wi-Fi, whether at a fixed location or by means of a mobile device, that is provided using wireless facilities. Wireless service does not include services regulated under Title VI of the Communications Act of 1934, as amended, including cable service.

**Subd. 49. Wireless Support Structure.** A new or existing structure in a right-of-way designed to support or capable of supporting small wireless facilities, as reasonably determined by the city.
802.07. - Administration.

The Director is the principal City official responsible for the administration of the rights-of-way, right-of-way permits, and the ordinances related thereto. The Director may delegate any or all of the duties hereunder.

802.09. - Utility Coordination Committee.

The City may create an advisory utility coordination committee. Participation on the committee is voluntary. It will be composed of any registrants that wish to assist the City in obtaining information and by making recommendations regarding use of the right-of-way, and to improve the process of performing construction work therein. The City may determine the size of such committee and shall appoint members from a list of registrants that have expressed a desire to assist the City.

802.11. - Registration and right-of-way occupancy.

Subdivision 1. Registration. Each person who occupies, uses, or seeks to occupy or use, the right-of-way or place any equipment or facilities in or on the right-of-way, including persons with installation and maintenance responsibilities by lease, sublease or assignment, must register with the City. Registration will consist of providing application information and paying a registration fee.

Subd. 2. Registration prior to work. No person may construct, install, repair, remove, relocate, or perform any other work on, or use any facilities or any part thereof in any right-of-way without first being registered with the City.

Subd. 3. Exceptions. Nothing in this Section shall be construed to repeal or amend the provisions of a City ordinance establishing the rights of and limitations placed on persons to plant or maintain boulevard plantings or gardens in the area of the right-of-way between their property and the street curb. Persons shall not be deemed to use or occupy the right-of-way, and shall not be required to obtain any permits or satisfy any other requirements under this Section for the following:

(a) Planting or maintaining boulevard plantings or gardens (City Code 811.07);
(b) Other surface landscaping works (City Code 811.07);
(c) Construction and maintenance of driveways, sidewalks, curb and gutter, or parking lots, except repairs or restoration necessitated by utility cuts or other work (City Code 800.11);
(d) Construction or maintenance of street furnishings, bus stop benches, shelters, or posts and pillars (City Code 805.07);
(e) Snow removal activities (City Code 930.17);
(f) Construction and maintenance of irrigation systems provided that the system does not connect directly to water mains in the right-of-way (City Code 811.07).

Subd. 4. Gopher one call. Nothing herein relieves a person from complying with the provisions of the Minnesota Statutes, chapter 216D, Gopher One Call Law.
802.13. - Registration information.

**Subdivision 1. Information required.** The information provided to the City at the time of registration shall include, but not be limited to:

(a) Each registrant's name, Gopher One-Call facility owner code number or other One-Call identifier, address and e-mail address, and telephone and facsimile numbers.

(b) The name, address and e-mail address, if applicable, and telephone and facsimile numbers of a local representative. The local representative or designee shall be accessible for consultation at all times. Current information regarding how to contact the local representative in an emergency shall be provided at the time of registration.

(c) A certificate of insurance or self-insurance:

(1) Verifying that an insurance policy has been issued to the registrant by an insurance company authorized to do business in the State of Minnesota, or a form of self insurance acceptable to the City;

(2) Verifying that the registrant is insured against claims for personal injury, including death, as well as claims for property damage arising out of the (i) use and occupancy of the right-of-way by the registrant, its officers, agents, employees and permittees, and (ii) placement and use of facilities and equipment in the right-of-way by the registrant, its officers, agents, employees and permittees, including, but not limited to, protection against liability arising from completed operations, damage of underground facilities and collapse of property;

(3) Either naming the City as an additional insured as to whom the coverages required herein are in force and applicable and for whom defense will be provided as to all such coverages or otherwise providing evidence satisfactory to the Director that the City is fully covered and will be defended through registrant's insurance for all actions included in Minnesota Rule part 7819.1250;

(4) Requiring that the City be notified 30 days in advance of cancellation of the policy or material modification of a coverage term;

(5) Indicating comprehensive liability coverage, automobile liability coverage, workers compensation and umbrella coverage established by the City in amounts sufficient to protect the City and the public and to carry out the purposes and policies of this Section.

(d) The City may require a copy of the actual insurance policies if necessary to ensure the Director that the policy provides adequate third party claim coverage and City indemnity and defense coverage for all actions included in the indemnity required by Minnesota Rule part 7819.1250.

(e) Such evidence as the Director may require that the person is authorized to do business in Minnesota.
Subd. 2. Notice of Changes. The registrant shall keep all of the information listed above current at all times by providing to the City information as to changes within 15 days following the date on which the registrant has knowledge of any change.

802.15. - Reporting obligations.

Subdivision 1. Operations. Each registrant shall, at the time of registration and by December 1 of each year, file a construction and major maintenance plan for underground facilities with the City. Such plan shall be submitted using a format designated by the City and shall contain the information determined by the City to be necessary to facilitate the coordination and reduction in the frequency of excavations and obstructions of rights-of-way. If by December 1 the registrant has not developed its construction and maintenance information for the coming year, the registrant shall file such information with the City thereafter as soon as it is developed. The plan shall include, but not be limited to, the following information:

(a) The locations and the estimated beginning and ending dates of all projects to be commenced during the next calendar year (in this section, a "next-year project"); and

(b) To the extent known, the tentative locations and estimated beginning and ending dates for all projects contemplated for the five (5) years following the next calendar year (in this section, a "five-year project").

The term "project" in this section shall include both next-year projects and five-year projects.

By January 1 of each year and subject to the Minnesota Data Practices Act the City will have available for inspection in the City's office a composite list of all projects of which the City has been informed of the annual plans. All registrants are responsible for keeping themselves informed of the current status of this list. Thereafter, by March 1, each registrant may change any project in its list of next-year projects, and must notify the City and all other registrants of all such changes in said list. Notwithstanding the foregoing, a registrant may at any time join in a next-year project of another registrant listed by the other registrant.

Subd. 2. Additional next-year projects. Notwithstanding the foregoing, the City will not deny an application for a right-of-way permit for failure to include a project in a plan submitted to the City if the registrant has used commercially reasonable efforts to anticipate and plan for the project.

802.17. - Permit Requirement.

Subdivision 1. Permit required. Except as otherwise provided in this code, no person may obstruct or excavate any right-of-way, or install or place facilities in the right-of-way, without first having obtained the appropriate right-of-way permit from the City to do so.

(a) Excavation permit. An excavation permit is required by a registrant to excavate that part of the right-of-way described in such permit and to hinder free and open passage over the specified portion of the right-of-way by placing facilities described therein, to the extent and for the duration specified therein.
(b) Obstruction permit. An obstruction permit is required by a registrant to hinder free and open passage over the specified portion of the right-of-way by placing equipment described therein on the right-of-way, to the extent and for the duration specified therein. An obstruction permit is not required if a person already possesses a valid excavation permit for the same project.

(c) Permits for installation, repair or otherwise work on above-ground facilities within the meaning of Minn. Stat. § 237.163, subd. 6(b)(4) will be obstruction permits, notwithstanding the need for excavation, provided the excavation is augered or hand dug for the purpose of placing a pole type structure.

(d) Small Wireless Facility Permit. A small wireless facility permit is required by a registrant to erect or install a wireless support structure, to collocate a small wireless facility, or to otherwise install a small wireless facility in the specified portion of the right-of-way, to the extent specified therein, provided that such permit shall remain in effect for the length of time the facility is in use, unless lawfully revoked.

Subd. 2. Permit Extensions. No person may excavate or obstruct the right-of-way beyond the date or dates specified in the permit unless (i) such person makes a supplementary application for another right-of-way permit before the expiration of the initial permit, and (ii) a new permit or permit extension is granted.

Subd. 3. Delay Penalty. In accordance with Minnesota Rule 7819.1000 subp. 3, the City shall establish and impose a delay penalty for unreasonable delays in right-of-way excavation, obstruction, patching, or restoration. The delay penalty shall be established from time to time by City Council resolution. A delay penalty will not be imposed for delays due to force majeure, including inclement weather, civil strife, acts of God, or other circumstances beyond the control of the applicant.

Subd. 4. Permit Display. Permits issued under this Section shall be conspicuously displayed or otherwise available at all times at the indicated work site and shall be available for inspection by the City.

Subd. 5. Routine Obstruction and Excavation. The Director may approve a permit plan which, among other conditions, allows for routine excavations and obstructions without separate notice and separate compensation for such projects. Projects that do not involve excavation of paved surface and that last less than eight (8) hours in duration may be included in such a plan.

802.19. - Permit Applications.

Subdivision 1. Content of Permit. Application for a permit is made to the City. Right-of-way permit applications shall contain, and will be considered complete only upon compliance with the requirements of the following provisions:

(a) Registration with the City pursuant to this Section;

(b) Submission of a completed permit application form, including all required attachments, and scaled drawings showing the location and area of the proposed project and the location of all known existing and proposed facilities owned or operated by the applicant.
(c) Payment of money due the City for:

1. Permit fees, estimated restoration costs and other management costs;
2. Prior obstructions or excavations;
3. Any undisputed loss, damage, or expense suffered by the City because of applicant's prior excavations or obstructions of the rights-of-way or any emergency actions taken by the City.

(d) Payment of disputed amounts due the City by posting security or depositing in an escrow account an amount equal to at least 100% of the amount owing.

Posting an additional or larger construction performance bond for additional facilities when applicant requests an excavation permit to install additional facilities and the City deems the existing construction performance bond inadequate under applicable standards.

802.21. - Issuance of Permit; Conditions.

Subdivision 1. Permit Issuance. If the Applicant has satisfied the requirements of this Section, the City shall issue a permit within a reasonable period of time of receiving a completed application.

Subd. 2. Conditions. The City may impose reasonable conditions upon the issuance of the permit and the performance of the applicant thereunder to protect the health, safety and welfare or when necessary to protect the right-of-way and its current use. In addition, a permittee shall comply with all requirements of local, state and federal laws, including but not limited to Minnesota Statutes §§ 216D.01 - .09 (Gopher One Call Excavation Notice System) and Minnesota Rules Chapter 7560.

Subd. 3. Screening. The Permittee shall screen all above-ground facilities as required by the Director. Screening methods shall include the use of shrubs, trees and/or landscape rock or installation using camouflaged forms of the facility.

Subd. 4. Small Wireless Facility Conditions. In addition to subdivisions 2 and 3, the erection or installation of a wireless support structure, the collocation of a small wireless facility, or other installation of a small wireless facility in the right-of-way, shall be subject to the following conditions:

(a) A small wireless facility shall only be collocated on the particular wireless support structure, under those attachment specifications, and at the height indicated in the applicable permit application.

(b) No new wireless support structure installed within the right-of-way shall exceed 50 feet in height without the city’s written authorization, provided that the city may impose a lower height limit in the applicable permit to protect the public health, safety and welfare or to protect the right-of-way and its current use, and further provided that a registrant may replace an existing wireless support structure exceeding 50 feet in height with a structure of the same height subject to such conditions or requirements as may be imposed in the applicable permit.

(c) No wireless facility may extend more than 10 feet above its wireless support structure.
(d) Where an applicant proposes to install a new wireless support structure in the right-of-way, the city may impose separation requirements between such structure and any existing wireless support structure or other facilities in and around the right-of-way.

(e) Where an applicant proposes collocation on a decorative wireless support structure, sign or other structure not intended to support small wireless facilities, the city may impose reasonable requirements to accommodate the particular design, appearance or intended purpose of such structure.

(f) Where an applicant proposes to replace a wireless support structure, the city may impose reasonable restocking, replacement, or relocation requirements on the replacement of such structure.

Subd. 5. Small Wireless Facility Agreement. A small wireless facility shall only be collocated on a small wireless support structure owned or controlled by the city, or any other city asset in the right-of-way, after the applicant has executed a standard small wireless facility collocation agreement with the city. The standard collocation agreement may require payment of the following:

(a) Up to $150 per year for rent to collocate on the city structure.

(b) $25 per year for maintenance associated with the collocation;

(c) A monthly fee for electrical service as follows:
   1. $73 per radio node less than or equal to 100 maximum watts;
   2. $182 per radio node over 100 maximum watts; or
   3. The actual costs of electricity, if the actual cost exceed the foregoing.

The standard collocation agreement shall be in addition to, and not in lieu of, the required small wireless facility permit, provided, however, that the applicant shall not be additionally required to obtain a license or franchise in order to collocate. Issuance of a small wireless facility permit does not supersede, alter or affect any then-existing agreement between the city and applicant.

802.22. - Action on Small Wireless Facility Permit Applications.

Subd. 1. Deadline for Action. The city shall approve or deny a small wireless facility permit application within 90 days after filing of such application. The small wireless facility permit, and any associated building permit application, shall be deemed approved if the city fails to approve or deny the application within the review periods established in this section.

Subd. 2. Consolidated Applications. An applicant may file a consolidated small wireless facility permit application addressing the proposed collocation of up to 15 small wireless facilities, or a greater number if agreed to by the City, provided that all small wireless facilities in the application:

(a) are located within a two-mile radius;

(b) consist of substantially similar equipment; and
(c) are to be placed on similar types of wireless support structures.

In rendering a decision on a consolidated permit application, the city may approve some small wireless facilities and deny others, but may not use denial of one or more permits as a basis to deny all small wireless facilities in the application.

**Subd. 3. Tolling of Deadline.** The 90-day deadline for action on a small wireless facility permit application may be tolled if:

(a) The city receives applications from one or more applicants seeking approval of permits for more than 30 small wireless facilities within a seven-day period. In such case, the city may extend the deadline for all such applications by 30 days by informing the affected applicants in writing of such extension.

(b) The applicant fails to submit all required documents or information and the city provides written notice of incompleteness to the applicant within 30 days of receipt the application. Upon submission of additional documents or information, the city shall have ten days to notify the applicant in writing of any still-missing information.

(c) The city and a small wireless facility applicant agree in writing to toll the review period.

802.23. - Permit Fees.

**Subdivision 1. Fee schedule and fee allocation.** The City's permit fee schedule shall be available to the public and established in advance where reasonably possible. The permit fees shall be designed to recover the City's actual costs incurred in managing the right-of-way and shall be based on an allocation among all users of the right-of-way, including the City.

**Subd. 2. Excavation Permit Fee.** The City shall impose an Excavation permit fee in an amount sufficient to recover the following costs:

(a) City management costs.

(b) Degradation costs, if applicable.

**Subd. 3. Obstruction Permit Fee.** The City shall impose an obstruction permit fee and shall be in an amount sufficient to recover the City management costs.

**Subd. 4. Small Wireless Facility Permit Fee.** The city shall impose a small wireless facility permit fee in an amount sufficient to recover:

(a) management costs, and;

(b) Consultant fees, city engineering, make-ready, and construction costs associated with collocation of small wireless facilities.
Subd. 5. Payment of permit fees. No permit shall be issued without payment of permit fees, unless approved by the Public Works Director. The City may allow Applicant to pay such fees within 30 days of billing, or on some other payment plan agreed to by the Director at his discretion.

Subd. 6. Nonrefundable. Permit fees that were paid for a permit that the City has revoked for a breach as stated in Subdivision 22 are not refundable.

Subd. 7. Application to franchises. Unless otherwise agreed to in a franchise, management costs may be charged separately from and in addition to the franchise fees imposed on a right-of-way user in the franchise.

802.25. - Right-of-way patching and restoration.

Subdivision 1. Timing. The work to be done under the excavation permit, and the patching and restoration of the right-of-way as required herein, must be completed within the dates specified in the permit, increased by as many days as work could not be done because of circumstances beyond the control of the permittee or when work was prohibited as unseasonal or unreasonable under Subdivision 16.

Subd. 2. Patch and restoration. Permittee must patch its own work. The City may choose either to have the permittee restore the surface and subgrading portions of right-of-way or to restore the surface portion of right-of-way itself.

(a) City Restoration. If the City restores the surface portion of right-of-way, permittee shall pay the costs thereof within 30 days of billing. If, following such Restoration, the pavement settles due to permittee's improper work, the permittee shall pay to the City, within 30 days of billing, all costs associated with correcting the defective work.

(b) Permittee restoration. If the permittee restores the right-of-way itself, it shall at the time of application for an Excavation permit post a construction performance bond in accordance with the provisions of Minnesota Rule 7819.3000.

(c) Degradation fee in lieu of restoration. In lieu of right-of-way restoration, a right-of-way user may elect to pay a degradation fee. However, the right-of-way user shall remain responsible for replacing and compacting the subgrade and aggregate based material in the excavation and the degradation fee shall not include the cost to accomplish these responsibilities.

Subd. 3. Standards. The permittee shall perform patching and restoration according to the standards and with the materials specified by the City and shall comply with Minnesota Rule 7819.1100.

Subd. 4. Duty to correct defects. The permittee shall correct defects in patching, or restoration performed by permittee or its agents. Upon notification from the City, permittee shall correct all restoration work to the extent necessary, using the method required by the City. Unless otherwise agreed to by the Director, said work shall be completed within 14 calendar days of receipt of the notice from the City, not including days during which work cannot be done because of circumstances constituting force majeure or days when work is prohibited as unseasonal or unreasonable under Subdivision 16.
Subd. 5. Failure to restore. If the permittee fails to restore the right-of-way in the manner and to the condition required by the City, or fails to satisfactorily and timely complete all restoration required by the City, the City shall notify the permittee in writing of the specific alleged failure or failures and shall allow the permittee ten (10) days from receipt of said written notice to cure said failure or failures, unless otherwise extended by the Director. In the event the permittee fails to cure, the City may at its option perform the necessary work and permittee shall pay to the City, within 30 days of billing, the cost of restoring the right-of-way. If permittee fails to pay as required, the City may exercise its rights under the construction performance bond.

802.27. - Joint applications.

Subdivision 1. Joint application. Registrants may jointly apply for permits to excavate or obstruct the right-of-way at the same place and time.

Subd. 2. Shared fees. Registrants who apply for permits for the same obstruction or excavation, which the City does not perform, may share in the payment of the obstruction or excavation permit fee. In order to obtain a joint permit, registrants must agree among themselves as to the portion each will pay and indicate the same on their applications.

Subd. 3. With City projects. Registrants who join in a scheduled obstruction or excavation performed by the City, whether or not it is a joint application by two (2) or more registrants or a single application, are not required to pay the excavation or obstruction and degradation portions of the permit fee, but a permit would still be required.

802.29. - Supplementary applications.

Subdivision 1. Limitation on area. A right-of-way permit is valid only for the area of the right-of-way specified in the permit. No permittee may do any work outside the area specified in the permit, except as provided herein. Any permittee which determines that an area greater than that specified in the permit must be obstructed or excavated must before working in that greater area:

(i) Make application for a permit extension and pay any additional fees required thereby; and
(ii) Be granted a new permit or permit extension.

Subd. 2. Limitation on dates. A right-of-way permit is valid only for the dates specified in the permit. No permittee may begin its work before the permit start date or, except as provided herein, continue working after the end date. If a permittee does not finish the work by the permit end date, it must apply for a new permit for the additional time it needs, and receive the new permit or an extension of the old permit before working after the end date of the previous permit. May be subject to delay penalties. This supplementary application must be submitted before the permit end date.

802.31. - Other obligations.

Subdivision 1. Compliance with other laws. Obtaining a right-of-way permit does not relieve permittee of its duty to obtain all other necessary permits, licenses, and authority and to pay all fees required by the City or other applicable rule, law or regulation. A permittee shall comply with all
requirements of local, state and federal laws, including Minn. Stat. 216D.01-.09 (Gopher One Call Excavation Notice System). A permittee shall perform all work in conformance with all applicable codes and established rules and regulations, and is responsible for all work done in the right-of-way pursuant to its permit, regardless of who does the work.

**Subd. 2. Prohibited work.** Except in an emergency, or with the approval of the City, no right-of-way obstruction or excavation may be done when seasonally prohibited or when conditions are unreasonable for such work.

**Subd. 3. Interference with right-of-way.** A permittee shall not so obstruct a right-of-way that the natural free and clear passage of water through the gutters or other waterways shall be interfered with, unless otherwise approved by the Director. Private vehicles of those doing work in the right-of-way may not be parked within or next to a permit area, unless parked in conformance with City parking regulations. The loading or unloading of trucks must be done solely within the defined permit area unless specifically authorized by the permit.

**Subd. 4. Traffic control.** A permittee shall implement traffic control measures in the area of the work and shall use traffic control procedures in accordance with the most recent manuals on uniform traffic control, traffic control devices and traffic zone layouts published by the State of Minnesota.

**Subd. 5. Trenchless excavation.** As a condition of all applicable permits, permittees employing trenchless excavation methods, including but not limited to Horizontal Directional Drilling, shall follow all requirements set forth in Minnesota Statutes Chapter 216D and Minnesota Rules Chapter 7560 and shall require potholing or open cutting over existing underground utilities before excavating, as determined by the Director.

### 802.33. - Denial of permit.

**Subd. 1. Reasons for Denial.** The City may deny a permit for failure to meet the requirements and conditions of this Section or if the City determines that the denial is necessary to protect the health, safety, and welfare or when necessary to protect the right-of-way and its current use.

**Subd. 2. Procedural Requirements.** The denial or revocation of a permit must be made in writing and must document the basis for the denial. The City must notify the applicant or right-of-way user in writing within three (3) business days of the decision to deny or revoke a permit. If an application is denied, the right-of-way user may address the reasons for denial identified by the City and resubmit its application. If the application is resubmitted within 30 days of receipt of the notice of denial, no additional application fee shall be imposed. The City must approve or deny the resubmitted application within 30 days after submission.

### 802.35. - Installation requirements.

The excavation, backfilling, patching and restoration, and all other work performed in the right-of-way shall be done in conformance with Minnesota Rules 7819.1100, 78.19.5000 and 7819.5100 and other applicable local requirements, in so far as they are not inconsistent with the Minnesota Statutes, sections 237.162 and 237.163.
802.37. - Inspection.

Subdivision 1. Notice of Completion. When the work under any permit hereunder is completed, the permittee shall furnish a completion certificate in accordance Minnesota Rule 7819.1300.

Subd. 2. Site inspection. Permittee shall make the work-site available to the City and to all others as authorized by law for inspection at all reasonable times during the execution of and upon completion of the work.

Subd. 3. Authority of Director.

(a) At the time of inspection the Director may order the immediate cessation of any work which poses a serious threat to the life, health, safety or well-being of the public.

(b) The Director may issue an order to the permittee to correct any work that does not conform to the terms of the permit or other applicable standards, conditions, or code. If the work failure is a "substantial breach" within the meaning of Minn. Stat. § 237.163 subd. 4(c), the order shall state that failure to correct the violation will be cause for revocation of the permit after a specified period determined by the Director. The permittee shall present proof to the Director that the violation has been corrected within the time period set forth by the Director in the order. Such proof shall be provided no later than the next business day following the day of completion. If such proof has not been presented within the required time, the Director may revoke the permit pursuant to Section 802.43.

802.39. - Work done without a permit.

Subdivision 1. Emergency situations. Each registrant shall immediately notify the Director of any event regarding its facilities that the registrant considers to be an emergency. The registrant may proceed to take whatever actions are necessary to respond to the emergency. Within two (2) business days after the occurrence of the emergency, unless the Director allows a longer time, the registrant shall apply for the necessary permits, pay the fees associated therewith and fulfill the rest of the requirements necessary to bring itself into compliance with this Section for the actions it took in response to the Emergency. If the Director concludes that a registrant is required to perform work at the facility solely because of an emergency created by another registrant and the work is performed in the immediate area of the emergency work, the Director may waive the permit otherwise required by the registrant(s) called to the emergency created by another party.

If the City becomes aware of an emergency regarding a registrant's facilities, the City will attempt to contact the local representative of each registrant affected, or potentially affected, by the emergency. In any event, the City may take whatever action it deems necessary to respond to the emergency, the cost of which shall be borne by the registrant whose facilities occasioned the emergency.

Subd. 2. Non-emergency situations. Except in an emergency, any person who, without first having obtained the necessary permit, obstructs or excavates a right-of-way must subsequently obtain a permit, pay an unauthorized work permit fee in an amount established from time to time by the City Council, deposit with the City the fees necessary to correct any damage to the right-of-way and comply with all of the requirements of this Section.
802.41. - Supplementary notification.

If the obstruction or excavation of the right-of-way begins later or ends sooner than the date given on the permit, permittee shall notify the City of the accurate information as soon as this information is known.

802.43. - Revocation of permits.

Subdivision 1. Substantial breach. The City reserves its right to revoke any right-of-way permit, without a fee refund, if there is a substantial breach of the terms and conditions of any statute, ordinance, rule or regulation, or any material condition of the permit. A substantial breach by permittee shall include, but shall not be limited to, the following:

(a) The violation of any material provision of the right-of-way permit;
(b) An evasion or attempt to evade any material provision of the right-of-way permit, or the perpetration or attempt to perpetrate any fraud or deceit upon the City or its citizens;
(c) Any material misrepresentation of fact in the application for a right-of-way permit;
(d) The failure to complete the work in a timely manner; unless a permit extension is obtained or unless the failure to complete work is due to reasons beyond the permittee's control; or
(e) The failure to correct, in a timely manner, work that does not conform to a condition indicated on an order issued pursuant to section 19B-19.

Subd. 2. Written notice of breach. If the City determines that the permittee has committed a substantial breach of a term or condition of any statute, ordinance, rule, regulation or any condition of the permit the City shall make a written demand upon the permittee to remedy such violation. The demand shall state that continued violations may be cause for revocation of the permit. A substantial breach, as stated above, will allow the City to place additional or revised conditions on the permit to mitigate and remedy the breach.

Subd. 3. Response to notice of breach. Within a time established by the Director following permittee's receipt of notification of the breach, permittee shall provide the City with a plan to cure the breach, acceptable to the City. Permittee's failure to submit a timely and acceptable plan, or permittee's failure to timely implement the approved plan, shall be cause for immediate revocation of the permit.

Subd. 4. Reimbursement of City costs. If a permit is revoked, the permittee shall also reimburse the City for the City's reasonable costs, including Restoration costs and the costs of collection and reasonable attorneys' fees incurred in connection with such revocation.

802.45. - Mapping data.

Subdivision 1. Rule. Each registrant and permittee shall provide mapping information in a form required by the City in accordance with Minnesota Rules 7819.4000 and 7819.4100.
Subd. 2. Service Laterals. All permits issued for the installation or repair of service laterals, other than minor repairs as defined in Minnesota Rules 7560.0150 subpart 2, shall require the permittee's use of appropriate means of establishing the horizontal locations of service laterals and service lateral vertical locations in those cases where the Director reasonably requires it. Permittees or their subcontractors shall submit to the Director evidence satisfactory to the Director of the installed service lateral locations.

802.47. - Undergrounding.

Subdivision 1. Purpose. The purpose of this Section 802.47 is to promote the health, safety and general welfare of the public and is intended to foster (i) safe travel over the right-of-way, (ii) non-travel related safety around homes and buildings where overhead feeds are connected and (iii) orderly development in the City. Location and relocation, installation and reinstallation of Facilities in the right-of-way or in or on other public ground must be made in accordance with this Subdivision. This Subdivision is intended to be enforced consistently with state and federal law regulating right-of-way users, specifically including but not limited to Minnesota Statutes, Sections 161.45, 237.162, 237.163, 300.03, 222.37, 238.084 and 216B.36 and the Telecommunications Act of 1996, Title 47, U.S.C. section 253.

Subd. 2. Undergrounding of facilities. Facilities newly installed, constructed or otherwise placed in the public right-of-way or in other public property held in common for public use must be located and maintained underground pursuant to the terms and conditions of this section and in accordance with applicable construction standards, subject to the exceptions below. Above-ground installation, construction, modification, or replacement of meters, gauges, transformers, street lighting, pad mount switches, capacitor banks, re-closers and service connection pedestals shall be allowed. The requirements of this Subdivision shall apply equally outside of the corporate limits of the City coincident with City jurisdiction of platting, subdivision regulation or comprehensive planning as may now or in the future be allowed by law.

Subd. 3. Undergrounding of permanent replacement, Relocated or Reconstructed Facilities. If the City finds that one (1) or more of the purposes set forth in Section 802.47, Subd. 1. would be promoted, the City may require a permanent replacement, relocation or reconstruction of a Facility of more than 300 feet to be located, and maintained underground, with due regard for seasonal working conditions. For purposes of this section, reconstruction means any substantial repair of or any improvement to existing Facilities. Undergrounding may be required whether a replacement, relocation or reconstruction is initiated by the right-of-way user owning or operating the Facilities, or by the City in connection with:

(1) The present or future use by the City or other local government unit of the right-of-way or other public ground for a public project;

(2) The public health or safety; or

(3) The safety and convenience of travel over the right-of-way.

Subd. 4. Exceptions to undergrounding. The following exceptions to the strict application of this Subdivision shall be allowed upon the conditions stated:
(a) Transmission lines. Above-ground installation, construction, or placement of those Facilities commonly referred to as "high voltage transmission lines" shall be allowed unless the Council requires undergrounding of the Facilities after providing the right-of-way user notice and an opportunity to be heard. This provision shall not be construed as waiving the requirements of any other ordinance or regulation of the City as the same may apply to any such proposed project.

(b) Technical/economic feasibility; promotion of policy. Above-ground installation, construction, or placement of Facilities shall be allowed in residential, commercial and industrial areas where the Council, following consideration and recommendation by the planning commission, finds that:

1. Underground placement would place an undue financial burden upon the landowner, ratepayers, or right-of-way user or would deprive the landowner of the preservation and enjoyment of substantial property rights; or,

2. Underground placement is impractical or not technically feasible due to topographical, subsoil or other existing conditions which adversely affect underground Facilities placement.

3. Failure to promote the purposes of undergrounding. The right-of-way user clearly and convincingly demonstrates that none of the purposes under Section 802.47, Subd. 1 would be advanced by underground placement of Facilities on the project in question, or the City determines on its own review that undergrounding is not warranted based on the circumstances of the proposed undergrounding.

(c) Temporary service. Above-ground installation, construction, or placement of temporary service lines shall only be allowed:

1. During new construction of any project for a period not to exceed 24 months;

2. During an emergency in order to safeguard lives or property within the City;

3. For a period of not more than seven (7) months when soil conditions make excavation impractical.

(d) Small Wireless Facilities and Wireless Support Structures. Concealed Small Wireless Facilities and Wireless Support Structures may be installed above ground in accordance with this Chapter 802.

**Subd. 5. Retirement of overhead facilities.** The City Council may determine whether it is in the public interest that all Facilities within the City, or Facilities within certain districts designated by the City, be permanently placed and maintained underground by a date certain or target date, independently of undergrounding required pursuant to Section 802.47, Subd. 2. of this Code (new Facilities) and subdivision 802.47, Subd. 3. (Replacement Facilities). The decision to underground must be preceded by a public hearing, after published notice and written notice to the utilities affected. (Two weeks published: 30 days written.) At the hearing the Council must consider items (1)—(4) in Section 802.47, Subd. 5.B. of
this Section and make findings. Undergrounding may not take place until City Council has, after hearing and notice, adopted a plan containing items (1)—(6) of Section 802.47, Subd. 5.C. of this Section.

(a) Public hearings. A hearing must be open to the public and may be continued from time to time. At each hearing any person interested must be given an opportunity to be heard. The subject of the public hearings shall be the issue of whether Facilities in the right-of-way in the City, or located within a certain district, shall all be located underground by a date certain. Hearings are not necessary for the undergrounding required under Subdivisions 24.B. and D. of this Section.

(b) Public hearing issues. The issues to be addressed at the public hearings include but are not limited to:

1. The costs and benefits to the public of requiring the undergrounding of all Facilities in the right-of-way.

2. The feasibility and cost of undergrounding all Facilities by a date certain as determined by the City and the affected utilities.

3. The tariff requirements, procedure and rate design for recovery or intended recovery of incremental costs for undergrounding by the utilities from ratepayers within the City.

4. Alternative financing options available if the City deems it in the public interest to require undergrounding by a date certain and deems it appropriate to participate in the cost otherwise borne by the ratepayers.

Upon completion of the hearing or hearings, the City Council must make written findings on whether it is in the public interest to establish a plan under which all Facilities will be underground, either citywide or within districts designated by the City.

(c) Undergrounding plan. If the Council finds that it is in the public interest to underground all or substantially all Facilities in the public right-of-way or in non-right-of-way public ground, the Council must establish a plan for such undergrounding. The plan for undergrounding must include at least the following elements:

1. Timetable for the undergrounding.

2. Designation of districts for the undergrounding unless the undergrounding plan is citywide.

3. Exceptions to the undergrounding requirement and procedure for establishing such exceptions.

4. Procedures for the undergrounding process, including but not limited to coordination with City projects and provisions to ensure compliance with non-discrimination requirements under the law.
(5) A financing plan for funding of the incremental costs if the City determines that it will finance some of the undergrounding costs, and a determination and verification of the claimed additional costs to underground incurred by the utility.

(6) Penalties or other remedies for failure to comply with the undergrounding.

Subd. 6. Developer responsibility. All owners, platters, or developers are responsible for complying with the requirements of this Subdivision, and prior to final approval of any plat or development plan, shall submit to the Director written instruments from the appropriate right-of-way users showing that all necessary arrangements with said users for installation of such Facilities have been made.

802.49. - Location and relocation of facilities.

Subdivision 1. Rule. Placement, location, and relocation of facilities must comply with the Act, with other applicable law, and with Minnesota Rules 7819.3100, 7819.5000 and 7819.5100, to the extent the rules do not limit authority otherwise available to cities.

(a) Relocation notification procedure. The Director shall notify the utility owner at least three (3) months in advance of the need to relocate existing facilities so the owner can determine if relocation or replacement is required and plan any required work. The Director shall provide a second notification to the owner one (1) month before the owner needs to begin the relocation. The utility owner shall begin relocation of the facilities within one (1) month of the second notification. To the extent technically feasible, all utilities shall be relocated within one (1) month or in a time frame determined by the Director. The Director may allow a different schedule if it does not interfere with the City's project. The utility owner shall diligently work to relocate the facilities within the above schedule.

(b) Delay to City project. The Director shall notify the utility owner if the owner's progress will not meet the relocation schedule. If the owner fails to meet the relocation schedule due to circumstances within its control, the City may charge the utility owner for all costs incurred and requested by a contractor working for the City who is delayed because the relocation is not completed in the scheduled timeframe and for all costs incurred by the City due to the delay.

(c) Joint trenching. All Facilities shall be placed in appropriate portions of right-of-way so as to cause minimum conflict with other underground Facilities. When technically appropriate and no safety hazards are created, all utilities shall be installed, constructed or placed within the same trench. Notwithstanding the foregoing, gas and electric lines shall be placed in conformance with Minnesota Rules pt. 7819.5100, subd. 2, governing safety standards.

Subd. 2. Corridors. The City may assign a specific area within the right-of-way, or any particular segment thereof as may be necessary, for each type of facilities that are or, pursuant to current technology, the City expects will be located within the right-of-way. All excavation, obstruction, or other permits issued by the City involving the installation or replacement of Facilities shall designate the proper corridor for the facilities at issue. A typical crossing section of the location for utilities may be on file at the Director's office. This section is not intended to establish "high density corridors".
Any Registrant who has facilities in the right-of-way in a position at variance with the corridors established by the City may remain at that location until the City requires Facilities relocation to the corridor pursuant to relocation authority granted under Minnesota Rules part 7819.3100 or other applicable law.

**Subd. 3. Limitation of space.** To protect the public health, safety, and welfare or when necessary to protect the right-of-way and its current use, the City shall have the power to prohibit or limit the placement of new or additional facilities within the right-of-way. In making such decisions, the City shall strive to the extent possible to accommodate all existing and potential users of the right-of-way, but shall be guided primarily by considerations of the public interest, the public's needs for the particular utility service, the condition of the right-of-way, the time of year with respect to essential utilities, the protection of existing facilities in the right-of-way, and future City plans for public improvements and development projects which have been determined to be in the public interest.

802.51. - Pre-excavation facilities location.

In addition to complying with the requirements of Minn. Stat. 216D.01-.09 ("One Call Excavation Notice System") before the start date of any right-of-way excavation, each registrant who has facilities or equipment in the area to be excavated shall be responsible to mark the horizontal placement of all said facilities, to the extent technically feasible. To the extent its records contain such information, each registrant shall provide information regarding the approximate vertical location of their facilities to excavators upon request. Nothing in this subsection is meant to limit the rights, duties and obligations of the facility owners or excavators as set forth in Minnesota Statutes, Section 216D.01—.09.

802.53. - Interference by other facilities.

When the City does work in the right-of-way in its governmental right-of-way management function and finds it necessary to maintain, support, or move a registrant's facilities to carry out the work without damaging registrant's facilities, the City shall notify the local representative as early as is reasonably possible. The City costs associated therewith will be billed to that registrant and must be paid within 30 days from the date of billing. Each registrant shall be responsible for the cost of repairing any facilities in the right-of-way which it or its facilities damages.

802.55. - Right-of-way vacation; reservation of right.

If the City vacates a right-of-way that contains the facilities of a registrant, the registrant's rights in the vacated right-of-way are governed by Minnesota Rules 7819.3200.

802.57. - Indemnification and liability.

By registering with the City, or by accepting a permit under this Section, a registrant or permittee agrees to defend and indemnify the City in accordance with the provisions of Minnesota Rule 7819.1250.

802.59. - Abandoned facilities.

**Subdivision 1.** Discontinued operations. A registrant who has decided to discontinue all or a portion of its operations in the City must provide information satisfactory to the City that the registrant's
obligations for its facilities in the right-of-way under this Section have been lawfully assumed by another registrant.

**Subd. 2. Removal.** Any registrant who has abandoned facilities in any right-of-way shall remove them from that right-of-way pursuant to Minnesota Rule Part 7819.3300, unless the requirement is waived by the Director.

**802.61. - Appeal.**

A right-of-way user that: (1) has been denied registration; (2) has been denied a permit; (3) has had permit revoked; or (4) believes that the fees imposed are not in conformity with Minn. Stat. § 237.163, Subd. 6 may have the denial, revocation, or fee imposition reviewed, upon written request, by the City Council. The City Council shall act on a timely written request at its next regularly scheduled meeting. A decision by the City Council affirming the denial, revocation, or fee imposition will be in writing and supported by written findings establishing the reasonableness of the decision.

**802.63. - Reservation of regulatory and police powers.**

A permittee's or registrant's rights are subject to the regulatory and police powers of the City to adopt and enforce general ordinances necessary to protect the health, safety and welfare of the public.

**802.65. - Severability.**

If any section, subsection, sentence, clause, phrase, or portion of this Section is for any reason held invalid or unconstitutional by any court or administrative agency of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof. If a regulatory body or a court of competent jurisdiction should determine by a final, non-appealable order that any permit, right or registration issued under this Section or any portions of this Section is illegal or unenforceable, then any such permit, right or registration granted or deemed to exist hereunder shall be considered as a revocable permit with a mutual right in either party to terminate without cause upon giving 60 days written notice to the other. The requirements and conditions of such a revocable permit shall be the same requirements and conditions as set forth in the permit, right or registration, respectively, except for conditions relating to the term of the permit and the right of termination. Nothing in this Section precludes the City from requiring a franchise agreement with the applicant, as allowed by law, in addition to requirements set forth herein.

Section 2. This Ordinance will be effective in accordance with Section 3.09 of the City Charter.

Adopted this _________ day of ____________________, 2017.
By ______________________________
Pat Elliott, Mayor

ATTEST:

______________________________
Elizabeth VanHoose, City Clerk
STAFF REPORT NO. 111
CITY COUNCIL MEETING
8/8/2017

REPORT PREPARED BY: Jeff Pearson, City Engineer

DEPARTMENT DIRECTOR REVIEW: Kristin Asher, Public Works Director
8/1/2017

OTHER DEPARTMENT REVIEW: N/A

CITY MANAGER REVIEW: Steven L. Devich, City Manager
8/2/2017

ITEM FOR COUNCIL CONSIDERATION:
Consideration of:
1. Approval of design engineering contract with Bolton & Menk, Inc. for the Lyndale Avenue Street Reconstruction between 66th St. and 76th Street.
2. Approval of a resolution for reimbursement of certain expenditures from the proceeds of street reconstruction bonds to be issued by the City of the Lyndale Avenue Street Reconstruction.

EXECUTIVE SUMMARY:
Consistent with City Council direction, the Capital Improvement Plan, 2009 Arterial Roads Study, and the City’s Comprehensive Plan, staff is working towards the reconstruction of Lyndale Avenue from 66th to 76th Streets.

The detailed design of the roadway will be determined through a public engagement process. The project also includes the replacement of City utilities and undergrounding of overhead parallel utilities.

The engineering firm of Bolton & Menk, Inc. submitted a proposal to provide the Preliminary and Final Engineering services for the Lyndale Avenue Reconstruction Project in an amount not to exceed $824,827.

RECOMMENDED ACTION:
By Motion:
1. Approve a contract with Bolton & Menk, Inc. for design engineering of the Lyndale Avenue Street Reconstruction Project between 66th and 76th Streets, not to exceed $824,827.
2. Approve a resolution for reimbursement of certain expenditures from the proceeds of street reconstruction bonds to be issued by the City of the Lyndale Avenue Street Reconstruction.

BASIS OF RECOMMENDATION:

A. HISTORICAL CONTEXT
- The pavement and underground infrastructure condition along Lyndale Avenue continues to deteriorate.
- City staff have identified a need for complete reconstruction of the roadway and utilities in the Lyndale Avenue corridor between 66th Street and 76th Street.
- Bolton & Menk, Inc. is in the City’s Engineering Consultant Pool and is an experienced
Staff has negotiated a proposed scope of services that is typical and adequate for a project of this scale.

**B. POLICIES (resolutions, ordinances, regulations, statutes, etc):**
- The reconstruction of Lyndale Avenue is identified in the 2018 CIP and 5 Year Street Reconstruction Plan.
- The reconstruction of Lyndale Avenue is consistent with the recommended alternative identified in the 2009 Arterial Roads Study (3-lane section)
- Council approval is required for expenditures over $100,000.

**C. CRITICAL TIMING ISSUES:**
- Staff and the consultant can begin the public input process shortly after the contract is approved.
- The reimbursement resolution is necessary to cover any project costs incurred prior to the sale of bonds.

**D. FINANCIAL IMPACT:**
- Adoption of the proposed reimbursement resolution provides approval for City staff to incur costs for the Lyndale Avenue Reconstruction project.
- The following sources are proposed for the full reconstruction project funding:
  - Utility Bonds
  - Street Reconstruction Bonds
  - Municipal State Aid
  - Xcel Rate Payers Fee

**E. LEGAL CONSIDERATION:**
- The City Attorney will be available to answer questions.

**ALTERNATIVE RECOMMENDATION(S):**
- None

**PRINCIPAL PARTIES EXPECTED AT MEETING:**
None

**ATTACHMENTS:**

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<tr>
<th>Description</th>
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<tbody>
<tr>
<td>Consultant Proposal</td>
<td>Backup Material</td>
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<tr>
<td>Reimbursement Resolution</td>
<td>Resolution Letter</td>
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</table>
July 31, 2017

City of Richfield
Attn: Mr. Jeff Pearson
City Engineer

RE: Proposal for Professional Engineering & Surveying Services
Lyndale Avenue Reconstruction - Preliminary Engineering & Topographic Survey Services, Final Design

Dear Mr. Pearson:

Thank you for allowing Bolton & Menk, Inc. to provide you with this proposal for engineering and surveying services in support of the City of Richfield’s Lyndale Avenue Reconstruction Project. This proposal is based on our meeting with the City held on July 17, 2017. As a part of this proposal, we have described our project understanding, detailed our proposed scope of work, and itemized our estimated fees.

**Project Understanding**
This project will provide professional engineering, landscape architecture and surveying services for the reconstruction of the street and utilities along Lyndale Avenue from 66th Street, on the north end, and 76th Street, on the south end. The project will evaluate corridor improvements to balance mobility, access and non-motorized uses along the roadway, as well as improvements to the public utilities.

Lyndale Avenue is a four-lane, primarily undivided, roadway. Traffic analysis along with public engagement will help the project team identify and define the problems and layout needs throughout the corridor, including pedestrian and bike facility needs.

Existing public utilities along the corridor include watermain, storm sewer and dual sanitary sewer lines. The City desires to consolidate the two sanitary sewer lines into a single line throughout the corridor. The current comprehensive plan updates will provide information on the sanitary sewer flows and pipe-sizing needs.

Funding for the improvements is expected to include the City’s Street and Utility Bonding and potentially State Aid Funding. Assessments will not be a funding source.

Bolton & Menk is prepared to begin the Preliminary Engineering & Topographic Survey Phase after the City Council approves the contract, anticipated approval at the August 8th City Council Meeting. Preliminary design is anticipated to be completed early 2018.
Scope of Work
Our scope of work includes two phases: Phase 1 – Preliminary Engineering & Topographic Survey, and Phase 2 – Final Design. We have itemized the anticipated tasks for each Phase. These tasks include the following:

Phase 1: Preliminary Engineering & Topographic Survey

Task 1: Project Management
The Bolton & Menk team intends to operate as an extension of Richfield City staff, with close coordination between the City’s project manager and the project team maintained at all time.

Subtask 1.1 Project Management Activities
Description: Coordinate project management activities including: project monitoring, progress reports, coordinating specific staff assignments and establish project schedule indicating critical dates, milestones, and deliverables.

Subtask 1.2 Project Management Team (PMT) Meetings
Description: Facilitate regular PMT meetings, including a project kick-off meeting, with City staff to discuss status of the project, including issues, schedule, and other coordination items. We have estimated six (6) PMT meetings during this phase.

Subtask 1.3 Quality Control Reviews
Description: Coordinate Quality Control reviews of work and progress.

Task 1 Deliverables: Meeting Agendas, Meeting Minutes, Project Schedule

Task 2: Data Collection
This task is intended to gather existing topographic, utility, and site feature information. A base map will be created identifying existing ground and utility features in electronic format. This base map will be utilized as the basis and background for preliminary engineering and layouts, and final design.

Subtask 2.1 Research
Description: Gather Hennepin County half section maps, subdivision plats and record document information pertaining to right-of-way and property information to aid in the determination and mapping of existing right-of-way and property lines along the project corridor.

Subtask 2.2 Right of Way & Property Line Determination
Description: Analyze, determine and locate existing right-of-way and property lines based on found monuments and record documents.

Subtask 2.3 Topographic Survey
Description: Establish horizontal control based on Hennepin County Coordinates and establish vertical control utilizing City benchmarks. Gather pertinent field information on City infrastructure, adjacent buildings, right-of-way, contours, private utilities, etc. Underground utility information will be located and illustrated per available as-builts, field markings, and private utility map information facilitated through Gopher State One Call. Structure reports will also be completed for located manholes and catch basins. Right-of-way and property lines will be illustrated based on determinations made from found
monuments and record documents. Construction Plans from Hennepin County for the intersection of 66th St and Lyndale with be utilized during preliminary design prior to the intersection being reconstructed.

**Task 2 Deliverables:** A digital copy of the base map including topographic survey, right-of-way and property line information.

**Task 3: Environmental & Geotechnical Evaluation**
Gather and understand soil and/or environmental data throughout the corridor and project area to help identify concerns and potential remediation efforts needed during final design.

**Subtask 3.1 Environmental Investigation**
**Description:** The Bolton & Menk team will review the MPCA’s “What’s in My Neighborhood” website to help us better understand immediate environmental concerns, which may, in turn, influence our approach to the geotechnical investigation. It is not expected that a more formal Phase I Environmental Site Assessment will be required. The Bolton & Menk team will also review and understand the historic properties along the corridor. The Bartholomew House and the Farm House on the 7000 block of Lyndale are not expected to be impacted by the reconstruction of Lyndale Ave.

**Subtask 3.2 Geotechnical Evaluation**
**Description:** Bolton & Menk has retained AET as a sub-consultant for geotechnical services for this project. The geotechnical evaluation will include:

- 15 Soil Borings throughout the corridor, to a depth of 25 feet
- Geotechnical Report including:
  - Identifications of existing pavement section
  - Subgrade soils classifications and strength analysis
  - Recommendations for utility construction and pavement design techniques

Boring locations will be guided by the findings of the Environmental Investigation. If it appears that any specialized soil testing (e.g. VOC’s, etc.) could be beneficial, we will present these recommendations along with estimated costs for the City’s consideration.

**Task 3 Deliverables:** Memo describing environmental findings/concerns from the “What’s in My Neighborhood” search and Geotechnical report with design/construction recommendations.

**Task 4: Stakeholder Engagement**
Stakeholder ownership is inherent to the success of the Lyndale Avenue Reconstruction project. Therefore, widespread and ongoing stakeholder engagement will be necessary and will be incorporated into each task in this scope of services. Through stakeholder engagement, the project team will gather input from residents to better understand their concerns and desires for the corridor. Stakeholder engagement will help the project team better identify the needs of the corridor and help shape the overall concept for the corridor.

**Subtask 4.1 Project Goals & Measures of Effectiveness**
**Description:** The stakeholder engagement process will include three distinct elements: 1) stakeholder goal-setting, 2) stakeholder development of measures of effectiveness to meet the goals, and 3) stakeholder evaluation of project. The development of goals and measures of effectiveness will occur early in the preliminary design process, while the stakeholder evaluation will take place as part of the Task 6.1: Design Alternatives and Evaluation in order to calibrate the design to stakeholder expectations.
Subtask 4.2 Richfield Transportation Commission Meetings

**Description:** The Richfield Transportation Commission will be the policy-recommendation body governing this project and will be responsible for hosting public meetings, considering study recommendations, and recommending Council approval of the preliminary design plans. Bolton & Menk, with assistance from the City, will present at up to three meetings with the Richfield Transportation Commission, at critical milestones during the concept development and preliminary design phase of the project. Bolton & Menk will prepare necessary meeting materials.

Subtask 4.3 Public Meetings

**Description:** Bolton & Menk will participate in up to four (4) public meetings hosted by the Richfield Transportation Commission during preliminary design. The purpose of these meetings will be to engage the public in the development of the project. The public meeting content and format will facilitate stakeholders’ input through the preliminary design process with a direct feedback loop to the design team, ultimately leading to the development of a design concept calibrated to the unique viewpoints of the variety of residents, stakeholders and users. Three (3) Bolton & Menk staff will be present at each public meeting.

Subtask 4.4 Additional Stakeholder Meetings

**Description:** The Lyndale Avenue corridor is diverse with regard to adjacent property uses, and further outreach to specific businesses and residents may be necessary to adequately define the goals of the project. Additional meetings with the Richfield Arts Commission, Community Services Commission, Chamber of Commerce or other groups may also be scheduled to discuss the Lyndale Avenue project and how it relates to Richfield community goals and local residents. Throughout the process, these additional meetings will be identified and conducted by BMI and City Staff on an as needed basis. We have estimated six (6) additional meetings.

Subtask 4.5 Regulatory Agency Coordination

**Description:** Coordinate with regulatory agencies including: Hennepin County, MnDOT State Aid, Richfield Bloomington Watershed Management Organization, Nine Mile Creek Watershed District, Three River Park District and Metro Transit to coordinate bus shelter placement or to identify critical permitting or other coordination requirements.

Subtask 4.6 City Council Meetings

**Description:** Bolton & Menk will attend and present, as needed, at two (2) City Council Meetings at specific milestones during the preliminary design phase of the project.

Subtask 4.7 Project Website

**Description:** A project website (hosted by the City) will be developed and updated periodically throughout the preliminary design process (assume three updates) in order to inform stakeholders on upcoming public meetings, provide updates, and advise the public on key design considerations. Bolton & Menk will provide the City with website content and updates. It is assumed that the City will be responsible for website hosting.

Subtask 4.8 Project Flyer

**Description:** A total of three project flyers (assume one-page, front and back) will be developed and distributed at critical project milestones, in order to inform stakeholders of upcoming public meetings, provide updates, and advise the public on key design considerations. It is anticipated that the newsletters will correspond with the schedule for the public meetings and also serve as the public meeting.
Task 4: Deliverables: Technical Memorandum documenting the project problem statement and project goals and measures of effectiveness used to define the project’s overall guiding principles for the project’s development process. For public meetings, Bolton and Menk will establish meeting locations, prepare exhibits, provide meeting agendas and minutes, and provide technical staff necessary to facilitate the meetings. Project updates will be provided in word format for the City to utilize on the Project Website, and copies of the Project Newsletters will be provided to the City.

Task 5: Traffic Study
Bolton & Menk will complete a traffic study that will document the existing operations, design year operations and safety issues on Lyndale Ave. Analysis will be completed at the intersections of Lyndale Ave and 66th St, 67th St, Lakeshore Dr, 70th St, 73rd St., 76th St, and 77th St. 66th St will be analyzed, including a Special Project Analysis Report, due to its proximity to 67th St, and 77th St will be analyzed to determine potential improvements between 76th St and 77th St. It is not anticipated that reconstruction will occur at 66th St or 77th St. The remaining intersections, 67th St, Lakeshore Dr, 70th St, 73rd St, and 76th St, will be fully analyzed and documented with intersection control evaluation reports.

Subtask 5.1 Data Collection
Description: Bolton & Menk will use a combination of cameras and tube counts to collect traffic data. Cameras will be set up to collect 24-hr counts at intersections. We will utilize the City’s existing tube count data as available and supplement with additional tube counts as needed.

Subtask 5.2 Safety Analysis
Description: A safety analysis will be completed to document the intersection and segment crash rates and crash severity rates for the most recent 5 year period of available data. The rates will be compared with the Minnesota average crash rates for similar facilities, to statistically measure roadway safety, and identify specific locations that may warrant safety improvements. Additionally, the project team will walk the corridor to identify perceived safety problems that may exist. Also, discussions with the public during the stakeholder engagement process will occur to determine if the public notes any safety problems that may exist but may not be reflected in the crash data.

Subtask 5.3 Traffic Operational Analysis
Description: Bolton & Menk will complete traffic operational analysis at the five intersections listed above. These intersections will be analyzed for existing year traffic volumes, no build (design year traffic volumes), and selected build alternative (design year traffic volumes) for both the AM and PM peak hour. The existing year model will be validated based on observations made during site visits. Level of Service and delay will be determined along with average and maximum queue length for existing condition and the no build and build alternatives. Corridor travel time will be analyzed and used as a benchmark for the corridor design. The City will provide Bolton & Menk with the AM and PM peak hour traffic forecast volumes to use for the no build and build design year traffic operational analysis.

Deliverables: Traffic counts, technical memorandum, and five traffic operation reports. Assume three Intersection Control Evaluation Memos (67th St, Lakeshore Dr, & 76th St.) and two Roundabout Justification Reports (70th St & 73rd St).
Task 6: Preliminary Engineering & Layout

The project team will develop and evaluate conceptual alternatives in concert with the stakeholder engagement process. Decisions made through this process will be incorporated into the preliminary design and layout for the corridor and utilities. At the conclusion of preliminary design the design is considered to be 30% complete.

Subtask 6.1 Design Alternatives and Evaluation
Description: It is estimated that Bolton & Menk will develop three (3) conceptual alternatives for review following initial stakeholder engagement. A preferred layout will be selected through the process which combines community input, technical analysis and regulator rules. Lyndale Ave will likely have varying needs throughout the corridor, so the preferred alternative will likely be a combination of the conceptual alternatives. The preferred alternative will be used as the basis for preliminary and final design.

Subtask 6.2 Preliminary Roadway Design
Description: The preliminary roadway design will establish the overall roadway design to be utilized in the final construction documents. Preliminary Design of the roadway elements include:
- Incorporating comments received during the stakeholder engagement and PMT evaluation
- Establishing preliminary horizontal and vertical alignments
- Completing preliminary cross-sections necessary to identify grading limits
- Identify necessary permanent and temporary easements

Subtask 6.3 Preliminary Public Utility Design
Description: Establish overall layout and size of public utilities including sanitary sewer, watermain and storm sewer. Preliminary Utility Design will include:
- A meeting with the City’s Utility Engineer to discuss overall required improvements to the sanitary sewer, watermain and storm sewer systems
- Utilize flow data and asbuilt records, provided by the City, to size proposed sanitary sewer and watermain
- Evaluate existing dual sanitary sewer system in an effort to combine into one system
- Evaluate and design storm sewer needs for the proposed corridor. Hydraulic modeling will be limited to the sewer sheds contributing to the project area. Additional regional modeling needs will be provided by the City.

Subtask 6.4 Preliminary Landscape Architecture Opportunities
Description: Develop a streetscape vision and identify opportunities to implement Richfield’s Guiding Principles, and other community goals and objectives through landscape architecture. Identify aesthetic elements such as trees, shrubs, perennials, potential signage, wayfinding, monumentation, bus stops, decorative pavements, sidewalk poetry and other streetscape amenities to include along the corridor in concert with existing landscape elements adjacent to the project limits. This will include close coordination with the 66th Street improvements and the transition from commercial to residential sections along the Lyndale corridor.

The preliminary landscape architecture task will include rendered presentation graphics to be used in meetings, open houses and or presentations. The conceptual graphics may include plan views, sections, elevations and perspectives based on illustrating the various layouts and opportunities. These graphics will be discussed with City Staff to determine the appropriate deliverables.
Subtask 6.5 Preliminary Lighting Analysis

**Description:** Review existing street lighting along the corridor and meet with the City’s Operation’s Superintendent to understand street lighting needs. Bolton & Menk will provide a photometric analysis to help determine preferred lighting layout that will focus on crosswalk illumination at intersections. Assume up to three (3) photometric analysis layouts. City will provide preferred light pole and luminaire details.

Subtask 6.6 Private Utility Coordination

**Description:** Conduct one (1) utility coordination meeting to identify potential utility conflicts and to discuss:
- Project Improvements
- Schedule
- Utility Conflicts
- Project Coordination
- Undergrounding

Subtask 6.7 Preliminary Engineer’s Estimate

**Description:** Develop an Engineer’s Estimate, estimate will be based off the preferred roadway design.

**Task 6 Deliverables:** Conceptual Layout Alternatives and memo summarizing issues and layout solutions by block, preliminary roadway & utility layout, preliminary landscape architecture opportunities, engineer’s estimate.

**Optional Task 7: Regional Solicitation Application**

Bolton & Menk will be available to prepare a Regional Solicitation application, upon request of the City, during the next funding cycle.

**Phase 2: Final Design**

Phase 2 will build on the preferred layout developed through Preliminary Design, and includes the preparation of the final set of construction plans and specifications. Final Design consists of finalizing the roadway, ped/bike facilities, storm sewer, watermain, sanitary sewer, lighting, traffic, and signage plans, complete within a set of construction plans. Final Design also includes preparation of the project specifications and bidding documents. Plans will be submitted to MnDOT State Aid for review and comment.

**Task 1: Project Management**

The Bolton & Menk team intends to operate as an extension of Richfield City staff, with close coordination between the City’s project manager and the project team maintained at all time. Bolton & Menk will utilize OneOffice in coordination with the City.

**Subtask 1.1 Project Management Activities**

**Description:** Coordinate project management activities including: project monitoring, progress reports, coordinating specific staff assignments and establish project schedule indicating critical dates, milestones, and deliverables.
Subtask 1.2 Project Management Team (PMT) Meetings  
**Description:** Facilitate regular PMT meetings, including a project kick-off meeting, with City staff to discuss status of the project, including issues, schedule, and other coordination items. We have estimated four (4) PMT meetings during this phase.

Subtask 1.3 Quality Control Reviews  
**Description:** Quality Control reviews will be conducted to ensure that Bolton & Menk’s internal protocols for quality production and delivery are appropriately applied and adhered to.

**Task 1 Deliverables:** Meeting Agendas, Meeting Minutes, Project Schedule

**Task 2: Supplemental Data Collection**  
This task is intended to gather additional topographic, utility, and site feature information in the south-leg of the intersection of Lyndale Avenue and 66th Street, following construction of the roundabout in 2018. The information gathered will be added to the base map and will be utilized during final design.

Subtask 2.1 Topographic Survey  
**Description:** Gather pertinent field information on the new roadway including curblines, striping and landscape features.

**Task 2 Deliverables:** A digital copy of the supplemental information.

**Task 3: Stakeholder Engagement**  
Stakeholder engagement will continue throughout Final Design to keep area residents and property owners informed of progress and allow the project team to continue to gather input from stakeholders.

Subtask 3.1 Public Meetings  
**Description:** Bolton & Menk will participate in up to one (1) public meetings hosted by the Richfield Transportation Commission. The purpose of these meetings will be to inform the public of the continued development of the project details. Three (3) Bolton & Menk staff will be present at each public meeting.

Subtask 3.2 Richfield Transportation Commission Meetings  
**Description:** Bolton & Menk, with assistance from the City, will present at up to two (2) meetings with the Richfield Transportation Commission, at critical milestones during the Final Design process.

Subtask 3.3 City Council Meetings  
**Description:** Bolton & Menk will attend and present, as needed, at two (2) City Council Meetings at specific milestones during the Final Design phase of the project.

Subtask 3.4 Additional Stakeholder Meetings  
**Description:** The Lyndale Ave corridor is diverse with regard to adjacent property uses, and further outreach to specific businesses and residents may be necessary to adequately convey the goals of the project and to initiate Right of Entry discussions. Additional meetings with the Richfield Arts Commission, Community Services Commission or other groups may also be scheduled to discuss the Lyndale Avenue project and how it relates to Richfield community goals and impacts to local residents. We have estimated twelve (12) additional meetings to support the refinement of the final design.
Subtask 3.5 Project Website
**Description:** The project website developed and utilized during Phase 1 will continue to be utilized to inform stakeholders on upcoming public meetings, provide updates, and advise the public on key design considerations. Bolton & Menk will provide the City with two (2) website content updates during the final design phase. It is assumed that the City will be responsible for website hosting.

Subtask 3.6 Project Newsletter
**Description:** A total of two project newsletters (assume one-page, front and back) will be developed and distributed at critical project milestones, in order to inform stakeholders of upcoming public meetings, provide updates, and advise the public on key design considerations. It is anticipated that the newsletters will correspond with the schedule for the public meetings and also serve as the public meeting notifications. Bolton & Menk will provide print and electronic versions of the newsletter to the City for distribution.

**Task 3 Deliverables:** Bolton and Menk will establish meeting locations, prepare exhibits, provide meeting minutes, and provide technical staff necessary to facilitate the meetings. Project updates will be provided in word format for the City to utilize on the Project Website, and copies of the Project Newsletters will be provided to the City.

**Task 4: Final Design & Plan Preparation**
Final design builds on the information developed throughout Phase 1 and includes the preparation of the final set of construction drawings and specifications. Significant design elements of the project are assumed to be resolved prior to final design. Final design consists of finalizing roadway, ped/bike facilities, storm sewer, watermain, sanitary sewer, landscape, lighting, traffic, and signage plans complete with detailed notes. Final design also includes completing the specifications and necessary bidding documents. Final design and plan preparation will adhere to MnDOT State Aid for Local Transportation and plans will be submitted to State Aid for review.

Subtask 4.1 Roadway Design & Plans
**Description:** Finalize corridor layout and drafting to be utilized for the improvements roadway design & plans include:
- Final design & drafting of typical cross-sections and standard details to be utilized for improvements
- Final design of grading limits and details for properties adjacent to the corridor.
- Plan & profiles, including: stationing, offsets, and notes necessary for bidding and construction.
- Final design and drafting of construction staging plans.

Subtask 4.2 Intersection Modification
**Description:** Finalize intersection modifications dependent on the outcome of the traffic studies. We have assumed the design of two (2) roundabouts (70th St & 73rd St.) and two (2) signal modifications (67th St & 76th St.). If signals are determined to remain at 70th St and 73rd St, scope will be comparable.

Subtask 4.3 Utility Design
**Description:** Final design and drafting of public utilities including sanitary sewer, watermain and storm sewer. Utility design & plans include:
- Final design & drafting of public utilities including grading limits and details for properties adjacent to the corridor.
- Plan & profiles, including: stationing, offsets, and notes necessary for bidding and construction.
Subtask 4.4 Tabulation and Estimated Quantities
Prepare tabulation sheets for inclusion in the plan set, along with final quantities to be included in bidding documents and for development of an engineer’s estimate.

Subtask 4.5 Stormwater Pollution Prevention (SWPPP) & Erosion Control Plans & Details
**Description:** A SWPPP and erosion control plan will be developed with strict guidelines for the contractor to follow. Particular attention will be given to preventing sediment from leaving the site via truck traffic, untreated runoff entering storm sewer, and dust control.

Subtask 4.6 Lighting Plans & Design
**Description:** Final design and drafting of lighting plans including light locations as specified during preliminary design, wire/conduit sizing and service cabinet locations.

Subtask 4.7 Signing & Striping Design
**Description:** Determine the permanent sign needs and placement, and roadway striping consistent with final roadway layout.

Subtask 4.8 Turf Restoration & Landscape Plans
**Description:** Develop an appropriate landscape and streetscape plan set and detail package that advances the Richfield Guiding Principles. This process will include working closely with City staff and the Richfield community to provide an aesthetically pleasing sense of place consistent with existing Richfield streetscape elements and amenities. Landscape elements studied in the preliminary phase (Phase 1) may not necessarily advance to the final plans and details phase (Phase 2). Based on budget, community wants and needs, and available space, City Staff and the Bolton & Menk team will determine the elements to include in the final plans.

The Turf Restoration & Landscape Plans task will include rendered presentation graphics to be used in meetings, open houses and presentations. The conceptual graphics may include plan views, sections, elevations and perspectives based on illustrating the various layouts and opportunities. These graphics will be discussed with City Staff to determine the appropriate deliverables.

Subtask 4.9 Private Utility Coordination
**Description:** Coordinate resolution of utility conflicts identified during preliminary and final design. Bolton & Menk with conduct one (1) utility coordination meetings with all the affected utilities and up to three (3) individual meetings to discuss specific needs.

Subtask 4.10 Project Manual
**Description:** Prepare and assemble a complete project manual including applicable contract and bidding documents as well as technical specifications.

Subtask 4.11 Permit Applications
**Description:** Prepare necessary permit applications, application fees to be paid by the City of Richfield.

**Task 4 Deliverables:** Final Signed Construction Plans and Specifications, Final Permit Applications, Engineer’s Estimate and presentation graphics.
Task 5: Bidding Assistance
This task includes leading the advertising, bidding, and project award activities in accordance with the City of Richfield and State Aid Requirements.

Subtask 5.1 Advertisement of Bid & Award Recommendation
Description: Prepare advertisement of bid, submit advertisement for bid to egram & QuestCDN for online bidding, respond to bidder questions, issue Addenda as may be warranted, and attend bid opening. Prepare the bid abstract and make a recommendation of award to the City based on the bids received.

Task 5 Deliverables: Advertisement for Bid, Bid Tabulation, Award Recommendation Letter.

Estimate of Fees
Estimated fees for Phase 1: Preliminary Engineering & Layout and Topographic Survey services are as follows:

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<th>Service</th>
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<tr>
<td>Project Management</td>
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<td>Data Collection (Survey)</td>
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<td>Owner &amp; Encumbrance Reports</td>
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Total Estimated Costs: $428,603

Estimated fees for Phase 2: Final Design services are as follows:

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<th>Service</th>
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Total Estimated Costs: $396,224

These fees for these individual tasks are estimates. Bolton & Menk proposes the Phase 1 & Phase 2 services including stakeholder engagement, topographic survey, preliminary design, and final design to be paid on an hourly basis, in accordance with the City of Richfield’s standard professional services agreement for a not to exceed hourly fee of $824,827.

The primary Bolton & Menk team for this project includes the following people:

Principal in Charge: Marcus Thomas, P.E.
Transportation Project Manager: Tim Lamkin, P.E.
Project Manager: Sarah Lloyd, P.E.
Landscape Architect: Joel Odens, PLA, ASLA
Survey Manager: Eric Wilfahrt, L.S.
Thank you for the opportunity to provide you with this proposal for professional services. We look forward to providing these professional services to the City of Richfield and appreciate your consideration of Bolton & Menk, Inc. Please contact us if you have any questions, need additional information, or wish to discuss this proposal.

Sincerely,

Bolton & Menk, Inc.

Tim Lamkin, P.E.
Transportation Project Manager

Marcus A. Thomas, P.E.
Principal Engineer
## DETAILED WORK PLAN

**LYNDALE AVENUE RECONSTRUCTION: PHASE 1 - TOPOGRAPHIC SURVEY, STAKEHOLDER ENGAGEMENT, PRELIMINARY ENGINEERING & LAYOUT**

**CITY OF RICHFIELD, MINNESOTA**

7/21/2017

### Client:
- PROJECT CONSULTANT: CITY OF RICHFIELD, MINNESOTA
- PROJECT: LYNDALE AVENUE RECONSTRUCTION
- CONSULTANT: BOLTON & MENK, INC.

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<tr>
<th>Task No.</th>
<th>Task Description</th>
<th>1.0 PROJECT MANAGEMENT</th>
<th>2.0 DATA COLLECTION</th>
<th>3.0 ENVIRONMENTAL &amp; GEOTECHNICAL EVALUATION</th>
<th>4.0 STAKEHOLDER ENGAGEMENT</th>
<th>5.0 TRAFFIC STUDY</th>
<th>6.0 PRELIMINARY ENGINEERING &amp; LAYOUT</th>
<th>7.0 REGIONAL SOLICITATION APPLICATION (Optional)</th>
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## DETAILED WORK PLAN
### ESTIMATED PERSON-HOURS
#### LYNDALE AVENUE RECONSTRUCTION: PHASE 2 - FINAL DESIGN, PLAN PREPARATION, AND BIDDING
#### CITY OF RICHFIELD, MINNESOTA

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**ESTIMATE OF PROJECT FEES**

**LYNDALE AVENUE RECONSTRUCTION: PHASE 2 - FINAL DESIGN, PLAN PREPARATION, AND BIDDING**

**CITY OF RICHFIELD, MINNESOTA**

- **Client:** CITY OF RICHFIELD, MINNESOTA
- **Project:** CONSULTANT: BOLTON & MENK, INC.
- **Date:** 7/31/2017

**PROJECT FEES**

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</table>
RESOLUTION NO. _______

DECLARING THE OFFICIAL INTENT OF THE CITY OF RICHLIFIELD TO REIMBURSE CERTAIN EXPENDITURES FROM THE PROCEEDS OF BONDS TO BE ISSUED BY THE CITY WITH RESPECT TO LYNDALE AVENUE STREET RECONSTRUCTION PROJECT

WHEREAS, the Internal Revenue Service has issued Treas. Reg. § 1.150-2 (the “Reimbursement Regulations”) providing that proceeds of tax-exempt bonds used to reimburse prior expenditures will not be deemed spent unless certain requirements are met; and

WHEREAS, the City of Richfield, Minnesota (the “City”) expects to incur certain expenditures that may be financed temporarily from sources other than bonds, and reimbursed from the proceeds of tax-exempt bonds; and

WHEREAS, the City has determined to make this declaration of official intent (the “Declaration”) to reimburse certain costs from proceeds of bonds in accordance with the Reimbursement Regulations.

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

1. The City proposes to undertake the Lyndale Avenue Street Reconstruction Project within the City (the “Project”).

2. The City reasonably expects to reimburse the expenditures made for certain costs of the Project from the proceeds of bonds in an estimated maximum principal amount of $7,500,000. All reimbursed expenditures will be capital expenditures, costs of issuance of the bonds, or other expenditures eligible for reimbursement under Section 1.150-2(d)(3) of the Reimbursement Regulations.

3. This Declaration has been made not later than 60 days after payment of any original expenditure to be subject to a reimbursement allocation with respect to the proceeds of bonds, except for the following expenditures: (a) costs of issuance of bonds; (b) costs in an amount not in excess of $100,000 or 5 percent of the proceeds of an issue; or (c) “preliminary expenditures” up to an amount not in excess of 20 percent of the aggregate issue price of the issue or issues that finance or are reasonably expected by the City to finance the Project for which the preliminary expenditures were incurred. The term “preliminary expenditures” includes architectural, engineering, surveying, bond issuance, and similar costs that are incurred prior to commencement of acquisition, construction or rehabilitation of a project, other than land acquisition, site preparation, and similar costs incident to commencement of construction.
4. This Declaration is an expression of the reasonable expectations of the City based on the facts and circumstances known to the City as of the date hereof. The anticipated original expenditures for the Project and the principal amount of the bonds described in paragraph 2 are consistent with the City’s budgetary and financial circumstances. No sources other than proceeds of bonds to be issued by the City are, or are reasonably expected to be, reserved, allocated on a long-term basis, or otherwise set aside pursuant to the City’s budget or financial policies to pay such Project expenditures.

5. This Declaration is intended to constitute a declaration of official intent for purposes of the Reimbursement Regulations.

The foregoing resolution was moved by Councilmember _____________ and seconded by Councilmember _____________.

The following voted in the affirmative: _________________________________

The following voted against: _________________________________________

Councilmember ________________________________ was absent.

Adopted by the City Council of the City of Richfield, Minnesota, this 8th day of August, 2017.

_______________________________________
Pat Elliott, Mayor

ATTEST:

_______________________________________
Elizabeth VanHoose, City Clerk
ITEM FOR COUNCIL CONSIDERATION:
Consideration of the approval of an agreement with Safe Water Commission to assist with administering the updated cross connection program.

EXECUTIVE SUMMARY:
The Minnesota Department of Health (MDH) recommends that public water suppliers initiate and administer a cross connection program to protect the public water supply from contamination. The recently updated program involves inspecting private properties, maintaining an inventory of testable backflow devices, and enforcing requirements for annual testing of backflow devices.

The Safe Water Commission provides administrative assistance to cities for cross connection programs at no cost and they provide all of the services the MDH recommends.

RECOMMENDED ACTION:
By Motion: Approve an agreement with Safe Water Commission to assist with administering the newly updated cross connection program.

BASIS OF RECOMMENDATION:
A. HISTORICAL CONTEXT
   • City Council approved the first reading of City Code Subsection 710.23 (Cross Connections and Backflow Protection) on February 28, 2017.
   • City Council approved the second reading of City Code Subsection 710.23 on March 28, 2017. A local cross connection ordinance is the first step in implementing a cross connection program.
   • Contracting with Safe Water Commission will expedite and ensure proper implementation of the cross connection program in Richfield.

B. POLICIES (resolutions, ordinances, regulations, statutes, etc):
   • City Code Subsection 710.23 states the requirements for inspection and maintenance.

C. CRITICAL TIMING ISSUES:
   • Staff may implement the cross connection program upon the execution of an agreement with Safe Water Commission.
D. **FINANCIAL IMPACT:**
   - No financial impact to the City.
   - Safe Water Commission receives payment from the cross connection tester/inspector when a resident or business utilizes their testing/inspecting services.

E. **LEGAL CONSIDERATION:**
   - The City Attorney has reviewed the agreement and will be available to answer questions.

**ALTERNATIVE RECOMMENDATION(S):**
   - None

**PRINCIPAL PARTIES EXPECTED AT MEETING:**
   None

**ATTACHMENTS:**

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SERVICE AGREEMENT BETWEEN THE CITY OF RICHFIELD AND SAFE WATER COMMISSION LLC

FOR BACKFLOW PREVENTION PROGRAM SERVICES

Date of Execution:
June —, 2017
INTRODUCTION

This Agreement (the “Contract”) is made this ___ day of __________, 2017 between the City of Richfield (the “City”) and Safe Water Commission LLC (the "Contractor").

WHEREAS, the City supports a comprehensive backflow prevention program and desires that high-quality management of the backflow program is executed with minimum City administration.

NOW, THEREFORE, the City and Contractor mutually agree to this Contract, in consideration of the mutual promises and covenants contained herein.

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1. GENERAL REQUIREMENTS
The following general requirements are pertinent to the backflow prevention program.

1.1 Scope of devices managed in the program
The Contractor will assume management of backflow device testing processes, compliance reporting and related communication efforts to ensure the City is properly managing backflow prevention efforts.

1.2 Term of Contract
The term of the Contract shall be from date of execution through June 31, 2020. Actual backflow prevention service operations will occur during a period from June 1, 2017 through June 30, 2020 for a total of three (3) years and one (1) month.

1.3 Reports
The Contractor will provide ad-hoc reporting capabilities to the City through the Contractor’s backflow prevention program city portal. Access will be granted to the portal for any users/employees provided to the Contractor by the City. At a minimum, the Contractor portal shall include the following types of reports:

- ASSE-Certified Backflow Prevention Testers
- Backflow device information including
  - Test status/expiration dates
  - Location
  - Owner details
  - Manufacture/Make/Size of device
  - Serial#
- Testing status including Tester details
- Summary report highlighting % test compliance
- Non-compliance reports

1.4 Work Plan
The Contractor shall outline a work plan detailing the approach and project deliverables associated with the initial program setup. This will include a roles and responsibilities matrix between the City and the Contractor. The Work Plan will be mutually agreed upon by the City and the Contractor.

1.5 Annual Review
Upon the anniversary of the execution date of the contract, the City shall schedule an annual meeting with the Contractor to review performance from the previous year. The objectives of this meeting will include, but not be limited to:

- Review current program status and overall compliance
- Review Contractor’s performance based on feedback from residents, City, City Council and City Staff
• Review Contractor’s recommendations for the upcoming year based on their experiences
• Review City Staff recommendations for Contractor’s service improvements
• Discuss other mutual opportunities for improvement with the remaining years under the current contract

1.6 Backflow Device Inventory
Upon the operational start date of the contract, the Contractor will collect backflow device inventory details throughout the City within the scope of the contract. This inventory will provide a baseline of data in order to properly manage backflow device testing.

1.7 Communications
In order to gain support from backflow device owners, the City will collaborate with the Contractor to establish awareness communications which will inform device owners of their annual testing responsibilities. The Contractor will follow City guidelines for all communications that are targeted to backflow prevention device owners.

1.8 Support
An online ticketing system will be provided to the City to log technical and other support-related issues. A response to opened tickets will occur within twenty-four (24) hours. Each month, the Contractor will provide a report of the support activities.

1.9 Tester Management
An ASSE-certified backflow prevention tester (the “Tester”) will perform all backflow device testing as part of the backflow prevention program. Testers utilized by the Contractor will be validated by the Contractor as having current ASSE certification as a Backflow Prevention Tester. The Contractor will work directly with the Testers and provide technology for the Testers to properly register test results of backflow devices. The Contractor will ensure tools are available so data is collected accurately in order to satisfy the City backflow prevention program needs. All communications with the Tester will be managed by the Contractor. Fees for device testing will be managed by the Contractor and paid by the Tester/Tester Company.

1.10 Backflow Device Owners
The Contractor will provide a portal for device owners to query the status of their devices. The portal will provide device and test status for the device such as:

• Manufacturer
• Model
• Serial Number
• Size
• Testing date/status
• Location
A search capability will also be available for the owner to find certified backflow prevention testers.

1.11 Backflow Testing Enforcement
While the Contractor will manage the overall backflow prevention program for the City, the Contractor is not an enforcement agency. Therefore, the City must act as the enforcement agency to ensure backflow device owners meet the desired mandates.

2. Other Details

2.1 Contract Termination
Either party to this Contract may cancel this Contract upon thirty (30) days’ written notice to the other party.

2.2 Data Practices
The Contractor agrees to comply with the Minnesota Government Data Practices Act and all other applicable state and federal laws relating to data privacy or confidentiality. The Contractor will immediately report to the City any requests from third parties for information relating to this Contract. The City agrees to promptly respond to inquiries from the Contractor concerning data requests. The Contractor agrees to hold the City, its officers, and employees harmless from any claims resulting from the Contractor’s unlawful disclosure or use of data protected under state and federal laws.

2.3 Compliance with the Law
In providing services hereunder, the Contractor agrees to abide by all laws, statutes, ordinances, rules, and regulations, including, but not limited to, the requirements and regulations of The Americans with Disabilities Act of 1990 (42 U.S.C. Sections 12101-12213) (ADA), the Minnesota Human Rights Act (Minn. Stat. Ch. 363A) and Title VII of the Civil Rights Act of 1964 (42 U.S.C. Section 2000e). These laws deal with discrimination based on race, gender, disability, religion and with sexual harassment. In the event the Contractor has questions concerning these requirements, the City agrees to promptly supply all necessary clarifications. A violation by the Contractor of any law, statute, ordinance, rule or regulation shall entitle the City to immediately terminate this Contract.

2.4 Liability and Indemnity
The City agrees to defend, indemnify and hold harmless the Contractor against any and all claims, liability, loss, damage or expense arising under the provisions of this Contract and caused by the negligent acts or omissions of the City or its employees.
The Contractor agrees to defend, indemnify and hold harmless the City against any and all claims, liability, loss, damage or expense arising under the provisions of this Contract and caused by the negligent acts or omissions of the Contractor or its employees, agents and any subcontractors.

Nothing in this Contract shall be construed as a waiver by the City of any liability limits or immunity afforded to it under the law.

### 2.5 Intellectual Property and Data Release

a) The Contractor owns all rights, title, and interest in all of the intellectual property rights, including copyrights, patents, trade secrets, trademarks, and service marks in any scope of services requested by the City and created, in progress, produced or completed and paid by this Contract referred to herein as “Work”. Work covered includes analyses, evaluations, inventions, improvements, discoveries, databases, computer programs, reports, notes, studies, photographs, negatives, designs, drawings, specifications, materials, tapes, or other media.

All Work under this Contract will be the exclusive property of the Contractor and will remain with the Contractor immediately upon completion, expiration, or cancellation of this Contract. The Contractor represents and warrants that the Work does not and will not infringe upon any intellectual property rights of other persons or entities.

Each party acknowledges and agrees that each party is the sole and exclusive owner of all right, title, and interest in and to its services, products, software, source and object code, specifications, designs, techniques, concepts, improvements, discoveries and inventions including all intellectual property rights thereto, including without limitations any modifications, improvements, or derivative works thereof, created prior to, or independently, during the term of this Contract. This Contract does not affect the ownership of each party’s pre-existing intellectual property. Each party further acknowledges that it acquires no rights under this Contract to the other party’s pre-existing intellectual property, other than any limited right explicitly granted in this Contract.

b) The Contractor grants the City a limited license to all backflow prevention program data and software tools throughout the duration of the Contract. In the event of a termination of the Contract, the limited license will expire upon the termination date of the Contract. The City will have the option to purchase all data captured throughout the service period at a cost of $16.95 per device captured. For example, if 500 devices are being managed within the solution, the City will be charged $8,475. The total number of devices will be
determined from the Devices section of the portal. Upon successful receipt of payment, the Contractor will provide the data in a delimited data format (i.e. Comma Separated Values or CSV format) to the City. In this situation, the Contractor would retain a non-exclusive license to all data in perpetuity.

c) In the event the Contractor dissolves or becomes insolvent, all data captured throughout the service period will be provided to the City in a delimited data format (i.e. Comma Separated Values or CSV format) within 30 days of the official filing of notice of dissolution.

2.6 Independent Contractor
The Contractor shall at all times be deemed an independent contractor. The Contractor is not to be deemed an employee or agent of the City and has no authority to make any binding commitments or obligations on behalf of the City except to the extent expressly provided herein. All services provided by the Contractor pursuant to this Contract shall be provided on an independent contractor basis and not as an employee of the City for any purpose including, but not limited to, income tax withholding, workers’ compensation, unemployment compensation, FICA taxes, liability for torts, and eligibility for employee benefits.

2.7 Insurance
During the entire term of this Contract, the Contractor must maintain workers’ compensation insurance (to the extent required by law) and commercial general liability insurance for both bodily injury and property damage with a per occurrence limit of no less than $1,000,000 for each. The Contractor shall provide the City with a current certificate of liability insurance for all insurance coverage referenced above prior to performing any of the services hereunder. Such certificate of liability insurance shall list the City as an additional insured and contain a statement that such policies of insurance shall not be canceled or amended unless 10 days’ written notice is provided to the City.

2.8 Miscellaneous

a) Non-Assignment. Neither party will assign any part of this Contract, nor any interest arising herein, without the written consent of the other party.

b) Severability. The provisions of this Contract are severable. If any portion of this Contract is, for any reason, held by a court of competent jurisdiction to be contrary to law, such decision will not affect the remaining provisions of the Contract.

c) Audits. The Contractor must allow the City, or its duly authorized agents, and the state auditor or legislative auditor reasonable access to the Contractor’s books, records, documents, and accounting procedures and practices that are pertinent to all services provided under this Contract for a minimum of six years from the termination of this Contract.
d) Modifications. No modification, amendment, deletion, or waiver in the terms of this Contract is valid unless it is in writing and signed by the parties.

e) Waivers. Any waiver by either party of a breach of any provision of this Contract will not affect, in any respect, the validity of the remainder of this Contract.

f) Choice of Law. This Contract will be controlled by the laws of the State of Minnesota. Any disputes, controversies, or claims arising out of this Contract shall be heard in the state or federal courts of Minnesota in Hennepin County, and all parties to this Contract waive any objection to the jurisdiction of these courts, whether based on convenience or otherwise.
IN WITNESS WHEREOF, the parties have subscribed their names as of the date first written.

City of Richfield:

By: __________________________
   Pat Elliott
   Its: Mayor

By: __________________________
   Steve Devich
   Its: City Manager

Date: _________________________

Safe Water Commission:

By: __________________________
   Title: _______________________
   Date: ________________________
Consideration of the approval of a resolution granting a site plan amendment to allow additional parking space at 6941 Nicollet Avenue.

EXECUTIVE SUMMARY:
Prior to 2004, the property at 6941 Nicollet Avenue ("the property") was a single family home. After being re-zoned to the Service Office (SO) District, the property was converted for office use. At the time, the property shared common ownership with the adjacent property to the south, 6943 Nicollet Avenue. When the City Council granted site plan approval for the property in 2004, the resolution included a stipulation specifically prohibiting front yard parking. The minutes from that City Council meeting indicate that there was concern about the parking of a commercial vehicle with signage in the front yard area of the property. Despite the prohibition on parking in the front yard area, the property was constructed as it exists today with a paved portion of the front yard area that, for all intents and purposes, is capable of accommodating vehicle parking. This area has been marked as "No Parking" since 2004, though those markings have faded in recent years. The property was later sold to its current owner, Jay Petersen, doing business as Insurance Brokers of Minnesota. Mr. Petersen and his employees make use of all five parking spaces in the rear parking area, leaving no space available for customer parking. Mr. Petersen requests to remove the prohibition on parking in the front yard area, and to allow the area in question to be striped for three parking spaces for customer use. This change requires an amendment to the previously approved site plan. Aside from striping this area for customer parking, no physical changes to the site are proposed.

Finding that the proposal meets requirements, staff recommends approval of a site plan amendment removing the prohibition on parking in the front yard area. While the applicant has requested approval of three parking spaces, staff recommends allowing the area to be striped for two parking spaces for customer use. The reasoning for this recommendation is that the area that would be designated as a third parking space is fully within the public right-of-way for Nicollet Avenue and may not be counted as a parking space. Staff recommends retaining a prohibition on the parking of commercial vehicles in the front yard area.

RECOMMENDED ACTION:
By motion: Approve a resolution granting a site plan amendment to allow additional parking space at 6941 Nicollet Avenue.

BASIS OF RECOMMENDATION:
A. **HISTORICAL CONTEXT**
   - See Executive Summary.

B. **POLICIES (resolutions, ordinances, regulations, statutes, etc):**
   The property is zoned Service Office (SO) and the Comprehensive Plan designation is Neighborhood Commercial. The purpose of the Service Office District is to "provide limited locations for low-intensity, small office businesses in a residential neighborhood setting. Buildings, parking, landscaping and signs should be designed to help the commercial development harmonize with the residential character of the rest of the block."

Modifying a building, site or land feature requires site plan approval. A change of more than 20 percent in the number of parking spaces provided or required qualifies as a "Major Amendment", requiring review by the Planning Commission and City Council.

**General Criteria for Site Plan Approval (Subsection 547.13)**
In evaluating a site plan, the Planning Commission and City Council shall consider its compliance with the following:
- Consistency with the various elements and objectives of the City's long range plans including, but not limited to, the Comprehensive Plan.
- Consistency with the purposes of the Zoning Code.
- Preservation of the site in its natural state, insofar as practicable, by minimizing tree and soil removal, and designing any grade changes so as to be in keeping with the general appearance of neighboring developed or developing areas.
- Creation of a harmonious relationship of buildings and open spaces with the terrain and with existing and future buildings having a visual relationship to the proposed development.
- Creation of a functional and harmonious design for structures and site features.
- Creation of an energy-conserving design through design location, orientation and elevation of structures, the use and location of glass in structures, and the use of landscape materials and site grading.
- Use of energy-conserving design.
- Protection of adjacent and neighboring properties through reasonable provisions for such matters as surface water drainage, sound and sight buffers, preservation of views, light and air, and those aspects of design, not adequately covered by other regulations, which may have substantial effects on neighboring land uses.

The use of the property as an insurance office is consistent with the guiding Neighborhood Commercial designation and with the purposes of the Zoning Code. No physical changes to the property are proposed, and therefore no changes in compliance with these criteria are anticipated.

C. **CRITICAL TIMING ISSUES:**
- **60-DAY RULE:** The 60-day clock 'started' when a complete application was received on June 26, 2017. A decision is required by August 25, 2017 or the Council must notify the applicant that it is extending the deadline (up to a maximum of 60 additional days or 120 days total) for issuing a decision.

D. **FINANCIAL IMPACT:**
- None

E. **LEGAL CONSIDERATION:**
- A public hearing was held before the Planning Commission on July 24, 2017.
- Notice of the public hearing was published in the Sun Current and mailed to properties within 350 feet of the site on July 11.
- No members of the public spoke at the public hearing. The Planning Commission recommended approval of the site plan amendment (5-0).

**ALTERNATIVE RECOMMENDATION(S):**
Deny the site plan amendment with a finding that requirements are not met.

PRINCIPAL PARTIES EXPECTED AT MEETING:
Jay Petersen, applicant

ATTACHMENTS:

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<tr>
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<td>Resolution Letter</td>
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<tr>
<td>2004 City Council resolution and minutes</td>
<td>Backup Material</td>
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<tr>
<td>Aerial images and zoning map</td>
<td>Backup Material</td>
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RESOLUTION NO.

RESOLUTION APPROVING
AN AMENDMENT TO A SITE PLAN
FOR A SERVICE OFFICE USE
AT 6941 NICOLLET AVENUE

WHEREAS, an application has been filed with the City of Richfield which requests approval of an amendment to a previously approved site plan to allow a service office use at 6941 Nicollet Avenue and legally described as follows:

S 80 FT OF N 240 FT OF W 1/8 OF S 1/3 OF SW 1/4 OF SE 1/4 EXCEPT ROAD,
Hennepin County, Minnesota

WHEREAS, the City Council of the City of Richfield approved Resolution No. 9539 on November 9, 2004, granting an Off-Street Parking Permit for 6941 Nicollet Avenue; and

WHEREAS, City Council Resolution No. 9539 specifically prohibits parking spaces located in the front yard area; and

WHEREAS, the requested site plan amendment would remove the prohibition on parking spaces in the front yard area and allow the striping of two (2) parking spaces to accommodate customer parking; and

WHEREAS, the Planning Commission of the City of Richfield held a public hearing and recommended approval of the requested site plan amendment at its July 24, 2017 meeting; and

WHEREAS, notice of the public hearing was published in the Sun Current on July 13, 2017 and mailed to properties within 350 feet of the subject property on July 11, 2017; and

WHEREAS, the requested site plan amendment meets the requirements necessary for issuing a site plan amendment as specified in Richfield’s Zoning Code, Subsection 547.13 and as detailed in City Council Staff Report No.____; and

WHEREAS, the City has fully considered the request for approval of the site plan amendment;

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Richfield, Minnesota, as follows:

1. The City Council adopts as its Findings of Fact the WHEREAS clauses set forth above.
2. An amended site plan for a service office use, as described in City Council Report No. ______, on the Subject Property legally described above is approved.
3. The approved site plan amendment is subject to the following conditions:
   • The site can accommodate five parking spaces in the rear of the property and two parking spaces in the front yard area; and
   • This amendment does not constitute approval of any physical expansion of parking areas; and
- Commercial vehicles shall not be parked in the front yard area; and
- All other conditions stipulated in Resolution No. 9539 shall remain in effect; and
- This approval shall expire one year following the date of approval unless the use has commenced or a building permit has been obtained and construction begun.

Adopted by the City Council of the City of Richfield, Minnesota this 8th day of August 2017.

Pat Elliott, Mayor

ATTEST:

Elizabeth VanHoose, City Clerk
RESOLUTION NO. 9539

RESOLUTION GRANTING AN OFF-STREET PARKING PERMIT
AT 6941 NICOLLET AVENUE

WHEREAS, an application has been filed with the City of Richfield which requests approval of an off-street parking permit for the parcel of land located at 6941 Nicollet Avenue, legally described as:
S 80 FT OF N 240 FT OF W 1/8 OF S 1/3 OF SW 1/4 OF SE 1/4 EXCEPT ROAD

WHEREAS, the requested off-street parking permit has been reviewed by staff and meets city requirements; and

WHEREAS, the proposed parking area will adequately serve the purpose for which it is proposed and will not have an adverse effect upon the public safety or general welfare; and

WHEREAS, the City has fully considered the request for approval for the off-street parking permit.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Richfield, Minnesota, as follows:

Approval is granted subject to the following conditions:
1. That an off-street parking permit for 6941 Nicollet Avenue is approved for a parking area as detailed in the attached site plan.
2. The site can accommodate the required five parking spaces for an office use as noted on the attached site plan.
3. No parking spaces to be located in the front yard.
4. Landscaped to adequately meet the City’s landscape requirements. The petitioner plans to sod, install plant materials, and maintenance system, such as sprinklers. A temporary certificate of occupancy will be issued until landscaping is completed per the landscape plan.
5. The proposed parking lot will meet parking lot standards, for drive aisle width, stall dimensions, and the provision of handicapped spaces.
6. A fifteen-foot setback for parking lots adjacent to residential property on the north and east sides of the property.
7. Installation of a 6-foot privacy fence along the north and east side to screen the lot from the adjoining residential uses.

Adopted by the City Council of the City of Richfield, Minnesota this 9th day of November, 2004.

ATTEST:

Martin J. Kirsch, Mayor

Nancy Gibbs, City Clerk
Item #10
PUBLIC HEARING AND SECOND READING OF ORDINANCE AMENDMENT
REZONING PROPERTY AT 6941 AND 6945 NICOLLET AVENUE TO SERVICE
OFFICE DISTRICT AND CONSIDERATION OF RESOLUTION REGARDING OFF-
STREET PARKING PERMIT AT 6941 NICOLLET AVENUE S.R. NO. 187

Council Member Sandahl presented Staff Report No. 187 regarding second reading of an
ordinance amendment rezoning property at 6941 and 6945 Nicollet Avenue to Service Office
District and consideration of a resolution regarding an off-street parking permit at 6941 Nicollet
Avenue.

Kevin Anderson, Cornerstone Realty, discussed the proposed project and neighborhood
response. He said he is requesting one parking space with the proposed driveway expansion in
front of the building for the Cornerstone van and better snow removal. He added the business fits with that corner as an appropriate SO-1 zoning.

Mr. Anderson explained the difference between the original site plan curbing approved by the Planning Commission and the proposed site plan before the City Council tonight but not reviewed by the Planning Commission.

Council Member Enger stated the proposed new parking space is 15' north of the current space.

M/Ulrich, S/Rosenberg to close the public hearing.

Motion carried 5-0.

Council Member Sandahl asked about the limited green space in front of the original building.

Mr. Anderson said he tried to make the most of the available space to be visually stimulating.

Council Member Sandahl stated she did not support more parking space in front of the building, when the City Council is restricting this type of parking.

Mr. Anderson stated the truck would be parked in the Taystee lot on the corner if it's not allowed on the Cornerstone site. He added this would not be as attractive.

Mr. Anderson said there is less parking space with the new proposed site plan than when the original house was there.

Council Member Sandahl asked if Mr. Anderson had been given permission to park the van with signage in the front yard.

Council Member Rosenberg asked about parking the van in the back.

Mr. Anderson stated rear parking would result in a lost parking space and the van was not bought to be parked in the back but used to champion the business.

Council Member Sandahl stated the van is used for advertising. She requested Mr. Anderson work with City staff on the lighting because it appears very bright for a residential area.

Mr. Anderson said a lighting adjustment will be made if staff finds it necessary.

Council Member Sandahl asked about the tree removed from the front yard.

Mr. Anderson stated three new trees are to be planted and the landscaping has been approved by staff.

Council Member Sandahl asked if the Planning Commission approved the revised site plan before the City Council tonight.

Mr. Anderson said no but that he believes the plan to be improved.

Council Member Enger asked if the approval of the SO-1 zoning was for the entire corner or just these two parcels.
Community Development Director Palmborg said these two parcels.

Council Member Sandahl explained the concern on the van is that it may appear to encourage the parking of a commercial vehicle with signage when a sign would not be permitted on this parcel.

Mr. Anderson stated the neighbors support the site plan but he will give up the parking of the van on the lot to move the project forward.

Council Member Ulrich stated she liked the project but the concern was the van parking because it runs contrary to what the City Council plans to do regarding front-yard parking regulations.

Mayor Kirsch stated the SO-1 zoning does not promote parking. The concern is if this property receives this parking, a precedent may be set.

Mr. Anderson stated he believed this was very little for the City to give considering Cornerstone’s track record with the City. He added this is not a typical residential area.

Council Member Sandahl asked if a sign would be permitted in SO-1 zoning.

Community Development Director Palmborg said no.

Council Member Ulrich agreed a precedent may be set if the front yard parking of the van with signage is permitted.

Council Member Enger stated the revised site plan does not appear to include any additional parking.

City Attorney Thomson clarified the issues before the City Council.

♦ The City Council needs to determine if the rezoning is an appropriate land use for the area. If the City Council denies the rezoning, the City Council needs to state the reason on the record. The City needs to comply with the 60-day provision in State law.
♦ The City Council needs to determine if standards are met for an off-street parking permit, assuming the rezoning is approved.

M/Enger, S/Ulrich that this constitutes the second reading of Bill No. 2004-13 rezoning property at 6941 Nicollet Avenue from R (Singe Family Residential) to SO-1 (Service Office District) and 6945 Nicollet from C-1 (Neighborhood Business) to SO-1 (Service Office District), that it be published in the official newspaper and that it be made part of these minutes.

Motion carried 5-0.

Council Member Enger asked if the existing driveway will be removed or expanded.

Mr. Anderson explained the apron will be widened.

M/Sandahl, S/Kirsch that the following resolution be adopted, that it be spread in the resolution book and that it be made part of these minutes and that Cornerstone work with City staff to ensure lighting is not intrusive to surrounding properties:
RESOLUTION NO. 9539

RESOLUTION GRANTING AN OFF-STREET PARKING PERMIT
AT 6941 NICOLLET AVENUE

Council Member Sandahl clarified the resolution includes that no parking spaces be located in the front yard.

Council Member Enger asked if it was feasible to leave the van parked in the existing space.

Mr. Anderson said that would not be as appealing.

Council Member Enger stated the van will still be allowed on Nicollet Avenue, just not in Cornerstone’s front yard.

Council Member Sandahl said this was a creative way to have signage in the front yard.

Council Member Enger stated a residential area would allow a driveway with one additional parking area, but asked why not here for an SO-1 zoning.

Council Member Sandahl stated the parking would not be in the front yard. She added the Planning Commission approved no front-yard parking.

Mr. Anderson asked if the City Council had an issue with the revised site plan.

The City Council said no.

Council Member Enger asked about allowing the extra space on an interim basis with the expectation it may be taken away to eliminate front-yard parking when the ordinance or regulations is effective.

City Attorney Thomson stated it is preferable to not grant a request if it may later be taken away. This property is not directly comparable to residential property; it is a limited form of commercial property.

City Attorney Thomson said signage is not before the City Council tonight, only the off-street parking permit. Under the City’s sign ordinance, no sign would be permitted. An off-street parking permit requires commercial vehicles to be parked in the rear.

Council Member Enger stated support for allowing the parking space since the property is a form of a commercial site.

Council Member Sandahl said only parking in the front-yard is prevented.

Mayor Kirsch called the question.

Motion carried 4-1. (Enger opposed.) This resolution appears as Resolution No. 9539 in Resolution Book No. 75.
Parking prohibited in this area
Proposed to be striped for two (2) parking spaces.
ITEM FOR COUNCIL CONSIDERATION:
Consideration of the approval of a resolution granting a subdivision waiver, allowing the division of 7445 Humboldt Avenue into two lots.

EXECUTIVE SUMMARY:
The property at 7445 Humboldt Avenue is a double lot, measuring 97.5 feet wide. The existing house sits entirely on the south half of the double lot. The property owner would like to divide the property into two separate lots and construct a new house on the north lot. They would subsequently sell the existing house once their new house is finished. Splitting a lot requires City Council approval of a subdivision waiver.

As the double lot was originally platted, the north lot is 47.5 feet wide and the south lot is 50 feet wide. If the lots were to be divided along these original plat lines, this would leave the existing house set back just 3.2 feet from the common interior lot line, falling short of the required 5 foot setback. To avoid creating a nonconformity and a need for a variance for the existing house, the property owner is proposing to shift the lot line slightly to the north. This results in new lots measuring 45.67 feet wide for the north lot and 51.83 feet wide for the south lot. The north lot would be approximately 4 feet narrower than the minimum lot width requirement of 50 feet. City Code states that “the Council may vary or modify such requirements so that the subdivider is allowed to develop his property in a reasonable manner, but in such a manner that the public welfare and interests of the City and surrounding area are protected.” Despite the narrower lot width, the proposed new house on the north lot would meet all setback requirements. The south lot and the existing house would continue to meet all lot dimension and setback requirements.

Finding that requirements are met, staff recommends approval of the subdivision waiver.

RECOMMENDED ACTION:
By Motion: Approve a resolution granting a subdivision waiver for 7445 Humboldt Avenue.

BASIS OF RECOMMENDATION:
A. HISTORICAL CONTEXT
   • None
B. POLICIES (resolutions, ordinances, regulations, statutes, etc):
• **Subsection 500.05, Subdivision 2.** - In cases in which compliance with the city’s platting requirements result in unnecessary hardship and when failure to comply with said requirements does not interfere with the purpose and intent of the regulations, the Council may adopt a resolution authorizing a waiver from the subdivision requirements.

• **Subsection 500.21** - Whenever the tract to be subdivided or platted is of such unusual size or shape, or is surrounded by such development or unusual conditions that the strict application of the requirements contained in this Section would result in a substantial hardship or injustice, the Council may vary or modify such requirements so that the subdivider is allowed to develop his property in a reasonable manner, but in such a manner that the public welfare and interests of the City and surrounding area are protected and the general intent and spirit of this Section is preserved.

• **Subsection 514.11, Subd. 2.** Lot area, dimensions and coverage. The property is located in the Single Family Residential (R) Zoning District. Minimum lot requirements and dimensions of the proposed lots are as follows (italics where requirements are not met):

<table>
<thead>
<tr>
<th>Lot Dimensions</th>
<th>Width (ft.)</th>
<th>Depth (ft.)</th>
<th>Area (sq. ft.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum Required</td>
<td>50</td>
<td>100</td>
<td>6,700</td>
</tr>
<tr>
<td>7441 Girard</td>
<td>45.67</td>
<td>132.89</td>
<td>6,069</td>
</tr>
<tr>
<td>7445 Girard</td>
<td>51.85</td>
<td>132.9</td>
<td>6,890</td>
</tr>
</tbody>
</table>

C. **CRITICAL TIMING ISSUES:**

• **60-DAY RULE:** The 60-day clock ‘started’ when a complete application was received on July 10, 2017. A decision must be given by September 8, 2017 OR the Council must notify the applicant that it is extending the deadline (up to a maximum of 60 additional days or 120 days in total) for issuing a decision.

D. **FINANCIAL IMPACT:**

• None

E. **LEGAL CONSIDERATION:**

• Although not legally required, notice of this request was sent to properties within 350 feet of the subject property on July 25, 2017.

**ALTERNATIVE RECOMMENDATION(S):**

• Deny the requested subdivision waiver with a finding that the proposal does not meet City requirements.

**PRINCIPAL PARTIES EXPECTED AT MEETING:**

Dustin Endres, applicant on behalf of property owners Amanda and Riza Boztepe

**ATTACHMENTS:**

<table>
<thead>
<tr>
<th>Description</th>
<th>Type</th>
</tr>
</thead>
<tbody>
<tr>
<td>Resolution</td>
<td>Resolution Letter</td>
</tr>
<tr>
<td>Surveys of existing and proposed lots</td>
<td>Backup Material</td>
</tr>
<tr>
<td>Neighborhood Context and Zoning Maps</td>
<td>Backup Material</td>
</tr>
<tr>
<td>Photo</td>
<td>Backup Material</td>
</tr>
</tbody>
</table>
RESOLUTION NO.

RESOLUTION AUTHORIZING A SUBDIVISION WAIVER
FOR 7445 HUMBOLDT AVENUE

WHEREAS, an application has been filed with the City of Richfield which requests approval of a subdivision waiver for the division of property commonly known as 7445 Humboldt Avenue, legally described as follows:

Lots 13 and 14, Block 7, IRWIN SHORES, Hennepin County, Minnesota

WHEREAS, the applicant proposes to divide the above-described parcel into two parcels, legally described as:

Parcel A: The North 45.67 feet of Lot 14, Block 7, IRWIN SHORES, Hennepin County, Minnesota

Parcel B: All of Lot 13 and that part of Lot 14 lying south of the North 45.67 feet thereof, Block 7, IRWIN SHORES, Hennepin County, Minnesota

WHEREAS, the City has fully considered the request for approval for the subdivision waiver; and

WHEREAS, the City Council finds that compliance with the City Code Section 500.05, Subdivision 1 would result in substantial hardship and that failure to comply therewith will not interfere with the purposes of the platting regulations of Section 500.01.

WHEREAS, the City Council finds that failure to comply with minimum lot width and area requirements will not injure the public welfare and that the interests of the City and surrounding area are protected and the general intent and spirit of the subdivision regulations are preserved.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Richfield, Minnesota, as follows:

1. A waiver for the subdivision of the Subject Property legally described above is hereby granted.

2. City staff is authorized and directed to take any action necessary to effectuate this Resolution and to authorize the recording of conveyances complying with the terms of this Resolution.

Adopted by the City Council of the City of Richfield, Minnesota this 8th day of August, 2017.
ATTEST:

Elizabeth VanHoose, City Clerk
Administrative Subdivision for:
ENDRES CUSTOM HOMES, INC.
7445 Humboldt Avenue South

EXISTING PROPERTY DESCRIPTION
Lots 13 and 14, Block 7, IRWIN SHORES, according to the recorded plat thereof, Hennepin County, Minnesota.

PARCEL A DESCRIPTION
The North 45.67 feet of Lot 14, Block 7, IRWIN SHORES, according to the recorded plat thereof, Hennepin County, Minnesota.

PARCEL B DESCRIPTION
All of Lot 13 and that part of Lot 14 lying south of the North 45.67 feet thereof, all in Block 7, IRWIN SHORES, according to the recorded plat thereof, Hennepin County, Minnesota.

LEGEND
- Iron Monument Set
- Iron Monument Found
- Concrete Surface
- Bituminous Surface
- Sanitary Sewer
- Watermain
- Invert Elevation
- Power Pole
- Air Conditioner
- Gate Valve

Scale: 1 inch = 20 feet
Total Area = 12,958 square feet (0.30 acre)
Parcel A = 6,069 square feet (0.14 acre)
Parcel B = 6,889 square feet (0.16 acre)

I hereby certify that this survey was prepared by me or under my direction and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.
Dated this 5th day of July, 2017

REHDER & ASSOCIATES, INC.
Gary E. Huber, Land Surveyor
Minnesota License No. 22036

Rehder and Associates, Inc.
CIVIL ENGINEERS AND LAND SURVEYORS
3440 Federal Drive • Suite 110 • Eden Prairie, Minnesota • Phone (651) 452-5051

JOB: 174-2200.081
7445 Humboldt Ave - Subdivision 8/2017
Surrounding Zoning and Comprehensive Plan

Zoning:
R - Single Family Residential

Comp Plan:
LDR - Low Density Residential
PRK - Park
ITEM FOR COUNCIL CONSIDERATION:
Consideration of the approval of a resolution granting a site plan amendment and variance to allow a building addition and reconfigured parking lot for a K-8 school at 1401 76th Street West.

EXECUTIVE SUMMARY:
Seven Hills Preparatory Academy (Seven Hills) has been operating out of the building at 1401 76th Street West since 2015. The building was previously home to Minnesota School of Business, which recently vacated their space after sharing the building with Seven Hills over the last two years. Seven Hills has continued to expand and add more grade levels at the site. They expect to fully occupy the building by the 2020-2021 school year. The existing facility does not have a dedicated gymnasium and Seven Hills has been using converted or makeshift spaces for physical education.

Seven Hills is proposing a building addition of approximately 13,000 square feet to house a gymnasium for physical education programs and athletic activities. The building addition will also include a multi-purpose room, restrooms and changing rooms, and equipment storage space. The proposal would remove a portion of the existing parking lot to accommodate the building addition and an outdoor playground. Other portions of the parking lot would be reconfigured for improved bus and automobile circulation and drop-off. New landscaping would be provided around the building addition, playground, and in the boulevard area along 76th Street. Seven Hills and city staff have discussed several possible options to improve pedestrian and bicycle connections to the site, and that conversation is ongoing. Revised plans, including a sidewalk connection from the intersection of 76th Street and Girard Avenue to a point near the main entrance must be approved by the Community Development Director.

The proposal requires a variance to building setback regulations. Along the west property line, the minimum setback requirement is 25 feet. A 10 foot setback is proposed for the building addition. Given that the west side of the property is directly adjacent to Interstate 35W, rather than a local street or another property, this is found to be a unique circumstance warranting granting a variance. A full discussion of general site plan requirements and variance findings is included as an attachment to this report.

Finding that the proposal meets requirements, staff recommends approval of the site plan amendment and variance.

RECOMMENDED ACTION:
By motion: Approve a resolution granting a site plan amendment and variance to allow a building addition and reconfigured parking lot at 1401 76th Street West.

**BASIS OF RECOMMENDATION:**

A. **HISTORICAL CONTEXT**
   - See Executive Summary.

B. **POLICIES (resolutions, ordinances, regulations, statutes, etc):**
   - The property is zoned General Business (C-2). Public or private elementary and high schools are a permitted use in the C-2 Zoning District. Modifying a building, site or land feature requires site plan approval. A change of this magnitude qualifies as a major amendment, requiring review by the Planning Commission and City Council.

Parking
   - The minimum parking requirement for a K-8 school is 1 space per employee plus 8 visitor spaces. This requirement is met. 68 spaces are required (60 staff plus 8 visitor spaces) for Seven Hills use and an additional 25 spaces are reserved for a potential office sub-tenant, for a total of 93 required parking spaces. 98 total parking spaces are provided, plus 6 bus loading stalls. A minimum of 5 bicycle parking spaces are required, and Seven Hills plans to exceed that requirement.

**General Criteria for Site Plan Evaluation**
   - In evaluating a site plan, the Planning Commission and Council shall consider its compliance with the 7 criteria outlined in Subsection 547.13 of the City Code. In general, the Council must consider the following:
     - Consistency with the various elements and objectives of the Comprehensive Plan and other long-range plans;
     - Site and building designs that offer integrated and thoughtful transitions from adjacent land and buildings;
     - Functional connections for drivers, pedestrians and bicyclists;
     - Energy-conservation through site or building design; and
     - Protection of adjacent and neighboring properties from substantial negative effects.

**Variance from Building Setback Regulations**
   - Along the west property line, the minimum setback requirement is 25 feet. A 10 foot setback is proposed for the building addition. Given that the west side of the property is directly adjacent to Interstate 35W, rather than a local street or another property, this is found to be a unique circumstance warranting granting a variance.

   A full discussion of general site plan requirements and variance findings is included as an attachment to this report.

C. **CRITICAL TIMING ISSUES:**
   - 60-DAY RULE: The 60-day clock ‘started’ when a complete application was received on July 10, 2017. A decision is required by September 8, 2017 or the Council must notify the applicant that it is extending the deadline (up to a maximum of 60 additional days or 120 days total) for issuing a decision.

D. **FINANCIAL IMPACT:**
   - None

E. **LEGAL CONSIDERATION:**
   - A public hearing was held before the Planning Commission on July 24, 2017.
   - Notice of the public hearing was published in the *Sun Current* and mailed to properties within 350 feet of the site on July 11.
   - No members of the public spoke at the public hearing. The Planning Commission recommended approval of the site plan amendment (5-0).
ALTERNATIVE RECOMMENDATION(S):
- Deny the site plan amendment and variance with a finding that requirements are not met.

PRINCIPAL PARTIES EXPECTED AT MEETING:
Douglas Feickert, Welsh Architecture (on behalf of Seven Hills)

ATTACHMENTS:

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<td>Site plans and elevations</td>
<td>Backup Material</td>
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<tr>
<td>Seven Hills - Project narrative</td>
<td>Backup Material</td>
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<tr>
<td>Seven Hills - Description of organization</td>
<td>Backup Material</td>
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<tr>
<td>Zoning map</td>
<td>Backup Material</td>
</tr>
</tbody>
</table>
RESOLUTION NO.

RESOLUTION APPROVING A
SITE PLAN AMENDMENT AND VARIANCE
TO ALLOW A BUILDING ADDITION AND RECONFIGURED PARKING LOT
FOR A K-8 SCHOOL
AT 1401 76TH STREET WEST

WHEREAS, an application has been filed with the City of Richfield which requests approval of an amendment to a previously approved site plan and a variance to allow a building addition and reconfigured parking lot at property commonly known as 1401 76th Street West and legally described as follows:

Lot 1, Block 1, Bourbon and Basin First Addition, Hennepin County, Minnesota;

TOGETHER WITH

That part of the West Half of the Northwest Quarter of the Southwest Quarter of the Southeast Quarter of Section 33, Township 28, Range 24 adjacent to said Lot 1 lying easterly of the northerly extension of the westerly line of said Lot 1 and lying south of a line 105 feet south of and parallel with the north line of said West Half, subject to road.

WHEREAS, the Planning Commission of the City of Richfield held a public hearing and recommended approval of the requested site plan amendment and variance at its July 24, 2017 meeting; and

WHEREAS, notice of the public hearing was published in the Sun Current on July 13, 2017 and mailed to properties within 350 feet of the subject property on July 11, 2017; and

WHEREAS, the requested site plan amendment meets the requirements necessary for issuing a site plan amendment as specified in Richfield’s Zoning Code, Subsection 547.13 and as detailed in City Council Staff Report No._____; and

WHEREAS, the Zoning Code states that principal buildings shall be set back 25 feet from street/corner side lot lines, Subsection 534.11, Subd. 1; and

WHEREAS, Minnesota Statutes Section 462.357, Subdivision 6, provides for the granting of variances to the literal provisions of the zoning regulations in instances where their enforcement would cause “practical difficulty” to the owners of the property under consideration; and

WHEREAS, based on the findings below, the Richfield City Council hereby approves the requested variance from Richfield Zoning Code Subsection 534.11, Subd. 1;

WHEREAS, the City has fully considered the request for approval of the site plan amendment;

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Richfield, Minnesota, as follows:
1. The City Council adopts as its Findings of Fact the **WHEREAS** clauses set forth above.

2. An amended site plan for a K-8 school, as described in City Council Report No. _____, on the Subject Property legally described above is approved.

3. With respect to the application for a variance from Zoning Code Subsection 534.11, Subd. 1, the City Council makes the following findings:
   a. Strict enforcement would cause a practical difficulty. Shifting the proposed building further east to meet this requirement would encroach into the parking lot area, negatively impacting vehicle parking and circulation.
   b. Unusual or unique circumstances apply to the property. The site’s location, surrounded on all sides by freeway or city streets, as well as its curved / triangular shape is a unique circumstance. The west side of the property is directly adjacent to Interstate 35W, rather than a local street or another property.
   c. Granting the requested variances will not alter the character of the neighborhood. The existing building is set back a similar distance from the west property line. As the proposed building is located along Interstate 35W, no negative impacts are expected.
   d. The requested variances are the minimum necessary to alleviate the practical difficulties. Reducing the building setback to 10 feet is sufficient to allow the desired building addition.
   e. The proposed variances do not conflict with the purpose or intent of the Ordinances or Comprehensive Plan.

4. This amended site plan approval and variance is subject to the following conditions:
   - The recipient shall record this Resolution with the County, pursuant to Minnesota Statutes Section 462.36, Subd. 1 and the City’s Zoning Ordinance Section 547.11, Subd. 7. A recorded copy of the approved resolution must be submitted to the City prior to the issuance of a building permit.
   - The applicant shall obtain a Boulevard Feature Permit from Richfield Public Works before planting in the public right-of-way. The applicant is responsible for the ongoing maintenance and tending of all landscaping in accordance with approved plans.
   - The applicant shall submit a revised site plan including a sidewalk connection from the northeast corner of the property to a point crossing the parking lot in close proximity to the main building entrance. The applicant shall submit a revised landscaping plan including replacement plantings in the affected area as necessary. Plans must be approved by the Community Development Director.
   - The applicant shall continue to work with Richfield Public Works staff to further improve pedestrian and bicycle connections to the property.
   - The applicant shall submit a photometric lighting plan and detail sheets for new light fixtures. “Wall pak” style fixtures are not permitted, except in loading and service areas.
   - The applicant is responsible for obtaining all required permits, compliance with all requirements detailed in the City’s Administrative Review Committee Report dated July 6, 2017, and compliance with all other City and State regulations.
   - Prior to the issuance of an occupancy permit the applicant must submit a surety equal to 125% of the value of any improvements and/or requirements not yet complete. This surety shall be provided in the manner specified by the Zoning Code.
5. The amended site plan approval and variance shall expire one year from issuance unless the use for which the approval was granted has commenced, substantial work has been completed, or upon written request by the developer, the Council extends the expiration date for an additional period of up to one year. The amended site plan approval and variance shall remain in effect for so long as conditions regulating it are observed, and shall expire if normal operation of the use has been discontinued for 12 or more months, as required by the Zoning Ordinance, Section 547.11, Subd. 11 and Section 547.13, Subd. 9.

Adopted by the City Council of the City of Richfield, Minnesota this 8th day of August 2017.

______________________________
Pat Elliott, Mayor

ATTEST:

______________________________
Elizabeth VanHoose, City Clerk
Code Requirements / Required Findings

Part 1 – Site Plan Approval (Subsection 547.13)
In evaluating a site plan, the Planning Commission and Council shall consider its compliance with the following:

a) Consistency with the various elements and objectives of the City’s long range plans including, but not limited to, the Comprehensive Plan. The Comprehensive Plan has designated the property as ‘Office’ for many years, although the use of the building has transitioned from its original corporate office user to a vocational/business college and now a K-8 school. This designation could be reevaluated as part of the ongoing Comprehensive Plan update. Use of the property a K-8 school is not inconsistent with the goals and objectives of the Comprehensive Plan.

b) Consistency with the purposes of the Zoning Code. The purposes of the Zoning Code include: assisting in the implementation of the Comprehensive Plan; creating harmonious and workable relationships among land uses; enhancing and protecting the physical appearance of the City and more. The proposal is consistent with these purposes of the Zoning Code.

c) Preservation of the site in its natural state, insofar as practicable, by minimizing tree and soil removal, and designing any grade changes so as to be in keeping with the general appearance of neighboring developed or developing areas. N/A

d) Creation of a harmonious relationship of buildings and open spaces with the terrain and with existing and future buildings having a visual relationship to the proposed development. See item (e) below.

e) Creation of a functional and harmonious design for structures and site features including:
   i. Creation of an internal sense of order for the various functions and buildings on the site and provision of a desirable environment for occupants, visitors and the general community;
   ii. Appropriateness of the amount and arrangement of open space and landscaping to the design and function of the development;
   iii. Appropriateness of the materials, textures, colors and details of construction as an expression of the design concept of the project and the compatibility of the same with the adjacent and neighboring structures and functions; and
   iv. Adequacy of vehicular, cycling and pedestrian circulation, including walkways, interior drives and parking, in terms of location and number of access points to the public streets, width of interior drives and access points, general interior circulation, separation of pedestrian, cycling and vehicular traffic and arrangement and amount of parking so as to be safe, convenient and, insofar as practicable, compatible with the design of proposed buildings, structures and neighboring properties.

The proposed building façade is complimentary to the existing building. The proposed plans address current bus and vehicle circulation issues and improve pedestrian and bicycle access to the building.
f) Creation of an energy-conserving design through design location, orientation and elevation of structures, the use and location of glass in structures, and the use of landscape materials and site grading. The proposal will improve landscaping within and surrounding the site.

g) Protection of adjacent and neighboring properties through reasonable provisions for such matters as surface water drainage, sound and sight buffers, preservation of views, light and air, and those aspects of design, not adequately covered by other regulations, which may have substantial effects on neighboring land uses. Adequate provisions are in place to protect neighboring land uses from any effects related to the proposed building addition and parking lot modifications.

Part 2 - Variance: The findings necessary to approve a variance are as follows (Subd. 547.11):

1. There are “practical difficulties” that prevent the property owner from using the property in a reasonable manner.
2. There are unusual or unique circumstances that apply to the property which were not created by the applicant and do not apply generally to other properties in the same zone or vicinity.
3. The variance would not alter the character of the neighborhood or the locality.
4. The variance is the minimum necessary to alleviate the practical difficulty.
5. The variance is in harmony with the general purpose and intent of the ordinance and consistent with the Comprehensive Plan.

Reduced building setback (534.11, Subd. 1)
The Zoning Code states that principal buildings shall be set back 25 feet from street/corner side lot lines. The applicant is requesting a variance to allow the building expansion to be set back 10 feet from the west property line.

Criteria 1: Strict enforcement of this requirement would cause a practical difficulty. Shifting the proposed building further east to meet this requirement would encroach into the parking lot area, negatively impacting vehicle parking and circulation.

Criteria 2: This side of the property is directly adjacent to Interstate 35W, rather than a local street or another property.

Criteria 3: The existing building is set back a similar distance from the west property line. As the proposed building is located along Interstate 35W, no negative impacts are expected.

Criteria 4: The variance is the minimum necessary to alleviate the practical difficulty. Reducing the building setback to 10 feet is sufficient to allow the desired building addition.

Criteria 5: The proposed variance does not conflict with the purpose or intent of the Ordinance or Comprehensive Plan.
BOUNDARY AND TOPOGRAPHIC SURVEY

LEGAL DESCRIPTION

Lot 1 Sec 1, BROMLEY ADDITION, Hamlin County, Minnesota.

TOGETHER WITH

The Survey was performed from legal descriptions supplied and are in their correct and may not differ.

NOTES

1. The boundaries shown on the survey, are estimated based on information from the Minnesota Coordinate System.

2. The information on the survey is subject to re-evaluation.

3. The Survey was performed from legal descriptions supplied and are in their correct

4. The Survey was performed from legal descriptions supplied and are in their correct

5. The Survey was performed from legal descriptions supplied and are in their correct

LEGEND

- Existing Conditions
- Preliminary
- Existing Conditions
- Preliminary

EXISTING CONDITIONS

C1-1

1416 S 78TH STREET
RICHFIELD, MINNESOTA

LEGAL DESCRIPTION

Lot 1 Sec 1, BROMLEY ADDITION, Hamlin County, Minnesota.

TOGETHER WITH

The Survey was performed from legal descriptions supplied and are in their correct and may not differ.

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LEGEND

- Existing Conditions
- Preliminary
- Existing Conditions
- Preliminary

EXISTING CONDITIONS

C1-1

1416 S 78TH STREET
RICHFIELD, MINNESOTA

LEGAL DESCRIPTION

Lot 1 Sec 1, BROMLEY ADDITION, Hamlin County, Minnesota.

TOGETHER WITH

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5. The Survey was performed from legal descriptions supplied and are in their correct

LEGEND

- Existing Conditions
- Preliminary
- Existing Conditions
- Preliminary

EXISTING CONDITIONS

C1-1

1416 S 78TH STREET
RICHFIELD, MINNESOTA
SEVEN HILLS PREPATORY ACADEMY
GYMNASIUM ADDITION

1401 WEST 76th STREET
RICHFIELD, MN

CONCEPT
SKETCHES

Aerial View - Facing West
Background & Project Description:

Since 2015, Seven Hills Preparatory Academy (SHPA), a growing K-8 school, has occupied portions of an existing 5-story building on the site at 1401 West 76th Street, for classrooms and other school functions. The building had previously been used as an office building; and for a post-secondary education program.

SHPA is continuing to expand and add more grade levels at the site, and plans to fully occupy the existing building within three years. The existing facility does not have a gymnasium or adequate spaces for Physical Education / athletic programs.

SHPA plans to construct a building addition of approximately 13,000 square feet, all on a single floor level. The new space will primarily house a gymnasium for physical education programs and athletic activities. Other functions include a multi-purpose room, restrooms, an office, changing rooms, and miscellaneous storage and equipment spaces.

A portion of the existing surface parking lot would be removed / reconfigured to make room for the building addition, for a new playground, and for improved automobile and bus circulation and drop-off functions.

The existing site is bounded by Girard Avenue S. on the east; by West 76th Street to the north; and by highways 35W and 494 to the west and south. The site does not directly share a lot line with another occupied or buildable property. The building addition will not be directly adjacent to other business or residential structures.

The proposed alterations will result in a net reduction of impervious surface & addition of green space on the site. New landscaping will be provided in areas around the building addition, adjacent to the new playground, and in the boulevard along 76th Street on the north side of the existing building.

The addition of a gymnasium, and configuration of the site to facilitate student drop-off and bus parking, will provide vital functions necessary for a K-8 school that they are currently lacking. The proposed improvements will allow SHPA to remain in this location as a permanent home to serve the students and families of Richfield.
Proposed Project / Design:

The project site is located in the northeast quadrant of the I-494 / I-35W freeway interchange – and sits adjacent to the freeway on-ramp for vehicles travelling from westbound 1-494 to northbound I-35W.

The site currently houses a 5-story building that has been utilized in the past as an office building; and as a home for a post-secondary education provider. In 2015, Seven Hills Preparatory Academy (SHPA) took occupancy of a portion of the building for elementary and middle school use.

SHPA has continued to expand into additional space in the building, and is currently its only occupant. SHPA has space on the first three levels of the building, and will continue to expand as they grow and add grade levels. They anticipate utilizing the entire five floors of the building by the 2020-2021 school year.

The proposed expansion will add a gymnasium and supporting spaces to allow the school to offer a full physical education program.

Site:

To make room for the new structure, portions of the existing surface parking lot would be removed or converted to other uses. The new structure will be approximately 13,000 square feet in size, all on a single floor level.

Site renovation will include space for a student play area and play structure, and additional green space. Portions of the parking lot will be reconfigured to create a circular auto circulation path and space for cars to que up to drop-off and pick-up students. Space will also be created for better circulation of buses and 6 bus parking / loading spaces.

The surface parking lot will retain 64 stalls for staff and visitors. This is in addition to 33 parking spaces existing in the enclosed parking garage adjacent to the 1st floor of the original building.

Building Functions:

The primary function in the new structure is a gymnasium. The gymnasium will include a multi-purpose sport surface, sized to accommodate a regulation full-size high school basketball court. There will be bleacher seating for just under 100 people. At one end of the gymnasium there will be a small platform to allow the space to be used for a variety of school presentations and special events.

The expansion will also include a multi-purpose room for Physical Education classes, fully accessible restrooms, changing rooms, a Physical Education office, and various storage and equipment rooms.

A hallway in the addition will connect to the existing building’s corridors – allowing students to circulate easily between the 5-story classroom building and the new gym.
**Building Size / Height:**

The footprint of the proposed expansion is 13,007 gross square feet.

At the gym space, building height will be between 32 to 34 feet at the top of the parapet – to accommodate a usable clear height of at least 25 feet inside the gym.

At the support areas of the building, the height will be between 16 and 18 feet to the top of the parapet. The building height will be the same, or slightly less, at the hallway and storage section where connecting to the existing building.

**Construction and Materials:**

The building addition will include an automatic fire sprinkler system throughout. The construction will meet the requirements of MN State Building Code - Type I-B, matching the existing building.

Building footings and floor slabs will be of reinforced cast-in-place concrete.

For most of the building, exterior walls will be of a structural, insulated pre-cast concrete panel system. The pre-cast panels will have an integrally colored, aggregate-textured exterior finish. The panel color and texture will be selected to resemble the original building’s wall panel cladding system.

Portions of the building will be clad in a pre-finished metal panel system that resembles metal panel accents on the existing structure.

The roof structure for the gym will include long-span steel joists and a steel roof deck. All new roof areas will be covered with rigid insulation and a membrane roof system. Roofs will be designed with modest slopes to direct water to internal roof drains and overflow / scupper drains.

Service and exit doors in the exterior skin of the new building will be painted and insulated steel doors set in painted steel frames. The primary entry to the gym area will be full-glass aluminum entrance doors, set in pre-finished aluminum frames. Windows in the new building will be insulated glazing panels set in pre-finished aluminum frames. Window and door systems will be selected to resemble those in the original structure.

**End of Document**
Mission
Seven Hills Preparatory Academy engages students in a rigorous Classical education,
designed to prepare each one for strong citizenship and life-long learning.

Introduction:

Seven Hills Preparatory Academy (SHPA) is a K-8th Grade Public Charter School beginning its 12th year of operation. SHPA has been designated a Minnesota Reward School; offering a Classical education model with a rigorous, content-rich curriculum and a mission to prepare students to become strong citizens and lifelong learners. SHPA provides a small-school learning environment, and currently has enrollment waitlists at every grade.

In July 2014, SHPA received approval from the school’s Authorizer, Friends of Education, and the Minnesota Department of Education to merge its K-5th Grade Elementary School and 6-8th Grade Middle School, both of which shared various operational services and were co-located in the Cedar Valley Church facility in the City of Bloomington.

In July 2015, SHPA moved its 6-8th Grade Middle School to a second facility in the City of Richfield to support its continued enrollment growth.

In July 2016, SHPA implemented the first year of its K-5th Grade replication program, made possible by a Federal CSP Grant award, at its new Richfield Campus site by adding K-1st Grades. SHPA will add an additional grade each school year until 2020-21, when its Richfield Campus will serve K-8th Grades. SHPA’s Bloomington Campus will continue to serve K-5th Grades.

In May 2016, SHPA received a Determination Letter from the Internal Revenue Service approving the formation of an Affiliated Building Corporation (ABC). SHPA ABC was created to enable the school to purchase its Richfield Campus Facility from MSB Holdings-Richfield, LLC.

SHPA ABC is an IRS-approved 501(c) (3) organization and will own and bond for the building and property purchase; and is obligated to pay the debt (bonds) on the property and building purchase.

The Richfield Campus facility is comprised of approximately 64,000 total square feet, nearly 38,000 square feet of which SHPA currently leases for its K-2nd Grade replication program and 6-8th Grade Middle School.

The existing building has two significant issues: the current leased space constraints, and the absence of a gymnasium, making it very challenging to deliver our Physical Education program according to our curriculum and state standards.
Because SHPA has no gymnasium at its Richfield Campus, for two years they have utilized an empty double room and a back parking lot to deliver Physical Education classes every other day at the Elementary Level and every day at the Middle Level.

The proposed purchase of the Richfield Campus, and subsequent renovation and expansion, will address the two main deficiencies (classrooms and a gymnasium).

To support the physical education program, SHPA plans to build a gymnasium and PE support facility of approximately 13,000 square feet at the Richfield Campus site. Future renovations in the existing building will provide additional classrooms and special education program spaces to assist our students with disabilities.

SHPA intends to continue to lease space for its Bloomington Campus from Cedar Valley Church, where it occupies approximately 60,000 square feet, the maximum amount of square footage available for its uses in that facility.

SHPA offers a Classical liberal arts education, which, in addition to its rigorous and content-rich core subjects, believes Physical Education and the Arts to be essential to a curriculum designed to educate the whole child.

Continued growth and success at the Richfield Campus will allow SHPA to make its Classical education available to a larger and more diverse population of students and families living in and around the southern metropolitan area.

We look forward to a continued presence in Richfield, enabling us to fulfill the promise of our mission, and to making our facility available to the communities in which we reside and where we seek to make positive and lasting contributions.

The following pages include further information about SHPA’s student demographics, enrollment data, and background on its current facilities.
Geographic area and population served:

SHPA’s Bloomington Campus serves Grades K-5 while SHPA’s Richfield’s Campus currently serves Grades K-2, as part of its K-5 replication program, in addition serving Grades 6-8.

SHPA’s total enrollment at the end of the 2016-17 school year was 811 students, with 284 students served at SHPA’s Richfield Campus.

SHPA’s attendance rate for the 2016-17 school year was 95%. Nearly 70% of SHPA’s families take advantage of bus transportation to and from both campuses, which SHPA provides with 16 total bus routes.

With campuses in both Bloomington and Richfield, SHPA serves students and families in Grades K-8 who reside primarily in the southern metropolitan area. Approximately 76% of SHPA’s students reside in either Bloomington or Richfield; approximately 8% of students reside in the Burnsville area; and the remaining 16% of SHPA’s students reside in several different zip codes, including South Minneapolis and Edina.
Enrollment and Demographics:

Class Size and Student Population:

- SHPA’s Elementary School class sizes set capacity at 26 students per section in K-2nd Grades with 28 students per section in 3rd- 5th Grades.

- SHPA’s Middle School class sizes average 22 students per class with a maximum of 30 students per class.

- Of the student population at the Richfield Campus, 149 were female and 135 were male.

- The special populations at SHPA’s Richfield Campus K-1st Grade replication and 6-8th Grade Middle School are respectively as follows:
  - K-1st Grade Replication: 4% SpEd. students; 11% EL students; and 32% FRP students
  - 6-8th Grade Middle School: 13% SpEd. students; 19% EL students; 29% FRP students

Enrollment for the past five years is reflected in the following chart:

**2012 – 2017: K-5 and 6-8 Enrollment**

<table>
<thead>
<tr>
<th></th>
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<tr>
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<td>79</td>
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<td>101</td>
<td>104</td>
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<tr>
<td>2nd Grade</td>
<td>81</td>
<td>81</td>
<td>100</td>
<td>104</td>
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<td>3rd Grade</td>
<td>66</td>
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<td>77</td>
<td>93</td>
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<td>4th Grade</td>
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<tr>
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<td>57</td>
<td>63</td>
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<tr>
<td>6th Grade</td>
<td>75</td>
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<td>71</td>
<td>78</td>
</tr>
<tr>
<td>7th Grade</td>
<td>76</td>
<td>76</td>
<td>66</td>
<td>66</td>
<td>72</td>
</tr>
<tr>
<td>8th Grade</td>
<td>36</td>
<td>33</td>
<td>68</td>
<td>53</td>
<td>58</td>
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<tr>
<td><strong>Total</strong></td>
<td>622</td>
<td>651</td>
<td>711</td>
<td>729</td>
<td>738</td>
</tr>
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</table>
Richfield Campus projected enrollment for the next five years is shown in the charts below:

### K-5 Replication Enrollment Projection (Richfield Campus)

<table>
<thead>
<tr>
<th>Grade Level</th>
<th>2017-18</th>
<th>2018-19</th>
<th>2019-20</th>
<th>2020-21</th>
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<tr>
<td>1st Grade</td>
<td>52</td>
<td>52</td>
<td>52</td>
<td>52</td>
<td>52</td>
</tr>
<tr>
<td>2nd Grade</td>
<td>40</td>
<td>52</td>
<td>52</td>
<td>52</td>
<td>52</td>
</tr>
<tr>
<td>3rd Grade</td>
<td>40</td>
<td>45</td>
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<td>45</td>
<td>45</td>
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<tr>
<td>4th Grade</td>
<td>40</td>
<td>40</td>
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</tr>
<tr>
<td>5th Grade</td>
<td></td>
<td></td>
<td>40</td>
<td>40</td>
<td>40</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>142</td>
<td>194</td>
<td>239</td>
<td>279</td>
<td>279</td>
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</table>

### 6-8 Enrollment Projection (Richfield Campus)

<table>
<thead>
<tr>
<th>Grade Level</th>
<th>2017-18</th>
<th>2018-19</th>
<th>2019-20</th>
<th>2020-21</th>
<th>2021-22</th>
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<tbody>
<tr>
<td>6th Grade</td>
<td>80</td>
<td>90</td>
<td>95</td>
<td>95</td>
<td>100</td>
</tr>
<tr>
<td>7th Grade</td>
<td>75</td>
<td>80</td>
<td>85</td>
<td>90</td>
<td>90</td>
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<tr>
<td>8th Grade</td>
<td>65</td>
<td>70</td>
<td>75</td>
<td>80</td>
<td>80</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>220</td>
<td>240</td>
<td>255</td>
<td>265</td>
<td>270</td>
</tr>
</tbody>
</table>

### K-8 Enrollment Projection (Richfield Campus)

<table>
<thead>
<tr>
<th></th>
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</tr>
</thead>
<tbody>
<tr>
<td><strong>Total</strong></td>
<td>362</td>
<td>434</td>
<td>494</td>
<td>544</td>
<td>549</td>
</tr>
</tbody>
</table>
The racial and ethnic demographic breakdown of SHPA's Richfield Campus 6-8 Middle School and K-1 Replication programs are represented in the following two charts.

**Richfield Campus - 6-8 Grade Middle School Demographics**

**Richfield Campus - Grades K-1 Demographics**
Existing school facilities:

SHPA currently leases space in two existing facilities:

SHPA’s K-5 Bloomington Campus is located within the Cedar Valley Church facility at 8600 Bloomington Avenue South. The Cedar Valley Church facility was originally constructed in 1950.

SHPA’s K-2 and 6-8 Richfield Campus is located within the former Minnesota School of Business building at 1401 West 76th Street. The building was constructed in 1983.

A two-year site search and assessment of alternate facilities was conducted from 2013-2015 in the cities of Bloomington and Richfield. The goal of that search was to find a facility within 3-5 miles of SHPA’s existing Bloomington site that would affordably accommodate our present needs and future growth.

Working off an initial list of nearly 100 potential sites, we toured the 12 available facilities that met its criteria, and upon further assessment reduced that number to 4 possible buildings, all in Bloomington. However, as we sought to secure the one facility we believed would best meet our needs, the City of Bloomington revised its zoning code, rendering that property and any other feasible facility alternatives unavailable.

Given the updated zoning regulations in the City of Bloomington, we refocused our site search on the City of Richfield as a result of our need for geographic proximity to our Bloomington Campus in order to serve our families with children attending both campuses. With little time left to secure a facility before the start of the 2015-16 school year, and no available buildings in the City of Richfield to meet our needs, two floors of the Minnesota School of Business building became available to accommodate our 6-8th Grade Middle School.

We entered into a limited 5-year lease with the Minnesota School of Business contingent upon an option to expand to additional floors in the facility and build a gymnasium to support our replication and growth.

SHPA’s Richfield Campus currently occupies approximately 38,000 square feet on the 1st – 3rd Floors of the former Minnesota School of Business building. For the 2017-18 school year, in order to accommodate the addition of 2nd Grade as part of its replication program, SHPA will need to renovate approximately 7,500 square feet, or half of the 4th Floor of the building, for its 6 – 8th Grade Middle School and administrative office space.

For the 2018-19 school year, SHPA will renovate the remaining half, or approximately 7,500 square feet, of the 4th Floor for additional Middle School classrooms in order to accommodate the addition of 3rd Grade.

For the 2019-20 and 2020-21 school years, SHPA plans to renovate a portion of the 5th Floor for Middle School Classrooms and administrative offices in order to accommodate the addition of 4th and 5th Grades and a larger Middle School program.
SHPA currently has no gymnasium at its Richfield Campus and for two years has utilized an empty double room and a back parking lot to deliver Physical Education classes every other day at the Elementary Level and every day at the Middle Level.

The proposed purchase of the Minnesota School of Business Building will enable SHPA to build an approximately 13,000 square foot gymnasium expansion to support the delivery of its physical education curriculum and its special events programming.

More classroom space, needed to serve students in 2 – 5th Grades, will be added over the next four years, from 2017 – 2021, by renovation of available space inside the existing Richfield Campus classroom building.

Additional space will be needed for a larger cafeteria, special education resource rooms, a secondary indoor play and theatre areas, an Elementary School playground, and Science laboratories. These needs will be addressed through future renovation efforts.

By SHPA ABC purchasing the Minnesota School of Business building, our school will finally be able to secure a facility for the long-term and develop it in a way to meet the present future needs of our students and families.

Furthermore, we will be able to avoid the uncertainty and subsequent risk of destabilizing our community with another move to support our growth and replication. Instead, we will be able to guarantee the families and communities we serve access to a permanent school location that offers high-quality educational choice for their children.

*End of Document*
ITEM FOR COUNCIL CONSIDERATION:
Consideration of the approval of a two-year use and indemnification agreement between the City of Richfield and Tom Price for the use of a 4,690 square-foot strip of land along the edge of Lincoln Field.

EXECUTIVE SUMMARY:
Mr. Price, owner of the manufactured home park Woodlawn Terrace, has rented the northern ten feet of the Lincoln Athletic Complex for many years for purposes of accommodating five larger units. The City rents out the property through a use and indemnification agreement that has been renewed every two years since 1997. The current agreement expired on July 31, 2017 and staff has negotiated a new agreement and rental rate. Mr. Price has agreed to pay rent in the amount of $4,773 payable in two installments: $2,351 on or before November 15, 2017 and $2,422 on or before August 1, 2018, which represents a 3% increase each year.

RECOMMENDED ACTION:
By Motion: Approve a two-year use and indemnification agreement between the City of Richfield and Tom Price for the rental of a 4,690 square-foot strip of land along the edge of Lincoln Field.

BASIS OF RECOMMENDATION:
A. HISTORICAL CONTEXT
   • Mr. Price has leased the strip of land for many years and has agreed to two-year lease agreements since 1997.

B. POLICIES (resolutions, ordinances, regulations, statutes, etc):
   • By policy, the City Council reviews, considers, and executes all City contracts, including lease renewals.

C. CRITICAL TIMING ISSUES:
   • The arrangement has been revisited every two years. The City does not have an immediate need for the land. The current two-year lease agreement expired on July 31, 2017.

D. FINANCIAL IMPACT:
   • Mr. Price has agreed to pay rent in the amount of $4,773 payable in two installments: $2,351 on
or before November 15, 2017, and $2,422 on or before August 1, 2018, which represents a 3% increase each year.

E. **LEGAL CONSIDERATION:**
   - The Agreement was reviewed by the City Attorney.
   - The City has a number of provisions to terminate the Agreement, including if Mr. Price should decide to sell his property.

**ALTERNATIVE RECOMMENDATION(S):**
- Do not approve the Agreement with Tom Price for the strip of land at Lincoln Field.

**PRINCIPAL PARTIES EXPECTED AT MEETING:**
Tom Price, Woodlawn Terrace Owner

**ATTACHMENTS:**

<table>
<thead>
<tr>
<th>Description</th>
<th>Type</th>
</tr>
</thead>
<tbody>
<tr>
<td>Use and Indemnification Agreement</td>
<td>Cover Memo</td>
</tr>
</tbody>
</table>
USE AND INDEMNIFICATION AGREEMENT
CITY OF RICHFIELD AND THOMAS PRICE

THIS USE AND INDEMNIFICATION AGREEMENT (the “Agreement”) is made as of August 8, 2017 by and between the CITY OF RICHFIELD, a Minnesota municipal corporation (the “City”), and THOMAS PRICE, an individual residing at 7421 Lyndale Avenue South, Richfield, MN 55423 (“Price”).

RECITALS


B. The City is the owner of a parcel of land which is legally described in the Property ID number 34 028 24 32 0025. ADN UNPLATTED 34 028 24. METES/BOUNDS DESCRIPTION: W 468 68/100 FT OF E 493 68/100 FT OF THAT PART OF THE S 20 ACRES OF N 30 ACRES OF NW 1/4 OF SW 1/4 LYING S OF THE N 4 FT THEREOF (“City Property”).

C. Price is desirous of obtaining permission from the City to utilize a portion of the City Property in conjunction with the mobile home park which Price operates on the Price Property. This portion consists of the northern ten feet of the City property from the east to west boundaries, approximately 4,690 square feet.

D. The City is willing to permit such use in return for Price’s agreement to indemnify, protect, defend, and hold harmless the City and to fulfill the other obligations contained herein pursuant to this Agreement.

AGREEMENT

1. Offer and Acceptance of Agreement. Subject to the terms and conditions of this Agreement, and in consideration of the covenants contained herein, the City and Price agree that Price may use the City Property for the period commencing on August 1, 2017, and terminating July 31, 2019 for a fee of $4,773 payable in two installments: $2,351 on or before November 15, 2017 and $2,422 on or before August 1, 2018.

2. Maintenance and Repair. Price shall, at his own cost and expense maintain and repair the City Property and shall at all times keep it in compliance with regulations of the City. The City shall have no responsibility for the maintenance or repair of the City Property.

3. Indemnification and Insurance.
   (a) Price shall at all times defend, protect, indemnify, and hold harmless the City and its agents, officers, servants, and employees from any and all claims for damages and other remedy, including but not limited to costs and attorney fees, arising from or by reason of the maintenance, use, and repair of the City Property. Nothing in this Agreement shall be construed as a waiver by the City of any immunities, defenses, or other limitations on liability to which the City is entitled by law, including but not limited to the maximum monetary limits on liability established by Minnesota Statutes, Chapter 466.
(b) Price, at his sole cost and expense, shall maintain in full force and effect during the term of this Agreement general liability insurance in the minimum amounts of $1,000,000 bodily injury, including death, per person; $1,000,000 bodily injury, including death, per occurrence; and $500,000 property damage per occurrence. A certificate of insurance evidencing compliance with this Agreement shall be provided to the City by Price. The City shall be named as an additional insured on the insurance policy described herein, and such policy shall contain a stipulation that Price’s insurer will provide thirty (30) days prior written notice of cancellation of such insurance to the City. The insurance shall be carried by solvent and responsible insurance companies licensed to do business in the State of Minnesota.


(a) Any titles of the several paragraphs of the Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.

(b) Any notice, demand, or other communication under this Agreement by either party to the other shall be sufficiently given or delivered if it is dispatched by registered or certified mail, postage prepaid, return receipt requested, or delivered personally; and

   (i) in the case of Price, is addressed to or delivered personally to Price at 7421 Lyndale Avenue South, Richfield, MN 55423, and

   (ii) in the case of the City, is addressed to or delivered personally to the City at the Richfield Community Center, 7000 Nicollet Avenue South, Richfield, MN 55423 or at such other address with respect to either such party as that party may, from time to time, designate in writing and forward to the other as provided in this Paragraph.

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

(d) This Agreement constitutes the entire agreement between Price and the City with respect to the City Property and supersedes any other written or oral agreements between the parties on that subject. This Agreement can be modified only in a writing signed by the parties.

(e) The City may terminate this Agreement:

   (i) if the termination is based upon health, safety or the need to make modifications within the City Property or by Price’s transfer or sale of the Price Property, by the giving of 90 days written notice to Price; or

   (ii) otherwise by the giving of 180 days written notice to Price. The termination shall be effective at the end of such notice period, at which point neither party shall have any further obligation hereunder, except that Price’s obligations under paragraph 3 shall survive.

(f) On or before the expiration date or the effective date of termination of this Agreement, Price shall remove all structures from the City Property and restore the City Property with fully established sod.

(g) Price agrees to make no claim against the City for damages which Price may suffer as a result of the City’s termination of this Agreement.

(h) Except as specifically set forth herein, nothing in this Agreement shall be construed to exempt Price from or waive the application of any federal, state, or local law, rule, or regulation.

(i) Nothing in this Agreement shall be construed as abandonment of the City Property by the City or as any relinquishment of any right the City may have with regard to the Property. Price specifically acknowledges and agrees that its construction and maintenance of the Property is at the sufferance of the City and subject to the City’s right to terminate such use in accordance with the provisions in paragraph 4(e) hereof.
(j) In the event that the use of the City Property under this Agreement renders the City Property taxable, Price agrees to pay, before penalty attaches, all ad valorem property taxes or other similar taxes levied against the City Property.

(k) This Agreement may be extended by the parties from time-to-time and upon such terms as they shall mutually agree to.

(l) No new structure shall be erected on the City Property without the prior written consent of the City; and, Price shall not use the City Property for any purpose other than in connection with the mobile home park without the prior written consent of the City.

IN WITNESS WHEREOF, Price and the City have executed this Agreement this 8th day of August, 2017.

CITY OF RICHFIELD

By

Pat Elliott

Its Mayor

And

Steven L. Devich

Its City Manager

Thomas Price
ITEM FOR COUNCIL CONSIDERATION:
Consideration of the approval of a resolution to execute Addendum A - Sponsoring Agency Agreement between and Minnesota Task Force One Urban Search and Rescue Team and the City of Richfield.

EXECUTIVE SUMMARY:
In 2004 Minnesota Task Force One Urban Search and Rescue Team (MN-TF1) was created by the Division of Homeland Security and Emergency Management of the Minnesota Department of Public Safety. The purpose of the team is to respond to incidents requiring highly technical, coordinated rescue operations. Members of the team are trained in rope rescue, trench collapse, confined space and structural collapse rescue along with various search techniques, hazardous materials and advanced medical care. A joint powers entity was created to govern the team and the agreement allows for other entities to join as a Sponsoring Agency. The Fire Department currently has several members rostered with MN-TF1; the MN TF-1 JPA requires that the City approve Addendum A of the agreement in order for them to continue with the team.

RECOMMENDED ACTION:
By motion: Approve a resolution executing Addendum A - Sponsoring Agency Agreement between Minnesota Task Force One Urban Search and Rescue Team and the City.

BASIS OF RECOMMENDATION:
A. HISTORICAL CONTEXT
   • None
B. POLICIES (resolutions, ordinances, regulations, statutes, etc):
   • The MN-TF1 joint powers agreement was drafted in accordance with Minnesota Statutes.
C. CRITICAL TIMING ISSUES:
   • The MN TF-1 Board has requested that all Sponsoring Agencies execute Addendum A prior to the end of third quarter 2017.
   • Failure to execute the agreement would require several members of the Fire Department to resign from MN TF-1.
D. FINANCIAL IMPACT:
By executing the agreement, the City will have access to the grant funding that supports the team. These funds can be used to cover personnel costs associated with training and deployment. It also provides for workers’ compensation and liability coverage should members be activated as a Specialized Emergency Response Team under MN Stat. Sec. 12.351 during an emergency.

E. **LEGAL CONSIDERATION:**

- The agreement has been reviewed and approved as to form by the City Attorney.

**ALTERNATIVE RECOMMENDATION(S):**

- None

**PRINCIPAL PARTIES EXPECTED AT MEETING:**

None

**ATTACHMENTS:**

<table>
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<tr>
<th>Description</th>
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<tbody>
<tr>
<td>Resolution - MN TF-1 JPA Execution</td>
<td>Resolution Letter</td>
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<tr>
<td>MN TF-1 JPA Addendum A</td>
<td>Contract/Agreement</td>
</tr>
</tbody>
</table>
RESOLUTION NO.

RESOLUTION TO EXECUTE ADDENDUM A – SPONSORING AGENCY AGREEMENT BETWEEN MINNESOTA TASK FORCE ONE URBAN SEARCH AND RESCUE TEAM AND THE CITY OF RICHFIELD.

WHEREAS, the Fire Department currently has members rostered on Minnesota Task Force One Urban Search and Rescue Team; and,

WHEREAS, the City seeks to take advantage of the provisions provided to a Sponsoring Agency by the Joint Powers Agreement for Minnesota Task Force One Urban Search and Rescue Team.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Richfield, Minnesota, that the City will execute Addendum A – Sponsoring Agency Agreement with Minnesota Task Force One Urban Search and Rescue Team.

Adopted by the City Council of the City of Richfield, Minnesota this 8th day of August, 2017.

Pat Elliott, Mayor

ATTEST:

Elizabeth VanHoose, City Clerk
ADDENDUM A

Sponsoring Agency Agreement
between
Minnesota Task Force One
Urban Search and Rescue Team
And
Richfield Fire Department
For
Minnesota Task Force One Urban Search and Rescue Team Participation

The parties to this Agreement are the Minnesota Task Force One Urban Search and Rescue Team, a joint powers entity of municipal corporations within the State of Minnesota (referred to herein as ‘MN TF-1’) and Richfield Fire Department, a city of the State of Minnesota (referred to herein as ‘Sponsoring Agency’).

1. Purpose. The purpose of this agreement is to enable the Sponsoring Agency to assign one or more of its employees or volunteers as a Team Member to MN TF-1 and to enable the MN TF-1 to accept such employees and volunteers as participants, on the terms and conditions stated herein. Team Members, for purposes of this Agreement, includes firefighters, licensed peace officers, emergency medical technicians, building inspectors, public works employees, public health workers, information technology workers, among others. Whenever the term “employee” or “employees” appears in the Agreement, the term includes employees and volunteers of a Sponsoring Agency unless stated otherwise.

2. Term. This Agreement shall be in effect as of the date that it is executed by both parties and shall remain in effect indefinitely or until either party terminates the Agreement pursuant to Section 6.

3. Assignment of Employees.

a. Assignment. The Sponsoring Agency may assign its employees to the Task Force, only with the consent of MN TF-1, which consent may be withdrawn by MN TF-1 at any time, and in accordance with the procedures of MN TF-1. Employees so assigned remain employees or volunteers of the Sponsoring Agency and are not employees of MN TF-1. When MN TF-1 is providing assistance to a party of MN TF-1, Sponsoring Agency shall compensate its employees just as if they were performing the duties within and for the Sponsoring Agency.

b. Workers’ Compensation. Sponsoring Agency shall be responsible for injuries to or death of its own employees and shall maintain workers’ compensation coverage or self-insurance coverage, covering its own employees and volunteers while they are providing assistance as a member of the MN TF-1. The Sponsoring Agency waives
its right to commence legal action against the MN TF-1 or any of its members for any workers’ compensation benefits paid to its employees or their dependents, even if the injuries were caused wholly or partially by the negligence of the MN TF-1 or any of the members thereof.

c. **Damage to Equipment.** The Sponsoring Agency shall be responsible for damage to or loss of its own equipment occurring during training or deployment of the MN TF-1. The Sponsoring Agency waives the right to commence legal action against MN TF-1 or any of the members for any damages to or loss of its equipment, even if the damages or losses were caused by the negligence of MN TF-1 or any member thereof.

d. **Liability.** For purposes of the Minnesota Municipal Tort Liability Act (Minn. Stat. Ch. 466), employees or volunteers assigned by the Sponsoring Agency to the Task Force are employees of Sponsoring Agency. The Sponsoring Agency agrees to defend, indemnify and hold harmless MN TF-1 and any of the members thereof against any claims brought or actions filed against MN TF-1 or any of the members thereof or any officer, employee or agent thereof for injury to, death of, or damage to the property of any third person or persons, arising from the action or omission of its employees or volunteers while providing assistance as a member of the MN TF-1. Under no circumstances shall the Sponsoring Agency be required to pay on behalf of itself and MN TF-1 and any of the members thereof any amounts in excess of the limits of liability established in Minn. Stat. Ch. 466 applicable to any one entity. The limits of liability for MN TF-1, any of its members and the Sponsoring Agency may not be added together to determine the maximum amount of liability for any of them.

e. **Costs.** Sponsoring Agencies are not entitled to reimbursement by MN TF-1 or any member thereof of its costs incurred in connection with activities undertaken pursuant to this agreement, except for its costs which are reimbursable pursuant to policies established by the Board of Directors of MN TF-1. MN TF-1 may voluntarily reimburse other costs to the extent that grant funds are available.

4. **MN TF-1.**

a. **Consent.** MN TF-1 hereby consents to the assignment by Sponsoring Agency of its employees or volunteers to participate on the MN TF-1, on the condition that the Sponsoring Agency and its employees or volunteers comply with all applicable MN TF-1 policies and procedures. MN TF-1 hereby reserves the right, at any time it deems appropriate, to withdraw its consent provided hereunder and terminate this Agreement for any reason.

b. **Charges.** MN TF-1 agrees to remit to the Sponsoring Agency any funds that it receives with respect to services provided by the Sponsoring Agency while participating on the MN TF-1, to the same extent as if the Sponsoring Agency were a party to said MN TF-1 Joint Powers Agreement. Except as provided in this
Section 4(b), MN TF-1 shall have no obligation to reimburse any costs incurred by Sponsoring Agency for assigning its employees and volunteers to participate on the MN TF-1.

5. **Sponsoring Agency.** By executing this Agreement Sponsoring Agency agrees to comply with all terms of the Joint Powers Agreement for Minnesota Task Force One Urban Search and Rescue Team that apply to sponsoring agencies. Sponsoring Agency acknowledges that the Indemnification and Liability provisions of Section 10 of the MN FT-1 Joint Powers Agreement also apply to Sponsoring Agency.

6. **Miscellaneous.**

   a. **Notices.** Notices required pursuant to this agreement shall be provided to the following named persons and addresses unless otherwise stated in this Agreement, or in a modification of this Agreement:

      Sponsoring Agency: 
      Fire Chief
      Richfield Fire Department
      6700 Portland Avenue South
      Minneapolis, MN 55450

      MN TF-1: 
      MN-TF1 Board Chair
      c/o Edina Fire Department
      6250 Tracy Avenue South
      Edina, MN 55420

   A party providing written notice of intent to terminate this Agreement shall also provide such notice to the Fiscal Agent of the MN TF-1, each Participant entity of the Minnesota Task Force One Urban Search and Rescue Team Joint Powers Agreement, and to the Office of the Dakota County Attorney, Civil Division, 1560 Highway 55, Hastings, Minnesota 55033.

   b. **Termination.** Either party may terminate this agreement without cause upon thirty days’ written notice to the other. On the effective date of termination, the entity executing this Agreement shall no longer be a Sponsoring Agency of MN TF-1.

   c. **Effect of Termination.** Termination of this Agreement shall not discharge any liability, responsibility or other right of either party which arises from the performance of or failure to adequately perform the terms of this Agreement prior to the effective date of termination.

   d. **Amendments.** This Agreement may be amended only in writing and upon the consent of the governing bodies of the parties.

   e. **Records, accounts, reports.** The books and records of the Sponsoring Agency related to participation as a Sponsoring Agency shall be subject to the provisions of Minn. Stat. Ch. 13 and Minn. Stat. § 16B.06, subd. 4.

   f. **Severability.** The provisions of this Agreement are deemed severable. If any part of this Agreement is rendered void, invalid or unenforceable, such rendering shall
not affect the validity and enforceability of the remainder of this Agreement unless the part or parts that are void, invalid or unenforceable shall substantially impair the value of the entire Agreement with respect to either party.

In Witness Whereof, the parties have executed this Agreement on the dates indicated below.

Minnesota Task Force One
Urban Search and Rescue Team

City of Richfield
Richfield Fire Department

By: ____________________________  By: ____________________________
Print Name: ____________________  Print Name: ____________________
Title: __________________________  Title: __________________________
Date: __________________________  Date: __________________________

KS14-316 MN Task Force One Sponsoring Agency Agreement Draft 7-20-2016
STAFF REPORT NO. 118
CITY COUNCIL MEETING
8/8/2017

REPORT PREPARED BY: Matt Brillhart, Associate Planner

DEPARTMENT DIRECTOR REVIEW: John Stark, Community Development Director
8/2/2017

OTHER DEPARTMENT REVIEW: N/A

CITY MANAGER REVIEW: Steven L. Devich, City Manager
8/2/2017

ITEM FOR COUNCIL CONSIDERATION:
Consideration of the approval of a resolution granting a conditional use permit and variance to allow a restaurant at 6436 Penn Avenue. This item was continued from the July 11, 2017, City Council meeting.

EXECUTIVE SUMMARY:
Nielsen Foods is proposing to open a Subway restaurant in the building at 6436 Penn Avenue. Fast food / convenience restaurants are a conditionally permitted use in the Mixed Use Community (MU-C) District. In addition to the conditional use permit (CUP), the applicant is requesting approval of a variance to reduce off-street parking requirements.

Subway plans to occupy 1,500 square feet of the building, while the remaining 8,000 square feet would be occupied by the building’s owner, Dynamic Products Midwest (DPM). The parking requirement for fast food restaurants is 17 spaces per 1,000 square feet and the requirement for wholesale businesses is 1 per 800 square feet of gross floor area. Based strictly on the square footage of the building, the combined parking requirement is 33 spaces (23 for Subway and 10 for DPM.) 17 spaces are available on the property and space is not available to create additional parking.

Several unique factors exist to justify reducing the parking requirement. Despite the large amount of building space they occupy, DPM has just 12 total employees, several of whom work off-site entirely or are dispatched in the field most of the day. Much of the building is used as storage for equipment and product inventory. While the area behind the building cannot officially be counted as parking space due to non-compliant access aisle and stall dimensions, DPM allows up to 5 employees to park in this area, reducing pressure on the parking lot. Furthermore, the City’s parking requirement for fast food restaurants are much higher than Subway’s own requirement of 12 spaces (1 space per 125 square feet). Lastly, this location is in close proximity to a concentration of apartments and businesses and it is reasonable to assume that some percentage of customers and employees will choose to walk rather than drive. Given the existing usage of the building, staff does not anticipate that shortages will occur.

Finding that the proposal meets requirements, staff recommends approval of the conditional use permit and variance.

RECOMMENDED ACTION:
By motion: Approve a resolution granting a conditional use permit and variance to allow a restaurant
at 6436 Penn Avenue.

**BASIS OF RECOMMENDATION:**

A. **HISTORICAL CONTEXT**
   - See Executive Summary.

B. **POLICIES (resolutions, ordinances, regulations, statutes, etc):**
   - Fast food / convenience (Type III) restaurants are a conditionally permitted use in the Mixed Use Community (MU-C) District. The applicant is requesting a variance from Zoning Code Subsection 544.13, as described above in the Executive Summary. A full discussion of general CUP requirements and additional information related to the requested variance and required findings can be found as an attachment to this report.

C. **CRITICAL TIMING ISSUES:**
   - 60-DAY RULE: The 60-day clock 'started' when a complete application was received on June 12, 2017. A decision is required by August 11, 2017 or the Council must notify the applicant that it is extending the deadline (up to a maximum of 60 additional days or 120 days total) for issuing a decision.

D. **FINANCIAL IMPACT:**
   - None

E. **LEGAL CONSIDERATION:**
   - A public hearing was held before the Planning Commission on June 26, 2017.
   - Notice of the public hearing was published in the *Sun Current* and mailed to properties within 350 feet of the site on June 13.
   - No members of the public spoke at the public hearing. The Planning Commission recommended approval of the conditional use permit and variance (6-0).

**ALTERNATIVE RECOMMENDATION(S):**
   - Approve the resolution with modifications and/or additional stipulations.
   - Deny the conditional use permit and/or variance with a finding that requirements are not met.

**PRINCIPAL PARTIES EXPECTED AT MEETING:**
Steve Nielsen, applicant

**ATTACHMENTS:**

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<td>Resolution</td>
<td>Resolution Letter</td>
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<td>Requirements attachment</td>
<td>Backup Material</td>
</tr>
<tr>
<td>Site plans, zoning maps</td>
<td>Backup Material</td>
</tr>
<tr>
<td>Photo of 6436 Penn Avenue storefront</td>
<td>Backup Material</td>
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</table>
RESOLUTION NO.
RESOLUTION APPROVING A
CONDITIONAL USE PERMIT AMENDMENT AND VARIANCE
FOR A RESTAURANT
AT 6436 PENN AVENUE

WHEREAS, an application has been filed with the City of Richfield which requests approval of a conditional use permit amendment and variance to allow a Class III (fast food / convenience) restaurant at property commonly known as 6436 Penn Avenue and legally described as follows:

That part of the north 115.9 feet of the south 270.9 feet of the east 167 feet of Lot 1, RICHFIELD GARDENS which lies south of the north 354.5 feet of said Lot 1, Hennepin County, Minnesota

WHEREAS, the Planning Commission of the City of Richfield held a public hearing and recommended approval of the requested conditional use permit and variance at its June 26, 2017 meeting; and

WHEREAS, notice of the public hearing was published in the Sun Current on June 15, 2017 and mailed to properties within 350 feet of the subject property on June 13, 2017; and

WHEREAS, the requested conditional use permit meets the requirements necessary for issuing a conditional use permit as specified in Richfield’s Zoning Code, Subsection 547.09 and as detailed in City Council Staff Report No.____; and

WHEREAS, the Zoning Code states that off-street parking for Class III (fast food / convenience) restaurants shall be provided at a ratio of 17 spaces per 1,000 square feet of gross floor area and for wholesale businesses at a ratio of 1 space per 800 square feet of gross floor area, Subsection 544.13, Subd. 6; and

WHEREAS, Minnesota Statutes Section 462.357, Subdivision 6, provides for the granting of variances to the literal provisions of the zoning regulations in instances where their enforcement would cause “practical difficulty” to the owners of the property under consideration; and

WHEREAS, the City has fully considered the request for approval of the conditional use permit;

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Richfield, Minnesota, as follows:

1. The City Council makes the following general findings:
   a. The Property is zoned Mixed Use Community (MU-C).
   b. The Zoning Code states that off-street parking for Class III (fast food / convenience) restaurants shall be provided at a ratio of 17 spaces per 1,000 square feet of gross floor area and for wholesale businesses at a ratio of 1 space per 800 square feet of gross floor area. 17 spaces are available on site. A variance from Subsection 544.13, Subd. 6 is necessary.
2. With respect to the application for a variance from the above-listed requirements, the City Council makes the following findings:

   a. Parking requirements are based on square footage. Subway plans to occupy 1,500 square feet of the building, while the remaining 8,000 square feet would be occupied by the building’s owner, Dynamic Products Midwest (DPM). The parking requirement for Class III (fast food / convenience) restaurants is 17 spaces per 1,000 square feet of gross floor area and the requirement for wholesale businesses is 1 space per 800 square feet of gross floor area. After factoring in a 10 percent reduction for proximity to public transit service, the total parking requirement is 33 spaces (23 for Subway and 10 for DPM.) 17 spaces are available on the property and no space exists to create additional parking.

   b. Unique circumstances apply in that DPM has only 12 total employees, several of whom work off site entirely or are dispatched in the field most of the day. Much of the building is used as storage for their equipment and products. While the area behind the building cannot officially be counted as parking spaces due to non-compliant access aisle and stall dimensions, DPM allows up to 5 employees to park in that area, reducing pressure on the available spaces in the parking lot. Furthermore, the City’s parking requirements for fast food restaurants are much higher than Subway’s own requirement of 12 spaces for a 1,500 square foot restaurant (1 space per 125 square feet.)

   c. Granting the requested variance will not alter the character of the neighborhood or locality. Given the existing usage of the building, staff does not anticipate that shortages will occur. This location is in close proximity to a concentration of apartments and businesses. It is reasonable to assume that some percentage of customers and employees will choose to walk rather than drive.

   d. The variance requested is the minimum necessary to alleviate the practical difficulty. Space is not available to create additional parking.

   e. The proposed variance does not conflict with the purpose or intent of the Ordinance or Comprehensive Plan.

3. Based on the above findings, a variance is hereby approved to reduce the off-street parking requirement for the Subject Property to 17 spaces.

4. A conditional use permit is issued to allow a Class III (fast food/convenience) restaurant, as described in City Council Letter No. ______, on the Subject Property legally described above.

5. This conditional use permit is subject to the following conditions in addition to those specified in Section 547.09 of the City’s Zoning Ordinance:

   • That the recipient of this conditional use permit record this Resolution with the County, pursuant to Minnesota Statutes Section 462.36, Subd. 1 and the City’s Zoning Ordinance Section 547.09, Subd. 8. A recorded copy of the approved resolution must be submitted to the City prior to the issuance of an occupancy permit.
   • The proposed interior trash room must meet all Building/Health Codes.
   • The parking lot must be patched/resurfaced and restriped, including a striped connection from the sidewalk to the accessible loading/aisle space prior to the issuance of an occupancy permit.
• Awning(s) shall be installed across the entire building façade. Sign permits are required for any signs greater than 6 square feet in area, including awning signage.
• Bicycle parking must be provided, in accordance with Zoning Code Section 544.17.
• The remaining space in the building may not be used by another restaurant.
• All rooftop or ground mechanical equipment must be screened, per Zoning Code Section 544.05.
• The applicant is responsible for obtaining all required permits, compliance with all requirements detailed in the City’s Administrative Review Committee Report dated June 5, 2017, and compliance with all other City and State regulations.
• Prior to the issuance of an occupancy permit, the applicant must submit a surety equal to 125% of the value of any improvements and/or requirements not yet complete. This surety shall be provided in the manner specified by the Zoning Code.

6. The conditional use permit and variance shall expire one year after issuance unless 1) the use for which the permit was granted has commenced; or 2) Building permits have been issued and substantial work performed; or 3) Upon written request of the applicant, the Council extends the expiration date for an additional period not to exceed one year. Expiration is governed by the City Zoning Ordinance, Section 547.09, Subdivision 9.

7. This conditional use permit shall remain in effect for so long as conditions regulating it are observed, and the conditional use permit shall expire if normal operation of the use has been discontinued for 12 or more months, as required by the City's Zoning Ordinance, Section 547.09, Subd. 10.

   Adopted by the City Council of the City of Richfield, Minnesota this 8th day of August 2017.

   ____________________________
   Pat Elliott, Mayor

   ATTEST:

   _____________________________
   Elizabeth VanHoose, City Clerk
Code Requirements / Required Findings

Part 1 – Conditional Use Permit: The findings necessary to issue a Conditional Use Permit (CUP) are as follows (547.09, Subd. 6):

1. The proposed use is consistent with the goals, policies, and objectives of the City’s Comprehensive Plan. The proposed use of the property is consistent with the guiding “Mixed Use” designation. The Comprehensive Plan identifies a number of goals and policies related to economic development and support for business and employment growth. The proposal is consistent with these goals and policies.

2. The proposed use is consistent with the purposes of the Zoning Code and the purposes of the zoning district in which the applicant intends to locate the proposed use. The purpose of the Zoning Code is to protect and promote the public health, safety, comfort, aesthetics, economic viability, and general welfare of the City. In the Penn Avenue Corridor, the Mixed Use District is intended to be a vibrant, pedestrian-oriented neighborhood center. The proposal is consistent with these purposes.

3. The proposed use is consistent with any officially adopted redevelopment plans or urban design guidelines. There are limited opportunities to bring the property into compliance with the Penn Avenue Design Guidelines, such as adding awnings to the building.

4. The proposed use is or will be in compliance with the performance standards specified in Section 544 of this code. The proposed use will maintain the status quo compliance with performance standards requirements. The site is 100% impervious surface and limited opportunities exist to add landscaping or screening. The applicant is requesting a variance to reduce the off-street parking requirement, described in Part 2.

5. The proposed use will not have undue adverse impacts on governmental facilities, utilities, services, or existing or proposed improvements. The City’s Public Works and Engineering Departments have reviewed the proposal and do not anticipate any issues.

6. The use will not have undue adverse impacts on the public health, safety, or welfare. Adequate provisions have been made to protect the public health, safety and welfare.

7. There is a public need for such use at the proposed location. Investment and improvement in vacant sites is necessary to maintain a thriving community.

8. The proposed use meets or will meet all the specific conditions set by this code for the granting of such conditional use permit. This requirement is met.
**Part 2 - Variance:** The findings necessary to approve a variance are as follows (Subd. 547.11):

1. **There are “practical difficulties” that prevent the property owner from using the property in a reasonable manner.**
2. **There are unusual or unique circumstances that apply to the property which were not created by the applicant and do not apply generally to other properties in the same zone or vicinity.**
3. **The variance would not alter the character of the neighborhood or the locality.**
4. **The variance is the minimum necessary to alleviate the practical difficulty.**
5. **The variance is in harmony with the general purpose and intent of the ordinance and consistent with the Comprehensive Plan.**

**Reduced Parking Requirement (Subsection 544.13, Subd. 6)**
The applicant is requesting a variance to reduce the off-street parking requirement from 33 stalls to 17 stalls.

Criteria 1: Strict enforcement of this requirement would cause a practical difficulty. Parking requirements are based on square footage. Subway plans to occupy 1,500 square feet of the building, while the remaining 8,000 square feet would be occupied by the building’s owner, Dynamic Products Midwest (DPM). The parking requirement for Class III (fast food / convenience) restaurants is 17 spaces per 1,000 square feet of gross floor area and the requirement for wholesale businesses is 1 per 800 square feet of gross floor area. After factoring in a 10 percent reduction for proximity to public transit service, the total parking requirement is 33 spaces (23 for Subway and 10 for DPM.) 17 spaces are available on the property and no space exists to create additional parking.

Criteria 2: Unique circumstances apply in that DPM has only 12 total employees, several of whom work off-site entirely or are dispatched in the field most of the day. Much of the building is used as storage for their equipment and products. While the area behind the building cannot officially be counted as parking spaces due to non-compliant access aisle and stall dimensions, DPM allows up to 5 employees to park in that area, reducing pressure on the available spaces in the parking lot. Furthermore, the City’s parking requirements for fast food restaurants are much higher than Subway’s own requirement of 12 spaces for a 1,500 square foot restaurant (1 space per 125 square feet.)

Criteria 3: Granting the requested variance will not alter the character of the neighborhood or locality. Given the existing usage of the building, staff does not anticipate that shortages will occur. This location is in close proximity to a concentration of apartments and businesses. It is reasonable to assume that some percentage of customers and employees will choose to walk rather than drive.

Criteria 4: The variance requested is the minimum necessary to alleviate the practical difficulty. Space is not available to create additional parking.

Criteria 5: The proposed variance does not conflict with the purpose or intent of the Ordinance or Comprehensive Plan.
PARCEL ID: 2902824140022

OWNER NAME: Charis Properties Llc

PARCEL ADDRESS: 6436 Penn Ave S, Richfield MN 55423

PARCEL AREA: 0.44 acres, 19,225 sq ft

A-T-B: Abstract

SALE PRICE: $750,000

SALE DATA: 03/2007

SALE CODE: Warranty Deed

ASSESSED 2016, PAYABLE 2017
PROPERTY TYPE: Commercial-Preferred
HOMESTEAD: Non-Homestead
MARKET VALUE: $791,000
TAX TOTAL: $29,411.74

ASSESSED 2017, PAYABLE 2018
PROPERTY TYPE: Commercial-preferred
HOMESTEAD: Non-homestead
MARKET VALUE: $812,000

Comments:

This data (i) is furnished 'AS IS' with no representation as to completeness or accuracy; (ii) is furnished with no warranty of any kind; and (iii) is not suitable for legal, engineering or surveying purposes. Hennepin County shall not be liable for any damage, injury or loss resulting from this data.

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ITEM FOR COUNCIL CONSIDERATION:
Public hearing and consideration of a resolution providing host approval for the issuance of tax-exempt revenue bonds by the City of Deephaven for the benefit of Seven Hills Preparatory Academy.

EXECUTIVE SUMMARY:
Seven Hills Preparatory Academy (Seven Hills) is a K-8 public charter school serving students from a Bloomington campus and a Richfield campus. The Richfield campus is located at 1401 West 76th Street, the previous home to Minnesota School of Business, which recently vacated their space. Over the last two years Seven Hills had shared space with Minnesota School of Business. Seven Hills has continued to expand and add more grade levels to the site. They expect to fully occupy the building by the 2020-2021 school year.

The purpose of the issuance of the tax-exempt revenue bonds is to finance the acquisition, construction, reconstruction, and improvement of the 55,000 square foot charter school facility at the Richfield campus. The project would primarily include the acquisition of the building, and the construction of a 13,000 square foot building to house a gymnasium and the renovation of the fourth and fifth floors of the existing building.

Seven Hills originally approached the City of Richfield for the issuance of the tax-exempt revenue bonds; however, the City of Richfield did not have the capacity to issue bank-qualified bonds for Seven Hills this year. Subsequently, the City of Deephaven agreed to issue the tax-exempt revenue bonds on behalf of Seven Hills. Because the project to be financed is located in Richfield, prior to issuance of the tax-exempt revenue bonds by the City of Deephaven, the City of Richfield must hold a public hearing and provide host approval in order to satisfy state law and tax law requirements.

The bonds will not constitute a general or moral obligation of the City of Richfield and will not be secured by the full faith and credit or taxing powers of the City of Richfield. In the event the Seven Hills encounters financial difficulties, no assets or revenues of the City of Richfield will be available to pay the principal of or interest on the tax-exempt revenue bonds.

RECOMMENDED ACTION:
Conduct and close the public hearing and by motion: Approve a resolution authorizing the City of Deephaven to issue tax-exempt revenue bonds on behalf of Seven Hill Preparatory Academy.
BASIS OF RECOMMENDATION:

A. HISTORICAL CONTEXT
   - Because the project to be financed is located in the City of Richfield, prior to the issuance of the tax-exempt revenue bonds by the City of Deephaven, the City of Richfield must hold a public hearing and provide host approval in order to satisfy state law and tax law requirements.

B. POLICIES (resolutions, ordinances, regulations, statutes, etc):
   - The City of Richfield was asked to issue the tax-exempt revenue bonds for the benefit of Seven Hills but did not have the capacity to issue bank-qualified bonds for Seven Hills this year.

C. CRITICAL TIMING ISSUES:
   - None

D. FINANCIAL IMPACT:
   - If host approval is granted, the tax-exempt revenue bonds will be issued as revenue obligations of the City of Deephaven. The tax-exempt revenue bonds will not be an obligation of the City of Richfield. The principal of and interest on the tax-exempt revenue bonds will be payable solely from revenues derived from Seven Hills. The tax-exempt revenue bonds will not constitute a general or moral obligation of the City Richfield and will not be secured by the full faith and credit or taxing powers of the City of Richfield. In the event the Project encounters financial difficulties, no assets or revenues of the City of Richfield will be available to pay the principal of or interest on the tax-exempt revenue bonds.
   - Providing host approval does not affect the City’s bond rating or its ability to issue up to $10,000,000 in bank-qualified obligations in calendar year 2017.

E. LEGAL CONSIDERATION:
   - A notice of public hearing was published in the Richfield Sun Current on July 20, 2017.

ALTERNATIVE RECOMMENDATION(S):
   - The City Council could decide not to provide host approval.

PRINCIPAL PARTIES EXPECTED AT MEETING:
   - Grant Turpin, Dorsey & Whitney LLP • Carl Schlueter, Seven Hills Preparatory Academy

ATTACHMENTS:

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RESOLUTION APPROVING THE ISSUANCE BY THE CITY OF DEEPHAVEN, MINNESOTA OF ITS CHARTER SCHOOL LEASE REVENUE BONDS, SERIES 2017A AND SERIES 2017B (SEVEN HILLS PREPARATORY ACADEMY PROJECT) FOR A PROJECT LOCATED IN THE CITY OF RICHFIELD

BE IT RESOLVED by the City Council (the “Council”) of the City of Richfield, Minnesota (the “City”), as follows:

Section 1. Recital. This Council has received notice that the City of Deephaven, Minnesota (the “Issuer”) intends to issue revenue bonds for the purpose of financing the acquisition, construction and equipping of a public charter school located at 1401 West 76th Street in the City (the “Project”), on behalf of SHPA ABC, a Minnesota nonprofit corporation (the “Corporation”), and leased to and operated by Seven Hills Preparatory Academy (the “Academy”), a Minnesota nonprofit corporation and a public charter school sponsored by the Friends of Education.

Section 2. Findings. At a public hearing, duly noticed and held on the date hereof, in accordance with Section 147(f) of the Internal Revenue Code of 1986, on the proposal to approve the financing of the Project, all parties who appeared at the hearing were given an opportunity to express their views with respect to the proposal to finance the Project and interested persons were given the opportunity to submit written comments to the City Manager before the time of the hearing. Based on the public hearing, such written comments (if any) and such other facts and circumstances, as this Council deems relevant, this Council hereby finds, determines and declares as follows:

(a) The Issuer intends to issue revenue bonds on behalf of the Corporation for a public education facility. Based on the representations of the Corporation and the Academy, the financing will consist of the issuance by the Issuer of its (i) Charter School Lease Revenue Bonds (Seven Hills Preparatory Academy Project), Series 2017A (the “Series 2017A Bonds”) and (ii) Taxable Charter School Lease Revenue Bonds (Seven Hills Preparatory Academy Project) Series 2017B (the “Series 2017B Bonds,” and collectively with the Series 2017A Bonds, the “Bonds”) for the purpose of: (i) financing the acquisition, construction and equipping of the Project; (ii) funding a debt service reserve fund; (iii) paying a portion of the interest on the Bonds; and (iv) paying a portion of the costs of issuing the Bonds.

(b) The estimated maximum aggregate face amount of the Bonds is $15,500,000.

(c) The Project will be owned by the Corporation and leased to and operated by the Academy.

Section 3. Approval. The City hereby approves the issuance of the Bonds by the City of Deephaven, Minnesota, to finance the Project.
Adopted by the City Council of the City of Richfield, Minnesota, this 8th day of August, 2017.

Pat Elliott, Mayor

Elizabeth VanHoose, City Clerk
ITEM FOR COUNCIL CONSIDERATION:
Consideration of approval of the implementation of interim improvements to the 69th Street Pilot Project as recommended by the Transportation Commission.

EXECUTIVE SUMMARY:
The 69th Street Pilot Project was recommended by the Richfield Transportation Commission on September 7, 2016, and approved by Council on October 11, 2016. The project’s purpose was to provide pedestrian facilities along 69th Street, between Penn and Xerxes, and reduce vehicular speeds.

The project was implemented in the fall of 2016 and continued through June 2017. The project successfully reduced vehicle speeds, provided a safe pedestrian space, and increased pedestrian and bicyclist use along the corridor.

On July 12, 2017, the Transportation Commission reviewed the results of the pilot project and made recommendations to develop a long-term, permanent solution for 69th Street and to continue the pilot configuration, with modifications, in the interim. The recommended modifications are to adjust the striping to create a distinct south side shoulder to address residents’ concerns.

Jack Broz, Transportation Engineer, will be available to provide a short presentation, if requested by the City Council.

RECOMMENDED ACTION:
By motion: Approve implementation the 69th Street Project Interim Improvements as recommended by the Transportation Commission.

BASIS OF RECOMMENDATION:
A. HISTORICAL CONTEXT
   Background
   • 69th Street is a collector roadway and is part of the City’s Municipal State Aid System and therefore State Aid design standards apply to the corridor.
   • Richfield’s Sidewalk Policy identifies that sidewalks should be constructed on one side of a collector roadway, but no sidewalk exists on 69th Street.
Frequent and ongoing complaints regarding speeding on 69th Street were received by Public Works and Public Safety Staff. Speed studies verified citizen concerns.

As a response to these issues, the 69th Street Pilot Project was recommended by the Richfield Transportation Commission on September 7, 2016, and approved by Council on October 11, 2016.

The project’s purpose is to provide pedestrian facilities along 69th Street, between Penn and Xerxes, and reduce vehicular speeds.

The pilot configuration was installed in the fall of 2016 and ran through June 2017.

Upon completion, staff compiled residents’ survey responses and analyzed traffic data (before and after). The survey results and traffic analysis are attached.

The Transportation Commission discussed these results at their July 12, 2017, meeting, the discussion lead to a recommendation to develop a long-term, permanent solution for 69th Street and to continue the pilot configuration with modifications in the interim.

The project was discussed at the July 25, 2017, City Council Work Session.

Public Involvement

- Public Open House on August 24, 2016 (meeting summary attached)
- On-line survey April 2017 (attached)

B. POLICIES (resolutions, ordinances, regulations, statutes, etc):

- The proposed routes are consistent with the following approved City documents:
  - Comprehensive Plan (Chapter 6 - Transportation)
  - Complete Streets Policy

C. CRITICAL TIMING ISSUES:

- Interim changes should be made soon before cool weather prevents striping crews from being able to stripe.

D. FINANCIAL IMPACT:

- Local (City) funds will be used for the project. The amount of purchase is estimated to be less than $50,000.
- Public Works staff will perform the work for striping and signing; which will be reflected in the Department's budget.

E. LEGAL CONSIDERATION:

- The City Attorney will be available to answer questions.

ALTERNATIVE RECOMMENDATION(S):

- Restore street to previous conditions by removing delineators and restoring parking on the north side of the street.

PRINCIPAL PARTIES EXPECTED AT MEETING:
Area Residents

ATTACHMENTS:

<table>
<thead>
<tr>
<th>Description</th>
<th>Type</th>
</tr>
</thead>
<tbody>
<tr>
<td>69th Street Pilot Project Report</td>
<td>Cover Memo</td>
</tr>
<tr>
<td>April 2017 Survey</td>
<td>Cover Memo</td>
</tr>
<tr>
<td>8/24/16 Public Open House Summary</td>
<td>Cover Memo</td>
</tr>
</tbody>
</table>
69TH STREET PILOT PROJECT
XERXES AVENUE TO PENN AVENUE

PROJECT BACKGROUND

The City’s Comprehensive Plan, Sidewalk Policy, Complete Streets Policy, and Guiding Principles have established goals for pedestrian facilities on collector roadways and improved multimodal transportation options for Richfield residents. This project is intended to add over 1/2 mile of planned pedestrian facilities on 69th Street which is an identified gap in the pedestrian network, (Xerxes Avenue to Penn Avenue).

This project provides safer pedestrian connections to:

- Stores and services on Penn Avenue
- Stores and services in Edina

The 69th Street improvements may also accommodate bicycles on this planned bicycle route identified in the approved Bicycle Master Plan. This route also connects to the Metro Transit Bus Route on Penn Avenue.

PROJECT MAP (Base map from the Comprehensive Plan)

69TH STREET BEFORE CONDITIONS

The study corridor crosses a residential neighborhood with driveways and alleys serving the neighborhood. 69th Street is a collector roadway and is part of the City’s Municipal State Aid System and therefore State Aid design standards apply to the corridor. Richfield’s Sidewalk Policy identifies that sidewalks should be constructed on one side of a collector roadway, but no sidewalk exists on 69th Street.
The average daily traffic on the corridor is 3,000 vehicles/day. The roadway was not striped, but the two-way roadway allowed parking on the north side of the street and parking was restricted on the south side. 69th Street received an Overlay in 2015. (see figure below)

Frequent and ongoing complaints regarding speeding on 69th Street were received by Public Works and Public Safety staff. Speed studies verified citizen concerns. The speed limit on 69th Street is 30 mph and the 85th Percentile Speeds were documented from 35 mph to 38 mph. A video log was recorded in September 2016 to evaluate the operations of the corridor. Key observations from the video were:

- Very few cars parked on the roadway.
- Vehicles did not travel in the designated lanes. The lack of parked vehicles allowed an “open road” feeling with vehicles traveling along the physical centerline of the street.

The speeding problem was not resolved with additional enforcement or with the installation of radar controlled “Your Speed” indication signs. The speeding problems created an unsafe condition for residents accessing their driveways or the alleys.

The lack of sidewalk along 69th St creates a very unsafe condition for pedestrians and is illustrated in the chart below. This chart is from a study published by AAA’s Foundation for Traffic Safety. The chart plots the Risk of Severe Injury to pedestrians struck at various impacts speeds from either a car or light truck (i.e.; pickup truck). The 69th Street 85th Percentile data is also show on this chart.
The following image was taken from the September 2016 video log. This image shows pedestrians walking along 69th Street as they are being passed by a light truck and cars. Key observations:

- There are not any parked cars.
- Westbound traffic has shifted into the parking lane on the north side.
- Eastbound traffic is using the westbound lane.
- Pedestrians walk in the eastbound lane with their backs to traffic.
DEVELOPMENT OF PROJECT ALTERNATIVES

Public Works staff developed alternatives attempting to address the speeding problem and the lack of pedestrian safety along the 69th Street study area. The concepts considered were:

- Sidewalk with or without a boulevard
- Sidewalk with shifted curb (narrowed Street)
- “On-street” path (width coordinated with maintenance staff for plowing and street sweeping)

Early evaluation of these options findings:

- Utility poles on the north side would be problematic resulting in focus on sidewalk options on the south side only
- City sidewalk standards include options of a 6 ft. sidewalk and 6 ft. boulevard or a 10 ft. wide sidewalk. The limited Right-of-Way resulted in only consideration of a 10 ft. sidewalk.
- Funding for a significant construction project has not been identified.
- Eliminating the little used parking would allow for either narrowing of the road or conversion of the parking lane into an “on-street path.”

Pedestrian Mode Measures

The goal of the City’s pedestrian network is to provide for safe, secure and efficient movement along and across the roadways. The following performance measures will be used to evaluate the Pedestrian success of any alternative in addition to ADA criteria.

- Speed of traffic (slower)
- Offset to traffic (buffer zone)
- Crossing distances
- Number of users

The following alternatives were brought to a Public Open House on August 24, 2016, at Jefferson Park:

<table>
<thead>
<tr>
<th>Alternative</th>
<th>Pedestrian</th>
<th>Bicycle</th>
<th>Parking impacts</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>10’ Wide sidewalk on south side</td>
<td>✓</td>
<td>-</td>
<td>-</td>
<td>$$$$$$$</td>
</tr>
<tr>
<td>10’ Wide sidewalk with southern curb shifted north</td>
<td>✓</td>
<td>-</td>
<td>-</td>
<td>$$$$$$</td>
</tr>
<tr>
<td>10’ On-street shared use path-painted edge line</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>$</td>
</tr>
<tr>
<td>10’ On-street shared use path-painted edge line with tube delineators</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>$$</td>
</tr>
<tr>
<td>10’ On-street shared use path-curbed delineators</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>$$</td>
</tr>
</tbody>
</table>
These alternates represent higher cost sidewalk construction alternates along with lower cost on-street path alternates. The chart indicates each alternative’s potential to provide safe travel for pedestrians and bicyclists along with parking impacts and relative cost.

Parking needs vary along the corridor. While most homes are on the corner, served by parking on the avenues, one home fronts on 69th Street and there are two homes at Penn Avenue (which is posted “No Parking except Sunday”).

**Recommendation for Pilot Project**
The comments from the open house supported the speeding problem, but provided no clear direction for addressing the pedestrian safety. On September 7, 2016, the Transportation Commission made a recommendation to City Council to “pilot” the alternative; **10' On-street shared use path- curbed delineators** including monitoring speeds, along with pedestrian and bicyclist usage through June of 2017. City Council approved the pilot project at their meeting on October 11, 2016 and the changes to 69th Street were made shortly thereafter.
RESULTS OF PILOT PROJECT

Figure 2 69th Street Pedestrian Pilot Project on-street path

Pilot Project Change to Speeds
Initial Speeds: 85% speed 35-38 mph (Speed Limit 30 mph)

Pilot Project:
  Westbound- 85% speed 33-35 mph*
  Eastbound- 85% speed 33-35 mph*
  *66th Street Detour traffic included (volumes increased from 3,000 to approximately 5,000 vehicles/day)
The changes to the speeds are plotted on the same Risk of Severe Injury chart:

Pilot Project Changes to Pedestrian and Bicycle Usage
Video log was repeated in June 2017 and pedestrians and bicyclists were counted. The weather during each of the times recorded was comfortable for walking. The following table compares the changes:

<table>
<thead>
<tr>
<th>Date</th>
<th>Pedestrians per Day</th>
<th>Bicyclists per Day</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>September 2016</td>
<td>52</td>
<td>56</td>
<td>108</td>
</tr>
<tr>
<td>June 2017</td>
<td>76</td>
<td>78</td>
<td>154</td>
</tr>
<tr>
<td>Change</td>
<td>+46%</td>
<td>+39%</td>
<td>+43%</td>
</tr>
</tbody>
</table>
Crash Summary
Crash data was compared to similar collectors and no significant crash patterns were identified with the following exception: The intersection at 69th Street with Upton Avenue has a few more crashes, most likely due to the limited sight distances restricted by the side slopes created by cutting 69th Street into the hill. Sightline improvements should be considered as part of any future reconstruction project of 69th Street.
The 69th Street Pedestrian Pilot Project survey was available on-line from April 12 through April 30, 2017. The survey was posted on the City of Richfield’s website, promoted via Facebook, and emailed directly to citizens that had been engaged through project open house attendance or other contacts. Approximately 40 citizens took the survey. The survey focused on the mobility and safety for pedestrians, bicyclists and drivers. The survey also provided the opportunity for participants to give comments. The results of the survey:

### Arrows indicate percentage of respondents that replied, “Yes” to Living within three (3) blocks of the 69th Street Pilot Project.

### How often do you travel along 69th Street from Xerxes Avenue to Penn Avenue?

- Eighty (21) respondents replied "Yes".
- Often (16) respondents replied "Yes".
- Seldom (4) respondents replied "Yes".
- Never (1) respondents replied "Yes".

### How do you use 69th Street?

- Walk (18) respondents replied "Yes".
- Bike (21) respondents replied "Yes".
- Drive (40) respondents replied "Yes".
- Parking (3) respondents replied "Yes".
- Other (42) respondents replied "Yes".

Clarification for “Other”:
- Motorcycle
- Pushing a stroller
- Used to enjoy parking
- No parking on 69th
- Live on 69th
- Used to park, until parking ban
Walking Comments

4392  Delineating a specific space for biking and walking adds a safety element and a comfort level that encourages participating in those activities and makes doing so more pleasant.

4394  Safer, but still get the awkward feel of being on the street. Safe crossing with small children is still a big concern. For example, crossing at Upton Ave to head to Jefferson Park.
69th no longer feels like a barrier to walking and biking with small kids. We've started walking to the park at 68th and Upton because we feel safer getting there. We also will walk along 69th, which we never had before.

Along 69th Street, between Penn Ave & Xerxes Ave is great but the transitions at either end are awkward. I would prefer having areas on both sides of the street to remedy this.

Coming out of the alley from the south is dangerous especially if there are cars or fences blocking the sight lines for east bound traffic. This is especially true for the alley between Sheridan and Russell. A reminder sign would be helpful but may not solve the problem due to posted or higher speeds heading east.

I do not like the south side shoulder. Too close to my property and turning from south onto 69th heading east towards Penn makes it tougher not to impede somewhat in the West bound lane. When west bound traffic is there.

Do not like the looks of the white markers. I don't think you will be able to make me happy. unless you put the parking back on 69th Street. Put the walkers and bikers on alternate streets. I am sure this wont make a bit of difference to you.

It was wonderful to walk to Cub and other places this winter. I drove those short distances in the past as it was not safe on either 69th or 70th !!

First of all, the city staff most likely evaluates speeds along 69th street during their business hours which are from probably 7:00am to 3:30pm, therefore the accuracy of the study for speed is not exact? Before the bike / pedestrian lane was ever constructed, traffic speeds appeared to be SLOWER than they are now since these lanes were built. I've seen vehicles passing one another on 69th street heading westbound towards Edina. I've also seen bicyclists riding in the eastbound traffic lane for vehicles, not even using the bike lanes constructed for them.

The next issue I would like to address is the SAFETY! When a northbound driver of a vehicle approaching 69th street from any given side street such as: Sheridan, Thomas, Upton, Vincent and so on, that vehicle wants to make a right hand turn (eastbound) on 69th street, they usually have the tendency to take that right hand turn wider then what is allotted for due to these bike lanes. When this happens, and there is ANY oncoming traffic (westbound on 69th ), there is no room for ERROR. Therefore, the (westbound) traffic on 69th street will veer off onto the pedestrian/bike lane. Especially, the elderly citizens because they are NOT used to driving on the wrong side of the road.

One suggestion is: why not trying a pilot program with having a BUFFER ZONE of approximately 4 - 7 feet on each side of 69th street, with no parking on either side, allowing the CROWN of the road being the CENTER OF ROADWAY? You wouldn't need all of those traffic barrier delineation. By eliminating the delineation, now you DON'T have to send out a SPECIAL TRUCK to PLOW 69th street costing the taxpayers more money in overtime. Snow builds up around those traffic barriers and now we have inappropriate drainage when the snow starts melting and causing it to refreeze in the pedestrian / bike lane. This could be a LAWSUIT waiting to happen for the city. Maybe Portland Ave construction of those bikes lanes made of concrete, acting as a BUFFER ZONE could be a mirror image of 69th street without those center islands?

Another solution could be simply use the right - away on either side of 69th street and install sidewalks wide enough to accommodate pedestrian / bicyclist traffic which would be the SAFEST - OF - ALL - SOLUTIONS!

When we first moved to Richfield last June (2016) there wasn't a pedestrian area on 69th. It felt very unsafe to walk there because there was no barrier and people would speed up and down 69th like their hair was on fire.

Once the street was redone, I used it almost immediately. I was so excited to have a safe place to walk with my baby. It seemed to have slowed traffic down as well because the lanes are narrower.
4410 It's fine if I stay on the north side of the street where there is protection. But when I head to my friend's house on the south side it's darned scary.

We need speed bumps. People are NOT going to slow down for anything now days. And neighbors living on south side of 69th Street need more wiggle room to get out of their driveways safely.

4411 When driving to work each morning (west bound), I continually see people walking on the south side of 69th westbound.

4418 I feel the experience has improved and is safer because of the designated pedestrian lane but is not optimal.

4420 I NEVER felt unsafe walking along 69th street before the improvements, so I cannot honestly say I feel safer walking along 69th from Xerxes to Penn after the improvements.

4421 I think the narrower lanes make the overall driving and walking experience more unsafe. The narrower south lane means that I can barely pull out far enough from the alley to turn into the street, to see if a car is coming only to find the car is coming - almost too late. With snow banks added in the winter, it's going to be a very dangerous entry on 69th from the ally.

Walking in the walkway still feels dangerous because cars drive very fast down 69th. I walk my dog every day and feel no safer in the walkway than I did along side the curb. Having at least one real sidewalk (either north or south side of 69th) from Penn to York would definitely improve pedestrian and car safety on 69th street. I don't think the walk way in the street is the answer.

4422 This experiment had caused much user confusion, verbal abuse and dangerous situations. Please make 69th Street safe again. Every week we observe dangerous situations by both motorized and nonmotorised users. It is just to confusing and ill thought out. The street was much safer prior to the experiment.

4430 There is no safe place to walk on south side of 69th. Work trucks often park in walk/bike area leaving walkers/bikers to walk around resulting in using street.
Sort of awkward to bike going east. I don't feel comfortable going the wrong way, so I go in the traffic lane. But I still appreciate that cars drive a lot slower now!
69th Street Pedestrian Pilot Project: On-Line Survey Results

4393 This really depends. I feel safer riding west bound as I am going with traffic. But going east bound I feel much less safe, because I'm in a spot that motorists don't look for bikes. Not to mention when you get to Penn Ave you are left at the light being on the wrong side of the street.

4394 Much better. Would like to see more of this interim or pilot type of treatment.

4395 69th is great to ride along now. I love it.

4396 I prefer 70th Street for casual biking and prefer sharing the road otherwise. Again, the transitions at Penn Ave & Xerxes Ave are awkward. East of Penn Ave isn't so bad since traffic is light but west of Xerxes Ave is terrible since the road is crumbling (although it was recently patched, so maybe it's better) and left turns are made across both west & east bound traffic.

4406 I RARELY see bicyclists on 69th street. I generally see walking / pedestrian traffic with their pets and/or their children.

4408 Biking has improved greatly. I no longer feel like I'm in the way of cars and I feel somewhat protected from traffic. Before, I felt invisible to cars.

4411 I don't like it - much prefer a lane on each side. Avid road biker AND I drive to work every day on 69th & find the posts very intimidating

4418 Having a designated lane helps create a barrier from traffic but because it is a mixed use lane regular bikers do not use the lane and stay in the roadway as they do not want to cross paths with the pedestrian traffic.

4421 The lanes are too narrow.

4422 This is not a valid survey as your question/answers are skewed to a desired response and don't allow undesired responses. Cycling on 69th is seriously much more dangerous than ever. Try it yourself if you dare.

4426 I ride 69th from Tomas to Penn in the evening on my commute home. After 38 years of riding on roads, I do not feel safe riding against traffic especially when others are in the safety lane. Also, when I get to Penn I am on the wrong side to cross Penn. The cars turning from South Penn to West 69th turn into the safety lane and are not looking for walkers or bikes. When it is dusk or dark in the evening the oncoming vehicle lights are blinding. I usually wait for East traffic to be clear and ride in the traffic lane. Thank you for reading. Joe (70th & James)

4430 Same as walk comments. Also if you are going West on 69th technically you should be walking/biking on south side of 69th. There is no safe way to do this.
ID 4389 Driving Comments
   I feel a lot more aware of where I am in the street.
ID 4390 Driving Comments
   Design cues to lower design speed are greatly appreciated. The street is still far too wide, which encourages speeding. Slowing traffic makes things so much safer including for us motorists.
<table>
<thead>
<tr>
<th>ID</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>4392</td>
<td>There's now a shorter span to get across and the cross traffic seems to have somewhat slowed down</td>
</tr>
<tr>
<td>4394</td>
<td>It's different. Forced to pay attention better. Feel's different and causes me to drive slower which is safer.</td>
</tr>
<tr>
<td>4395</td>
<td>Virtually everyone is driving slower, which is great.</td>
</tr>
<tr>
<td>4396</td>
<td>I rarely drive at all, and when I do, I don't speed, so nothing really changed. I have noticed drivers hugging the center line quite a bit and several people driving in the pedestrian/cyclist corridor.</td>
</tr>
<tr>
<td>4399</td>
<td>Driving due to 66th street construction so anything's better than on 66th.</td>
</tr>
<tr>
<td>4405</td>
<td>Speeds seem improved (slower). I was worried about being rear ended after the change when turning south into my ally but people seem to be paying attention and slowing down</td>
</tr>
<tr>
<td>4406</td>
<td>The FUNDING allotted to the city for the bicycle traffic appears to be more important than the SAFETY of our citizens!</td>
</tr>
<tr>
<td>4408</td>
<td>I no longer feel rushed as I'm driving along 69th. Before, cars would be going 35-45 mph, rushing me along as I went 25-30 mph. I knew there were kids in the area, as well as walkers, runners, and bikers. Now, I feel like I can fully see them and I don't worry when driving.</td>
</tr>
<tr>
<td>4409</td>
<td>The new pedestrian/bike lane makes me feel less safe in 69th street. It feels like the driving lanes are narrower. This is especially an issue after it's snowed. Clearing snow seems to be a problem.</td>
</tr>
<tr>
<td>4410</td>
<td>Drivers are still speeding at the usual rate.</td>
</tr>
<tr>
<td>4412</td>
<td>Eastbound traffic is too close to the curb.</td>
</tr>
<tr>
<td>4418</td>
<td>It does not seem the pilot project has helped to slow traffic and it has pushed cars too close to residents living on the south side of the road.</td>
</tr>
<tr>
<td>4421</td>
<td>See previous comments</td>
</tr>
<tr>
<td>4422</td>
<td>The narrow lanes cause drivers to traverse so close to others that I fear for my life daily. Again you provide no negative response, shame on you!</td>
</tr>
<tr>
<td>4426</td>
<td>I have seen cars driving in the safety lane. Suspect they use it seldom and are confused.</td>
</tr>
<tr>
<td>4429</td>
<td>Neighbors bordering this street said they suggested 1 way on 69th &amp; the opposite on 70th. Seems like a good idea. They miss having parking on 69th &amp; have not noticed that traffic has slowed.</td>
</tr>
<tr>
<td>4430</td>
<td>It is not safer. People are confused &amp; I often see people driving IN the designated walk/bike path. This was to reduce speed of which I have not seen. With 66th under construction, there is more traffic, more confusion &amp; significant speeds!!!</td>
</tr>
<tr>
<td>4458</td>
<td>I have lived on 69th for 40 years. Obviously the traffic has increased. I DONOT like the delineators that are in place. The traffic has increased because of 66th construction and continued building around the Southdale area. The speed has not decreased. Until the orange delineaters were added in the walking lane cars were driving in that lane. The East bound traffic is too close the houses on that side. I find it not easy at times to back out of my driveway. It seems people think they come first before the actual residents.</td>
</tr>
</tbody>
</table>
69th Street Pedestrian Pilot Project: On-Line Survey Results

Since the changes were made, do you walk along 69th Street more frequently?

- Yes (11): 26.19%
- No (21): 50%
- I do not walk on 69th Street (10): 23.81%

Total Submissions: 42

Since the changes were made, do you bike along 69th Street more frequently?

- Yes (10): 23.81%
- No (22): 62.38%
- I do not bike on 69th Street (10): 23.81%

Total Submissions: 42

Since the changes were made, do you drive along 69th Street more frequently?

- Yes (6): 14.29%
- No (35): 83.33%
- I do not drive on 69th Street (1): 2.38%

Total Submissions: 42
ID 4386 I love the changes.
4389 I'd like more frequent posts when walking. It feels sort of exposed between the groups of the posts.
4393 Modify it so east bound is on south side of the road and west bound is on the north side. Don't completely get rid of it.
4394 I typically drive 66th occasionally, but have recently increased not because of the pilot project, but because of construction on 66th Street. I'd ultimately like to see a permanent configuration with a curb, and boulevard with trees.

4395 Unequivocally I would like to see this become permanent.
4396 This hasn't had much of an impact on me. I walk from 70th & Penn to Cub regularly and either take 69th St or 68th St, generally opting for 68th St since there are more trees & less traffic. My personal preference would be to have lanes on both sides of the road for pedestrians/casual cyclists and have faster (>10 mph?) cyclists use the road. I don't know how that would impact snow removal (maybe remove the pylons?) though. I really don't understand why we're looking at an infrastructure change to convince drivers not to speed through a residential area - why not enforce the speed limit instead? And for pedestrian safety, maybe it's time hitting a pedestrian/cyclist with a car gets treated the same as hitting them with some other 4,000+ lb object.

It might be worthwhile to talk to someone in Winona's city government. It's an extremely pedestrian & cyclist friendly city and completely bizarre for people visiting to see cars stop for all pedestrians at every corner.

4401 I do drive slower on the road and find that others do as well. I don't often see bikers or walkers using the north lane, and have unfortunately seen a pedestrian on the roadway with car traffic. I think the impact of lower speeds is important for the residents in the area, as I would want that if I lived nearby.

4405 My only concern is about keeping south alleys clear in a normal winter. Once there were some snow piles visibility was very dicey exiting the alley onto 69th.

And these changes have not reduced traffic volume or slowed the number rolling through the stop sign at 69th and Vincent. But as a pedestrian I love the change!!

4406 I would NOT like to see this as a permanent design for the pedestrians / bicyclists!
4408 I know the cost is an issue, but I'd much prefer a path like 76th on the East side of Richfield in this section. (And actually extending across Penn all the way to Humboldt and across York all the way.

The street is in terrible condition once you cross Xerxes, which I know is Edina. I thought they were better than that. It's literally crumbling and there's a sidewalk only on the left side.

4409 I feel like the change has made it less safe to drive on this road. Please look into other options.
<table>
<thead>
<tr>
<th>ID</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>4410</td>
<td>It’s nice for the bikers and dog walkers, but many people are confused by the white poles and have even driven in that lane. And it’s not like the signs are large enough. The problem is that the street should have never been made that wide and now we are all suffering the consequences.</td>
</tr>
<tr>
<td>4411</td>
<td>Bike/walk lane on EACH side preferred</td>
</tr>
<tr>
<td>4412</td>
<td>Would like to see a better division of 69th st, taking into account pedestrian lane traffic, and ease of snow removal. Eastbound lane too narrow.</td>
</tr>
<tr>
<td>4418</td>
<td>The pilot project has helped to improve pedestrian use along 69th street but I feel further changes are still needed to slow traffic and to create better space for both people walking and biking.</td>
</tr>
<tr>
<td>4420</td>
<td>As I said in the meeting, if changes are a requirement, I would much rather have the current changes made permanent than a narrowing of the street with walking path and curb and gutter. I feel that the changes as they are now are very easy to see and I have seen more walkers and bikers since they were implemented. The only thing that I would change would be to make the posts a brighter color such as fluorescent orange or yellow.</td>
</tr>
<tr>
<td>4422</td>
<td>Please remove this hazard immediately</td>
</tr>
<tr>
<td>4426</td>
<td>I think stripping a safety lane on each side may be a better choice.</td>
</tr>
<tr>
<td>4429</td>
<td>Repeating that neighbors who border 69th have not noticed speeds changed. They miss parking on 69th &amp; suggested 1 way traffic on 69th &amp; 70th. That seems like a good idea. Although I’d like to keep the bike lane too.</td>
</tr>
<tr>
<td>4430</td>
<td>In my opinion this has caused a whole new set of issues and/or safety problems for walkers, bikers &amp; drivers. You forgot to add HOMEOWNERS!</td>
</tr>
<tr>
<td>4431</td>
<td>I live on 69th and Thomas. My driveway backs out onto 69Th. So when I’m backing out I am backing out directly into traffic without any easement to look for traffic until my car is actually in the path. While snowblowing I was almost hit by a car twice because I had to turn around my snowblower at the end of my driveway which is actually the street in the car path. I am very concerned to try to work in my yard on the 69th side this summer or even tend to any of the normal activities this spring because if I slip off the curb... I am in path of on coming traffic which is considerable. I would suggest somebody come out and try to mow my lawn this summer or clear snow from the end of my driveway in the winter and tell me if you think it’s safer.</td>
</tr>
<tr>
<td>4433</td>
<td>My complaint is still the danger of pulling out of the north end of the alley between Thomas Ave. and Sheridan Ave. There is a fence on the left which forces you to pull into the traffic lane to see if traffic is coming, and by then it’s too late. When pulling out to the right (east) there is a partial curb, and to avoid it you must pull into the oncoming traffic lane. Almost all the way in. So if there is traffic coming from the east you must wait for that to clear completely before pulling out. Also, I have not noticed a decrease in speed along 69th Ave. at all. Why didn't you put the biking/walking lane on 70th street where there was already no parking on one side? I have seen numerous bikers driving their cars and parking on the east side of 69th street and then biking up towards Southdale. Do we get a tax break since the city has taken away parking on 69th street? How about putting the bike lane on every single block and see how that goes with everyone in the city. How much is the cost of putting up these barriers? How many of these bikers/walkers are Richfield residents? Was this due to all the condos being built in Edina? How about opening up the roads off of 67th and 68th street and Xerxes to handle some of that traffic? Just throwing ideas out there for Jack and the council to think about since most of you are not affected nor live near the project. And this road does not lead to our parks as I have seen some put on Facebook pages. The park is one block north on 68th street. NO. I DO Not LIKE the changes.</td>
</tr>
</tbody>
</table>
I live at 6900 Sheridan. While the street has improved for pedestrians, it has been to the detriment of the homeowners who live on 69th street, particularly the south side. The cars are so close to the curb that I feel legitimately unsafe when mowing my stretch of lawn next to the curb. The cars are within feet of me. Similarly, it has made it much more difficult to back out of my driveway onto 69th street.

Can we revisit adding a stop sign, perhaps at 69th and Thomas? This is the bottom of the hill and would slow cars down who are eastbound.

Can we remove the poles and instead go back to having cars in the middle of the road? Perhaps put white stripes on each side of the road to visually "break" the pavement and allow an informal pedestrian lane on either side.

A sidewalk would look much better. I understand the cost factor. This should of been done years ago!
Meeting Purpose
The goal of the meeting was to let the public know about the upcoming project and project’s alternatives:

- Sidewalk with boulevard
- Wide Sidewalk
- Wide Sidewalk with shifted curb (requires “No Parking” restriction)
- Painted edge line (requires “No Parking” restriction)
- Painted edge line with tube delineators (requires “No Parking” restriction)
- Painted edge line with “curbed delineators” (requires “No Parking” restriction)

Meeting Notice
- Approximately 400 invitations were mailed to the property owners in the area bounded by 68th Street, Penn Avenue, 70th Street and Xerxes Avenue
- Posted on the City’s website calendar
- Sweet Streets Website updated with project information
- Open House “Facebook events” were created on the Sweet Streets Page

Public Response
Approximately 30 residents attended and 22 comment cards were filled out along with one comment via a phone conversation prior to the meeting.

Written comment summary:

**Do you agree that there is a pedestrian problem on 69th St?**

- 8 respondents indicated Yes
- 14 respondents indicated No
- 1 respondent indicated Uncertain

**Please check the one of the six design alternative that is most appropriate for 69th St:**

- 1 - Sidewalk with boulevard
- 1 - Wide Sidewalk
- 2 - Painted edge line (requires “No Parking” restriction)
- 2 - Painted edge line with tube delineators (requires “No Parking” restriction)
- 4 - Painted edge line with “curbed delineators” (requires “No Parking” restriction)

**ADDITIONAL COMMENTS**

- The majority of attendees agreed that speeding on 69th Street is a problem, including six of the respondents that indicated “no” to a pedestrian problem on the corridor.
- Concern about the cars running through the stop signs at Vincent/69th
- Concern about the costs leading to an increase in taxes
- Consider short term painted option with long term sidewalk construction
- Pedestrians can use 68th & 70th Street
- Delineators will be hard to maintain
- Delineators and paint can be easily removed if necessary