

# HOPKINS CITY COUNCIL

## AGENDA

Tuesday, June 18, 2019

7:00 pm

THIS AGENDA IS SUBJECT TO CHANGE  
UNTIL THE START OF THE CITY COUNCIL MEETING

Schedule Work Session after close of Regular Meeting

### I. CALL TO ORDER

### II. ADOPT AGENDA

### III. PRESENTATIONS

1. Appointment and Reappointment of Planning and Zoning Commissions and Park Board Members; Domeier
2. Raspberry Festival Presentation; Leigh Drinkwine

### IV. CONSENT AGENDA

1. Minutes of the June 4, 2019 City Council Regular Meeting Proceedings
2. Minutes of the June 4, 2019 City Council Work Session following Regular Meeting Proceedings
3. Minutes of the June 11, 2019 City Council Work Session Proceedings
4. Approval of Temporary Liquor License for Hopkins American Legion Post 320; Domeier
5. Approve Amended Consent Decree – Reilly Tar Site; Stadler
6. Second Reading: Ordinance 2019-1142 Amending the City Code Related to Standards for Accessory Buildings or Structures and Authorizing Publication; Lindahl
7. 2019 Special Legislation Relating to Tax Increment Financing District 2-11; Elverum
8. Approve Assessment of Private Water and Sewer Line Repairs; Bishop
9. 101 Oakwood Rental License Denial; Kearney

### V. PUBLIC HEARING

### VI. OLD BUSINESS

### VII. NEW BUSINESS

1. Resolution Approving an On-Sale Liquor License and Sunday Sales Liquor License for El Lorito of Hopkins, Inc. dba El Lorito Mexican Grill; Domeier
2. Resolution Approving an On-Sale Liquor License and Sunday Sales Liquor License for T,T &J Ventures, LLC dba Thirty Bales; Domeier
3. 2040 Comprehensive Plan Update – Cultivate Hopkins; Lindahl

### VIII. ANNOUNCEMENTS

### IX. ADJOURN

#### OPEN AGENDA – PUBLIC COMMENTS/CONCERNS

Public must fill out a Speaker Request Form. During this time, anyone wanting to address a topic **not listed on the agenda** may do so. Three minute time limit per person.

The Hopkins City Council Chambers are enabled with a hearing loop system and hearing amplification options are available. Please notify staff for assistance.



**Appointment and Reappointment of Planning & Zoning Commissioners and Park Board Members**

**Proposed Action.**

Staff recommends adoption of the following motions:

Motion to appoint Emily Fiamova and Nathan White to the Planning & Zoning Commission and Kimberly Schlauderaff and Megan Slindee to the Park Board for two-year terms ending June 30, 2021.

Motion to reappoint Libby Goeman to the Planning & Zoning Commission and Kyle Kaczmarek to the Park Board for two-year terms ending June 30, 2021.

The City Clerk will issue the oaths to the new members after the motions have been made.

**Overview:**

The City Council has reviewed the applications from residents interested in filling the vacancies on the commission and board. Current commissioners and board members interested in serving again on their respective role also applied. The City Council conducted interviews on May 14. Based upon the recommendation of the City Council, staff is requesting approval of the above-motions.

**Primary Issues to Consider:**

- City Code establishes that the appointments shall be made by the Mayor with the approval of the City Council.
- The Planning & Zoning Commission consists of seven members and the Park Board consists of five members. Planning & Zoning Commissioners and Park Board Members are allowed to serve up to two terms.

**Supporting Information:**

- Oaths for newly appointed residents

A handwritten signature in blue ink, which appears to read 'Amy Domeier', is written over a horizontal line.

Amy Domeier, City Clerk

# CITY OF HOPKINS OATH OF COMMISSIONER

On June 18, 2019 in the City Hall of Hopkins, Minnesota, in the presence of the City Council, the following  
Oath of Commissioner was administered to

**Emily Fiamova**

I, Emily Fiamova, do solemnly swear that I will support the Constitution of the United States and of the State of Minnesota, and faithfully discharge the duties as a Planning and Zoning Commissioner of the City of Hopkins in the County of Hennepin and the State of Minnesota, to the best of my judgment and ability, so help me God.

Subscribed and sworn to before me this  
18th day of June, 2019.

---

Amy Domeier, City Clerk

---

Emily Fiamova

---

Jason Gadd, Mayor

# CITY OF HOPKINS OATH OF COMMISSIONER

On June 18, 2019 in the City Hall of Hopkins, Minnesota, in the presence of the City Council, the following  
Oath of Commissioner was administered to

**Nathan White**

I, Nathan White, do solemnly swear that I will support the Constitution of the United States and of the State of Minnesota, and faithfully discharge the duties as a Planning and Zoning Commissioner of the City of Hopkins in the County of Hennepin and the State of Minnesota, to the best of my judgment and ability, so help me God.

Subscribed and sworn to before me this  
18th day of June, 2019.

---

Amy Domeier, City Clerk

---

Nathan White

---

Jason Gadd, Mayor

# CITY OF HOPKINS OATH OF COMMISSIONER

On June 18, 2019 in the City Hall of Hopkins, Minnesota, in the presence of the City Council, the following  
Oath of Commissioner was administered to

**Kimberly Schlauderaff**

I, Kimberly Schlauderaff, do solemnly swear that I will support the Constitution of the United States and of the State of Minnesota, and faithfully discharge the duties as a Park Board Member of the City of Hopkins in the County of Hennepin and the State of Minnesota, to the best of my judgment and ability, so help me God.

Subscribed and sworn to before me this  
18th day of June, 2019.

---

Amy Domeier, City Clerk

---

Kimberly Schlauderaff

---

Jason Gadd, Mayor

# CITY OF HOPKINS OATH OF COMMISSIONER

On June 18, 2019 in the City Hall of Hopkins, Minnesota, in the presence of the City Council, the following  
Oath of Commissioner was administered to

**Megan Slindee**

I, Megan Slindee, do solemnly swear that I will support the Constitution of the United States and of the State of Minnesota, and faithfully discharge the duties as a Park Board Member of the City of Hopkins in the County of Hennepin and the State of Minnesota, to the best of my judgment and ability, so help me God.

Subscribed and sworn to before me this  
18th day of June, 2019.

---

Amy Domeier, City Clerk

---

Megan Slindee

---

Jason Gadd, Mayor



**CITY OF HOPKINS**

City Manager

## **Memorandum**

To: Honorable Mayor and Council Members  
From: Mike Mornson, City Manager  
Date: June 18, 2019  
Subject: Raspberry Festival Presentation

---

The Raspberry Festival will take place July 13-21, 2019. Leigh Drinkwine with the festival committee will be attending the meeting to provide an update on the events. Event information is available at [www.raspberrycapital.com](http://www.raspberrycapital.com).

**HOPKINS CITY COUNCIL  
REGULAR MEETING PROCEEDINGS  
JUNE 4, 2019**

**CALL TO ORDER**

Pursuant to due call and notice thereof a regular meeting of the Hopkins City Council was held on Tuesday, June 4, 2019 at 7:02 p.m. at the Hopkins Fire Station, 101 17th Avenue South, Hopkins.

Mayor Gadd called the meeting to order with Council Members Brausen, Kuznia, Halverson, Hunke attending. Staff present included City Manager Mornson, City Clerk Domeier, Director of Planning and Development Elverum, Building Official Kearney, Assistant City Manager Lenz, City Planner Lindahl, City Attorney Riggs, Fire Chief Specken and Public Works Director Stadler.

**ADOPT AGENDA**

**Motion** by Kuznia. **Second** by Brausen.

**Motion** to Adopt Agenda.

**Ayes: Brausen, Kuznia, Gadd, Halverson, Hunke.**

**Nays: None. Motion carried.**

**CONSENT AGENDA**

Council Member Halverson commented that Consent Agenda #4 should read June 30, 2020. Council Member Brausen asked if the neighborhood was made aware of the temporary use of parking lot #800. Mr. Stadler commented that letters were sent to surrounding properties. Council Member Hunke commented that the date in the Council Report for Consent Agenda #8 should be 2019 not 2017. Council Member Brausen commented that the Hopkins Elks Ribfest is on August 17.

**Motion** by Brausen. **Second** by Halverson.

**Motion** to Approve the Consent Agenda.

1. Minutes of the May 21, 2019 City Council Regular Meeting Proceedings
2. Minutes of the May 21, 2019 City Council Work Session following Regular Meeting Proceedings
3. Ratify Checks Issued in May 2019
4. Approval of Business and Liquor License Renewals for the term of July 1, 2019 through June 30, 2020
5. Approval of Temporary Liquor License for Hopkins Elks Lodge #2221 – Raspberry Festival
6. Approval of Temporary Liquor License for Hopkins Elks Lodge #2221 – Ribfest
7. Extension of On-Sale Liquor License Premise for LTD Brewing LLC DBA LTD Brewing Co.
8. Approval of the 2019 Elections Administration Agreement with Hopkins Independent School District 270
9. Approval of Temporary Liquor License for St. Gabriel the Archangel Catholic

- Church
10. Increase in Relief Association Benefit
  11. Approval of License Agreement with Metropolitan Council for temporary use of City parking lot #800 as a park and ride lot

**Ayes: Brausen, Kuznia, Gadd, Halverson, Hunke.**  
**Nays: None. Motion carried.**

## **NEW BUSINESS**

### **VII.1. Resolution Approving an On Sale Wine and 3.2% Malt Liquor License for Pho #1 LLC dba Cam Ranh Bay, LLC**

City Clerk Domeier discussed the staff report regarding the liquor license request at 712 Mainstreet. Ms. Domeier explained that the license only includes the interior space and that the business plan meets the definition of a restaurant. The Police Department found no reason to deny the license. The owner would be required to attend liquor license training and be subject to compliance checks. Ms. Domeier gave an overview of the approval process and conditions. The restaurant hopes to open June 15.

**Motion** by Brausen. **Second** by Kuznia.

**Motion** to grant an On Sale Wine and 3.2% Malt Liquor License to Pho #1 LLC dba Cam Ranh Bay, LLC by adopting Resolution 2019-045.

**Ayes: Brausen, Kuznia, Gadd, Halverson, Hunke.**  
**Nays: None. Motion carried.**

### **VII.2. 101 Oakwood Road Rental License Denial Hearing**

Mayor Gadd commented that the City Council is aware of the neighborhood concerns. Building Official Kearney discussed the staff report and commented that staff recommends denial of the license. Mr. Kearney discussed the background of the property, gave an overview of the rental ordinance and reasons for denial of the license.

**Motion** by Halverson. **Second** by Brausen.

**Motion** to deny a rental license for Ninety N Ninety LLC (Kevin Stanton) at 101 Oakwood Road and to request staff and the city attorney draft official findings to be approved at a future council meeting.

**Ayes: Brausen, Kuznia, Gadd, Halverson, Hunke.**  
**Nays: None. Motion carried.**

### **VII.3. 101 Oakwood Road Reasonable Accommodation Request**

City Attorney Riggs explained that after analysis of the details and information provided by the applicant, staff recommends denial of the Reasonable Accommodation Request. Mr. Riggs commented that staff attempted to contact the applicant and not enough

**HOPKINS CITY COUNCIL  
REGULAR MEETING PROCEEDINGS  
JUNE 4, 2019**

information was made available by the applicant for the City Council to make an analysis of the request or to make a decision.

The applicant, Kevin Stanton, 101 Oakwood Road, Hopkins came forward to address the Council. Mr. Stanton commented on the process for provisional reasonable accommodations and provided information about his property and location.

City Attorney Riggs commented that the City of Hopkins has followed Federal Law, that staff knows how to apply the standards and gave an overview of the code provisions and health and safety issues that need to be addressed. Mr. Riggs commented that the applicant has not provided the information needed to make reasonable accommodations. Mr. Stanton asked what answers the city staff needed. Mr. Riggs commented that city staff has made multiple requests of the applicant for information and property inspections. Staff has done its due diligence and does not have information to analyze the request and cannot move forward with the information provided. Council commented that rental licensing and zoning codes are in place for a reason and on the importance of basic health and safety requirements.

Stuart Alger, attorney, representing some Interlachen park residents, came forward to address the Council. Mr. Alger commented that the applicant did not provide enough information to support reasonable accommodation; the applicant did not follow the rental license requirements and procedures and the reasonable accommodation would be a significant departure from the City's zoning scheme.

**Motion** by Kuznia. **Second** by Brausen.

**Motion** to adopt a resolution denying the requested accommodation sought by Kevin Stanton, on behalf of ninety n ninety, LLC for the property at 101 Oakwood Road (the "Property") based upon the information contained in this staff report and the findings of fact and conclusions included in the draft resolution.

**Ayes: Brausen, Kuznia, Gadd, Halverson, Hunke.**

**Nays: None. Motion carried.**

Mayor Gadd commented on the hard work, effort and cooperation of city staff.

**VII.4. First Reading: Ordinance 2019-1142 Amending the City Code Related to Standards for Accessory Buildings or Structures**

City Planner Lindahl discussed the staff report regarding the proposed zoning ordinance for accessory buildings. The applicant, Robb Stephens, 3321 Hopkins Crossroad, requests a zoning code text amendment related to standards for accessory buildings. Mr. Lindahl discussed the current standards and commented that staff recommends the text changes with the added provisions. Mr. Lindahl discussed the public notification process and summarized the public comments. Mr. Lindahl discussed the Planning & Zoning Commissions recommendation to approve the request without the front yard

**HOPKINS CITY COUNCIL  
REGULAR MEETING PROCEEDINGS  
JUNE 4, 2019**

setback changes in the R-1-E zoning district. Mr. Lindahl gave an overview of the new provisions explaining what affects the entire city and what affects the Bellgrove neighborhood. There was Council discussion about the design standards, front yard provision and location of accessory buildings. Mr. Lindahl discussed consistent design of detached buildings.

Rob Stevens, 3321 Hopkins Crossroads, came forward to address the Council. Mr. Stevens discussed his rationale for requesting an additional accessory building on his large front yard setback.

Mr. Lindahl discussed state building code changes, permit and standard requirements and how staff explains the requirements to residents.

Bellgrove neighborhood residents, 1 West St. Albans Mill Road, came forward to address the Council in support of the original proposal. They discussed their concerns regarding the front property set back, right to ask for a variance and design of the accessory building. Mr. Lindahl discussed the standard for variances and explained that the proposed design standards ensure compatibility that the community supports.

There was Council discussion about what details compatible materials. Director of Planning and Development Elverum commented that staff could work on the language for the use of compatible materials. Mayor Gadd commented on the reasonable requests that come before the City Council, the uniqueness of each case and that the majority of Hopkins neighborhoods would not be able to have an accessory building in the front of the house. General feedback from the City Council was in support of the Planning & Zoning Commissions recommendation.

**Motion** by Brausen. **Second** by Halverson.

**Motion** to Resolution 2019-046, approving the first reading of Ordinance 2019-1142 amending the City Code Related to Standards for Accessory Buildings or Structures with the Planning and Zoning Commission recommendation.

**Ayes: Brausen, Kuznia, Gadd, Halverson, Hunke.**

**Nays: None. Motion carried.**

City Attorney Riggs advised the Council that the change is minor enough to make the changes prior to the 2<sup>nd</sup> reading in 2 weeks.

**ADJOURNMENT**

There being no further business to come before the City Council and upon a motion by Brausen, second by Hunke, the meeting was unanimously adjourned at 8:45 p.m.

**HOPKINS CITY COUNCIL  
REGULAR MEETING PROCEEDINGS  
JUNE 4, 2019**

**OPEN AGENDA – PUBLIC COMMENTS AND CONCERNS**

The City Council did not receive any comments or concerns.

Respectfully Submitted,  
Debbie Vold

ATTEST:

\_\_\_\_\_  
Jason Gadd, Mayor

\_\_\_\_\_  
Amy Domeier, City Clerk

**MINUTES OF THE CITY COUNCIL WORK SESSION PROCEEDINGS  
AT CONCLUSION OF THE REGULAR CITY COUNCIL MEETING  
Tuesday, June 4, 2019**

**CALL TO ORDER**

Pursuant to due call and notice thereof a work session of the Hopkins City Council was held on Tuesday, June 4, 2019 at 8:52 p.m. at the Hopkins Fire Station, 101 17th Avenue South, Hopkins.

Mayor Gadd called the meeting to order with Council Members Brausen, Kuznia, Halverson and Hunke attending. Staff present included City Manager Mornson, Assistant City Manager Lenz, Public Works Director Stadler and Parks and Streets Superintendent Strachota.

**Public Works**

Public Works Director Stadler and Parks and Streets Superintendent Strachota shared information about recommended changes to the Snow and Ice Control Policy. Mr. Stadler discussed the staff report explaining the reasons for the additional recommendations. There was discussion about the recommended seasonal parking restrictions to allow better access for emergency vehicles and residents on challenging streets. Assistant City Manager Lenz discussed resident comments about the timing of snow emergencies. Mr. Strachota discussed the standard snow emergency response and challenges. City Manager Mornson commented that the city receives more compliments than complaints about snow removal. Mr. Stadler discussed the ticketing policy for an obvious parking violation and the need for more education in problem areas. There was discussion about periodic citywide enforcement and the need to raise awareness of the 24-hour on-street parking limitation. Mr. Stadler discussed proposed revisions to the timing of snow emergencies. There was Council discussion about the importance of more citywide education and need to have a discussion with apartment managers regarding street vs. lot parking for their residents. Mr. Strachota commented that the current ticketing and towing policy often takes several days and that it is important to be able to take care of the plowing first time through. Mr. Stadler discussed enforcement of parking restrictions in the Central Business District. City Manager Mornson asked about the change to the ordinance. Mr. Stadler commented that a change is needed to the Code Red to allow for Police Department enforcement and that the Snow Policy needs updating. Council Member Brausen complimented the Public Works on the snow plowing. There was Council and staff discussion about timing of the snow policy education in the fall Hopkins Highlights publication.

The City Council was asked to review the proposed recommendations, staff would continue to discuss details with the Police Department and the proposed policy changes would be on the July Work Session agenda.

Water Treatment Plant Open House is on Saturday, June 8, 10 a.m. - 1 p.m. at 1498 7<sup>th</sup> Street North.

**City Council**

- Council Member Hunke attended the Southwest Light Rail Transit (SWLRT) PLACES meeting.
- Council Member Hunke will not be at the June 18 City Council meeting.
- Council Member Halverson shared information regarding the Wilshire properties.
- Council Member Kuznia will be attending the GED graduation on Monday, June 10.
- Council Member Brausen thanked staff for work on the recent City Council meeting minutes.
- Mayor Gadd would be attending the SWLRT Corridor Management Committee (CMC) meeting.
- Mayor Gadd would be attending the Cargill Learn Graduation on Thursday, June 6.
- Mayor Gadd spoke at the Hopkins Rotary meeting.

**Administration:**

City Manager Mornson gave the following updates:

- Overview of the June 11 Work Session agenda.
- The Royal Comedy Theatre building sold.
- Thirty Bales will be coming before City Council with a liquor license change.
- Overview of the June 18 City Council agenda.

**ADJOURNMENT**

There being no further business to come before the City Council and upon a motion by Brausen, seconded by Kuznia, the meeting was unanimously adjourned at 9:43 p.m.

Respectfully Submitted,  
Debbie Vold

ATTEST:

---

Jason Gadd, Mayor

---

Amy Domeier, City Clerk

**HOPKINS CITY COUNCIL  
WORK SESSION PROCEEDINGS  
JUNE 11, 2019**

**CALL TO ORDER**

Pursuant to due call and notice thereof a regular work session of the Hopkins City Council was held on Tuesday, June 11 2019 at 6:30 p.m. at the Hopkins Fire Station, 101 17<sup>th</sup> Avenue South, Hopkins.

Mayor Gadd called the meeting to order with Council Member Brausen, Halverson, Hunke and Kuznia attending. Staff present included City Manager Mornson, Finance Director Bishop, Director of Planning and Development Elverum, Assistant City Manager Lenz, Fire Chief Specken and Community Development Coordinator Youngquist.

**SWLRT UPDATE 2019**

In addition to City staff, representatives from the Metropolitan Council present for the item were Nkongo Cigolo, Ryan Kronzer and Nic Dial. Director of Planning and Development Elverum introduced the agenda item.

Mr. Cigolo gave a project update on the Southwest Light Rail Transit (SWLRT). Mr. Cigolo discussed the current and future transit network including the green line extension with the projected opening scheduled for 2023. The communication construction hotline is available at 612-373-3933 or Swlrt.org. In the first week the hotline received 14 calls. To stay updated, the public can receive a weekly construction email update or follow the SWLRT on social media. Mr. Cigolo is the Outreach Coordinator assigned to the Hopkins area and is the primary point of contact for public communication and inquiries regarding construction issues. Council Member Kuznia asked about materials available in other languages. Mr. Cigolo commented that materials are available upon request. Ms. Elverum commented that materials in Somali would be beneficial for Hopkins. Mr. Cigolo would follow up with staff. Mayor Gadd asked about the 24-hour hotline cards. The cards would be made available at Hopkins City Hall.

Mr. Kronzer gave an update on the SWLRT alignment and Hopkins station areas. Mr. Kronzer showed renderings of the Shady Oak Station and discussed the modifications that would allow for redevelopment pads. Mr. Kronzer gave an overview of the access, parking, landscape and added elements. Ms. Elverum commented that the City Council would be updated regarding the potential costs for upsizing pipes as a redevelopment incentive. Mr. Kronzer showed renderings of the downtown Hopkins and Blake Road stations and panels. City Manager Mornson asked about parking at the Shady Oak station. Mr. Kronzer commented that there would be close to 1000 parking spaces available. Council Member Halverson asked about the rail support facility and Council Member Brausen asked about the building size. Mr. Kronzer commented that the building has not been designed yet but projected building size would be 20-30,000 square feet.

Mr. Dial gave an update on the civil construction including utilities, site prep, structures, track, stations, systems and operational testing. Mr. Dial commented that there would be public outreach and communications throughout the process with construction

**HOPKINS CITY COUNCIL  
WORK SESSION PROCEEDINGS  
JUNE 11, 2019**

meetings scheduled with project partners. Mr. Dial discussed the construction activities near Hopkins and commented that the building demolition contractor is working west to east with the Hopkins Tech Center building demolition scheduled for later this summer. Ms. Elverum asked about building photos prior to demolition. Mr. Dial would connect the SWLRT media staff with the Historical Society. Council Member Kuznia asked about road closures along Excelsior Blvd and Blake Road. Mr. Dial commented that there would be coordination of the road projects and would keep the City updated. Mr. Cigolo discussed the bike trail closures and the concerns of trail users entering the active construction zone. Mayor Gadd asked about saving the Minneapolis Moline smokestack at the Tech Center site and the Depot Coffee House construction timetable. There was discussion about the costs, historic value of the smokestack and construction impacts on the Depot. Mr. Dial commented that staff has met with the Depot and that signage would redirect Depot users.

Mr. Kronzer discussed the FTA Full Funding Grant Agreement (FFGA) and gave an explanation of the grant qualifications and funding process.

**COMMUNITY DEVELOPMENT**

Ms. Elverum commented that the Americans for the Arts preconference tour would be visiting the Artery and Hopkins Center for the Arts on Thursday, June 13.

**FIRE DEPARTMENT STRATEGIC PLAN**

Fire Chief Specken discussed the Hopkins Fire Department Strategic Plan for 2019-2024. Chief Specken discussed the mission statement, department profile and Fire Department initiatives and goals:

1. Organizational structure and career development to provide employee support, orientation and mentoring.
2. Emergency response staffing and operation options. Chief Specken discussed the nationwide difficulty in recruiting and retaining personnel with the current model. Chief Specken discussed the option of full-time personnel. The department has applied for a Safer Grant to fund four positions for 3-years then the City would need to consider funding the positions thereafter. Another option would be to consider merging with another Fire Department resulting in more first responders but less control by the City. Chief Specken commented that the current model couldn't be sustained over the long term. Council Member Brausen asked about applicants. Chief Specken discussed reasons why applicants were accepted and rejected.
3. Racial Equity
4. Chief Specken commented that a physician has been contracted to provide EMS training.
5. Chief Specken discussed the demands on staff to provide community outreach and public education.
6. Chief Specken discussed the role of the department with Community Health Management. Chief Specken discussed the need to develop ways to measure outcomes and satisfaction. Council Member Brausen asked about the breakdown of the types of calls. Chief Specken commented that the department is working on data management.

**HOPKINS CITY COUNCIL  
WORK SESSION PROCEEDINGS  
JUNE 11, 2019**

7. Revenue enhancement and exploring alternative revenue sources to meet current and future needs.
8. Technology to enhance the delivery and efficiency of services.
9. Chief Specken commented that the department is updating the citywide Emergency Management Plan and will present the plan to the City Council in the fall.

Council Member Brausen asked about recruitment outreach. Chief Specken commented that they are working with the National Fire Safety Council and are continually looking at new ways to recruit candidates. Assistant City Manager Lenz asked about recruitment at schools. Chief Specken commented that the department participates in high school and college job fairs. There was discussion about maintaining and the impacts to the Insurance Services Office (ISO) rating. Mayor Gadd asked about the transition to a full-time department. Chief Specken discussed full-time staffing, call response and mutual aid. Chief Specken commented that a staffing study was budgeted in the FMP but it is not worth spending the money since the department already knows the issues. There was discussion about expanding duties internally to the Inspection Department. Mayor Gadd asked about community health and assistance to veterans. Chief Specken discussed options for wellness checks and care guidance. Council Member Brausen asked about the Community Emergency Response Team (CERT). Chief Specken commented that there are 25 active CERT members with over 80 trained. Chief Specken discussed a CERT training opportunity with the City of St. Louis Park. Council Member Halverson asked about AED training. Chief Specken discussed training opportunities for community groups.

**FINANCIAL MANAGEMENT PLAN**

Finance Director Bishop gave an overview of the Financial Management Plan (FMP), a long-range fiscal plan that is updated annually. Mr. Bishop commented that because of the FMP, \$32 million of projects have been completed since 2015. Mr. Bishop gave an overview of the funds and projected costs included in the FMP. Mr. Bishop commented that the FMP is a good tool for decision-making purposes to help put budget decisions in the context of the taxpayer. There was Council discussion about long term planning and consistent and gradual tax impacts. Council Member Hunke commented that he appreciates looking back at what the City has done and the importance of communicating and educating citizens about the investment in the City. City Manager Mornson commented on the long-term benefits of maintaining infrastructure.

Mr. Bishop discussed the 2020 Tax Levy, gave an overview of included items and commented that staffing requests have been pared down to 5.5 new positions between 2020 and 2023. There was discussion about reducing the Arts Center debt and looking at budgeting without adding Local Government Aid (LGA). Staff would update the Council. Mr. Bishop discussed the projected 2020 FMP 10.2% increase with no additions and impact of approximately \$200 on a median value home. The projected FMP with the additions would be 10.97% with an impact of approximately \$215 on a median value home.

City Manager Mornson commented that the City Hall levy was less due to competitive

**HOPKINS CITY COUNCIL  
WORK SESSION PROCEEDINGS  
JUNE 11, 2019**

bids and that there are no large road construction projects after 2022. Assistant City Manager Lenz discussed the affect of the Class and Comp Study on the budget.

Mr. Bishop discussed the next steps in the budget process.

**UPDATES**

- Council Member Hunke will be absent from the June 18 City Council meeting.
- Council Member Halverson discussed the addition of Elks Lodge signage along the Artery.
- Council Member Halverson commented that the Archdiocese approved the sale of the land to Beacon Interfaith Housing Collaborative.
- Council Member Kuznia attended the Adults in Options GED graduation.
- Council Member Kuznia commented that some field gate closures at Maetzold Field are broken.
- Mayor Gadd attended the SWLRT Corridor Management Committee (CMC) meeting.
- Mayor Gadd attended the Cargill Learn graduation.
- Mayor Gadd gave an update from the Regional Council of Mayors meeting.
- Mayor Gadd discussed the John Phillips Sousa concert in Downtown Park and the ICA Sizzle event on Thursday, June 13.
- The City Council appreciates all the staff involvement with the SWLRT planning.

City Manager Mornson gave the following updates:

- Historical Society was awarded grant funds for design work
- Oakwood Road Rental License denial on the June 18 Consent Agenda
- Discussion of the rental license process
- Signs are posted for no truck parking on 3<sup>rd</sup> Street. Violations should be reported to the Police Department.

**ADJOURNMENT**

There being no further business to come before the City Council and upon a motion by Kuznia, second by Brausen, the meeting was unanimously adjourned at 9:12 p.m.

Respectfully Submitted,  
Debbie Vold

ATTEST:

\_\_\_\_\_  
Jason Gadd, Mayor

\_\_\_\_\_  
Amy Domeier, City Clerk



June 4, 2019

Council Report 2019-055

**Approval of Temporary Liquor License for Hopkins American Legion Post 320**

**Proposed Action**

Staff recommends adoption of the following motion: Approve the Issuance of a Temporary On-Sale Liquor Licenses to Hopkins Elks Lodge #221.

Passage of this motion will result in the ability of the organization to serve alcoholic beverages at their Raspberry Festival events on July 19-21, 2019.

**Overview**

Hopkins American Legion Post 320 (the “Legion”) has submitted an application for a temporary on-sale liquor license for their Raspberry Festival event. The liquor service will be limited to parking lot from July 19, 20 and 21 starting at noon and ending on midnight. Temporary on-sale liquor licenses must be approved by the State of Minnesota, Alcohol & Gambling Enforcement Division.

The Legion’s personnel will provide security to identify and wrist band or hand stamp those of legal age to consume alcohol and monitor the entrances to ensure that alcohol is not taken out of the designated areas. The Legion is required to follow all other regulations set forth in Policy 4-C Temporary Liquor License.

The Hopkins Police Department has no objection to the issuance of a temporary liquor license to the Elks, subject to the regulations outlined in Policy 4-C.

**Primary Issues to Consider**

- What measures will be taken to assure that persons under the age of 21 will not have access to alcohol? (See attached policy)
- The applicant meets the requirements set forth by State Statute to obtain a temporary on-sale liquor license. A liquor liability policy naming the City of Hopkins as an additional insured has been submitted.
- As required by State Statute, the application must be approved by the City before submitting to the State of Minnesota, Alcohol & Gambling Enforcement Division.

**Supporting Documents**

- Copy of Policy 4-C Temporary Liquor License
- Complete application and certificate of insurance are on file in the City Clerk’s office.

Amy Domeier, City Clerk

Financial Impact: \$ _____ Budgeted: Y/N ____ Source: _____ Related Documents (CIP, ERP, etc.): _____ Notes: _____
--

Policy 4-C  
Temporary Liquor License

**1. PURPOSE**

- 1.01 The Hopkins City Council recognizes that the issuance of temporary liquor license may result in events which disturb surrounding businesses and residents and also may provide an opportunity for underage drinking. The City Council believes that by creating a set of rules and regulations in regard to the issuance of these licenses, problems can be avoided and the responsible consumption of liquor or 3.2 beer can be encouraged.

**2. REGULATIONS**

- 2.01 A temporary liquor license will be issued on a per event basis, each event not lasting more than three days.
- 2.02 Sales may only be conducted between the hours of 12:00 p.m. and 12:00 a.m.
- 2.03 A separate license is required for each location where liquor or beer is sold.
- 2.04 Application for a temporary liquor license must be received at least five weeks prior to the event.
- 2.05 Applicants for a temporary liquor license must be an organization whose principal location or office is within the City of Hopkins, has been located in Hopkins for at least two years, and has at least 30 active members.
- 2.06 Sales and/or consumption of liquor or beer will only take place in enclosed building or a fenced area.
- 2.07 Individuals under the age of 21 will not be allowed in any designated area where liquor or beer is sold or consumed, except if accompanied by a parent or guardian.
- 2.08 All organizations which have a temporary liquor license must use the following method for checking identification to ensure that underage individuals do not purchase liquor or beer:
- Anyone wishing to purchase beer must have a either a driver's license, or a Minnesota ID with their picture. Individuals with the proper ID will have their hand stamped so that the actual sellers of the liquor or beer will not have to check IDs. If the event exceeds one day, a different color of ink must be used on subsequent days.
- 2.09 No temporary liquor license shall be issued in conjunction with a youth activity.<sup>1</sup>
- 2.10 The number of temporary liquor licenses issued in conjunction with all public events<sup>2</sup> during any calendar year will be limited to twelve (12).
- 2.11 The City Council reserves the right to deny any liquor license at its sole discretion.
- 2.12 The applicant for any temporary liquor license will provide the City Clerk with a certificate of insurance showing \$1,000,000 of liquor liability coverage and showing the City as con-insured.

Established: 3/19/96

Revised: 4/1/2008

---

1A "youth activity" is an activity that is designed primarily for individuals under the age of 18 or the majority of the participants are under the age of 18.

2A "Public event" means an event where the public is invited or permitted to attend.



June 11, 2019

Council Report 2019-065

Approve Amended Consent Decree – Reilly Tar Site

Proposed Action.

Staff recommends adoption of the following motion: Move that Council authorize the Mayor to sign an amended consent decree which continues certain City of Hopkins rights as a Passive Municipal Party regarding the Reilly Tar Site.

Overview.

The Reilly Tar site is located just north of Highway 7 & near the area of Louisiana Avenue in St. Louis Park. It is at this location where, from 1917 until 1972, a subsidiary of Reilly Tar & Chemical Corporation operated a coal tar distillation and wood product pressure treatment facility on its 80-acre plant site. The two Kennedy & Graven memorandums, provided separately as they are marked as “attorney-client privileged communications”, contain a summary of the Reilly Tar site historical activities, the resulting groundwater contamination, various legal actions including the original 1986 Consent Decree (CD) and associated remedial action plan (RAP) for mitigation of groundwater contamination. This amended consent decree furthers certain rights for the City of Hopkins. These rights include: the right to review and comment on future reporting by the City of St. Louis Park to the EPA on their remedial actions, the right to sue only in the event of a material impact to the City of Hopkins caused by St. Louis Park failing to comply with its actions required under the Amended CD and amended RAP. The City of Hopkins City Attorneys have negotiated the terms of the proposed amended CD with the Attorney for St. Louis Park. Staff recommends approval.

Supporting Information.

- Proposed Amended Consent Decree

Steven J. Stadler  
Public Works Director

Financial Impact: \$ _____ Budgeted: Y/N _____ Source: _____ Related Documents (CIP, ERP, etc.): _____ Notes:
---

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA  
FOURTH DIVISION

UNITED STATES OF AMERICA, )  
)  
Plaintiff, )

Civil No. 4-80-469

and )  
)

STATE OF MINNESOTA, by its Attorney General )  
Hubert H. Humphrey, III, its Department of Health, )  
and its Pollution Control Agency, )  
)  
Plaintiff-Intervenor, )

*May 20, 2019 Draft*

vs. )

AMENDED CONSENT DECREE

REILLY TAR & CHEMICAL CORPORATION; )  
HOUSING AND REDEVELOPMENT )  
AUTHORITY OF ST. LOUIS PARK; OAK PARK )  
VILLAGE ASSOCIATES; RUSTIC OAKS )  
CONDOMINIUM INC.; and PHILLIP'S )  
INVESTMENT CO., )  
)  
Defendants, )

and )

CITY OF ST. LOUIS PARK, )

vs. )

REILLY TAR & CHEMICAL CORPORATION, )  
)  
Defendant, )

and )

CITY OF HOPKINS, )  
)  
Plaintiff-Intervenor, )

vs. )

REILLY TAR & CHEMICAL CORPORATION, )

Defendant,

)  
)  
)



## TABLE OF CONTENTS

I.	BACKGROUND.....	1
II.	JURISDICTION.....	4
III.	PARTIES BOUND.....	4
IV.	DEFINITIONS.....	4
V.	GENERAL PROVISIONS.....	8
VI.	PERFORMANCE OF THE WORK.....	9
VII.	PROPERTY REQUIREMENTS.....	14
VIII.	FINANCIAL ASSURANCE.....	16
IX.	PAYMENTS FOR RESPONSE COSTS.....	19
X.	DISBURSEMENT OF SPECIAL ACCOUNT FUNDS.....	21
XI.	INDEMNIFICATION AND INSURANCE.....	23
XII.	FORCE MAJEURE.....	25
XIII.	DISPUTE RESOLUTION.....	26
XIV.	STIPULATED PENALTIES.....	28
XV.	COVENANTS BY THE UNITED STATES AND THE STATE.....	31
XVI.	COVENANTS BY THE CITY.....	33
XVII.	EFFECT OF SETTLEMENT; CONTRIBUTION.....	35
XVIII.	ACCESS TO INFORMATION.....	36
XIX.	RETENTION OF RECORDS.....	37
XX.	NOTICES AND SUBMISSIONS.....	38
XXI.	RETENTION OF JURISDICTION.....	40
XXII.	APPENDICES.....	40
XXIII.	MODIFICATION.....	40
XXIV.	DISMISSAL OF CERTAIN PARTIES.....	40
XXV.	LODGING AND OPPORTUNITY FOR PUBLIC COMMENT.....	41
XXVI.	SIGNATORIES/SERVICE.....	41
XXVII.	FINAL JUDGMENT.....	41

## I. BACKGROUND

A. From 1917 until 1972, Defendant Reilly Tar & Chemical Corporation (“Reilly Tar”) was engaged in the business of coal tar distillation and pressure treatment of wood products at its plant site located at 7200 Walker Street, St. Louis Park, Hennepin County, Minnesota (“the Site”).

B. On or about October 2, 1970, the State of Minnesota (“the State”), through its Pollution Control Agency (“MPCA”), and the City of St. Louis Park (“the City”), filed a complaint in the State of Minnesota, Hennepin County District Court, alleging violations by Reilly Tar of state and municipal pollution control laws and regulations. State of Minnesota by the Minnesota Pollution Control Agency, and the City of St. Louis Park v. Reilly Tar & Chemical Corporation, Hennepin County District Court, Civil File No. 670767 (“Hennepin County Lawsuit”).

C. On April 14, 1972, the City agreed to purchase the Site from Reilly Tar. The details regarding the conveyance of the Site to the City, dismissal of the City’s claims in the Hennepin County Lawsuit, and conveyances of portions of the Site to Oak Park Village Associates, Rustic Oaks Condominium, Inc., and Philip’s Investment Co. are set forth in the September 4, 1986 Consent Decree (“1986 Consent Decree”) in this matter.

D. In April 1978, the State moved to amend its complaint in the Hennepin County Lawsuit, alleging that polycyclic aromatic hydrocarbons (“PAH”) contained in Reilly Tar’s coal tar and creosote wastes had entered the ground water beneath the Site and that their further migration threatened to contaminate aquifers relied on for public water supply. At the same time, the City moved to intervene as a plaintiff. The motions were granted and interlocutory review was denied by the Minnesota Supreme Court. Reilly Tar subsequently tendered defense of the action to the City and counterclaimed against the City, asserting that the City was responsible for addressing the issue pursuant to the hold harmless agreement made at the time of its purchase of the Site.

E. On or about September 4, 1980, the United States commenced this action by filing a complaint under Section 7003 of the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. § 6973, alleging, inter alia, the existence of an imminent and substantial endangerment to health and the environment due to the handling, treatment, storage, transportation, disposal, and presence of hazardous waste at the Site. On or about October 15, 1980, the State (through its then attorney general, MPCA, and the Department of Health) and the City were granted leave to intervene, joining in the RCRA Section 7003 claim and asserting additional claims under Minnesota law. On or about June 16, 1981, the City of Hopkins (“Hopkins”) was likewise granted leave to intervene.

F. On or about September 9, 1981, the United States filed an amended complaint alleging, in addition to the RCRA Section 7003 claim, claims under Sections 106 and 107 of the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”), 42 U.S.C. §§ 9606 and 9607.

G. On or about May 27, 1981, the State filed an amended complaint asserting claims under RCRA Section 7003, 42 U.S.C. § 6973, CERCLA Section 107, 42 U.S.C. § 9607, Minn. Stat §§ 115.061, 115.07, 115.071, state rules, and Minnesota common law.

H. On or about August 31, 1981 and October 16, 1981, respectively, the City and Hopkins filed amended complaints alleging, inter alia, claims under RCRA Section 7003, 42 U.S.C. § 6973, CERCLA Section 107, 42 U.S.C. § 9607, Minn. Stat. Chapter 116B, and Minnesota common law.

I. On or about April 5, 1985, the Court granted the State's motion for leave to file a second amended complaint, adding claims under the Minnesota Environmental Response and Liability Act ("MERLA"), Minn. Stat. Ch. 115B. The State subsequently filed such a second amended complaint. Pursuant to stipulations, the City and Hopkins later also filed second amended complaints, each of which added MERLA claims.

J. In its answers to the various complaints referenced above, Reilly Tar denied liability, raised several affirmative defenses, and asserted a counterclaim against the City. Various other parties asserted cross-claims, including a cross-claim by the City against the State, a cross-claim by Oak Park Village Associates against the Housing and Redevelopment Authority of St. Louis Park ("HRA") and a cross-claim by Philip's Investment Co. against Reilly Tar. Although the United States chose not to assert a cross-claim against the City at that time, the City was a potentially responsible party as the current owner of the Site.

K. Pursuant to CERCLA Section 105, 42 U.S.C. § 9605, the United States Environmental Protection Agency ("EPA") placed the Site on the National Priorities List ("NPL") in 1983. In 1984, EPA entered a Record of Decision ("ROD") selecting an initial remedy to protect the drinking water in the City.

L. The United States, the State, the City, Hopkins, Reilly Tar, HRA, Oak Park Village Associates, and Philip's Investment Co. desired to reach a mutually satisfactory settlement in this action.

M. It was deemed to be in the public interest, the interest of the parties, and the interest of judicial economy for this case to be resolved without protracted litigation.

N. The Court signed and entered the parties' proposed consent decree on September 4, 1986. The 1986 Consent Decree incorporated, as Exhibit A, a Remedial Action Plan ("RAP") created to implement the selected remedy. The 1986 Consent Decree also incorporated, as Exhibit B, an Agreement between the City and Reilly Tar allocating responsibility for the performance of, and payment of the costs associated with, the remedial actions at the Site.

O. In 1986, 1990, 1992, and 1995, EPA and the State approved four additional RODs to select remedies for the Site consistent with the 1986 Consent Decree and incorporated RAP. In 1997, EPA and the State modified the 1995 ROD in an Explanation of Significant Differences.

P. The United States, the State, St. Louis Park, Hopkins, Reilly Tar, HRA, Oak Park Village Associates, and Philip's Investment Co. desire to update and amend the 1986 Consent Decree.

Q. Reilly Tar & Chemical Corporation, later known as Reilly Industries, merged with Rutherford Chemical Co. in 2006 to form Vertellus Specialties Inc. (n/k/a VSI Liquidating Inc.) (“Vertellus”). On May 31, 2016, Vertellus filed a petition with the U.S. Bankruptcy Court for the District of Delaware under Chapter 11 of the United States Bankruptcy Code (the “Vertellus Bankruptcy Case”). On February 24, 2017 the Bankruptcy Court entered an Order Confirming the Debtors’ Modified First Amended Plan of Liquidation under Chapter 11 of the Bankruptcy Code (“Liquidation Plan”) which, among other things, liquidated and dissolved Vertellus and formed VSI Liquidation Trust in accordance with the terms of the Liquidation Plan.

R. In light of the Liquidation Plan, the parties to the 1986 Consent Decree desire to dismiss all claims, if any, by or against Reilly Tar for which final judgment has not been entered, and for Reilly Tar and its successors to no longer proceed as a party to the Consent Decree.

S. All parties to the 1986 Consent Decree agree that it no longer is necessary for the Minnesota Department of Health, Hopkins, HRA, Oak Park Village Associates, and Philip’s Investment Co. to remain active parties to this action or to the 1986 Consent Decree. Accordingly, the parties to the 1986 Consent Decree desire to dismiss all counter-claims, if any, relating to the Minnesota Department of Health for which judgment has not been entered and the Minnesota Department of Health shall no longer proceed as a party to the 1986 Consent Decree. HRA, Oak Park Village, and Philip’s Investment Co. (the “Passive Parties”) shall continue to proceed as parties to the 1986 Consent Decree, as amended herein, but only to the extent required by their property access and non-interference obligations as set forth in Section VII (Property Requirements). Hopkins (the “Passive Municipal Party”) shall continue to proceed as a party for the purpose of preserving any rights and/or claims it may have as a party to the 1986 Consent Decree and to receive notice and the opportunity to comment as provided under Section VI of this Amended Consent Decree.

T. The United States, the State, and the City, as the remaining active parties to this Consent Decree (the “Parties”), update and amend the 1986 Consent Decree (“Amended CD”) and the incorporated RAP to address: (1) changes in the understanding of the toxicology of the relevant contaminants as reflected in the new health-based criteria; (2) modifications to the conceptual site model; (3) continuing implementation of the remedy; and (4) the status of the Parties.

U. Based on the information presently available to EPA and the State, EPA and the State believe that the Work will be properly and promptly conducted by the City if conducted in accordance with this Amended CD and its appendices.

V. Solely for the purposes of CERCLA Section 113(j), 42 U.S.C. § 9613(j), the remedy set forth in the ROD and the Work to be performed by the City shall constitute a response action taken or ordered by the President for which judicial review shall be limited to the administrative record.

W. The Parties recognize, and the Court by entering this Amended CD finds, that this Amended CD has been negotiated by the Parties in good faith and implementation of this Amended CD will expedite the cleanup of the Site and will avoid prolonged and complicated litigation between the Parties, and that this Amended CD is fair, reasonable, and in the public interest.

NOW, THEREFORE, it is hereby Ordered, Adjudged, and Decreed:

## **II. JURISDICTION**

1. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331, 1367, and 1345, and 42 U.S.C. §§ 9606, 9607, and 9613(b). This Court also has personal jurisdiction over the City. Solely for the purposes of this Amended CD and the underlying complaint, the City waives all objections and defenses that it may have to jurisdiction of the Court or to venue in this District. The City shall not challenge the terms of this Amended CD or this Court's jurisdiction to enter and enforce this Amended CD.

## **III. PARTIES BOUND**

2. This Amended CD is binding upon the United States and the State and upon the City and the Passive Parties and the Passive Municipal Party and their successors and assigns. Any change in ownership or corporate or other legal status of the City, the Passive Parties, or the Passive Municipal Party including, but not limited to, any transfer of assets or real or personal property, shall in no way alter the City's, the Passive Parties', or the Passive Municipal Party's responsibilities under this Amended CD.

3. The City shall provide a copy of this Amended CD to each contractor hired to perform the Work and to each person representing the City with respect to the Site or the Work, and shall condition all contracts entered into hereunder upon performance of the Work in conformity with the terms of this Amended CD. The City or its contractors shall provide written notice of the Amended CD to all subcontractors hired to perform any portion of the Work. The City shall nonetheless be responsible for ensuring that its contractors and subcontractors perform the Work in accordance with the terms of this Amended CD. With regard to the activities undertaken pursuant to this Amended CD, each contractor and subcontractor shall be deemed to be in a contractual relationship with the City within the meaning of CERCLA Section 107(b)(3), 42 U.S.C. § 9607(b)(3).

## **IV. DEFINITIONS**

4. Unless otherwise expressly provided in this Amended CD, terms used in this Amended CD that are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in CERCLA or in such regulations. Whenever terms listed below are used in this Amended CD or its appendices, the following definitions shall apply solely for purposes of this Amended CD:

“Affected Property” shall mean all real property at the Site and any other real property where EPA determines, at any time, that access, land, water, or other resource use restrictions, and/or Institutional Controls are needed to implement the Remedial Action, including, but not limited to, the Site.

“Amended Consent Decree” or “Amended CD” shall mean this consent decree and all appendices attached hereto (listed in Section XXIII). In the event of conflict between this Amended CD and any appendix, this Amended CD shall control.

“Amended Remedial Action Plan” or “Amended RAP” shall mean the document describing the activities to be undertaken by EPA, the State, and the City to implement the Remedial Action and ongoing O&M of the remedy, attached hereto as Appendix A.

“CERCLA” shall mean the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §§ 9601-9675.

“Chemicals of Interest” or “COI” shall mean site-related polycyclic aromatic hydrocarbons (“PAH”) and other site-related contaminants identified in the Amended RAP.

“City” shall mean the City of St. Louis Park, a municipal corporation organized and existing under the laws of the State of Minnesota.

“City’s Affected Property” shall mean Affected Property owned or controlled by the City.

“Day” or “day” shall mean a calendar day. In computing any period of time under this Amended CD, where the last day would fall on a Saturday, Sunday, or federal or State holiday, the period shall run until the close of business of the next working day.

“DOJ” shall mean the United States Department of Justice and its successor departments, agencies, or instrumentalities.

“Effective Date” shall mean the date upon which the approval of this Amended CD is recorded on the Court’s docket.

“EPA” shall mean the United States Environmental Protection Agency and its successor departments, agencies, or instrumentalities.

“EPA Hazardous Substance Superfund” shall mean the Hazardous Substance Superfund established by the Internal Revenue Code, 26 U.S.C. § 9507.

“Future Oversight Costs” shall mean that portion of Future Response Costs that EPA incurs in monitoring and supervising the City’s performance of the Work to determine whether such performance is consistent with the requirements of this Amended CD, including costs incurred in reviewing deliverables submitted pursuant to this Amended CD, as well as costs incurred in overseeing implementation of the Work; however, Future Oversight Costs do not include, *inter alia*: the costs incurred by the United States pursuant to Paragraph 15 (Emergencies and Releases), Section VII (Property Requirements), and Paragraph 28 (Access to Financial Assurance), or the costs incurred by the United States in enforcing this Amended CD, including all costs incurred pursuant to Section XIII (Dispute Resolution), and all litigation costs.

“Future Response Costs” shall mean all costs, including, but not limited to, direct and indirect costs, that the United States incurs in reviewing or developing deliverables submitted pursuant to this Amended CD, in overseeing implementation of the Work, or otherwise implementing, overseeing, or enforcing this Amended CD, including, but not limited to, payroll costs, contractor costs, travel costs, laboratory costs, the costs incurred pursuant to Paragraphs 15 (Emergencies and Releases) and 28 (Access to Financial Assurance), and Section VII (Property Requirements) (including the cost of attorney time and any monies paid to secure or enforce access or land, water, or other resource use restrictions and/or to secure, implement, monitor,

maintain, or enforce Institutional Controls, including the amount of just compensation), and Section XIII (Dispute Resolution), and all litigation costs.

“HRA” shall mean the Housing and Redevelopment Authority of St. Louis Park and any successors.

“Institutional Controls” shall mean Proprietary Controls and state or local laws, regulations, ordinances, zoning restrictions, or other governmental controls or notices that: (a) limit land, water, or other resource use to minimize the potential for human exposure to Waste Material at or in connection with the Site; (b) limit land, water, or other resource use to implement, ensure non-interference with, or ensure the protectiveness of the RA; and/or (c) provide information intended to modify or guide human behavior at or in connection with the Site.

“Interest” shall mean interest at the rate specified for interest on investments of the EPA Hazardous Substance Superfund, compounded annually on October 1 of each year, in accordance with 42 U.S.C. § 9607(a). The applicable rate of interest shall be the rate in effect at the time the interest accrues. The rate of interest is subject to change on October 1 of each year. Rates are available online at <https://www.epa.gov/superfund/superfund-interest-rates>.

“Interest Earned” shall mean interest earned on amounts in the Reilly Tar & Chemical SLP Site Disbursement Special Account, which shall be computed monthly at a rate based on the annual return on investments of the EPA Hazardous Substance Superfund. The applicable rate of interest shall be the rate in effect at the time the interest accrues.

“MERLA” shall mean the Minnesota Environmental Response and Liability Act, Minn. Stat. §§ 115B.01-115B.20.

“MPCA” shall mean the Minnesota Pollution Control Agency and any successor departments or agencies of the State.

“National Contingency Plan” or “NCP” shall mean the National Oil and Hazardous Substances Pollution Contingency Plan promulgated pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, codified at 40 C.F.R. Part 300, and any amendments thereto.

“Non-Party Owner” shall mean any person, other than the City or a Passive Party, that owns or controls any Affected Property. The clause “Non-Party Owner’s Affected Property” means Affected Property owned or controlled by a Non-Party Owner.

“Operation and Maintenance” or “O&M” shall mean all activities required to operate, maintain, and monitor the effectiveness of the RA as specified in the RAP or any EPA-approved O&M Plan.

“Paragraph” shall mean a portion of this Amended CD identified by an Arabic numeral or an upper or lower case letter.

“Parties” shall mean the United States, the State of Minnesota, and the City of St. Louis Park.

“Passive Parties” shall mean the Housing and Redevelopment Authority of St. Louis Park, Oak Park Village Associates, Rustic Oaks Condominium, Inc., Philip’s Investment Co.,

and any successors or assigns. The clause "Passive Party's Affected Property" means Affected Property owned or controlled by a Passive Party.

"Passive Municipal Party" shall mean the City of Hopkins.

"Performance Standards" or "PS" shall mean the cleanup levels and other measures of achievement of the remedial action objectives, as set forth in the RODs.

"Proprietary Controls" shall mean easements or covenants running with the land that (a) limit land, water, or other resource use and/or provide access rights and (b) are created pursuant to common law or statutory law by an instrument that is recorded in the appropriate land records office.

"RCRA" shall mean the Solid Waste Disposal Act, 42 U.S.C. §§ 6901-6992 (also known as the Resource Conservation and Recovery Act).

"Records of Decision" or "RODs" shall mean the EPA Records of Decision and Enforcement Decision Documents relating to the Site signed on June 6, 1984, May 30, 1986, September 28, 1990, September 3, 1992, and June 30, 1995, by the Regional Administrator, EPA Region 5, or his/her delegate, and all attachments thereto and the Explanation of Significant Differences signed on March 26, 1997.

"Reilly Tar & Chemical SLP Site Disbursement Special Account" shall mean the special account, within the EPA Hazardous Substance Superfund, established for the Site by EPA pursuant to Section 122(b)(3) of CERCLA, 42 U.S.C. § 9622(b)(3), and Paragraph 35 (Creation of Reilly Tar & Chemical SLP Site Disbursement Special Account).

"Remedial Action" or "RA" shall mean the remedial action selected in the RODs.

"Section" shall mean a portion of this Amended CD identified by a Roman numeral.

"Site" shall mean the Reilly Tar & Chemical Corporation/St. Louis Park Plant Superfund Site, encompassing approximately 80 acres, located in St. Louis Park, Hennepin County, Minnesota, and depicted generally on the map attached as Appendix B. The Site is bounded by the terminus of Pennsylvania Avenue south of 31st Street on the west; the intersection of Louisiana Avenue and 32nd Street to Gorham Street, Gorham Street from Louisiana Avenue to 2nd Street NW from Gorham Street to Republic Avenue, Republic Avenue from 2nd Street NE to 1st Street NW, and 1st Street NW from Republic Avenue to Walker Street on the east; and Walker Street on the South. The Site consists of Lot 1, Blocks 1-10; all in Oak Park Village according to the plat thereof on file in the office of the County Recorder of Hennepin County, Minnesota.

"State" shall mean the State of Minnesota, including MPCA.

"Supervising Contractor" shall mean the principal contractor retained by the City to supervise and direct the implementation of the Work under this Amended CD.

"Transfer" shall mean to sell, assign, convey, lease, mortgage, or grant a security interest in, or where used as a noun, a sale, assignment, conveyance, or other disposition of any interest by operation of law or otherwise.

“United States” shall mean the United States of America and each department, agency, and instrumentality of the United States, including EPA.

“Waste Material” shall mean (1) any “hazardous substance” under CERCLA Section 101(14), 42 U.S.C. § 9601(14); (2) any pollutant or contaminant under CERCLA Section 101(33), 42 U.S.C. § 9601(33); (3) any “solid waste” under RCRA Section 1004(27), 42 U.S.C. § 6903(27); and (4) any “hazardous waste” under MERLA Section 115B.02, subd. 9, Minn. Stat. § 115B.02, subd. 9.

“Work” shall mean all activities and obligations the City is required to perform under this Amended CD and the Amended RAP, incorporated herein, except the activities required under Section XX (Retention of Records).

## V. GENERAL PROVISIONS

5. **Objectives of the Parties.** The objectives of the Parties in entering into this Amended CD are to protect public health or welfare or the environment by the design and implementation of long term response actions at the Site.

6. **Commitments by the City.** The City shall finance and perform the Work in accordance with this Amended CD and all deliverables developed by the City and approved or modified by EPA pursuant to this Amended CD.

7. **Compliance with Applicable Law.** Nothing in this Amended CD limits the City’s obligations to comply with the requirements of all applicable federal and state laws and regulations. The City must also comply with all applicable or relevant and appropriate requirements of all federal and state environmental laws as set forth in the RODs and the RAP. The activities conducted pursuant to this Amended CD, if approved by EPA, shall be deemed to be consistent with the NCP as provided in Section 300.700(c)(3)(ii) of the NCP.

### 8. **Permits.**

a. As provided in CERCLA Section 121(e), 42 U.S.C. § 9621(e), and NCP Section 300.400(e), no permit shall be required for any portion of the Work conducted entirely on-site (i.e., within the areal extent of contamination or in very close proximity to the contamination and necessary for implementation of the Work). Where any portion of the Work that is not on-site requires a federal or state permit or approval, the City shall submit timely and complete applications and take all other actions necessary to obtain all such permits or approvals.

b. The City may seek relief under the provisions of Section XII (Force Majeure) for any delay in the performance of the Work resulting from a failure to obtain, or a delay in obtaining, any permit or approval referenced in Paragraph 8.a and required for the Work, provided that it has submitted timely and complete applications and taken all other actions necessary to obtain all such permits or approvals.

c. This Amended CD is not, and shall not be construed to be, a permit issued pursuant to any federal or state statute or regulation.

## VI. PERFORMANCE OF THE WORK

### 9. Coordination and Supervision.

#### a. Project Coordinators.

(1) The City's Project Coordinator must have sufficient technical expertise to coordinate the Work. The City's Project Coordinator may not be an attorney representing the City in this matter and may not act as the Supervising Contractor. The City's Project Coordinator may assign other representatives, including other contractors, to assist in coordinating the Work.

(2) EPA shall designate and notify the City and the State of EPA's Project Coordinator and Alternate Project Coordinator. EPA may designate other representatives, which may include its employees, contractors, and/or consultants, to oversee the Work. EPA's Project Coordinator/Alternate Project Coordinator will have the same authority as a remedial project manager and/or an on-scene coordinator, as described in the NCP. This includes the authority to halt the Work and/or to conduct or direct any necessary response action when he or she determines that conditions at the Site constitute an emergency or may present an immediate threat to public health or welfare or the environment due to a release or threatened release of Waste Material.

(3) The State shall designate and notify EPA and the City of its Project Coordinator and Alternate Project Coordinator. The State may designate other representatives, including its employees, contractors, and/or consultants to oversee the Work. For any meetings and inspections in which EPA's Project Coordinator participates, the State's Project Coordinator also may participate. The City shall notify the State reasonably in advance of any such meetings or inspections.

(4) The City's Project Coordinator shall meet with EPA's and the State's Project Coordinators at least annually.

b. **Supervising Contractor.** The City's proposed Supervising Contractor must have sufficient technical expertise to supervise the Work and a quality assurance system that complies with ANSI/ASQC E4-2004, Quality Systems for Environmental Data and Technology Programs: Requirements with Guidance for Use (American National Standard).

#### c. Procedures for Disapproval/Notice to Proceed.

(1) The City shall designate, and notify EPA and the State, within 10 days after the Effective Date, of the names, contact information, and qualifications of the City's proposed Project Coordinator and Supervising Contractor.

(2) EPA, after a reasonable opportunity for review and comment by the State, shall issue notices of disapproval and/or authorizations to proceed regarding the proposed Project Coordinator and Supervising Contractor, as applicable. If EPA issues a notice of disapproval, the City shall, within 45 days, submit to EPA a list of supplemental proposed Project Coordinators and/or Supervising Contractors, as applicable, including a description of the qualifications of each. EPA shall issue a notice of disapproval or authorization to proceed regarding each supplemental proposed coordinator and/or

contractor. The City may select any coordinator/contractor covered by an authorization to proceed and shall, within 21 days, notify EPA and the State of the City's selection.

(3) The City may change its Project Coordinator and/or Supervising Contractor, as applicable, by following the procedures of Paragraphs 9.c(1) and 9.c(2).

10. **Performance of Work in Accordance with the Amended RAP.** EPA, the State, and the City have developed an Amended RAP to implement the remedies identified in the RODs. The Amended RAP is attached hereto and incorporated herein by reference. The City shall perform the Work as specified in the Amended RAP and all EPA-approved, conditionally-approved, or modified deliverables under the Amended RAP.

## 11. Approval of Deliverables

### a. Initial Submissions

(1) After review of any deliverable that is required to be submitted for EPA approval under the Amended CD or the Amended RAP, EPA shall: (i) approve, in whole or in part, the submission; (ii) approve the submission upon specified conditions; (iii) disapprove, in whole or in part, the submission; or (iv) any combination of the foregoing.

(2) EPA also may modify the initial submission to cure deficiencies in the submission if: (i) EPA determines that disapproving the submission and awaiting a resubmission would cause substantial disruption to the Work; or (ii) previous submission(s) have been disapproved due to material defects and the deficiencies in the initial submission under consideration indicate a bad faith lack of effort to submit an acceptable deliverable.

b. Resubmissions. Upon receipt of a notice of disapproval under Paragraph 11.a (Initial Submissions), or if required by a notice of approval upon specified conditions under Paragraph 11.a, the City shall, within 21 days or such longer time as specified by EPA in such notice, correct the deficiencies and resubmit the deliverable for approval. After review of the resubmitted deliverable, EPA may: (1) approve, in whole or in part, the resubmission; (2) approve the resubmission upon specified conditions; (3) modify the resubmission; (4) disapprove, in whole or in part, the resubmission, requiring the City to correct the deficiencies; or (5) any combination of the foregoing.

c. Implementation. Upon approval, approval upon conditions, or modification by EPA under Paragraph 11.a (Initial Submissions) or Paragraph 11.b (Resubmissions), of any deliverable, or any portion thereof: (1) such deliverable, or portion thereof, will be incorporated into and enforceable under the Amended CD; and (2) the City shall take any action required by such deliverable, or portion thereof. The implementation of any non-deficient portion of a deliverable submitted or resubmitted under Paragraph 11.a or Paragraph 11.b does not relieve the City of any liability for stipulated penalties under Section XIV (Stipulated Penalties) of the Amended CD.

d. Certification. All deliverables must be signed by the City's Project Coordinator, or other responsible official of the City, and must contain the following statement:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I have no personal knowledge that the information submitted is other than true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations

## **12. Certification of RA Completion**

a. RA Completion Inspection. The RA is “Complete” for purposes of this Paragraph 12 when it has been fully performed and the Performance Standards have been achieved. The City shall schedule an inspection for the purpose of obtaining EPA’s Certification of RA Completion. The inspection must be attended by the City and EPA and/or their representatives.

b. RA Report/Monitoring Report. Following the inspection, the City shall submit a RA Report/Monitoring Report to EPA requesting EPA’s Certification of RA Completion. The report must: (1) include certifications by a registered professional engineer or registered professional geologist (as appropriate for the report) and by the City’s Project Coordinator that the RA is complete; (2) be prepared in accordance with Chapter 2 (Remedial Action Completion) of EPA’s *Close Out Procedures for NPL Sites* guidance (May 2011), as supplemented by *Guidance for Management of Superfund Remedies in Post Construction*, OLEM 9200.3-105 (Feb. 2017); (3) contain monitoring data to demonstrate that Performance Standards have been achieved; and (4) be certified in accordance with Paragraph 11.d (Certification). A copy of this report shall be provided to the Passive Municipal Party which must submit any comments to the City, the State, and EPA within 21 days of receipt.

c. If EPA concludes that the RA is not Complete, EPA shall so notify the City. EPA’s notice must include a description of any deficiencies. EPA’s notice may include a schedule for addressing such deficiencies or may require the City to submit a schedule for EPA approval. The City shall perform all activities described in the notice in accordance with the schedule.

d. If EPA concludes, based on the initial or any subsequent RA Report/Monitoring Report requesting Certification of RA Completion, that the RA is Complete, EPA shall so certify to the City. This certification will constitute the Certification of RA Completion for purposes of this Amended CD. Certification of RA Completion will not affect the City’s remaining obligations under the Amended CD.

## **13. Certification of Work Completion**

a. Work Completion Inspection. The City shall schedule an inspection for the purpose of obtaining EPA’s Certification of Work Completion. The inspection must be attended by the City and EPA and/or their representatives.

b. Work Completion Report. Following the inspection, the City shall submit a report to EPA requesting EPA's Certification of Work Completion. The report must: (1) include certifications by a registered professional engineer or registered professional geologist (as appropriate for the report) and by the City's Project Coordinator that the Work, including all O&M activities, is complete; and (2) be certified in accordance with Paragraph 11.d (Certification). If the RA Report/Monitoring Report submitted under Paragraph 12 includes all elements required under this Paragraph 13, then the RA Report/Monitoring Report suffices to satisfy all requirements under this Paragraph 13. A copy of the report shall be provided to the Passive Municipal Party which must submit any comments to the City and EPA within 21 days of receipt.

c. If EPA concludes that the Work is not complete, EPA shall so notify the City. EPA's notice must include a description of the activities that the City must perform to complete the Work. EPA's notice must include specifications and a schedule for such activities or must require the City to submit specifications and a schedule for EPA approval. The City shall perform all activities described in the notice or in the EPA-approved specifications and schedule.

d. If EPA concludes, based on the initial or any subsequent report requesting Certification of Work Completion, that the Work is complete, EPA shall so certify in writing to the City. Issuance of the Certification of Work Completion does not affect the following continuing obligations: (1) activities under the Periodic Review Support Plan; (2) obligations under Sections VII (Property Requirements), XIX (Access to Information), and XX (Retention of Records) of the Amended CD; (3) Institutional Controls obligations as provided in the ICIAP; and (4) reimbursement of EPA's Future Response Costs under Section IX (Payments for Response Costs) of the Amended CD.

#### **14. State Participation**

a. Copies. The City shall, at any time it sends a deliverable to EPA, send a copy of such deliverable to the State. EPA shall, at any time it sends a notice, authorization, approval, disapproval, or certification to the City, send a copy of such document to the State.

b. Review and Comment. The State will have a reasonable opportunity for review and comment prior to:

(1) Any EPA approval or disapproval under Paragraph 11 (Approval of Deliverables) of any deliverables that are required to be submitted for EPA approval; and

(2) Any approval or disapproval of the Certification of RA Completion under Paragraph 12, and any disapproval of or Certification of Work Completion under Paragraph 13.

#### **15. Emergencies and Releases.**

a. If any event occurs during performance of the Work that causes or threatens to cause a release of Waste Material on, at, or from the Site and that either constitutes an emergency situation or that may present an immediate threat to public health or welfare or the environment, the City shall: (1) immediately take all appropriate action to prevent, abate, or minimize such release or threat of release; (2) immediately notify the authorized EPA officer (as

specified in Paragraph 15.b) orally; and (3) take such actions in consultation with the authorized EPA officer and in accordance with all applicable provisions of the Health and Safety Plan, the Emergency Response Plan, and any other deliverable approved by EPA under the Amended CD or Amended RAP.

b. Upon the occurrence of any event during performance of the Work that the City is required to report pursuant to CERCLA Section 103, 42 U.S.C. § 9603, or Section 304 of the Emergency Planning and Community Right-to-know Act (EPCRA), 42 U.S.C. § 11004, the City shall immediately notify the authorized EPA officer orally. The “authorized EPA officer” for purposes of immediate oral notifications and consultations under this Paragraph 15 is the EPA Project Coordinator, the EPA Alternate Project Coordinator (if the EPA Project Coordinator is unavailable), or the EPA Emergency Response Unit, Region 5 (if neither EPA Project Coordinator is available).

c. For any event covered by Paragraphs 15.a and 15.b, the City shall: (1) within 14 days after the onset of such event, submit a report to EPA describing the actions or events that occurred and the measures taken, and to be taken, in response thereto; and (2) within 30 days after the conclusion of such event, submit a report to EPA describing all actions taken in response to such event.

d. Subject to Section XV (Covenants by United States and the State), nothing in this Amended CD limits any authority of the United States or the State: (a) to take all appropriate action to protect human health and the environment or to prevent, abate, respond to, or minimize an actual or threatened release of Waste Material on, at, or from the Site, or (b) to direct or order such action, or seek an order from the Court, to protect human health and the environment or to prevent, abate, respond to, or minimize an actual or threatened release of Waste Material on, at, or from the Site. If, due to the City’s failure to take appropriate response action under Paragraph 15.a, EPA or, as appropriate, the State takes such action instead, the City shall reimburse EPA and the State under Section IX (Payments for Response Costs) for all costs of the response action.

#### **16. Modification of the Amended RAP or Related Deliverables.**

a. If EPA, following consultation with the State, determines that it is necessary to modify the work specified in the Amended RAP and/or in deliverables developed under the Amended RAP in order to achieve and/or maintain the Performance Standards or to carry out and maintain the effectiveness of the RA, and such modification is consistent with the Remedial Action Objectives set forth in Section 1.4 of the Amended RAP, then EPA may notify the City of such modification. Notice of the proposed modification shall be provided to the Passive Municipal Party which must submit any comments to EPA within 21 days of receipt. If the City objects to the modification it may, within 30 days after EPA’s notification, seek dispute resolution under Section XIII.

b. If the City determines that it is necessary to modify the work specified in the Amended RAP and/or in deliverables developed under the Amended RAP in order to achieve and/or maintain the Performance Standards or to carry out and maintain the effectiveness of the RA, and such modification is consistent with the Remedial Action Objectives set forth in Section 1.4 of the Amended RAP, then the City may submit the proposed modification to EPA for approval, with a copy to the State. Notice of the proposed modification shall be provided to

the Passive Municipal Party which must submit any comments to EPA within 21 days of receipt. If EPA rejects the proposed modification, the City may, within 30 days after notification of such rejection, seek dispute resolution under Section XIII.

c. The Amended RAP and/or related work plans shall be modified: (1) in accordance with the modification issued by EPA; or (2) if the City invokes dispute resolution, in accordance with the final resolution of the dispute. The modification shall be incorporated into and enforceable under this Amended CD, and the City shall implement all work required of it by such modification. The City shall incorporate the modification into the deliverable required under the Amended RAP, as appropriate.

d. Nothing in this Paragraph shall be construed to limit EPA's authority to require performance of further response actions as otherwise provided in this Amended CD.

17. Nothing in this Amended CD, the Amended RAP, or any deliverable required under the Amended RAP constitutes a warranty or representation of any kind by EPA and the State that compliance with the work requirements set forth in the Amended RAP or related deliverable will achieve the Performance Standards.

## VII. PROPERTY REQUIREMENTS

18. **Agreements Regarding Access and Non-Interference.** The City shall, with respect to any Non-Party Owner's Affected Property, use best efforts to secure from such Non-Party Owner an agreement, enforceable by the United States and the State, providing that such Non-Party Owner shall: (i) provide EPA, the State, and the City, and their representatives, contractors, and subcontractors with access at all reasonable times to such Affected Property to conduct any activity regarding the Amended CD, including those listed in Paragraph 18.a (Access Requirements); and (ii) refrain from using such Affected Property in any manner that EPA determines will pose an unacceptable risk to human health or to the environment due to exposure to Waste Material, or interfere with or adversely affect the implementation, integrity, or protectiveness of the Remedial Action, including the restrictions listed in Paragraph 18.b (Institutional Controls ). The City and the Passive Parties shall, with respect to the City's Affected Property and the Passive Parties' Affected Property respectively, likewise comply with the Access Requirements listed in Paragraph 18.a and the Institutional Controls listed in Paragraph 18.b.

a. **Access Requirements.** Activities for which access is required regarding the Affected Property include, but are not limited to, the following:

- (1) Monitoring the Work;
- (2) Verifying any data or information submitted to the United States or the State;
- (3) Conducting investigations regarding contamination at or near the Site;
- (4) Obtaining samples;

- (5) Assessing the need for, planning, or implementing additional response actions at or near the Site or other Affected Property;
- (6) Assessing implementation of quality assurance and quality control practices as defined in the approved Quality Assurance Project Plan incorporated into the Amended RAP;
- (7) Implementing the Work pursuant to the conditions set forth in Paragraph 70 (Work Takeover);
- (8) Inspecting and copying records, operating logs, contracts, or other documents maintained or generated by the City or the Passive Parties or their agents, consistent with Section XIX (Access to Information);
- (9) Assessing the City's compliance with the Amended CD;
- (10) Determining whether the Affected Property is being used in a manner that is prohibited or restricted, or that may need to be prohibited or restricted under the Amended CD; and
- (11) Implementing, monitoring, maintaining, reporting on, and enforcing any land, water, or other resource use restrictions and Institutional Controls.

b. **Institutional Controls.** The City shall prepare an Institutional Control Implementation and Assurance Plan ("ICIAP") in accordance with the schedule in Section 9 of the Amended RAP. The ICIAP shall be subject to approval and/or modification by EPA and the State as provided in Paragraph 11 above.

19. The City shall not transfer Affected Property unless it has first secured EPA's approval of, and the transferee's consent to, an agreement that: (i) is enforceable by the City, EPA, and the State; and (ii) requires the transferee to provide access to and to refrain from using the Affected Property to the same extent as is provided under Paragraph 18.a (Access Requirements) and Paragraph 18.b (Institutional Controls).

20. A Passive Party shall not transfer Affected Property unless it has first secured the transferee's consent to an agreement that: (i) is enforceable by the City, EPA, and the State; and (ii) requires the transferee to provide access to and to refrain from using the Affected Property to the same extent as is provided under Paragraph 18.a (Access Requirements) and Paragraph 18.b (Institutional Controls), and has provided EPA with a copy of such agreement at least 15 days prior to the transfer.

21. **Notice to Successors-in-Title.** The City and the Passive Parties shall, prior to entering into a contract to Transfer any of their Affected Property, or 60 days prior to Transferring their Affected Property, whichever is earlier:

a. Notify the proposed transferee that EPA has selected a remedy regarding the Site and that the United States District Court has entered an Amended CD requiring implementation of such remedy (identifying the name and civil action number of this case and the date the Amended CD was entered by the Court); and

b. Notify the City, EPA, and the State of the name and address of the proposed transferee and provide the City, EPA, and the State with a copy of the notice that it provided to the proposed transferee.

22. In the event of any Transfer of the Affected Property, unless the United States otherwise consents in writing, the City shall continue to comply with its obligations under the Amended CD, including its obligation to secure access and ensure compliance with any land, water, or other resource use restrictions regarding the Affected Property, and to implement, maintain, monitor, and report on Institutional Controls.

23. Notwithstanding any provision of the Amended CD, EPA and the State retain all of their access authorities and rights, as well as all of their rights to require land, water, or other resource use restrictions and Institutional Controls, including enforcement authorities related thereto, under CERCLA, RCRA, and any other applicable statute or regulations.

### VIII. FINANCIAL ASSURANCE

24. In order to ensure completion of the Work, the City shall secure financial assurance, initially in the amount of \$11.5 million (“Estimated Cost of the Work”), for the benefit of EPA. The financial assurance must be one or more of the mechanisms listed below, in a form substantially identical to the relevant sample documents available from the “Financial Assurance” category on the Cleanup Enforcement Model Language and Sample Documents Database at <https://cfpub.epa.gov/compliance/models/>, and satisfactory to EPA. The City may use multiple mechanisms if they are limited to surety bonds guaranteeing payment, letters of credit, trust funds, and/or insurance policies.

a. A surety bond guaranteeing payment and/or performance of the Work that is issued by a surety company among those listed as acceptable sureties on federal bonds as set forth in Circular 570 of the U.S. Department of the Treasury;

b. An irrevocable letter of credit, payable to or at the direction of EPA, that is issued by an entity that has the authority to issue letters of credit and whose letter-of-credit operations are regulated and examined by a federal or state agency;

c. A trust fund established for the benefit of EPA that is administered by a trustee that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency;

d. A policy of insurance that provides EPA with acceptable rights as a beneficiary thereof and that is issued by an insurance carrier that has the authority to issue insurance policies in the applicable jurisdiction(s) and whose insurance operations are regulated and examined by a federal or state agency; or

e. A demonstration by the City that it meets the relevant financial test criteria of 40 C.F.R. § 258.74(f) and reporting requirements of this Section for the sum of the Estimated Cost of the Work and the amounts, if any, of other federal, state, or tribal environmental obligations financially assured through the use of a financial test or guarantee, accompanied by a standby funding commitment, which obligates the City to pay funds to or at the direction of EPA, up to the amount financially assured through the use of this demonstration, in the event of a Work Takeover.

25. The City has selected, and EPA has found satisfactory, as an initial financial assurance a demonstration by the City that it meets the relevant financial test criteria in the form attached as Appendix C. Within 30 days after the Effective Date, the City shall secure all executed and/or otherwise finalized mechanisms or other documents consistent with the form of financial assurance attached as Appendix C and shall submit such mechanisms and documents to the Regional Supervisory Accountant, to the United States, and to EPA and the State as specified in Section XXI (Notices and Submissions).

26. If the City provides financial assurance by means of a demonstration under Paragraph 24.e, the City shall also comply with the other relevant criteria and requirements of 40 C.F.R. § 258.74(f) and this Section, including, but not limited to: (a) the initial submission to EPA of required documents from the City's chief financial officer and independent certified public accountant no later than 30 days after the Effective Date; (b) the annual resubmission of such documents within 180 days after the close of the City's fiscal year; and (c) the notification of EPA no later than 30 days, in accordance with Paragraph 27, after the City determines that it no longer satisfies the relevant financial test criteria and requirements set forth at 40 C.F.R. § 258.74(f)(1). The City agrees that EPA may also, based on a belief that the City may no longer meet the financial test requirements of Paragraph 24.e, require reports of financial condition at any time from the City in addition to those specified in this Paragraph. For purposes of this Section, references in 40 C.F.R. Part 258, Subpart G, to: (1) the terms "estimated total closure and post-closure care cost" and "corrective action costs" include the Estimated Cost of the Work; (2) the phrase "other environmental obligations" includes the sum of all environmental obligations (including obligations under CERCLA, RCRA, and any other federal, state, or tribal environmental obligation) guaranteed by the City in addition to the Estimated Cost of the Work under this Amended CD; (3) the terms "owner" and "operator" include the City; and (4) the terms "facility" and "hazardous waste management facility" include the Site.

27. The City shall diligently monitor the adequacy of the financial assurance. If the City becomes aware of any information indicating that the financial assurance provided under this Section is inadequate or otherwise no longer satisfies the requirements of this Section, the City shall notify EPA of such information within 7 days. If EPA determines that the financial assurance provided under this Section is inadequate or otherwise no longer satisfies the requirements of this Section, EPA will notify the City of such determination. The City shall, within 30 days after notifying EPA or receiving notice from EPA under this Paragraph, secure and submit to EPA for approval a proposal for a revised or alternative financial assurance mechanism that satisfies the requirements of this Section. EPA may extend this deadline for such time as is reasonably necessary for the City, in the exercise of due diligence, to secure and submit to EPA a proposal for a revised or alternative financial assurance mechanism, not to exceed 60 days. The City shall follow the procedures of Paragraph 29 (Modification of Financial Assurance) in seeking approval of, and submitting documentation for, the revised or alternative financial assurance mechanism. The City's inability to secure and submit to EPA financial assurance in accordance with this Section shall in no way excuse performance of any other requirements of this Amended CD, including, without limitation, the obligation of the City to complete the Work in accordance with the terms of this Amended CD.

**28. Access to Financial Assurance.**

a. If EPA issues a notice of implementation of a Work Takeover under Paragraph 70.b, then, in accordance with any applicable financial assurance mechanism and/or related standby funding commitment, EPA is entitled to: (1) the performance of the Work; and/or (2) require that any funds guaranteed be paid in accordance with Paragraph 28.d.

b. If EPA is notified by the issuer of a financial assurance mechanism that it intends to cancel such mechanism, and the City fails to provide an alternative financial assurance mechanism in accordance with this Section at least 30 days prior to the cancellation date, the funds guaranteed under such mechanism must be paid prior to cancellation in accordance with Paragraph 28.d.

c. If, upon issuance of a notice of implementation of a Work Takeover under Paragraph 70.b, either: (1) EPA is unable for any reason to promptly secure the resources guaranteed under any applicable financial assurance mechanism and/or related standby funding commitment, whether in cash or in kind, to continue and complete the Work; or (2) the financial assurance is provided under Paragraph 24.e, then EPA may demand an amount, as determined by EPA, sufficient to cover the cost of the remaining Work to be performed. The City shall, within 14 days of such demand, pay the amount demanded as directed by EPA.

d. Any amounts required to be paid under this Paragraph 28 shall be, as directed by EPA: (i) paid to EPA in order to facilitate the completion of the Work by EPA or by another person; or (ii) deposited into an interest-bearing account, established at a duly chartered bank or trust company that is insured by the FDIC, in order to facilitate the completion of the Work by another person. If payment is made to EPA, EPA may deposit the payment into the EPA Hazardous Substance Superfund or into the Reilly Tar & Chemical Special Account within the EPA Hazardous Substance Superfund to be retained and used to conduct or finance response actions at or in connection with the Site, or to be transferred by EPA to the EPA Hazardous Substance Superfund.

e. All EPA Work Takeover costs not paid under this Paragraph 28 must be reimbursed as Future Response Costs under Section IX (Payments for Response Costs).

**29. Modification of Amount, Form, or Terms of Financial Assurance.** The City may submit, on any anniversary of the Effective Date or at any other time agreed to by the Parties, a request to reduce the amount, or change the form or terms, of the financial assurance mechanism. Any such request must be submitted to EPA in accordance with Paragraph 25, and must include an estimate of the cost of the remaining Work, an explanation of the bases for the cost calculation, and a description of the proposed changes, if any, to the form or terms of the financial assurance. EPA will notify the City of its decision to approve or disapprove a requested reduction or change pursuant to this Paragraph. The City may reduce the amount of the financial assurance mechanism only in accordance with: (a) EPA's approval; or (b) if there is a dispute, the agreement, final administrative decision, or final judicial decision resolving such dispute under Section XIII (Dispute Resolution). Any decision made by EPA on a request submitted under this Paragraph to change the form or terms of a financial assurance mechanism shall be made in EPA's sole and unreviewable discretion, and such decision shall not be subject to challenge by the City pursuant to the dispute resolution provisions of this Amended CD or in any other forum. Within 30 days after receipt of EPA's approval of, or the agreement or decision

resolving a dispute relating to, the requested modifications pursuant to this Paragraph, the City shall submit to EPA documentation of the reduced, revised, or alternative financial assurance mechanism in accordance with Paragraph 25.

30. **Release, Cancellation, or Discontinuation of Financial Assurance.** The City may release, cancel, or discontinue any financial assurance provided under this Section only: (a) if EPA issues a Certification of Work Completion under Paragraph 13 (Certification of Work Completion) of the Amended RAP; (b) in accordance with EPA's approval of such release, cancellation, or discontinuation; or (c) if there is a dispute regarding the release, cancellation or discontinuance of any financial assurance, in accordance with the agreement, final administrative decision, or final judicial decision resolving such dispute under Section XIII (Dispute Resolution).

## IX. PAYMENTS FOR RESPONSE COSTS

31. **Payments by the City for Future Response Costs.** The City shall not be responsible for EPA's Future Oversight Costs. The City shall pay to EPA all other Future Response Costs not inconsistent with the NCP.

a. **Periodic Bills.** On a periodic basis, EPA will send the City a bill requiring payment that includes an Itemized Cost Summary of Future Response Costs subject to reimbursement under this Paragraph, which includes direct and indirect costs incurred by EPA, its contractors, subcontractors, and DOJ. The City shall make all payments within 30 days after the City's receipt of each bill requiring payment, except as otherwise provided in Paragraph 33, in accordance with Paragraph 32.a (instructions for future response cost payments).

b. **Deposit of Future Response Costs Payments.** The total amount to be paid by the City pursuant to Paragraph 31.a (Periodic Bills) shall be deposited by EPA in the Reilly Tar & Chemical Site SLP Special Account to be retained and used to conduct or finance response actions at or in connection with the Site, or to be transferred by EPA to the EPA Hazardous Substance Superfund, provided, however, that EPA may deposit a Future Response Costs payment directly into the EPA Hazardous Substance Superfund if, at the time the payment is received, EPA estimates that the Reilly Tar & Chemical SLP Site Special Account balance is sufficient to address currently anticipated future response actions to be conducted or financed by EPA at or in connection with the Site. Any decision by EPA to deposit a Future Response Costs payment directly into the EPA Hazardous Substance Superfund for this reason shall not be subject to challenge by the City pursuant to the dispute resolution provisions of this Amended CD or in any other forum.

32. **Payment Instructions for the City.**

a. **Future Response Costs Payments and Stipulated Penalties.**

(1) For all payments subject to this Paragraph 32.a, the City shall make such payment by Automated Clearinghouse (ACH) payment as follows:

500 Rivertech Court  
Riverdale, Maryland 20737  
Contact – John Schmid 202-874-7026 or REX, 1-866-234-5681  
ABA = 051036706  
Transaction Code 22 - checking  
Environmental Protection Agency  
Account 310006  
CTX Format

(2) For all payments made under this Paragraph 32.a, the City must include references to Site/Spill ID Number 0506 and DJ Number 90-7-1-21/2. At the time of any payment required to be made in accordance with Paragraph 32.a, the City shall send notices that payment has been made to the United States, EPA, and the EPA Cincinnati Finance Center, all in accordance with Paragraph 94. All notices must include references to the Site/Spill ID and DJ numbers.

33. **Contesting Future Response Costs.** The City may submit a Notice of Dispute, initiating the procedures of Section XIII (Dispute Resolution), regarding any Future Response Costs billed under Paragraph 31 (Payments by the City for Future Response Costs) if it determines that EPA has made a mathematical error or included a cost item that is not within the definition of Future Response Costs, or if it believes EPA incurred excess costs as a direct result of an EPA action that was inconsistent with a specific provision or provisions of the NCP. Such Notice of Dispute shall be submitted in writing within 30 days after receipt of the bill and must be sent to the United States pursuant to Section XXI (Notices and Submissions). Such Notice of Dispute shall specifically identify the contested Future Response Costs and the basis for objection. If the City submits a Notice of Dispute, the City shall, within the 30-day period, also as a requirement for initiating the dispute, (a) pay all uncontested Future Response Costs to the United States, and (b) establish, in a duly chartered bank or trust company, an interest-bearing escrow account that is insured by the Federal Deposit Insurance Corporation (FDIC), and remit to that escrow account funds equivalent to the amount of the contested Future Response Costs. The City shall send to the United States, as provided in Section XXI (Notices and Submissions), a copy of the transmittal letter and check paying the uncontested Future Response Costs, and a copy of the correspondence that establishes and funds the escrow account, including, but not limited to, information containing the identity of the bank and bank account under which the escrow account is established as well as a bank statement showing the initial balance of the escrow account. If the United States prevails in the dispute, the City shall pay the sums due (with accrued Interest) to the United States within 7 days after the resolution of the dispute. If the City prevails concerning any aspect of the contested costs, the City shall pay that portion of the costs (plus associated accrued Interest) for which it did not prevail to the United States within 7 days after the resolution of the dispute. The City shall be disbursed any balance of the escrow account. All payments to the United States under this Paragraph shall be made in accordance with Paragraph 32.a (instructions for future response cost payments). The dispute resolution procedures set forth in this Paragraph in conjunction with the procedures set forth in Section XIII (Dispute Resolution) shall be the exclusive mechanisms for resolving disputes regarding the City's obligation to reimburse the United States for its Future Response Costs.

34. **Interest.** In the event that any payment for Future Response Costs required under this Section is not made by the date required, the City shall pay Interest on the unpaid balance.

The Interest on Future Response Costs shall begin to accrue on the date of the bill. The Interest shall accrue through the date of the City's payment. Payments of Interest made under this Paragraph shall be in addition to such other remedies or sanctions available to EPA and the State by virtue of the City's failure to make timely payments under this Section including, but not limited to, payment of stipulated penalties pursuant to ¶ 57 (Stipulated Penalty Amounts – Work).

## **X. DISBURSEMENT OF SPECIAL ACCOUNT FUNDS**

**35. Creation of Reilly Tar & Chemical SLP Site Disbursement Special Account and Agreement to Disburse Funds to the City.** If EPA receives an allocation of funds from the Vertellus Environmental Response Trust relating to the Site, EPA may choose to establish a Reilly Tar & Chemical SLP Site Disbursement Special Account and fund such account with all or a portion of the allocation received. The extent of any such funding shall be at EPA's discretion. EPA shall inform the City and the State of the establishment of a Reilly Tar & Chemical SLP Site Disbursement Special Account within 30 days of it being funded. Subject to the terms and conditions set forth in this Section, EPA agrees to make the funds in any Reilly Tar & Chemical SLP Site Disbursement Special Account, including Interest Earned on the funds in any Reilly Tar & Chemical SLP Site Disbursement Special Account, available for disbursement to the City as partial reimbursement for performance of the Work. EPA shall disburse funds from the Reilly Tar & Chemical SLP Site Disbursement Special Account to the City in accordance with the procedures and milestones for phased disbursement set forth in this Section.

**36. Timing, Amount, and Method of Disbursing Funds From the Reilly Tar & Chemical SLP Site Disbursement Special Account.** Within 30 days after EPA's receipt of a Cost Summary and Certification, as defined by Paragraph 37.b, or if EPA has requested additional information under Paragraph 37.b or a revised Cost Summary and Certification under Paragraph 37.c, within 30 days after receipt of the additional information or revised Cost Summary and Certification, and subject to the conditions set forth in this Section, EPA shall disburse funds from the Reilly Tar & Chemical SLP Site Disbursement Special Account to the City in accordance with instructions provided by the City in its Cost Summary and Certification.

### **37. Requests for Disbursement of Special Account Funds.**

a. Following notification of the establishment of a Reilly Tar & Chemical SLP Site Disbursement Special Account, on an annual basis the City may submit to EPA a Cost Summary and Certification, as defined in Paragraph 37.b, covering the Work performed up to the date of the Cost Summary and Certification. The City shall not include in any submission costs included in a previous Cost Summary and Certification if those costs have been previously sought or reimbursed pursuant to Paragraph 36.

b. Each Cost Summary and Certification shall include a complete and accurate written cost summary and certification of the necessary costs incurred and paid by the City for the Work covered by the particular submission, excluding costs not eligible for disbursement under Paragraph 38 (Costs Excluded from Disbursement), and the name and address for payment or instructions for electronic funds transfer. Each Cost Summary and Certification shall contain the following statement signed by the City's Chief Financial Officer:

To the best of my knowledge, after thorough investigation and review of the City's documentation of costs incurred and paid for Work performed pursuant to this Amended CD through the date of this Cost Summary and Certification, I certify that the information contained in or accompanying this submission is true, accurate, and complete. I am aware that there are significant penalties for knowingly submitting false information, including the possibility of fine and imprisonment.

The Chief Financial Officer shall also provide EPA a list of the documents that he or she reviewed in support of the Cost Summary and Certification. Upon request by EPA, the City shall submit to EPA any additional information that EPA deems necessary for its review and approval of a Cost Summary and Certification.

c. If EPA finds that a Cost Summary and Certification includes a mathematical error, costs excluded under Paragraph 38 (Costs Excluded from Disbursement), costs that are inadequately documented, or costs submitted in a prior Cost Summary and Certification, it will notify the City and provide it an opportunity to cure the deficiency by submitting a revised Cost Summary and Certification. If the City fails to cure the deficiency within 30 days after being notified of, and given the opportunity to cure, the deficiency, EPA will recalculate the City's costs eligible for disbursement for that submission and disburse the corrected amount to the City in accordance with the procedures in Paragraph 36 (Timing, Amount, and Method of Disbursing Funds). The City may dispute EPA's recalculation under this Paragraph pursuant to Section XIII (Dispute Resolution). In no event shall the City be disbursed funds from the Reilly Tar & Chemical SLP Site Disbursement Special Account in excess of amounts properly documented in a Cost Summary and Certification accepted or modified by EPA.

**38. Costs Excluded from Disbursement.** The following costs are excluded from, and shall not be sought by the City for, disbursement from the Reilly Tar & Chemical SLP Site Disbursement Special Account: (a) response costs paid pursuant to Section IX (Payments for Response Costs); (b) any other payments made by the City to the United States or the State pursuant to this Amended CD, including, but not limited to, any Interest or stipulated penalties paid pursuant to Section IX (Payments for Response Costs) or XIV (Stipulated Penalties); (c) attorneys' fees and costs, except for reasonable attorneys' fees and costs necessarily related to obtaining access or institutional controls as required by Section VII (Property Requirements); (d) costs of any response activities the City performs that are not required under, or approved by EPA pursuant to this Amended CD; (e) costs related to the City's litigation, settlement, development of potential contribution claims, or identification of defendants; (f) internal costs of the City, including but not limited to, salaries, travel, or in-kind services, except for those costs that represent the work of employees of the City directly performing the Work; (g) any costs incurred by the City prior to the Effective Date; or (h) any costs incurred by the City pursuant to Section XIII (Dispute Resolution).

**39. Termination of Disbursements from the Special Account.** EPA's obligation to disburse funds from the Reilly Tar & Chemical SLP Site Disbursement Special Account under this Amended CD shall terminate upon EPA's determination that the City: (a) has knowingly submitted a materially false or misleading Cost Summary and Certification; (b) has submitted a materially inaccurate or incomplete Cost Summary and Certification, and has failed to correct the materially inaccurate or incomplete Cost Summary and Certification within 30 days after being

notified of, and given the opportunity to cure, the deficiency; or (c) failed to submit a Cost Summary and Certification as required by Paragraph 37 (Requests for Disbursement of Special Account Funds) within 30 days (or such longer period as EPA agrees) after being notified that EPA intends to terminate its obligation to make disbursements pursuant to this Section because of the City's failure to submit the Cost Summary and Certification as required by Paragraph 37. EPA's obligation to disburse funds from the Reilly Tar & Chemical SLP Site Disbursement Special Account shall also terminate (a) upon EPA's assumption of performance of any portion of the Work pursuant to Paragraph 70 (Work Takeover), when such assumption of performance of the Work is not challenged by the City or, if challenged, is upheld under Section XIII (Dispute Resolution) and (b) upon exhaustion of funds in the Reilly Tar & Chemical SLP Site Disbursement Special Account. The City may dispute EPA's termination of special account disbursements under Section XIII.

**40. Recapture of Special Account Disbursements.** Upon termination of disbursements from the Reilly Tar & Chemical SLP Site Disbursement Special Account under Paragraph 39 (Termination of Disbursements from the Special Account), if EPA has previously disbursed funds from the Reilly Tar & Chemical SLP Site Disbursement Special Account for activities specifically related to the reason for termination, e.g., discovery of a materially false or misleading submission after disbursement of funds based on that submission, EPA shall submit a bill to the City for those amounts already disbursed from the Reilly Tar & Chemical SLP Site Disbursement Special Account specifically related to the reason for termination, plus Interest on that amount covering the period from the date of disbursement of the funds by EPA to the date of repayment of the funds by the City. Within 14 days after receipt of EPA's bill, the City shall reimburse the EPA Hazardous Substance Superfund for the total amount billed. Payment shall be made in accordance with Paragraph 32.a (instructions for future response cost payments). Upon receipt of payment, EPA may deposit all or any portion thereof in the Reilly Tar & Chemical SLP Site Special Account, the Reilly Tar & Chemical SLP Site Disbursement Special Account, or the EPA Hazardous Substance Superfund. The determination of where to deposit or how to use the funds shall not be subject to challenge by the City pursuant to the dispute resolution provisions of this Amended CD or in any other forum. The City may dispute EPA's determination as to recapture of funds pursuant to Section XIII (Dispute Resolution).

**41. Balance of Special Account Funds.** After EPA issues its written Certification of RA Completion pursuant to this Amended CD, and after EPA completes all disbursement to the City in accordance with this Section, if any funds remain in the Reilly Tar & Chemical SLP Site Disbursement Special Account, EPA may transfer such funds to the Reilly Tar & Chemical SLP Site Special Account or to the EPA Hazardous Substance Superfund. Any transfer of funds to the Reilly Tar & Chemical SLP Site Special Account or the EPA Hazardous Substance Superfund shall not be subject to challenge by the City pursuant to the dispute resolution provisions of this Amended CD or in any other forum.

## **XI. INDEMNIFICATION AND INSURANCE**

**42. The City's Indemnification of the United States and the State.**

a. The United States and the State do not assume any liability by entering into this Amended CD or by virtue of any designation of the City as EPA's authorized representative under Section 104(e) of CERCLA, 42 U.S.C. § 9604(e). The City shall indemnify,

save, and hold harmless the United States and the State and their officials, agents, employees, contractors, subcontractors, and representatives for or from any and all claims or causes of action arising from, or on account of, negligent or other wrongful acts or omissions of the City, its officials, employees, agents, contractors, subcontractors, and any persons acting on the City's behalf or under its control, in carrying out activities pursuant to this Amended CD, including, but not limited to, any claims arising from any designation of the City as EPA's authorized representatives under Section 104(e) of CERCLA. Further, the City agrees to pay the United States and the State all costs they incur including, but not limited to, attorneys' fees and other expenses of litigation and settlement arising from, or on account of, claims made against the United States and the State based on negligent or other wrongful acts or omissions of the City, its officials, employees, agents, contractors, subcontractors, and any persons acting on its behalf or under its control, in carrying out activities pursuant to this Amended CD. Neither the United States nor the State shall be held out as a party to any contract entered into by or on behalf of the City in carrying out activities pursuant to this Amended CD. Neither the City nor any such contractor shall be considered an agent of the United States or the State. Notwithstanding the foregoing, the City's obligation to indemnify, save, or hold harmless the United States and the State shall be limited to the extent of the City's maximum liability under Minnesota law had such claim or cause of action been asserted against the City.

b. The United States and the State, respectively, shall give the City notice of any claim for which the United States or the State plans to seek indemnification pursuant to this Paragraph 42, and shall consult with the City prior to settling such claim.

43. The City covenants not to sue and agrees not to assert any claims or causes of action against the United States and the State, respectively, for damages or reimbursement or for set-off of any payments made or to be made to the United States or the State, arising from or on account of any contract, agreement, or arrangement between the City and any person for performance of Work on or relating to the Site, including, but not limited to, claims on account of construction delays. In addition, the City shall indemnify, save and hold harmless the United States and the State with respect to any and all claims for damages or reimbursement arising from or on account of any contract, agreement, or arrangement between the City and any person for performance of Work on or relating to the Site, including, but not limited to, claims on account of construction delays.

44. **Insurance.** No later than 15 days following the Effective Date, the City shall secure, and shall maintain until the first anniversary after issuance of EPA's Certification of RA Completion pursuant to Paragraph 12 (Certification of RA Completion) of the Amended RAP, commercial general liability insurance with limits of \$1 million, for any one occurrence, and automobile liability insurance with limits of \$1 million, combined single limit, naming the United States and the State as additional insureds with respect to all liability arising out of the activities performed by or on behalf of the City pursuant to this Amended CD. In addition, for the duration of this Amended CD, the City shall satisfy, or shall ensure that its contractors or subcontractors satisfy, all applicable laws and regulations regarding the provision of worker's compensation insurance for all persons performing the Work on behalf of the City in furtherance of this Amended CD. The City shall provide to EPA and the State certificates of such insurance and a copy of each insurance policy within 15 days of securing such insurance. The City shall resubmit such certificates and copies of policies each year on the anniversary of the Effective Date. If the City demonstrates by evidence satisfactory to EPA and the State that any contractor

or subcontractor maintains insurance equivalent to that described above, or insurance covering the same risks but in a lesser amount, then, with respect to that contractor or subcontractor, the City need provide only that portion of the insurance described above that is not maintained by the contractor or subcontractor.

## **XII. FORCE MAJEURE**

45. “Force majeure,” for purposes of this Amended CD, is defined as any event arising from causes beyond the control of the City, of any entity controlled by the City, or of the City’s contractors that delays or prevents the performance of any obligation under this Amended CD despite the City’s best efforts to fulfill the obligation. The requirement that the City exercise “best efforts to fulfill the obligation” includes using best efforts to anticipate any potential force majeure and best efforts to address the effects of any potential force majeure (a) as it is occurring and (b) following the potential force majeure such that the delay and any adverse effects of the delay are minimized to the greatest extent possible. “Force majeure” does not include financial inability to complete the Work or a failure to achieve the Performance Standards.

46. If any event occurs or has occurred that may delay the performance of any obligation under this Amended CD for which the City intends or may intend to assert a claim of force majeure, the City shall notify EPA’s Project Coordinator orally or, in his or her absence, EPA’s Alternate Project Coordinator or, in the event both of EPA’s designated representatives are unavailable, the Director of the Superfund Division, EPA Region 5, within seven days of when the City first knew that the event might cause a delay. Within 14 days thereafter, the City shall provide in writing to EPA and the State an explanation and description of the reasons for the delay; the anticipated duration of the delay; all actions taken or to be taken to prevent or minimize the delay; a schedule for implementation of any measures to be taken to prevent or mitigate the delay or the effect of the delay; the City’s rationale for attributing such delay to a force majeure; and a statement as to whether, in the opinion of the City, such event may cause or contribute to an endangerment to public health or welfare, or the environment. The City shall include with any notice all available documentation supporting their claim that the delay was attributable to a force majeure. The City shall be deemed to know of any circumstance of which the City, any entity controlled by the City, or the City’s contractors or subcontractors knew or should have known. Failure to comply with the above requirements regarding an event shall preclude the City from asserting any claim of force majeure regarding that event, provided, however, that if EPA, despite the late or incomplete notice, is able to assess to its satisfaction whether the event is a force majeure under Paragraph 45 and whether the City has exercised its best efforts under Paragraph 45, EPA may, in its unreviewable discretion, excuse in writing the City’s failure to submit timely or complete notices under this Paragraph.

47. If EPA, after a reasonable opportunity for review and comment by the State, agrees that the delay or anticipated delay is attributable to a force majeure, the time for performance of the obligations under this Amended CD that are affected by the force majeure will be extended by EPA, after a reasonable opportunity for review and comment by the State, for such time as is necessary to complete those obligations. An extension of the time for performance of the obligations affected by the force majeure shall not, of itself, extend the time for performance of any other obligation. If EPA, after a reasonable opportunity for review and comment by the State, does not agree that the delay or anticipated delay has been or will be caused by a force majeure, EPA will notify the City in writing of its decision. If EPA, after a

reasonable opportunity for review and comment by the State, agrees that the delay is attributable to a force majeure, EPA will notify the City in writing of the length of the extension, if any, for performance of the obligations affected by the force majeure.

48. If the City elects to invoke the dispute resolution procedures set forth in Section XIII (Dispute Resolution) regarding EPA's decision, it shall do so no later than 15 days after receipt of EPA's notice. In any such proceeding, the City shall have the burden of demonstrating by a preponderance of the evidence that the delay or anticipated delay has been or will be caused by a force majeure, that the duration of the delay or the extension sought was or will be warranted under the circumstances, that best efforts were exercised to avoid and mitigate the effects of the delay, and that the City complied with the requirements of Paragraphs 45 and 46. If the City carries this burden, the delay at issue shall be deemed not to be a violation by the City of the affected obligation of this Amended CD identified to EPA and the Court.

49. The failure by EPA to timely complete any obligation under the Amended CD or under the Amended RAP is not a violation of the Amended CD, provided, however, that if such failure prevents the City from meeting one or more deadlines in the Amended RAP, the City may seek relief under this Section.

### **XIII. DISPUTE RESOLUTION**

50. Unless otherwise expressly provided for in this Amended CD, the dispute resolution procedures of this Section shall be the exclusive mechanism to resolve disputes regarding this Amended CD. However, the procedures set forth in this Section shall not apply to actions by the United States or the State to enforce obligations of the City that have not been disputed in accordance with this Section.

51. A dispute shall be considered to have arisen when one party sends the other parties a written Notice of Dispute. Any dispute regarding this Amended CD shall in the first instance be the subject of informal negotiations between the parties to the dispute. The period for informal negotiations shall not exceed 20 days from the time the dispute arises, unless it is modified by written agreement of the parties to the dispute.

#### **52. Statements of Position.**

a. In the event that the parties cannot resolve a dispute by informal negotiations under the preceding Paragraph, then the position advanced by EPA shall be considered binding unless, within 14 days after the conclusion of the informal negotiation period, the City invokes the formal dispute resolution procedures of this Section by serving on the United States and the State a written Statement of Position on the matter in dispute, including, but not limited to, any factual data, analysis, or opinion supporting that position and any supporting documentation relied upon by the City. The Statement of Position shall specify the City's position as to whether formal dispute resolution should proceed under Paragraph 53 (Record Review) or 54.

b. Within 14 days after receipt of the City's Statement of Position, EPA will serve on the City its Statement of Position, including, but not limited to, any factual data, analysis, or opinion supporting that position and all supporting documentation relied upon by EPA. EPA's Statement of Position shall include a statement as to whether formal dispute

resolution should proceed under Paragraph 53 (Record Review) or 54. Within 7 days after receipt of EPA's Statement of Position, the City may submit a Reply. Copies of EPA's Statement of Position and any Reply by the City will be provided to the State when exchanged.

c. If there is disagreement between EPA and the City as to whether dispute resolution should proceed under Paragraph 53 (Record Review) or 54, the parties to the dispute shall follow the procedures set forth in the Paragraph determined by EPA to be applicable. However, if the City ultimately appeals to the Court to resolve the dispute, the Court shall determine which Paragraph is applicable in accordance with the standards of applicability set forth in Paragraphs 53 and 54.

53. **Record Review.** Formal dispute resolution for disputes pertaining to the selection or adequacy of any response action and all other disputes that are accorded review on the administrative record under applicable principles of administrative law shall be conducted pursuant to the procedures set forth in this Paragraph. For purposes of this Paragraph, the adequacy of any response action includes, without limitation, the adequacy or appropriateness of plans, procedures to implement plans, or any other items requiring approval by EPA under this Amended CD, and the adequacy of the performance of response actions taken pursuant to this Amended CD. Nothing in this Amended CD shall be construed to allow any dispute by the City regarding the validity of the provisions of the RODs.

a. An administrative record of the dispute shall be maintained by EPA and shall contain all statements of position, including supporting documentation, submitted pursuant to this Section. Where appropriate, EPA may allow submission of supplemental statements of position by the parties to the dispute.

b. The Director of the Superfund Division, EPA Region 5, will issue a final administrative decision resolving the dispute based on the administrative record described in Paragraph 53.a. This decision shall be binding upon the City, subject only to the right to seek judicial review pursuant to Paragraphs 53.c and 53.d.

c. Any administrative decision made by EPA pursuant to Paragraph 53.b shall be reviewable by this Court, provided that a motion for judicial review of the decision is filed by the City with the Court and served on all Parties within 10 days after receipt of EPA's decision. The motion shall include a description of the matter in dispute, the efforts made by the parties to resolve it, the relief requested, and the schedule, if any, within which the dispute must be resolved to ensure orderly implementation of this Amended CD. The United States may file a response to the City's motion.

d. In proceedings on any dispute governed by this Paragraph, the City shall have the burden of demonstrating that the decision of the Superfund Division Director is arbitrary and capricious or otherwise not in accordance with law. Judicial review of EPA's decision shall be on the administrative record compiled pursuant to Paragraph 53.a.

54. Formal dispute resolution for disputes that neither pertain to the selection or adequacy of any response action nor are otherwise accorded review on the administrative record under applicable principles of administrative law, shall be governed by this Paragraph.

a. The Director of the Superfund Division, EPA Region 5, will issue a final decision resolving the dispute based on the statements of position and reply, if any, served under Paragraph 52. The Superfund Division Director's decision shall be binding on the City unless, within 10 days after receipt of the decision, the City files with the Court and serves on the Parties a motion for judicial review of the decision setting forth the matter in dispute, the efforts made by the parties to resolve it, the relief requested, and the schedule, if any, within which the dispute must be resolved to ensure orderly implementation of the Amended CD. The United States may file a response to the City's motion.

b. Notwithstanding Paragraph V (CERCLA § 113(j) record review of ROD and Work) of Section I (Background), judicial review of any dispute governed by this Paragraph shall be governed by applicable principles of law.

55. The invocation of formal dispute resolution procedures under this Section does not extend, postpone, or affect in any way any obligation of the City under this Amended CD, except as provided in Paragraph 33 (Contesting Future Response Costs), as agreed by EPA, or as determined by the Court. Stipulated penalties with respect to the disputed matter shall continue to accrue, but payment shall be stayed pending resolution of the dispute, as provided in Paragraph 63. Notwithstanding the stay of payment, stipulated penalties shall accrue from the first day of noncompliance with any applicable provision of this Amended CD. In the event that the City does not prevail on the disputed issue, stipulated penalties shall be assessed and paid as provided in Section XIV (Stipulated Penalties).

#### **XIV. STIPULATED PENALTIES**

56. The City shall be liable for stipulated penalties in the amounts set forth in Paragraphs 57 and 58 to the United States and the State – with 50% payable to the United States and 50% payable to the State – for failure to comply with the requirements of this Amended CD specified below, unless excused under Section XII (Force Majeure). “Compliance” by the City shall include completion of all activities and obligations, including payments, required under this Amended CD, or any deliverable approved under this Amended CD, in accordance with all applicable requirements of law, this Amended CD, the Amended RAP, and any deliverables approved under this Amended CD, and within the specified time schedules established by and approved under this Amended CD.

##### **57. Stipulated Penalty Amounts - Work (Including Payments and Excluding Deliverables).**

a. The following stipulated penalties shall accrue per violation per day for failure to pay Future Response Costs (as specified in Paragraph 31) or failure to implement activities required by the Amended RAP:

Period of Noncompliance	Penalty Per Violation Per Day
1st through 14th day	\$500
15th through 30th day	\$1,000
31st day and beyond	\$5,000

##### **58. Stipulated Penalty Amounts - Deliverables.**

a. **Material Defects.** If an initially submitted or resubmitted deliverable contains a material defect, and the deliverable is disapproved or modified by EPA under Paragraph 11 due to such material defect, then the material defect shall constitute a lack of compliance for purposes of Paragraph 56. The provisions of Section XIII (Dispute Resolution) and Section XIV (Stipulated Penalties) shall govern the accrual and payment of any stipulated penalties regarding the City’s submissions under this Amended CD.

b. The following stipulated penalties shall accrue per violation per day for failure to submit timely or adequate deliverables pursuant to the Amended CD:

Period of Noncompliance	Penalty Per Violation Per Day
1st through 14th day	\$300
15th through 30th day	\$600
31st day and beyond	\$2,000

59. In the event that EPA assumes performance of a portion or all of the Work pursuant to Paragraph 70 (Work Takeover), the City shall be liable for a stipulated penalty in the amount of \$50,000. Stipulated penalties under this Paragraph are in addition to the remedies available under Paragraphs 28 (Access to Financial Assurance) and 70 (Work Takeover).

60. All penalties shall begin to accrue on the day after the complete performance is due or the day a violation occurs and shall continue to accrue through the final day of the correction of the noncompliance or completion of the activity. However, stipulated penalties shall not accrue: (a) with respect to a deficient submission under Paragraph 11, during the period, if any, beginning on the 31st day after EPA’s receipt of such submission until the date that EPA notifies the City of any deficiency; (b) with respect to a decision by the Director of the Superfund Division, EPA Region 5, under Paragraph 53.b or 54.a of Section XIII (Dispute Resolution), during the period, if any, beginning on the 21st day after the date that the City’s reply to EPA’s Statement of Position is received until the date that the Director issues a final decision regarding such dispute; or (c) with respect to judicial review by this Court of any dispute under Section XIII (Dispute Resolution), during the period, if any, beginning on the 31st day after the Court’s receipt of the final submission regarding the dispute until the date that the Court issues a final decision regarding such dispute. Nothing in this Amended CD shall prevent the simultaneous accrual of separate penalties for separate violations of this Amended CD.

61. Following EPA’s determination that the City has failed to comply with a requirement of this Amended CD, EPA may give the City written notification of the same and describe the noncompliance. EPA may send the City a written demand for payment of the penalties. However, penalties shall accrue as provided in the preceding Paragraph regardless of whether EPA has notified the City of a violation.

62. All penalties accruing under this Section shall be due and payable to the United States and the State within 30 days after the City’s receipt from EPA of a demand for payment of the penalties, unless the City invokes the Dispute Resolution procedures under Section XIII (Dispute Resolution) within the 30-day period. All payments to the United States under this Section shall indicate that the payment is for stipulated penalties and shall be made in accordance with Paragraph 32.a (instructions for future response cost payments). All payments to the State

under this Section shall indicate that the payment is for stipulated penalties and shall be made in accordance with instructions to be provided by the State in conjunction with the penalty demand.

63. Penalties shall continue to accrue as provided in Paragraph 60 during any dispute resolution period, but need not be paid until the following:

a. If the dispute is resolved by agreement of the parties or by a decision of EPA that is not appealed to this Court, accrued penalties determined to be owed shall be paid to EPA and the State within 15 days after the agreement or the receipt of EPA's decision or order;

b. If the dispute is appealed to this Court and the United States prevails in whole or in part, the City shall pay all accrued penalties determined by the Court to be owed to EPA and the State within 60 days after receipt of the Court's decision or order, except as provided in Paragraph 63.c;

c. If the Court's decision is appealed by any Party, the City shall pay all accrued penalties determined by the Court to be owed to the United States and the State into an interest-bearing escrow account, established at a duly chartered bank or trust company that is insured by the FDIC, within 60 days after receipt of the Court's decision or order. Penalties shall be paid into this account as they continue to accrue, at least every 60 days. Within 15 days after receipt of the final appellate court decision, the escrow agent shall pay the balance of the account to EPA and the State or to the City to the extent that they prevail.

64. If the City fails to pay stipulated penalties when due, the City shall pay Interest on the unpaid stipulated penalties as follows: (a) if the City has timely invoked dispute resolution such that the obligation to pay stipulated penalties has been stayed pending the outcome of dispute resolution, Interest shall accrue from the date stipulated penalties are due pursuant to Paragraph 63 until the date of payment; and (b) if the City fails to timely invoke dispute resolution, Interest shall accrue from the date of demand under Paragraph 62 until the date of payment. If the City fails to pay stipulated penalties and Interest when due, the United States or the State may institute proceedings to collect the penalties and Interest.

65. The payment of penalties and Interest, if any, shall not alter in any way the City's obligation to complete the performance of the Work required under this Amended CD.

66. Nothing in this Amended CD shall be construed as prohibiting, altering, or in any way limiting the ability of the United States or the State to seek any other remedies or sanctions available by virtue of the City's violation of this Amended CD or of the statutes and regulations upon which it is based, including, but not limited to, penalties pursuant to CERCLA Section 122(l), 42 U.S.C. § 9622(l), provided, however, that the United States shall not seek civil penalties pursuant to CERCLA Section 122(l) for any violation for which a stipulated penalty is provided in this Amended CD, except in the case of a willful violation of this Amended CD.

67. Notwithstanding any other provision of this Section, the United States may, in its unreviewable discretion, waive any portion of stipulated penalties that have accrued pursuant to this Amended CD.

## XV. COVENANTS BY THE UNITED STATES AND THE STATE

68. **Covenants for the City by United States.** Except as provided in Paragraph 69 (General Reservations of Rights), the United States covenants not to sue or to take administrative action against the City pursuant to CERCLA Sections 106 and 107(a) for the Work. These covenants shall take effect upon the Effective Date. These covenants are conditioned upon the satisfactory performance by the City of its obligations under this Amended CD. These covenants extend only to the City and do not extend to any other person.

69. **General Reservations of Rights.** The United States reserves, and this Amended CD is without prejudice to, all rights against the City with respect to all matters not expressly included within United States' covenants. Notwithstanding any other provision of this Amended CD, the United States reserves all rights against the City with respect to:

- a. liability for failure by the City to meet a requirement of this Amended CD;
- b. liability arising from the past, present, or future disposal, release, or threat of release of Waste Material outside of the Site;
- c. liability based on the ownership of the Site by the City when such ownership commences after signature of this Amended CD by the City;
- d. liability based on the operation of the Site by the City when such operation commences after signature of this Amended CD by the City and does not arise solely from the City's performance of the Work;
- e. liability based on the City's transportation, treatment, storage, or disposal, or arrangement for transportation, treatment, storage, or disposal of Waste Material at or in connection with the Site, other than as provided in the ROD, the Work, or otherwise ordered by EPA, after signature of this Amended CD by the City;
- f. liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural resource damage assessments;
- g. criminal liability;
- h. liability for violations of federal or state law that occur during or after implementation of the Work; and
- i. liability, prior to achievement of Performance Standards, for additional response actions that EPA determines are necessary to achieve and maintain Performance Standards or to carry out and maintain the effectiveness of the remedy set forth in the ROD, but that cannot be required pursuant to Paragraph 16 (Modification of RAP or Related Deliverables).

### 70. **Work Takeover.**

a. In the event EPA determines that the City: (1) has ceased implementation of any portion of the Work; (2) is seriously or repeatedly deficient or late in its performance of the Work; or (3) is implementing the Work in a manner that may cause an endangerment to human health or the environment, EPA may, after a reasonable opportunity for review and comment by the State, issue a written notice ("Work Takeover Notice") to the City. Any Work

Takeover Notice issued by EPA will specify the grounds upon which such notice was issued and will provide the City a period of 10 days within which to remedy the circumstances giving rise to EPA's issuance of such notice.

b. If, after expiration of the 10-day notice period specified in Paragraph 70.a, the City has not remedied to EPA's satisfaction the circumstances giving rise to EPA's issuance of the relevant Work Takeover Notice, EPA may at any time thereafter assume the performance of all or any portion(s) of the Work as EPA deems necessary ("Work Takeover"). EPA will notify the City in writing (which writing may be electronic) if EPA determines that implementation of a Work Takeover is warranted under this Paragraph 70.b. Funding of Work Takeover costs is addressed under Paragraph 28 (Access to Financial Assurance).

c. The City may invoke the procedures set forth in Paragraph 53 (Record Review), to dispute EPA's implementation of a Work Takeover under Paragraph 70.b. However, notwithstanding the City's invocation of such dispute resolution procedures, and during the pendency of any such dispute, EPA may in its sole discretion commence and continue a Work Takeover under Paragraph 70.b until the earlier of (1) the date that the City remedies to EPA's satisfaction, the circumstances giving rise to EPA's issuance of the relevant Work Takeover Notice, or (2) the date that a final decision is rendered in accordance with Paragraph 53 (Record Review) requiring EPA to terminate such Work Takeover.

71. Notwithstanding any other provision of this Amended CD, the United States and the State retain all authority and reserve all rights to take any and all response actions authorized by law.

72. **Covenants for the City by the State.** Except as provided in Paragraph 69 (General Reservations of Rights), the State covenants not to sue or to take administrative action against the City pursuant to CERCLA Sections 106 and 107(a) or applicable state law relating to the Work. These covenants shall take effect upon the Effective Date. These covenants are conditioned upon the satisfactory performance by the City of its obligations under this Amended CD. These covenants extend only to the City and do not extend to any other person.

73. **General Reservations of Rights.** The State reserves, and this Amended CD is without prejudice to, all rights against the City with respect to all matters not expressly included within the State's covenants. Notwithstanding any other provision of this Amended CD, the State reserves all rights against the City with respect to:

- a. liability for failure by the City to meet a requirement of this Amended CD;
- b. liability arising from the past, present, or future disposal, release, or threat of release of Waste Material outside of the Site;
- c. liability based on the ownership of the Site by the City when such ownership commences after signature of this Amended CD by the City;
- d. liability based on the operation of the Site by the City when such operation commences after signature of this Amended CD by the City and does not arise solely from the City's performance of the Work;

- e. liability based on the City's transportation, treatment, storage, or disposal, or arrangement for transportation, treatment, storage, or disposal of Waste Material at or in connection with the Site, other than as provided in the ROD, the Work, or otherwise ordered by EPA, after signature of this Amended CD by the City;
- f. liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural resource damage assessments;
- g. criminal liability; and
- h. liability for violations of federal or state law that occur during or after implementation of the Work.

## **XVI. COVENANTS BY THE CITY**

74. **Covenants by the City.** Subject to the reservations in Paragraph 76, the City covenants not to sue and agrees not to assert any claims or causes of action against the United States or the State with respect to the Work and this Amended CD, including, but not limited to:

- a. any direct or indirect claim for reimbursement from the EPA Hazardous Substance Superfund through CERCLA Sections 106(b)(2), 107, 111, 112 or 113, or any other provision of law;
- b. any claims under CERCLA Sections 107 or 113, RCRA Section 7002(a), 42 U.S.C. § 6972(a), or state law regarding the Work, past response actions regarding this Site, and this Amended CD;
- c. any claims arising out of response actions at or in connection with the Work, including any claim under the United States Constitution, the Minnesota Constitution, the Tucker Act, 28 U.S.C. § 1491, the Equal Access to Justice Act, 28 U.S.C. § 2412, or at common law; or
- d. any direct or indirect claim for disbursement from the Reilly Tar & Chemical SLP Site Special Account or Reilly Tar & Chemical SLP Site Disbursement Special Account, except as provided in Section X (Disbursement of Special Account Funds).

75. Except as provided in Paragraphs 78 (De Micromis Waiver of Claims by the City) and 86 (Res Judicata and Other Defenses), the covenants in this Section shall not apply if the United States or the State brings a cause of action or issues an order pursuant to any of the reservations in Section XV (Covenants by EPA and the State), other than in Paragraphs 69.a (claims for failure to meet a requirement of the Amended CD), 69.g (criminal liability), and 69.h (violations of federal/state law during or after implementation of the Work), but only to the extent that the City's claims arise from the same response action, response costs, or damages that the United States or the State is seeking pursuant to the applicable reservation.

76. The City reserves, and this Amended CD is without prejudice to, claims against the United States, subject to the provisions of Chapter 171 of Title 28 of the United States Code, and brought pursuant to any statute other than CERCLA or RCRA and for which the waiver of sovereign immunity is found in a statute other than CERCLA or RCRA, for money damages for injury or loss of property or personal injury or death caused by the negligent or wrongful act or

omission of any employee of the United States, as that term is defined in 28 U.S.C. § 2671, while acting within the scope of his or her office or employment under circumstances where the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred. However, the foregoing shall not include any claim based on EPA's selection of response actions, or the oversight or approval of the City's deliverables or activities.

77. Nothing in this Amended CD shall be deemed to constitute approval or preauthorization of a claim within the meaning of CERCLA Section 111, 42 U.S.C. § 9611, or 40 C.F.R. § 300.700(d).

**78. De Micromis Waiver of Claims by the City.**

a. The City agrees not to assert any claims and to waive all claims or causes of action (including but not limited to claims or causes of action under CERCLA Sections 107(a) and 113) that it may have for all matters relating to the Site against any person where the person's liability to the City with respect to the Site is based solely on having arranged for disposal or treatment, or for transport for disposal or treatment, of hazardous substances at the Site, or having accepted for transport for disposal or treatment of hazardous substances at the Site, if all or part of the disposal, treatment, or transport occurred before April 1, 2001, and the total amount of material containing hazardous substances contributed by such person to the Site was less than 110 gallons of liquid materials or 200 pounds of solid materials;

b. **Exceptions to Waiver.** The waiver under this Paragraph 78 shall not apply with respect to any defense, claim, or cause of action that the City may have against any person otherwise covered by such waiver if such person asserts a claim or cause of action relating to the Site against the City.

**XVII. COVENANTS BY THE PASSIVE MUNICIPAL PARTY**

79. **Covenants for the City by the Passive Municipal Party.** Except as provided in Paragraph 79 (General Reservations of Rights), the Passive Municipal Party covenants not to sue or to take other action against the City pursuant to CERCLA Sections 106 and 107(a) or applicable state law relating to the Work. These covenants shall take effect upon the Effective Date. These covenants are conditioned upon the satisfactory performance by the City of its obligations under this Amended CD. These covenants extend only to the City and do not extend to any other person.

80. **General Reservations of Rights.** The Passive Municipal Party reserves, and this Amended CD is without prejudice to, all rights against the City with respect to all matters not expressly included within the Passive Municipal Party's covenants. Notwithstanding any other provision of this Amended CD, the Passive Municipal Party reserves all rights against the City with respect to:

a. liability for failure by the City to meet a requirement of this Amended CD and such failure results in a material impact to the Passive Municipal Party;

b. liability arising from the past, present, or future disposal, release, or threat of release of Waste Material outside of the Site;

- c. liability based on the ownership of the Site by the City when such ownership commences after signature of this Amended CD by the City;
- d. liability based on the operation of the Site by the City when such operation commences after signature of this Amended CD by the City and does not arise solely from the City's performance of the Work;
- e. liability based on the City's transportation, treatment, storage, or disposal, or arrangement for transportation, treatment, storage, or disposal of Waste Material at or in connection with the Site, other than as provided in the ROD, the Work, or otherwise ordered by EPA, after signature of this Amended CD by the City;
- f. liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural resource damage assessments;
- g. criminal liability; and
- h. liability for violations of federal or state law that occur during or after implementation of the Work.

### **XVIII. EFFECT OF SETTLEMENT; CONTRIBUTION**

81. Except as provided in Paragraph 78 (Waiver of Claims by the City), nothing in this Amended CD shall be construed to create any rights in, or grant any cause of action to, any person not a Party to this Amended CD. Except as provided in Section XVI (Covenants by the City), each of the Parties expressly reserves any and all rights (including, but not limited to, pursuant to CERCLA Section 113, 42 U.S.C. § 9613), defenses, claims, demands, and causes of action that each Party may have with respect to any matter, transaction, or occurrence relating in any way to the Site against any person not a Party hereto. Nothing in this Amended CD diminishes the right of the United States, pursuant to CERCLA Section 113(f)(2) and (3), 42 U.S.C. § 9613(f)(2)-(3), to pursue any such persons to obtain additional response costs or response action and to enter into settlements that give rise to contribution protection pursuant to Section 113(f)(2).

82. The Parties agree, and by entering this Amended CD this Court finds, that this Amended CD constitutes a judicially-approved settlement pursuant to which the City has, as of the Effective Date, resolved liability to the United States within the meaning of CERCLA Section 113(f)(2), 42 U.S.C. § 9613(f)(2), and is entitled, as of the Effective Date, to protection from contribution actions or claims as provided by CERCLA Section 113(f)(2), or as may be otherwise provided by law, for the "matters addressed" in this Amended CD. The "matters addressed" in this Amended CD are all response actions taken or to be taken and all response costs incurred or to be incurred, at or in connection with the Site, by the United States or any other person; provided, however, that if the United States exercises rights under the reservations in Section XV (Covenants by the United States and the State), other than in Paragraphs 69.a (claims for failure to meet a requirement of the Amended CD), 69.g (criminal liability), or 69.h (violations of federal/state law during or after implementation of the Work), the "matters addressed" in this Amended CD will no longer include those response costs or response actions.

83. The Parties further agree, and by entering this Amended CD this Court finds, that the complaint filed by the United States in this action is a civil action within the meaning of

CERCLA Section 113(f)(1), 42 U.S.C. § 9613(f)(1), and that this Amended CD constitutes a judicially-approved settlement pursuant to which the City has, as of the Effective Date, resolved liability to the United States within the meaning of CERCLA Section 113(f)(3)(B), 42 U.S.C. § 9613(f)(3)(B).

84. The City shall, with respect to any suit or claim brought by it for matters related to this Amended CD, notify the United States and the State in writing no later than 60 days prior to the initiation of such suit or claim.

85. The City shall, with respect to any suit or claim brought against it for matters related to this Amended CD, notify in writing the United States and the State within 10 days after service of the complaint on the City. In addition, the City shall notify the United States and the State within 10 days after service or receipt of any Motion for Summary Judgment and within 10 days after receipt of any order from a court setting a case for trial.

86. **Res Judicata and Other Defenses.** In any subsequent administrative or judicial proceeding initiated by the United States, the State, or the Passive Municipal Party for injunctive relief, recovery of response costs, or other appropriate relief relating to the Site, the City shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim-splitting, or other defenses based upon any contention that the claims raised by the United States, the State, or the Passive Municipal Party in the subsequent proceeding were or should have been brought in the instant case; provided, however, that nothing in this Paragraph affects the enforceability of the covenants not to sue set forth in Section XV (Covenants by the United States and the State).

## **XIX. ACCESS TO INFORMATION**

87. The City shall provide to EPA, the State, and the Passive Municipal Party upon request, copies of all records, reports, documents, and other information (including records, reports, documents, and other information in electronic form) (hereinafter referred to as "Records") within the City's possession or control or that of their contractors or agents relating to activities at the Site or to the implementation of this Amended CD, including, but not limited to, sampling, analysis, chain of custody records, manifests, trucking logs, receipts, reports, sample traffic routing, correspondence, or other documents or information regarding the Work. The City shall also make available to EPA and the State, for purposes of investigation, information gathering, or testimony, their employees, agents, or representatives with knowledge of relevant facts concerning the performance of the Work.

### **88. Privileged and Protected Claims.**

a. The City may assert that all or part of a Record requested by EPA, the State, or the Passive Municipal Party is privileged or protected as provided under federal law, in lieu of providing the Record, provided the City complies with Paragraph 88.b, and except as provided in Paragraph 88.c.

b. If the City assert a claim of privilege or protection, it shall provide EPA, the State, or the Passive Municipal Party with the following information regarding such Record: its title; its date; the name, title, affiliation (e.g., company or firm), and address of the author, of each addressee, and of each recipient; a description of the Record's contents; and the privilege or

protection asserted. If a claim of privilege or protection applies only to a portion of a Record, the City shall provide the Record to EPA, the State, or the Passive Municipal Party in redacted form to mask the privileged or protected portion only. The City shall retain all Records that it claims to be privileged or protected until EPA, the State, or the Passive Municipal Party have had a reasonable opportunity to dispute the privilege or protection claim and any such dispute has been resolved in the City's favor.

c. The City may make no claim of privilege or protection regarding: (1) any data regarding the Site, including, but not limited to, all sampling, analytical, monitoring, hydrogeologic, scientific, chemical, radiological or engineering data, or the portion of any other Record that evidences conditions at or around the Site; or (2) the portion of any Record that the City is required to create or generate pursuant to this Amended CD.

89. **Business Confidential Claims.** The City may assert that all or part of a Record provided to EPA, the State, or the Passive Municipal Party under this Section or Section XX (Retention of Records) is business confidential to the extent permitted by and in accordance with CERCLA Section 104(e)(7), 42 U.S.C. § 9604(e)(7), and 40 C.F.R. § 2.203(b). The City shall segregate and clearly identify all Records or parts thereof submitted under this Amended CD for which the City asserts business confidentiality claims. Records submitted to EPA determined to be confidential by EPA will be afforded the protection specified in 40 C.F.R. Part 2, Subpart B. If no claim of confidentiality accompanies Records when they are submitted to EPA and the State, or if EPA has notified the City that the Records are not confidential under the standards of CERCLA Section 104(e)(7) or 40 C.F.R. Part 2, Subpart B, the public may be given access to such Records without further notice to the City.

90. If relevant to the proceeding, the Parties agree that validated sampling or monitoring data generated in accordance with the Amended RAP and reviewed and approved by EPA shall be admissible as evidence, without objection, in any proceeding under this Amended CD.

91. Notwithstanding any provision of this Amended CD, EPA and the State retain all of their information gathering and inspection authorities and rights, including enforcement actions related thereto, under CERCLA, RCRA, and any other applicable statutes or regulations.

## **XX. RETENTION OF RECORDS**

92. Until 10 years after EPA's Certification of Work Completion under Paragraph 13 (Certification of Work Completion) of the Amended RAP, the City shall preserve and retain all non-identical copies of Records (including Records in electronic form) now in its possession or control or that come into its possession or control that relate in any manner to its or any other person's liability under CERCLA with respect to the Site. The City must also retain, and instruct its contractors and agents to preserve, for the same period of time specified above all non-identical copies of the last draft or final version of any Records (including Records in electronic form) now in its possession or control or that come into its possession or control that relate in any manner to the performance of the Work, provided, however, that the City (and its contractors and agents) must retain, in addition, copies of all data generated during the performance of the Work and not contained in the aforementioned Records required to be retained. Each of the

above record retention requirements shall apply regardless of any corporate retention policy to the contrary.

93. At the conclusion of this record retention period, the City shall notify the United States and the State at least 90 days prior to the destruction of any such Records, and, upon request by the United States or the State, and except as provided in Paragraph 88 (Privileged and Protected Claims), the City shall deliver any such Records to EPA or the State.

## **XXI. NOTICES AND SUBMISSIONS**

94. All approvals, consents, deliverables, modifications, notices, notifications, objections, proposals, reports, and requests specified in this Amended CD must be in writing unless otherwise specified in this Amended CD, the Amended RAP, or by agreement of the Parties. Whenever, under this Amended CD, notice is required to be given, or a report or other document is required to be sent, by one Party to another, it must be directed to the person(s) specified below at the address(es) specified below. Any Party may change the person and/or address applicable to it by providing notice of such change to all Parties. All notices under this Section are effective upon receipt, unless otherwise specified. Notices required to be sent to EPA, and not to the United States, should not be sent to the DOJ. Except as otherwise provided, notice to a Party by email (if that option is provided below) or by regular mail in accordance with this Section satisfies any notice requirement of the Amended CD regarding such Party.

**As to the United States:**

EES Case Management Unit  
U.S. Department of Justice  
Environment and Natural Resources Division  
P.O. Box 7611  
Washington, DC 20044-7611  
eescdcopy.enrd@usdoj.gov  
Re: DJ # 90-7-1-21/2

**As to EPA:**

Director, Superfund Division  
U.S. Environmental Protection Agency  
Region 5  
77 W. Jackson Blvd. SR-6J  
Chicago, IL 60604

**and:**

Nabil Fayoumi  
EPA Project Coordinator  
U.S. Environmental Protection Agency  
Region 5  
77 W. Jackson Blvd. SR-6J  
Chicago, IL 60604  
fayoumi.nabil@epa.gov  
312-886-6840

**As to the Supervisory Accountant:** Richard Hackley  
Chief, Program Accounting & Analysis Section  
Comptroller Branch  
77 W. Jackson Blvd. SR-6J  
Chicago, IL 60604  
hackley.richard@epa.gov

**As to EPA Cincinnati Finance Center:** EPA Cincinnati Finance Center  
26 W. Martin Luther King Drive  
Cincinnati, Ohio 45268  
cinwd\_acctsreceivable@epa.gov

**As to the State:** Crague Biglow  
Supervisor, Site Remediation 2  
Minnesota Pollution Control Agency  
520 Lafayette Road N  
St. Paul, MN 55155-4194  
[crague.biglow@state.mn.us](mailto:crague.biglow@state.mn.us)

and:

Jennifer Jevnisek  
State Project Coordinator  
Minnesota Pollution Control Agency  
520 Lafayette Road N  
St. Paul, MN 55155-4194  
[jennifer.jevnisek@state.mn.us](mailto:jennifer.jevnisek@state.mn.us)

**As to the City:** Reilly Tar Site Project Coordinator  
City of St. Louis Park  
7305 Oxford Street  
St. Louis Park, MN 55426-4512

and

City Clerk  
City of St. Louis Park  
5005 Minnetonka Blvd.  
St. Louis Park, MN 55426-2216

**As to the Passive Municipal Party** City of Hopkins  
City Manager  
1010 1<sup>st</sup> Street South  
Hopkins, MN 55343

## **XXII. RETENTION OF JURISDICTION**

95. This Court retains jurisdiction over both the subject matter of this Amended CD and the City for the duration of the performance of the terms and provisions of this Amended CD for the purpose of enabling any of the Parties to apply to the Court at any time for such further order, direction, and relief as may be necessary or appropriate for the construction or modification of this Amended CD, or to effectuate or enforce compliance with its terms, or to resolve disputes in accordance with Section XIII (Dispute Resolution).

## **XXIII. APPENDICES**

96. The following appendices are attached to and incorporated into this Amended CD:

“Appendix A” is the Amended RAP.

“Appendix B” is the description and/or map of the Site.

“Appendix C” is the financial test demonstration.

## **XXIV. MODIFICATION**

97. Except as provided in Paragraph 16 (Modification of RAP or Related Deliverables), material modifications to this Amended CD shall be in writing, signed by the United States, the State, and the City, and shall be effective upon approval by the Court. Material modifications to the Amended RAP shall be in writing, signed by the United States and the City, and shall be effective upon approval by the Court. Before providing its approval to any material modification to the Amended RAP, the United States will provide the State with a reasonable opportunity to review and comment on the proposed modification. A modification to the Amended RAP shall be considered material if it implements a ROD amendment that fundamentally alters the basic features of the selected remedy within the meaning of 40 C.F.R. § 300.435(c)(2)(ii). Except as provided in Paragraph 16, non-material modifications to this Amended CD, including the Amended RAP, shall be in writing and shall be effective when signed by duly authorized representatives of the United States and the City.

98. Any modification that does not affect the obligations of or the protections afforded to the Passive Parties or the Passive Municipal Party may be executed without the signatures of the Passive Parties or the Passive Municipal Party.

99. Nothing in this Amended CD shall be deemed to alter the Court’s power to enforce, supervise, or approve modifications to this Amended CD.

## **XXV. DISMISSAL OF CERTAIN PARTIES**

100. All parties to the 1986 Consent Decree hereby stipulate that, to the extent final judgement has not been entered pursuant to the 1986 Consent Decree, all claims by or against Reilly Tar and its successors are dismissed with prejudice and without costs to any party and Reilly Tar and its successors shall no longer be a party to this action or to the Amended Consent Decree.

101. The Parties agree that the Minnesota Department of Health no longer needs to be identified as a separate party to this action. Accordingly, the United States, the State, and the Minnesota Department of Health hereby stipulate that, to the extent final judgment has not been entered pursuant to the 1986 Consent Decree, the Minnesota Department of Health's claims are dismissed with prejudice and without costs to any Party and the Minnesota Department of Health (separate from the State) shall no longer be a party to this action or to the Amended Consent Decree.

102. Effective upon entry of this Amended CD, this action shall be captioned as "In re Reilly Tar & Chemical Site" Civ. No. 4-80-469 and the City and the Passive Parties consent to the Court's continued jurisdiction over the City and the Passive Parties pursuant to this Amended CD.

## **XXVI. LODGING AND OPPORTUNITY FOR PUBLIC COMMENT**

103. This Amended CD shall be lodged with the Court for at least 30 days for public notice and comment in accordance with CERCLA Section 122(d)(2), 42 U.S.C. § 9622(d)(2), and 28 C.F.R. § 50.7. The United States reserves the right to withdraw or withhold its consent if the comments regarding the Amended CD disclose facts or considerations that indicate that the Amended CD is inappropriate, improper, or inadequate. The City consents to the entry of this Amended CD without further notice.

104. If for any reason the Court should decline to approve this Amended CD in the form presented, this agreement is voidable at the sole discretion of any Party and the terms of the agreement may not be used as evidence in any litigation between the Parties.

## **XXVII. SIGNATORIES/SERVICE**

105. Each undersigned representative of the City, Hopkins, HRA, Oak Park Village Associates, and Philip's Investment Co., and the State, and the Assistant Attorney General for the Environment and Natural Resources Division of the Department of Justice certifies that he or she is fully authorized to enter into the terms and conditions of this Amended CD and to execute and legally bind such Party to this document.

106. The City agrees not to oppose entry of this Amended CD by this Court or to challenge any provision of this Amended CD unless the United States has notified the City in writing that it no longer supports entry of the Amended CD.

## **XXVIII. FINAL JUDGMENT**

107. This Amended CD and its appendices constitute the final, complete, and exclusive agreement and understanding among the Parties regarding the settlement embodied in the Amended CD. The Parties acknowledge that there are no representations, agreements, or understandings relating to the settlement other than those expressly contained in this Amended CD.

108. Upon entry of this Amended CD by the Court, this Amended CD shall constitute a final judgment between and among the United States, the State, and the City. The Court enters this judgment as a final judgment under Fed. R. Civ. P. 54 and 58.

SO ORDERED THIS \_\_ DAY OF \_\_\_\_\_, 2018.

---

United States District Judge

Signature Page for Amended CD regarding the Reilly Tar & Chemical Corp.  
(St. Louis Park Plant) Superfund Site

**FOR THE UNITED STATES OF AMERICA:**

\_\_\_\_\_  
Dated

\_\_\_\_\_  
JEFFREY H. WOOD  
Acting Assistant Attorney General  
U.S. Department of Justice  
Environment and Natural Resources Division  
Washington, D.C. 20530

\_\_\_\_\_  
JEFFREY A. SPECTOR  
Senior Attorney  
U.S. Department of Justice  
Environment and Natural Resources Division  
Environmental Enforcement Section  
P.O. Box 7611  
Washington, D.C. 20044-7611

GREGORY G. BROOKER  
United States Attorney  
District of Minnesota

\_\_\_\_\_  
FRIEDRICH A.P. SIEKERT  
Assistant United States Attorney  
District of Minnesota  
600 United States Courthouse  
300 South Fourth Street  
Minneapolis, MN 55415  
(612) 664-5697  
Fred.Siekert@usdoj.gov

Signature Page for Amended CD regarding the Reilly Tar & Chemical Corp.  
(St. Louis Park Plant) Superfund Site

**FOR THE UNITED STATES OF AMERICA:**

---

CATHY STEPP  
Regional Administrator, Region 5  
U.S. Environmental Protection Agency  
77 W. Jackson Blvd.  
Chicago, IL 60604

---

RACHEL TOENJES ZANDER  
Associate Regional Counsel  
U.S. Environmental Protection Agency  
Region 5  
77 West Jackson Blvd.  
Chicago, IL 60604

Signature Page for Amended CD regarding the Reilly Tar & Chemical Corp.  
(St. Louis Park Plant) Superfund Site

**FOR THE STATE OF MINNESOTA:**

Date: \_\_\_\_\_

\_\_\_\_\_  
LAURA BISHOP  
Commissioner  
Minnesota Pollution Control Agency

Approved as to form and legality:

OFFICE OF THE ATTORNEY GENERAL

Date: \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
MAX KIELEY  
Assistant Attorney General  
Atty. No. 0389363  
445 Minnesota Street Suite 900  
Saint Paul, MN 55101-2127  
(651) 757-1244 (voice)  
(651) 297-7206 (TTY)  
[max.kieley@ag.state.mn.us](mailto:max.kieley@ag.state.mn.us)

Signature Page for Amended CD regarding the Reilly Tar & Chemical Corp.  
(St. Louis Park Plant) Superfund Site

**FOR THE CITY OF ST. LOUIS PARK, MN:**

\_\_\_\_\_  
Dated

\_\_\_\_\_  
JAKE SPANO  
Mayor, City of St. Louis Park  
5005 Minnetonka Boulevard  
St. Louis Park, MN 55416-2216

Approved as to form and legality:

\_\_\_\_\_  
Dated

\_\_\_\_\_  
CHARLES N. NAUEN  
Atty. No. 121216  
LOCKRIDGE GRINDAL NAUEN P.L.L.P.  
100 Washington Avenue South, Suite 2200  
Minneapolis, MN 55401-2179  
(612) 596-4006  
[cnnauen@locklaw.com](mailto:cnnauen@locklaw.com)

Signature Page for Amended CD regarding the Reilly Tar & Chemical Corp.  
(St. Louis Park Plant) Superfund Site

**FOR THE CITY OF HOPKINS, MN:**

\_\_\_\_\_   
Dated

\_\_\_\_\_   
Name (print):

Title:

Address:

Agent Authorized to Accept Service  
on Behalf of Above-signed Party:

Name (print): \_\_\_\_\_

Title: \_\_\_\_\_

Company: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

email: \_\_\_\_\_

Signature Page for Amended CD regarding the Reilly Tar & Chemical Corp.  
(St. Louis Park Plant) Superfund Site

**FOR VERTELLUS SPECIALTIES INC. (n/k/a VSI  
LIQUIDATING INC.):**

\_\_\_\_\_  
Dated

\_\_\_\_\_  
David MacGreevey  
Liquidating Trustee of the VSI Liquidating Trust  
c/o Zolfo Cooper, 1114 Avenue of the Americas  
41<sup>st</sup> Floor  
New York, NY 11036

Agent Authorized to Accept Service on Behalf of Above-signed Party: Name (print): \_\_\_\_\_  
Title: \_\_\_\_\_  
Company: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone: \_\_\_\_\_  
email: \_\_\_\_\_

Signature Page for Amended CD regarding the Reilly Tar & Chemical Corp.  
(St. Louis Park Plant) Superfund Site

**FOR THE HOUSING AND REDEVELOPMENT  
AUTHORITY OF ST. LOUIS PARK:**

\_\_\_\_\_

Dated

\_\_\_\_\_

Name (print):  
Title:  
Address:

Agent Authorized to Accept Service  
on Behalf of Above-signed Party:

Name (print): \_\_\_\_\_  
Title: \_\_\_\_\_  
Company: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone: \_\_\_\_\_  
email: \_\_\_\_\_

Signature Page for Amended CD regarding the Reilly Tar & Chemical Corp.  
(St. Louis Park Plant) Superfund Site

**FOR OAK PARK VILLAGE ASSOCIATES:**

\_\_\_\_\_  
Dated

\_\_\_\_\_  
Name (print):  
Title:  
Address:

Agent Authorized to Accept Service  
on Behalf of Above-signed Party:

Name (print): \_\_\_\_\_  
Title: \_\_\_\_\_  
Company: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone: \_\_\_\_\_  
email: \_\_\_\_\_

Signature Page for Amended CD regarding the Reilly Tar & Chemical Corp.  
(St. Louis Park Plant) Superfund Site

**FOR PHILIP'S INVESTMENT CO.:**

\_\_\_\_\_  
Dated

\_\_\_\_\_  
Name (print):  
Title:  
Address:

Agent Authorized to Accept Service  
on Behalf of Above-signed Party:

Name (print): \_\_\_\_\_  
Title: \_\_\_\_\_  
Company: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone: \_\_\_\_\_  
email: \_\_\_\_\_



# MEMO

To: Honorable Mayor and City Council

From: Jason Lindahl, City Planner

Date: June 18, 2019

Subject: Second reading of Ordinance 2019-1142 approving a zoning code text amendment related to accessory buildings and structures and authorizing its publication

---

## **Proposed Action**

Move to adopt Resolution 2019-048 approving the second reading of Ordinance 2019-1142 amending the City Code related to accessory buildings and structures and authorizing its publication.

## **Overview**

The applicant, Robb Stephens, requests a zoning code text amendment related to standards for accessory buildings or structures. While the zoning code text amendment would apply throughout the City, the applicant's request includes specific changes for the R-1-E district that would allow him to construct an additional detached accessory building (garage) on his property located at 3321 Hopkins Crossroad.

The City Council adopted a motion to approve the first reading of this item on June 4, 2019. Prior to that action by the City Council, the Planning & Zoning Commission held a public hearing and recommended the City Council approve of this item on May 28, 2019. Should the City Council approve the second reading of this ordinance, it will make the following changes and take effect upon publication scheduled for June 27, 2019.

- Allow properties in the R-1-E district to have up to 3 accessory buildings totaling no more than 1,400 square feet, provided no individual building is larger than 1,000 square feet.
- Prohibit accessory buildings or structures in front of the principal building or structure (house) in all residential zoning districts, except the R-1-E district where they shall continue to have a minimum front yard setback of 35 feet.
- Require all accessory buildings or structures greater than 200 square feet in size to be substantially compatible in design and materials with the principal building (house).
- Minor text revisions to clarify and organize the zoning standards.

The version of the ordinance before the City Council for the second reading is essentially the same as approved during the first reading, except for the design and materials standard. It now includes the term "substantially compatible" and applies to buildings greater than 200 square feet in size.

## **Attachments**

- Resolution 2019-048
- Ordinance 2019-114

**CITY OF HOPKINS**  
**Hennepin County, Minnesota**

**RESOLUTION 2019-048**

**A RESOLUTION APPROVING THE SECOND READING OF ORDINANCE 2019-1142  
AMENDING SECTIONS 520.07 OF THE CITY CODE RELATED TO ACCESSORY  
BUILDINGS & STRUCTURES AND AUTHORIZING ITS PUBLICATION**

**WHEREAS**, Robb Stephens initiated an application to amend the Zoning Ordinance related to standards for accessory buildings or structures; and

**WHEREAS**, the procedural history of the application is as follows:

1. That an application to amend the Zoning Ordinance related to accessory buildings or structures was initiated by Robb Stephens on April 26, 2019; and
2. That the Hopkins Planning & Zoning Commission, pursuant to published notice, held a public hearing to review such application on May 28, 2019 and all persons present were given an opportunity to be heard; and
3. That written comments and analysis of City staff were considered; and
4. That the Hopkins City Council reviewed this item during their June 4, 2019 meeting and adopted a motion approving the first reading of this ordinance.

**WHEREAS**, Minnesota Statutes, Section 412.191, Subd. 4, allows publication by title and summary in the case of lengthy ordinances; and

**WHEREAS**, the City Council finds that the following summary would clearly inform the public of the intent and effect of the Ordinances.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Hopkins hereby approves Resolution 2019-048 approving the second reading of Ordinance 2019-1142 amending Sections 520.07 of the City Code related to Accessory Buildings or Structures based on the findings detailed in City Council Report 2019-062.

**NOW, THEREFORE, BE IT FURTHER RESOLVED**, that the City Clerk shall cause the following summary of Ordinance 2019-1142 to be published in the official newspaper in lieu of the entire ordinance:

Public Notice

In summary, Ordinance 2019-1142 amends Section 520.07 of the City Code related to accessory buildings or structures as follows:

- Allows properties in the R-1-E district to have up to 3 accessory buildings totaling no more than 1,400 square feet, provided no individual building is larger than 1,000 square feet.
- Prohibits accessory buildings or structures in front of the principal building or structure (house) in all residential zoning districts, except the R-1-E district where they shall continue to have a minimum front yard setback of 35 feet.

- Requires all accessory buildings or structures greater than 200 square feet in size to be substantially compatible in design and materials with the principal building (house).
- Includes minor text revisions to clarify and organize the zoning standards.

Adopted this 18<sup>th</sup> day of June 2019.

---

Jason Gadd, Mayor

ATTEST:

---

Amy Domeier, City Clerk

**CITY OF HOPKINS**  
**Hennepin County, Minnesota**

**ORDINANCE NO. 2019-1142**

**AN ORDINANCE AMENDING SECTIONS 520.07 OF THE CITY  
CODE RELATED TO ACCESSORY BUILDINGS OR STRUCTURES**

THE COUNCIL OF THE CITY OF HOPKINS DOES HEREBY ORDAIN AS FOLLOWS:

**SECTION 1.** Section 520.07, Accessory Buildings or Structures, is hereby amended as follows:

**Subdivision 1. Prior construction.** No accessory building or structure other than a fence, temporary construction office or garage for residential use shall be constructed on a lot in a R district prior to the construction of the principal building. The residential garage may only be used for storage and or service when directly related and prior to the construction of the principal building to be located on said lot.

**Subd. 2. Height.** An accessory building to a residential structure may not exceed 15 feet in height. Accessory buildings in business, ~~and~~ industrial, or institutional districts may not exceed the height standard of the for principal buildings in the applicable zoning district. (~~Amended Ord. No. 87-604 & Ord. 99-823~~)

**Subd. 3. Area Size and Number.** ~~Accessory buildings to a residential structure may not exceed an aggregate area of 528 sq. ft. per dwelling unit in the R-2, R-3, R-4, R-5, and the R-6 districts. The following percentage of lot area is used for accessory districts. The following percentage of lot area is used for accessory buildings in the R-1 districts designated provided the area does not exceed 1000 sq. ft. R-1A – 12%; R-1B – 10%; R-1C – 8%; R-1D – 6%; R-1-E – 6%. (Amended Ord. No. 87-601) The total number of accessory buildings allowed to a residential structure is two. (Added Ord. 2002-873)~~

The size and number of accessory buildings or structures shall conform to the standards detailed below.

- A) In the R-1-A, R-1-B, R-1-C or R-1-D zoning districts. Up to two (2) accessory buildings or structures not exceeding a total aggregate area of 1,000 square feet.
  
- B) In the R-1-E zoning district. Up to three (3) accessory buildings or structures not exceeding a total aggregate area of 1,400 square feet, provided no individual building exceeds 1,000 square feet.

- C) R-2, R-3, R-4, R-5, and the R-6 districts. Accessory buildings or structures not exceeding a total aggregate area of 528 square feet per dwelling unit.

**Subd. 4. Side Location.** Except as otherwise provided in this code, no detached accessory building in any district shall be located closer than three (3) feet from any side or rear lot line, except that the vehicle entrance side to such building shall be not less than 20 feet from any such yard line. A detached accessory building in any district which abuts any lot in an R district shall provide yard requirement as required in the R district unless said accessory building is over 24 feet in length, in which case the required side or rear yard shall be increased 12 inches for each ten feet of length beyond 24 feet to a maximum yard of ten feet. (Amended Ord. No. 87-601)

The location of accessory buildings or structures shall conform to the standards for the specific zoning districts as detailed below.

A) Residential Front Yard Setback.

- a. In the R-1-A, R-1-B, R-1-C or R-1-D zoning districts. The minimum front setback for an accessory building shall be the same as that required for a principal building in the zoning district in which it is located or the front line of an existing principal building, whichever is greater. In no case shall an accessory building or structure be located closer to the front property line than the front line of the principal building.
- b. In the R-1-E zoning district. The minimum front setback for an accessory building shall be the same as that required for a principal building.

B) Residential Side or Rear Yard Setback. In any residential zoning district the side or rear yard setback shall be a minimum of three (3) feet except that any side of such building with a vehicle entrance shall have a minimum twenty (20) foot setback.

C) Non-Residential District Setbacks. In all non-residential zoning districts accessory buildings or structures shall comply with the setback requirements for principal buildings in the applicable zoning district.

**Subd. 5. Wall on lot line.** Detached accessory buildings in the B or I district may with written consent of the owner of the abutting side lot in the B or I district, have a masonry wall located on the lot line provided a 12 foot wide open space remains as the side yard along the other side lot line to provide access from a public right-of-way (alley or street).

**Subd. 6. Conformance Design.** ~~Detached accessory buildings when located 60 feet or less from the front lot line must conform to the yard requirements of the principal building.~~ Accessory buildings or structures greater than 200 square feet in size shall be substantially compatible in design and materials to the principal building.

**SECTION 2.** This ordinance shall take effect and be in force upon its publication, in accordance with Section 3.07 of the City Charter.

First Reading:	June 4, 2019
Second Reading:	June 18, 2019
Date of Publication:	June 27, 2019
Date Ordinance Takes Effect:	June 27, 2019

\_\_\_\_\_  
Jason Gadd, Mayor

ATTEST:

\_\_\_\_\_  
Amy Domeier, City Clerk



**CITY OF HOPKINS, MINNESOTA**

**RESOLUTION NO. 2019-052**

**APPROVING LAWS OF MINNESOTA 2019, FIRST SPECIAL SESSION, CHAPTER 1, ARTICLE 6, SECTION 18, RELATING TO TAX INCREMENT FINANCING DISTRICT 2-11**

WHEREAS, the City of Hopkins, Minnesota (the “City”) has duly established Tax Increment Financing District No. 2-11 (the “TIF District”) within the Project Area in accordance with Minnesota Statutes, Sections 469.174 through 469.1794, as amended (the “TIF Act”) and the Housing and Redevelopment Authority in and for the City of Hopkins, Minnesota administers such TIF District; and

WHEREAS, the Legislature of the State of Minnesota passed a special law extending the five-year rule of the TIF District to nine years, all as provided in Laws of Minnesota 2003, Chapter 127, Article 10, Section 31 (the “2003 Special Law”), which was amended by another special law which allowed an extension of the TIF District and the use of tax increment for housing activities, all as provided in Laws of Minnesota 2008, Chapter 366, Article 5, Section 21 (the “2008 Special Law”); and

WHEREAS, the Legislature of the State of Minnesota passed a special law providing that up to 20% of the total tax increment from the TIF District can be expended outside the TIF District for housing or redevelopment activities, all as provided in Laws of Minnesota 2019, First Special Session, Chapter 6, Article 7, Section 1 (the “2019 Special Law”); and

WHEREAS, pursuant to Minnesota Statutes, Section 645.021, subdivisions 2 and 3, the 2019 Special Law is effective upon approval by a majority vote of the governing body of the City and the filing of a certificate, including a copy of this resolution, in the form prescribed by the Minnesota Attorney General with the Minnesota Secretary of State; and

WHEREAS, the City Council of the City has determined that it is in the best interest of the City and its residents to approve the Special Law.

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

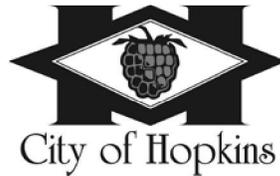
1. The 2019 Special Law is approved.
2. The City Clerk, as the chief clerical officer of the City, is hereby authorized and directed to file the certificate and a copy of this resolution, as approved, with the Minnesota Secretary of State as required by Minnesota Statutes, Section 645.021, subdivision 3.
3. City staff are authorized and directed to take any additional action necessary to implement the 2019 Special Law.

Adopted by the City Council of the City of Hopkins, Minnesota this 18<sup>th</sup> day of June, 2019.

By: \_\_\_\_\_  
Jason Gadd, Mayor

ATTEST:

\_\_\_\_\_  
Amy Domeier, City Clerk



**APPROVE ASSESSMENT OF PRIVATE WATER  
AND SEWER LINE REPAIRS**

**Proposed Action**

Staff recommends approval of the following motions:

Move that the Hopkins City Council adopt Resolution 2019-054 Approving Special Assessment for Waterline Repairs on Private Property.

Move that the Hopkins City Council adopt Resolution 2019-055 Approving Special Assessment for Sewer Line repairs on Private Property.

**Overview**

As part of a leak detection survey a homeowner was required to have their waterline replaced. The homeowner is required to make the repair based on Hopkins City Code. The homeowner received an estimate of \$6,095 for repair costs and signed an agreement June 5, 2019 petitioning the City to do the repairs and waiving their right to object to the assessment. The agreement requires the homeowner to pay \$1,250. The remaining \$4,845 will be assessed over 10 years with a 4% interest rate. The agreement allows the assessed amount to be modified to reflect the actual costs. Payment is not made until the City completes its final inspection report.

A homeowner repaired their private sewer line and requested participation in the City's program to provide long-term financing for the cost of the work through special assessments. The homeowner has received invoices totaling \$5,515 for the costs of the work and signed an agreement on June 7, 2019 petitioning the City to reimburse for the costs on repairs. The agreement required the homeowner to pay \$1,250. The remaining \$4,265 will be assessed over 10 year with a 4% interest rate. Payment is not made until the City completes its final inspection.

Hennepin County requires the City to take specific action placing the assessment on the taxes. This resolution accomplishes that requirement.

**Supporting Documents**

- Resolution 2019-054
- Resolution 2019-055



---

Nick Bishop, CPA  
Finance Director

Financial Impact: \$ <u>9,110</u> Budgeted: Y/N <u>  </u> N <u>X</u>
Source: <u>property owner</u>
Related Documents (CIP, ERP, etc.): <u>                    </u> Notes: <u>                                    </u>

**CITY OF HOPKINS  
HENNEPIN COUNTY, MINNESOTA**

**RESOLUTION NO. 2019-054**

**Approving Special Assessment for  
Waterline Repairs on Private Property**

**WHEREAS,** On June 5, 2019 the owners of property at 111 5th Ave N, Hopkins, MN and identified as 24-117-22-41-0073 signed an agreement petitioning for repairs to be done to their private waterline; and

**WHEREAS,** the owner has insufficient funds to repair the waterline; and

**WHEREAS,** the City as a program whereby the owner has the ability to petition the City to do the repairs and have the cost assessed to their taxes; and

**WHEREAS,** as part of the agreement the owner waives their right to object to the assessment,

**NOW THEREFORE BE IT RESOLVED,** that the City Council of the City of Hopkins hereby orders the assessment of \$4,845 to be placed on the taxes of the property listed above for a 10 year period with an interest rate of 4%.

Adopted by the City Council of the City of Hopkins this 18<sup>th</sup> day of June 2019.

By \_\_\_\_\_  
Jason Gadd, Mayor

ATTEST:

\_\_\_\_\_  
Amy Domeier, City Clerk

**CITY OF HOPKINS  
HENNEPIN COUNTY, MINNESOTA**

**RESOLUTION NO. 2019-055**

**Approving Special Assessment for Sewer  
Line Repairs on Private Property**

**WHEREAS,** On June 7, 2019 the owners of property at 110 9<sup>th</sup> Ave S, Hopkins, MN and identified as 23-117-22-44-0005 signed an agreement petitioning for repairs to be done to their private sewer line; and

**WHEREAS,** the owner has insufficient funds to repair the waterline; and

**WHEREAS,** the City as a program whereby the owner has the ability to petition the City to do the repairs and have the cost assessed to their taxes; and

**WHEREAS,** as part of the agreement the owner waives their right to object to the assessment,

**NOW THEREFORE BE IT RESOLVED,** that the City Council of the City of Hopkins hereby orders the assessment of \$4,265 to be placed on the taxes of the property listed above for a 10 year period with an interest rate of 4%.

Adopted by the City Council of the City of Hopkins this 18<sup>th</sup> day of June 2019.

By \_\_\_\_\_  
Jason Gadd, Mayor

ATTEST:

\_\_\_\_\_  
Amy Domeier, City Clerk

June 18, 2019



Council Report 2019-072

## 101 Oakwood Rental License Denial

### **Proposed Action.**

Staff recommends that the Council approve the following motion:

Adopt Resolution 2019-0053 denying a rental license for Ninety N Ninety LLC (Kevin Stanton) at 101 Oakwood Road based upon information in this staff report, the finding of facts in the resolution and the results of the hearing at the June 4<sup>th</sup>, 2019 council meeting.

### **Overview:**

The applicant, Kevin Stanton, on behalf of Ninety N Ninety LLC (Kevin Stanton), has submitted an application for a rental license for a single-family home at 101 Oakwood Road and for a sober house for 9 residents.

The applicant has refused inspection including refusing inspection of the rental units as required by section 407.07 of the City's rental inspection ordinance and section 405 of the Property Maintenance Code. Failure to allow the inspections mentioned above and the fact the applicant does not meet the minimum licensing standards in City Code section 407 has led staff to recommend denial of the rental license.

### **Supporting Information:**

- Resolution 2019-053
- City Code Section 407 – Rental Licensing

A handwritten signature in blue ink that reads "Christopher P. Kearney".

---

Christopher P. Kearney  
Building Official

**CITY OF HOPKINS**  
**Hennepin County, Minnesota**

**RESOLUTION 2019-\_\_**

**A RESOLUTION DENYING A RENTAL LICENSE APPLICATION FOR THE  
PROPERTY LOCATED AT 101 OAKWOOD ROAD**

**WHEREAS**, the applicant, ninety n ninety, LLC, a limited liability company formed under the laws of the state of Minnesota (the “Applicant”), submitted a rental license application dated April 10, 2019, (the “Application”) for the property located at 101 Oakwood, Hopkins, MN (the “Property”); and

**WHEREAS**, the Applicant subsequently submitted an updated and undated rental license application whereby the Applicant sought a rental license “subject to [a] sober house.”; and

**WHEREAS**, the Applicant also submitted a request for a reasonable accommodation to the City’s zoning code to allow more than four unrelated persons to reside together at the Property; and

**WHEREAS**, the City Council previously reviewed the Applicant’s request for a reasonable accommodation and adopted Resolution 2019-047, denying such request; and

**WHEREAS**, without an accommodation to the City’s zoning code, the Applicant is limited to allowing no more than four persons to reside within the Property, as permitted in the City’s zoning code; and

**WHEREAS**, pursuant to section 407.07 of the City’s code, a rental inspection is a condition precedent to the issuance of a rental license, and the Applicant refused to allow City staff an opportunity to inspect the Property in accordance with City Code and section 405 of the Property Maintenance Code<sup>1</sup>; and

**WHEREAS**, at its regularly scheduled meeting on June 4, 2019, the City Council held a hearing, of which the Applicant was provided adequate notice, as required under section 407.14 of the City Code; and

**WHEREAS**, at the hearing, the Applicant was provided with an opportunity to speak on the status of the Application, and to present evidence related to the Application; and

**WHEREAS**, section 407.14, subd. 4 of the City Code requires the City Council to make findings and a decision based on such findings, and to notify the Applicant, in writing, within 30 days following the date of said hearing.

---

<sup>1</sup> City staff had identified May 23, 2019, as the date for such inspection. The Assistant City Manager was notified by the Applicant on May 22, 2019, that he would not be available for an inspection, and would not consent to rescheduling such inspection at a later date.

**NOW, THEREFORE, BE IT RESOLVED** based on the information provided by the Applicant, and the evidence presented at the hearing before the City Council on June 4, 2019, the City Council hereby denies the rental license application based upon the following findings of facts:

1. The Applicant made oral or written misstatements accompanying the rental license application. Notably, the Applicant failed to fully apprise City staff regarding the intended use of the Property, as was evidenced by the Applicant's initial rental license application which identified the purported use of the Property as a "spiritual [sic] lodge", but which purported use changed to a "sober house" in the second application.
2. The Applicant has maintained the Property in a manner that creates a danger to the public health, safety, or welfare of the general public. Prior to submission of the Application, the Applicant allowed more than the maximum number of persons as authorized by the City's zoning code to reside on the Property, and allowed conditions to persist on the Property in a way that were injurious to the surrounding neighborhood. Examples of such activity include the parking of vehicles in non-approved parking locations, as was evidenced by the evidence and testimony provided by a group of neighbors who appeared at the hearing.
3. The Applicant refused to permit City staff to conduct a rental dwelling inspection as required under the City Code. Because of this failure, City staff was not able to judge the suitability of the Property to be used in the manner proposed by the Applicant and authorized by the City Code.
4. Because the Applicant's request for an accommodation was denied, the Applicant is not authorized to allow more than four unrelated persons to reside together on the Property, as outlined in the City's zoning code. Because the Applicant's application, in conjunction with his statements to City staff, requested permission to allow more than the maximum number of unrelated persons to reside on the Property, approval of a rental license in accordance with such request would be an ongoing violation of the City Code, and therefore is prohibited by section 407.14, subd. 1(i).
5. At several points, including prior to and near the end of the hearing, the Applicant stated to City staff that he no longer wanted a rental license. However, because the City did not receive a written withdrawal of the application, it was processed in the ordinary course of business.

**NOW, THEREFORE, BE IT FURTHER RESOLVED** by the City Council of the City of Hopkins that the denial outlined herein shall apply to the Property located at 101 Oakwood Road, and shall remain in effect until such time as the Applicant has obtained a valid rental license from the City for the Property. Pursuant to section 407.15 of the City Code, the Applicant shall refrain from engaging in the rental of any rental dwelling unit(s) located at the address above until such time as a valid rental license is obtained.

**NOW, THEREFORE, BE IT FURTHER RESOLVED** by the City Council of the City of Hopkins that all recitals set forth in this Resolution are incorporated into and made part of this Resolution, and more specifically, constitute the express findings of the City Council. The City Clerk shall provide written notice of this decision, by first class mail, to the Applicant within 30 days of the hearing date, June 4, 2019, as required by section 407.14, subd. 4 of the City Code. A duplicate notice of this decision shall be sent to the building official.

Adopted by the City Council of the City of Hopkins this 18<sup>th</sup> day of June, 2019.

ATTEST:

\_\_\_\_\_  
Amy Domeier, City Clerk

\_\_\_\_\_  
Jason Gadd, Mayor

### Section 407 – Rental Licenses

407.01. Purpose. It is the purpose of this Section to assure that rental housing in the City is decent, safe and sanitary and is so operated and maintained as not to become a nuisance to the neighborhood or to become an influence that fosters blight and deterioration or creates a disincentive to reinvestment in the community. The operation of rental dwelling units is a business enterprise that entails certain responsibilities. Operators are responsible to take such reasonable steps as are necessary to assure that the citizens of the city who occupy such units may pursue the quiet enjoyment of the normal activities of life in surroundings that are: safe, secure and sanitary; free from crimes and criminal activity, nuisances or annoyances.

407.02. Preamble. The City believes that providing for public health, safety and welfare to its citizens mandates the existence of a rental dwelling unit license and maintenance program that corrects substandard conditions and maintains a standard for rental dwelling units.

407.03. Scope. This Section applies to all dwelling units that are leased in whole or in part as rental dwelling units. It includes accessory structures such as garages and storage buildings and appurtenances such as sidewalks and retaining walls, which are on the property. This Section does not apply to Minnesota Department of Health licensed rest homes, convalescent care facilities, nursing homes, hotels or motels licensed by the City.

407.04. Definitions.

Subd.1. Apartment Building: Any building or portion thereof that contains three or more dwelling units, sleeping rooms, or a combination thereof but not including condominiums or town homes.

Subd. 2. Building Official: The Building Official for the City of Hopkins or his/her duly authorized representative(s).

Subd. 3. City: Shall mean the City of Hopkins.

Subd. 4. City Council: Shall mean the City Council of the City of Hopkins.

Subd. 5. Condominium: Condominium is a single dwelling unit in a multi-dwelling unit building that is separately owned and may be combined with an undivided interest in the common areas and facilities of the property. Each individual owner may sell or encumber his/her own unit.

Subd. 6. Denial: As used in the City of Hopkins Ordinances is the refusal to grant a license to a new or renewing applicant by the City.

Subd. 7. Dwelling Unit: Any building or portion thereof that contains living facilities, including provisions for sleeping, eating, cooking and sanitation, for not more than one family.

Subd. 8. Dwelling, Single-Family: A building or portion thereof containing one dwelling unit. For purposes of this Section, a single family dwelling unit includes a free standing single family residence, a single dwelling in a cooperative, an individual condominium or townhouse, a single dwelling unit in a non-residential structure or a dwelling unit offered for rent in a duplex in which the owner occupies the other dwelling unit.

Subd. 9. Dwelling, Two-Family: A building or portion thereof containing two dwelling units.

Subd. 10. Efficiency Dwelling Unit: A dwelling unit containing only one habitable room plus bathroom facilities.

Subd. 11. Lease: An oral or written agreement between a dwelling unit owner and a tenant for temporary use of a rental dwelling unit, usually in exchange for payment of rent.

Subd. 12. License: The formal approval of an activity specified on the certificate of license issued by the City of Hopkins.

Subd. 13. Rent: The consideration paid by a tenant to the owner of a rental dwelling unit for temporary and exclusive use of the rental dwelling unit by the tenant. The consideration is not limited to cash.

Subd. 14. Rental Dwelling Unit: A dwelling unit or sleeping room occupied and leased by a tenant.

Subd. 15. Revoke: To take back a license issued by the City of Hopkins.

Subd. 16. Sleeping Room: Any room or rooms used or intended to be used by a tenant for sleeping purposes with or without meals and not licensed by the Minnesota Department of Health.

Subd. 17. Suspend: To make a license temporarily inoperative.

Subd.18. Tenant: Any adult person granted temporary use of a rental dwelling unit or sleeping room pursuant to a lease with the owner of the rental dwelling unit.

Subd. 19. Townhouse: A single-family dwelling constructed in a group of dwellings attached to each other and where each dwelling unit extends from the foundation to the roof and is separated from other dwelling units by property lines.

#### 407.05. Rental License.

Subd. 1. Required. No person shall operate, let or cause to be let, a rental dwelling unit, which has not been properly licensed by the City of Hopkins in the manner required by this Ordinance. A license must be obtained for each residential dwelling unit except, two or more residential dwelling units located within a single building and having a common owner and a common property identification number shall require only a single license. Upon receipt of the properly executed initial application for a rental license, the building official may cause an inspection to be made of the rental dwelling unit(s) to determine whether it is in compliance with Section 405, other Hopkins ordinances, and the laws of the State of Minnesota. Every rental dwelling unit may be re-inspected after a renewal application is filed to determine if it still conforms to all applicable codes and ordinances.

Subd. 2. Criminal Background Check. The licensee shall conduct criminal background checks on all prospective tenants. The criminal background check must include the following:

- a) A statewide (Minnesota) criminal history check of all prospective tenants covering at least three years; the check must be done utilizing the most recent update of the state criminal history files;
- b) A statewide criminal history check from the prospective tenant's previous state of residence, if available, if the tenant is moving directly from the previous state;
- c) A criminal history check of any prospective tenant in their previous states of residence, if available, covering the last three years if they have not resided in Minnesota for three years or longer;
- d) A criminal history check of any prospective tenant must be conducted in all seven counties in the metro Twin City area (Hennepin, Ramsey, Anoka, Carver, Dakota, Scott and Washington) covering at least the last three years including all misdemeanor, gross misdemeanor, and felony convictions.

Subd. 3. Disorderly Behavior Lease Provisions. All tenant leases shall contain crime-free drug-free provisions or equivalent that prohibits the disorderly behavior identified in section 407.13. These lease provisions shall be incorporated into every new lease for a tenancy beginning February 14, 2008 or the day this ordinance is officially adopted by the City of Hopkins and all renewed leases by January 1, 2009.

Subd. 4. Application Filed. A license application shall be submitted to the building official on forms furnished by the City of Hopkins and must contain the following information:

- a) Name, address, and telephone number of the owner of the rental dwelling unit(s). This is the address that all future correspondence from the city will be sent to. Owner shall indicate if the owner is a corporation, partnership, or sole proprietorship.
- b) Name, address, and telephone number of any owner's agent responsible for the management of the rental dwelling unit(s).
- c) Street address of the rental dwelling unit(s).
- d) Number and type of dwelling units (one (1) Bedroom, Two (2) Bedrooms, etc....)
- e) Owner shall certify compliance with the requirement for conducting background checks on perspective tenants found in Subd. 2.
- f) Owner shall certify compliance with the requirement to include disorderly behavior lease provisions required in Subd. 3.

Subd. 5. Changes in Ownership and Amended Licenses. A license is not assignable. Any changes occurring in the ownership of a rental dwelling unit(s) require a new license. The new owner must obtain a new license within thirty (30) days of acquiring the property. The fee paid for the new license shall be the fee required for an initial license. If any changes occur in any information required on the license application, the owner must submit an amended license application to the City within thirty (30) days of the change. If any rental dwelling units are added to a current license, the additional rental dwelling units must be licensed by amendment of the current license and must be accompanied by the fee required for the additional units.

Subd. 6. Annual Licensing. All rental dwelling units shall be licensed before being let, in whole or in part. Licenses will expires annually at midnight on October 31. The license for each building containing rental dwelling units must be renewed annually on or before October 31. Rental dwelling units must be registered as a sleeping room, a single-family dwelling, a two-family dwelling, or an apartment building. Any unlicensed rental dwelling units are subject to penalties.

Exemptions: Rental licenses are not required for dwelling units that an immediate relative occupies. For the purpose of this exemption, relative shall be defined as a husband, wife, father, mother, son, daughter, brother, sister, grandson, granddaughter, grandfather, or grandmother.

Subd. 7. License Fee. All license fees required by this section are set forth by City Council resolution. These must accompany the license application. The license fee is doubled when an application is received more than thirty (30) days after it was due.

Exception: Rental dwelling units owned or under the control of the City must be licensed but are exempt from paying license fees.

Subd. 8. Inspection Fee. Inspection fees will be charged at the time dwelling units are inspected. Inspection fees required by this section are set forth by City Council resolution.

Subd. 9. Record Retention. The license application and all other documents pertinent to a rental dwelling unit shall be kept on file in the office of the building official. A copy shall be furnished to the owner or other authorized person upon request.

407.06. Issuance of License. The City shall issue a license if the rental dwelling unit(s) and the application are found to be in compliance with the provisions of section 407.09 and any required license fees are paid. A license will be issued for each residential dwelling unit except, two or more residential dwelling units located within a single building and having a common owner and a common property identification number shall be issued a single license. This ordinance does not require posting of Rental licenses, however the property owner or agent for the owner must be able to present the license if asked to do so.

407.07. Minimum Inspection Standards. The minimum standard to be used for inspections, pursuant to section 407.09, for compliance with the Property Maintenance Code for buildings as adopted and amended by Hopkins Ordinance Section 405, et seq., and shall include the inspection of the building exterior, the common areas and the basement. In addition, if there are ten (10) or fewer individual dwelling units in the building, minimum inspection requirements include inspecting fifty (50) percent of the individual dwelling units, with a minimum of at least one (1) dwelling unit. If there are between eleven (11) and twenty-four (24) individual dwelling units, inclusive, in the building, minimum inspection requirements include inspecting five (5) individual dwelling units in the building. If there are twenty-five (25) or more individual dwelling units in the building, minimum inspection requirements include inspecting twenty (20) percent of the individual dwelling units. The specific individual dwelling units to be chosen for inspection shall be determined pursuant to inspection division policy.

If the rental dwelling structure is considered to be “substandard” as defined by section 407.10, the building official or authorized representative may inspect additional units, up to all of the units in the building.

407.08. Inspection guidelines. The Building Official shall adopt a policy for inspecting all rental dwellings, which are required to be licensed under this article, consistent with inspection procedures set forth in this section. The policy shall contain objectives for the systematic inspection of all rental dwellings and priorities for the use of scarce inspection resources. The guidelines may be based upon any of the following factors and any other factors deemed by the director to promote an efficient inspections program:

- a. Geographic distribution and concentration of rental dwellings.
- b. Rental dwellings with delinquent property taxes.
- c. Property identified by the inspections division as having an excessive number of housing code violations or a history of noncompliance or slow compliance with housing inspection orders.
- d. Rental dwellings for which no license has been obtained.
- e. Rental dwellings with an excessive number of police calls for drug offenses, prostitution, crimes of force or violence, and loud disturbances or parties.
- f. Sale of the equitable interest in a rental dwelling property.
- g. Conversion of homesteaded dwelling units to rental dwelling units.

407.09. Licensing standards. The following minimum standards and conditions shall be met in order to hold a rental dwelling license under this article. Failure to comply with any of these standards and conditions shall be adequate grounds for denial, refusal to renew, revocation, or suspension of a rental dwelling license.

- (a) The licensee or applicant shall have paid the required license fee.
- (b) Rental dwelling units shall not exceed the maximum number of dwelling units permitted by the zoning ordinance.
- (c) No rental dwelling or rental dwelling unit shall be over occupied or illegally occupied in violation of the zoning ordinance or the Property Maintenance Code.
- (d) The rental dwelling shall not have been used or converted to rooming units in violation of the zoning ordinance.

- (e) The owner shall not allow weeds, vegetation, junk, debris, or rubbish to accumulate repeatedly on the exterior of the premises so as to create a nuisance condition. If the city is required to abate such nuisance conditions under section 605.02 of the City Code, or collect, gather up or haul solid waste more than three (3) times during a period of twelve (12) months or less, it shall be sufficient grounds to deny, revoke, suspend or refuse to renew a license.
- (f) The rental dwelling or any rental dwelling unit therein shall not be in substandard condition, as defined in section 407.10.
- (g) The licensee or applicant shall have paid the required initial inspection and reinspection fees.
- (h) The licensee or his or her agent shall allow the building official or authorized representative to perform a rental license review inspection as set forth in section 407.12.
- (i) There shall be no delinquent property taxes or assessments on the rental dwelling.
- (j) There is no active arrest warrant for a Property Maintenance Code or Zoning Ordinance violation pertaining to any property in which the licensee, applicant or property manager has a legal or equitable ownership interest or is involved in management or maintenance.
- (k) Any person(s) who has had an interest in two (2) or more licenses revoked pursuant to this article or canceled pursuant to section 407.14 or a combination of revocations or cancellations shall be ineligible to hold or have an interest in a rental dwelling license for a period of five (5) years.
- (l) No new rental dwelling license shall be issued for the property during the pendency of adverse license action initiated pursuant to section 407.14.
- (m) The licensee or applicant must have a current, complete, and accurate rental dwelling application on file with the housing inspector in accord with the provisions of section 407.05

407.10. Substandard dwelling. A rental dwelling structure shall be considered substandard if:

- (a) At least one dwelling unit within the structure scores twenty-five (25) or more points; or
- (b) The entire structure scores more than the points shown below based on the number of units within the structure:

TABLE INSET:

<i>Number of Units</i>	<i>Total Points</i>
<i>1</i>	<i>25</i>
<i>2</i>	<i>30</i>
<i>3</i>	<i>35</i>
<i>4</i>	<i>40</i>
<i>5 or more</i>	<i>10 points per unit; or</i>

- (c) Any major violation within the dwelling remains uncorrected. Any single violation scoring six (6) or more points is considered a major violation.

For purposes of the point calculation in this section, any combination of four (4) rooming units or shared bath units shall constitute one (1) dwelling unit. Points for a violation in a common area of the structure outside a dwelling unit will not be cumulative on a unit-by-unit basis. However, twenty-five (25) or more points in the common areas of a structure, including, but not limited to, the entryways, corridors, community rooms, exterior walls and roof, will constitute a substandard structure.

The Building Official shall cause to be prepared and shall keep on file for public inspection a rental licensing inspection deficiency point system used in the point calculation procedure set forth herein. The Building Official or authorized representative shall assign points according to the severity of each code violation on a scale from one up to the maximum points possible for such violation. Except when otherwise provided by state law, conditions in the design or structure of a building, such as, but not limited to, the size and dimension of rooms and windows and the electrical and plumbing systems that were legal under existing codes when built shall not be violations as long as they are maintained in good repair. A violation shall receive maximum points when a required item is completely absent, completely fails to perform its function, or is imminently hazardous to the health or safety of the occupants.

407.11. Authority. The Building Official shall be responsible for enforcement and administration of this ordinance. Authority to take any action authorized under this section may be delegated to the building official's authorized designee.

407.12. Inspection. The Building Official may set up a schedule of periodic inspections to insure compliance with this Section. The building official shall provide reasonable notice to the owner or the owner's agent as to the date and time of the inspection. Each occupant of a rental dwelling unit shall give the owner or the owner's agent access to any part of such rental dwelling unit at reasonable times for the purpose of effecting inspection, maintenance, repairs or alterations as are necessary to comply with the provisions of this Ordinance. If any owner, owner's agent or tenant of a rental dwelling unit fails or refuses to permit entry to the rental dwelling unit under his/her control for an inspection pursuant to this Ordinance the building official may seek a Court Order authorizing such inspection.

407.13. Disorderly Behavior at Licensed Rental Dwelling Units.

Subd. 1. Responsibility. It shall be the licensee's responsibility to ensure that the tenants, the tenants' family members and the guests of any tenant or tenant's family member not engage in disorderly behavior in the rental dwelling unit. For the purposes of this section, rental dwelling unit shall include common areas in the building where the rental dwelling unit is located.

Subd.2. Disorderly Behavior. For the purposes of this section, disorderly behavior may include but is not limited to the following:

- a) Drug-related illegal activity in the rental dwelling unit. "Drug-related illegal activity" means the illegal possession, manufacture, sale, distribution, purchase, use, or possession with intent to manufacture, sell, or distribute a controlled substance (as defined in the Controlled Substance Act [21 U.S.C. 802]) or possession of drug paraphernalia (MS 152.092). A tenant shall be deemed to be in possession of a controlled substance if any amount is located in the tenant's rental dwelling unit even if the tenant claims not to know the controlled substance was present unless the tenant provides a sworn statement by a person, other than another tenant or tenant's family member, that the controlled substance was theirs and the tenant had no knowledge of the controlled substance.
- b) Acts of violence or threats of violence including but not limited to discharge of firearms, prostitution, intimidation, or any other act that otherwise jeopardizes the health, safety or welfare of the licensee, his agents or tenants.
- c) Violation of Minnesota Statute, Section 609.72 (Disorderly Conduct)
- d) Violation of Minnesota Statutes 609.74 and 609.745 (Public Nuisance)
- e) Violation of Minnesota Statutes 609.66, Subd.1a, 609.67 or 624.713 (Unlawful use or possession of a firearm or weapon)
- f) Violation of Minnesota Statute 609.50 (Obstructing Legal Process)
- g) Violation of Hopkins Code 2005.01, Subd. 1 or Subd. 2, (Firearms).

- h) Violation of Hopkins Code 2005.59, Subd. 8 or Subd. 12 (Nuisances)
- i) Violation of Hopkins Code 2005.61 (Noise)

Exceptions: 1. An “emergency call,” within the definition of Minnesota Statutes section 609.78, subd. 3, will not be considered an instance of disorderly behavior for purposes of determining whether a license will be denied, suspended, non-renewed or revoked where the victim and suspect are “Family or household members” as defined in the Domestic Abuse Act, Minnesota Statutes, Section 518B 01, Subd.2 (b) and where there is a report of “Domestic Abuse” as defined in the Domestic Abuse Act, Minnesota Statutes, Section 518B 01, Subd. 2 (a).

2. An “emergency call,” within the definition of Minnesota Statutes section 609.78, subd. 3, will not be considered an instance of disorderly behavior for purposes of determining whether a license will be denied, suspended, non-renewed or revoked where the call is a result of a tenant, a member of a tenant’s household, or guest taking action to seek emergency assistance that is protected by Minnesota State Statute 504B.205, Residential tenant’s right to seek police and emergency assistance.

Subd. 3. First Instance. Upon determination by the building official that a rental dwelling unit was the location of disorderly behavior, the building official shall notify by first class mail the licensee and tenant of the violation and direct the licensee to take steps to prevent further violations.

Subd. 4. Second Instance. If a second instance of disorderly behavior occurs at a rental dwelling unit within twelve (12) months of the time a notice was sent for previous disorderly behavior at the same unit, the building official shall notify by first class mail the licensee and the tenant of the violation and direct the licensee to submit, within ten (10) days of the date of the notice, a written report of all actions taken by the licensee since the first violation notice and actions the licensee intends to take to prevent further disorderly behavior.

Subd. 5. Third Instance. If a third instance of disorderly behavior occurs at a rental dwelling unit within twelve (12 ) months after the first of two previous notices of disorderly behavior at the same unit, the rental dwelling unit license may be revoked, suspended or not renewed by the City Council upon the recommendation of the building official. The building official shall make his/her decision to recommend revocation, suspension or non-renewal of the license and submit his/her recommendation to the City Council within fifteen (15) days of the third instance of disorderly behavior.

Subd. 6. For purposes of this Section, second and third instances of disorderly behavior shall be those which:

- a) Occur at the same rental dwelling unit; or
- b) Involve tenants at the same rental dwelling unit; or
- c) Involve guests or invitees at the same rental dwelling unit; or
- d) Involve guests or invitees of the same tenant; or
- e) Involve the same tenant.

Subd. 7. Postponing License Action. No adverse license action shall be imposed where the instance of disorderly behavior occurred during pending eviction proceedings (unlawful detainer) or within thirty (30) days of notice given by the licensee to a tenant to vacate the rental dwelling unit. However, adverse license action may proceed when the licensee fails to diligently pursue the eviction process. Further, an action to deny, revoke, suspend, or not renew a license based upon violations of this section may be postponed or discontinued at any time if the licensee has taken appropriate measures which will prevent further instances of disorderly behavior which may include a failed eviction process.

Subd. 8. Determining Disorderly Behavior of a License. A determination that the rental dwelling unit has been the location of disorderly behavior shall be made by a preponderance of the evidence to support such a determination. It shall not be necessary that criminal charges be brought in order to support a determination of disorderly behavior, nor shall the fact or dismissal or acquittal of such a criminal charge operate as a bar to adverse license action under this section.

Subd. 9. Enforcement. Enforcement actions provided in this section shall not be exclusive, and the city council may take any action with respect to a licensee, a tenant, or the licensed rental dwelling unit(s) as is authorized by this ordinance or state law.

#### 407.14. Revoking, Suspending, Denying or Not Renewing a License.

Subd. 1. The City Council may revoke, suspend, deny or decline to renew any license issued under this Section. In buildings containing more than one rental dwelling unit, the revocation, suspension, denial or declination may apply to one or more rental dwelling units at the discretion of the Council. The basis for such revocation, suspension, denial or non-renewal includes, but is not limited to, any of the following circumstances:

- a) The license was procured by misrepresentation of material facts with regard to the rental dwelling unit or the ownership of the rental dwelling unit.
- b) The applicant or one acting in his/her behalf made oral or written misstatements accompanying the application.
- c) The applicant has failed to comply with any condition set forth in any other permits granted by the City of Hopkins.
- d) The activities of the owner/agent create or have created a danger to the public health, safety or welfare.
- e) The rental dwelling unit contains conditions that might injure or endanger the safety, health or welfare of any member of the public.
- f) Failure to pay any application, penalty or reinstatement fee required by this Section and City Council resolution.
- g) Failure to correct violations of Hopkins City Code section 405 (Property Maintenance Code) in the time period specified in the notice of violation and correction.
- h) Following the third instance of disorderly behavior specified in section 407.13 that is not subject to the exception set forth in subdivision 2(i), Section 407.13, or the circumstances set forth in subdivision 7, Section 407.13.
- i) Violation of any regulation or provision of the code applicable to the activity, to which the license has been granted, or any regulation or law of the state so applicable.
- j) Failure to continuously comply with any condition required of the applicant for the approval or maintenance of the license.
- k) Any violation of this Section.

Subd. 2. Notification. The building official shall notify the owner or the owner's agent in writing of the basis for the revocation, suspension, denial or non-renewal and the date upon which the City Council shall review the request to revoke, suspend, deny, or not renew the license. The notice required by this section shall be served upon the owner or the owner's agent at least twenty (20) days before the City Council hearing. Service shall be deemed sufficient if the notice is sent to the owner or the owner's agent by first class mail at the address provided in the license application. It shall be the responsibility of the owner or the owner's agent to notify the tenant in writing of the hearing date, time and place.

Subd. 3. Hearing. The owner or the owner's agent and the building official shall be given an opportunity to be heard. The owner may be represented by counsel. Both sides may be permitted to examine the other side's witness(es). The Council shall hear all relevant evidence and arguments and shall review all testimony, documents, and other evidence submitted. The Council shall record the hearing and keep a record of documentary evidence submitted.

Subd. 4. Decision. The City Council shall make findings based on the evidence and shall make a decision on the recommendation to revoke, suspend, deny, or non-renew a license based on the findings. The City Council shall issue a written decision regarding the recommendation of the building official within 30 days following the date of the hearing and shall notify the appellant of the decision by first class mail with a duplicate copy to the building official. The decision shall specify the rental dwelling unit or units to which it applies, the duration of the revocation, suspension, denial or non-renewal, and the conditions that must be met before the license may be reissued or reinstated. Thereafter, and until a license is reissued or reinstated, no rental dwelling units that have had their rental license revoked, suspended, denied, or non-renewed may be re-let or occupied. Revocation, suspension, denial, or non-renewal of a license shall not excuse the owner from compliance with all terms of this section for as long as any rental dwelling units in the building are occupied.

Subd. 5. License Process after Revocation, Suspension, Denial or Renewal Declination. After the City Council revokes, suspends, denies or declines to renew a license, no license will be issued for the affected rental dwelling unit(s) until the building official determines that the applicant/licensee has remedied the conditions identified by the City Council as the basis for its action. An application to obtain a license for a rental dwelling unit after the City Council has revoked, suspended, denied or declined to renew a license for the same rental dwelling unit(s) must be accompanied by all fees required by this section.

407.15. Effect of Revocation, Suspension, Denial, or Non-Renewal. If a license is revoked, suspended, denied or not renewed by the City Council, it shall be unlawful for the owner or the owner's agent to thereafter permit the occupancy of the then vacant or, thereafter vacated, rental dwelling unit(s), until such time as a valid rental license is obtained for the rental dwelling unit(s). Issuance of a new license after revocation, suspension, denial or non-renewal shall be made in the manner provided for in Section 407.05.

407.16. Posted to Prevent Occupancy. Whenever any rental dwelling unit has been denied an initial license, had its license revoked, suspended, denied or not renewed it shall be posted by the building official to prevent further occupancy. No person, other than the building official shall remove or alter any posting. The building official will post the date the rental dwelling unit shall be vacated and no person shall reside in, occupy or cause to be occupied that rental dwelling unit until the building official permits it.

407.17. Penalties. A person who violates the provisions of Section 407 may be charged with a misdemeanor or be subject to the issuance of an administrative citation as provided in Section 355 or both. Each day that a violation continues shall be deemed a separate offense. The building official may post the rental dwelling unit by appropriate signs or notices prohibiting occupancy, and may act to cause the rental dwelling unit to be vacated or remain vacant until the Code violations are corrected.

407.18 No Retaliation: Per Minnesota State Statute Section 504B.205, Subd. 2, Emergency calls permitted. (a) A landlord may not: (1) bar or limit a residential tenant's right to call for police or emergency assistance in response to domestic abuse or any other conduct; or (2) impose a penalty on a residential tenant for calling for police or emergency assistance in response to domestic abuse or any other conduct. (b) A residential tenant may not waive and a landlord may not require the residential tenant to waive the residential tenant's right to call for police or emergency assistance.

407.19. No Warranty by City. By enacting and undertaking to enforce this Ordinance, the City, City Council, its agents, and employees do not warrant or guarantee the safety, fitness or suitability of any dwelling in the City. Owners and occupants should take whatever steps they deem appropriate to protect their interests, health, safety and welfare. (This section was added through Ord. No. 95-764) (Amended by Ord. 2002-890)

Section 407 was amended by Ord. 2008-994.



June 18, 2019

Council Report 2019-069

**Resolution Approving an On Sale Liquor License and Sunday Sales Liquor License for El Lorito of Hopkins, Inc. dba El Lorito Mexican Grill**

**Proposed Action**

Staff recommends adoption of the following motion: Move to grant an On Sale Liquor License and Sunday Sales Liquor License to El Lorito of Hopkins, Inc. dba El Lorito Mexican Grill by adopting Resolution 2019-051.

**Overview**

In accordance with City Code section 1200.28, the City Council will consider and allow for public comment on the application from Alex Gomez. The application is for on sale liquor with Sunday sales at El Lorito located at 502 Blake Road North. The licensed premise includes the interior space at 502 Blake Road North.

The Police Department reviewed the application for the liquor license request and conducted a background investigation. The Police Department has no reservations in approving the licenses based upon the results of the investigation. As a liquor license holder, El Lorito representatives will be required to attend liquor control training and will be subject to alcohol compliance checks.

Upon City Council approval of the liquor license request, the State application will be sent to the Minnesota Department of Public Safety, Alcohol and Gambling Enforcement Division, for certification. The liquor licenses will become effective upon all conditions being met in Resolution 2019-051 and will expire on June 30, 2020.

**Supporting Information**

- Resolution 2019-051
- The complete application is on file in the City Clerk’s office.

*Amy Domeier*

Amy Domeier, City Clerk

Financial Impact: _____ Budgeted: Y/N <u>N</u> Source: _____ Related Documents (CIP, ERP, etc.): _____ Notes: _____
---

**CITY OF HOPKINS  
HENNEPIN COUNTY, MINNESOTA**

**RESOLUTION 2019-051**

**APPROVING AN ON SALE LIQUOR LICENSE AND SUNDAY SALES LIQUOR LICENSE  
TO EL LORITO OF HOPKINS, INC. DBA EL LORITO MEXICAN GRILL**

**WHEREAS**, the City Council, pursuant to City Code Section 1200.28, allowed public comment on June 18, 2019, with respect to the issuance of an On Sale Liquor License and Sunday Sales Liquor License to El Lorito of Hopkins, Inc. dba El Lorito Mexican Grill, for its restaurant located at 502 Blake Road North, Hopkins; and

**WHEREAS**, the City Council has reviewed the application as it is on file with the City Clerk; and

**WHEREAS**, the Hopkins Police Department has reviewed the application as it is on file with the City Clerk and has no reservations about the licensers being issued.

**NOW, THEREFORE BE IT NOW RESOLVED**, by the City Council of the City of Hopkins as follows:

1. To grant and approve an On Sale Liquor License and Sunday Sales Liquor Licenses to El Lorito of Hopkins, Inc. dba El Lorito Mexican Grill for the premise located at 502 Blake Road North.
2. The license is conditioned on the applicant's ongoing compliance with its application that is on file with the City Clerk, including its ongoing operation as a restaurant, and is further subject to the following:
  - A. All terms and conditions of the City Code Chapter 1200 Sale, Consumption and Display of Alcoholic Beverages and Minnesota Statute 340A.
  - B. Final inspection by the City Building Official.
  - C. Final inspection by the City Fire Marshal.
  - D. Final inspection by the City Planner.
  - E. Final inspection by the Hennepin County Health Inspector.
3. The Mayor and City Clerk are hereby authorized to execute said license.
4. This license shall expire at 11:59 p.m. on June 30, 2020.

Adopted by the City Council of the City of Hopkins this 18th day of June, 2019.

\_\_\_\_\_  
Jason Gadd, Mayor

ATTEST:

\_\_\_\_\_  
Amy Domeier, City Clerk



June 18, 2019

Council Report 2019-069

**Resolution Approving an On Sale Liquor License and Sunday Sales Liquor License for T,T & J Ventures, LLC dba Thirty Bales**

**Proposed Action**

Staff recommends adoption of the following motion: Move to grant an On Sale Liquor License and Sunday Sales Liquor License to T,T & J Ventures, LLC dba Thirty Bales by adopting Resolution 2019-050.

**Overview**

In accordance with City Code section 1200.28, the City Council will consider and allow for public comment on the application from T,T & J Ventures. The application is for on sale liquor with Sunday sales at Thirty Bales located at 1106 Mainstreet. The licensed premise includes the interior space and outdoor seating area at 1106 Mainstreet.

Tom Hutsell and Todd DuPont of Take One Enterprises previously owned all of Thirty Bales. City Code requires that any transfer or sale of more than 10% of the shares will require a new liquor license. Bill Beard is now 50% owner in Thirty Bales. Tom Hutsell and Todd DuPont will each own 25%. Together the owners make up the new LLC.

The Police Department reviewed the application for the liquor license request and conducted a background investigation on Bill Beard. The Police Department has no reservations in approving the licenses based upon the results of the investigation. As a liquor license holder, Thirty Bales representatives will be required to attend liquor control training and will be subject to alcohol compliance checks.

Upon City Council approval of the liquor license request, the State application will be sent to the Minnesota Department of Public Safety, Alcohol and Gambling Enforcement Division, for certification. The liquor licenses will become effective upon all conditions being met in Resolution 2019-050 and will expire on June 30, 2020.

**Supporting Information**

- Resolution 2019-050
- The complete application is on file in the City Clerk's office.



Amy Domeier, City Clerk

Financial Impact: _____ Budgeted: Y/N <u>N</u> Source: _____
Related Documents (CIP, ERP, etc.): _____
Notes:

**CITY OF HOPKINS  
HENNEPIN COUNTY, MINNESOTA**

**RESOLUTION 2019-050**

**APPROVING AN ON SALE LIQUOR LICENSE AND SUNDAY SALES LIQUOR LICENSE  
TO T,T & J VENTURES, LLC DBA THIRTY BALES**

**WHEREAS**, the City Council, pursuant to City Code Section 1200.28, allowed public comment on June 18, 2019, with respect to the issuance of an On Sale Liquor License and Sunday Sales Liquor License to T,T & J Ventures, LLC dba Thirty Bales, for its restaurant located at 1106 Mainstreet, Hopkins; and

**WHEREAS**, the City Council has reviewed the application as it is on file with the City Clerk; and

**WHEREAS**, the Hopkins Police Department has reviewed the application as it is on file with the City Clerk and has no reservations about the licensers being issued.

**NOW, THEREFORE BE IT NOW RESOLVED**, by the City Council of the City of Hopkins as follows:

1. To grant and approve an On Sale Liquor License and Sunday Sales Liquor Licenses to T,T & J Ventures, LLC dba Thirty Bales for the premise located at 1106 Mainstreet.
2. The license is conditioned on the applicant's ongoing compliance with its application that is on file with the City Clerk and is further subject to the following:
  - A. All terms and conditions of the City Code Chapter 1200 Sale, Consumption and Display of Alcoholic Beverages and Minnesota Statute 340A.
3. The Mayor and City Clerk are hereby authorized to execute said license.
4. This license shall expire at 11:59 p.m. on June 30, 2020.

Adopted by the City Council of the City of Hopkins this 18th day of June, 2019.

\_\_\_\_\_  
Jason Gadd, Mayor

ATTEST:

\_\_\_\_\_  
Amy Domeier, City Clerk

June 18, 2019



City Council Report 2019-066

## 2040 Comprehensive Plan Update – Cultivate Hopkins

**Proposed Action:** Staff recommends the City Council adopt the following motion: Move to adopt Resolution 2019-049, directing the City Planner to distribute the 2040 Comprehensive Plan Update – Cultivate Hopkins to the Metropolitan Council pursuant to Minnesota Statutes Section 473.864

### **Overview**

The latest version of the 2040 Comprehensive Plan Update – Cultivate Hopkins is now available on the City’s website for your review. This version reflects edits and revisions made based on feedback received during the required 6 month interjurisdictional review period. These comments and any associated changes to the plan are detailed in the attached Comment Tracker. The Planning & Zoning Commission reviewed these comments and held the required public hearing on this item during their May 28, 2019 meeting. After their review, the Commission voted to recommend the City Council direct the City Planner to distribute the Comprehensive Plan to the Metropolitan Council.

The plan is summarized in the attached memo from Haila Maze, Senior Planner with Bolton & Menk, Inc (the City’s consultant for this project). Staff will present this information during the meeting and take questions and feedback from the City Council. The action before the City Council is to formally authorize the City Planner to submit the 2040 Comprehensive Plan Update – Cultivate Hopkins to the Metropolitan Council for formal review.

### **Primary Issues to Consider**

- Planning & Zoning Commission Action
- Alternatives

### **Supporting Documents**

- City Council Resolution 2019-049
- Summary Memo from Haila Maze, Senior Planner with Bolton & Menk, Inc.
- Comment Tracker

---

Jason Lindahl, AICP  
City Planner

Financial Impact: \$ <u> N/A </u> Budgeted: <u> </u> Y/N <u> </u> Source: <u> </u>
Related Documents (CIP, ERP, etc.): <u> </u>
Notes:

**Planning & Zoning Commission Action.** The Planning & Zoning Commission held a public hearing to review this item (Planning Application 2019-08-AMD) during its regular meeting on May 28, 2019. During that meeting, the Commission heard a summary presentation from staff and comments from the public.

Eric Anondson, 53 Jackson Avenue South, had comments on affordability and pedestrian and bicycle planning. Mr. Anondson stated that when properties redevelop it often results in higher property values and rents, making it more difficult for start-ups and other small businesses to afford these spaces. Mr. Anondson also asked about how the city plans to prioritize and measure progress towards its pedestrian and bicycle goals. Mr. Lindahl noted that both items are addressed in the plan. Affordable commercial is covered in the Economic Competitiveness section of the Economic Environment while pedestrian and bicycle items are covered in the Transportation section of the Built Environment. Both are tied to strategies in the Implementation Section.

Following the public hearing, Chairperson James Warden asked staff if the strategy to allow for “gentle density” in single family neighborhoods was still in the comprehensive plan. Staff explained that strategy had been revised based on feedback from the Comprehensive Plan Advisory Committee and the City Council. The original single strategy was revised into several policies under Goal 4 in the Built Environment. Chairperson Warden expressed his preference for the original strategy and asked it to be noted for the record.

### **Alternatives**

1. Motion to approve. By voting to approve, the City Council will direct the City Planner to distribute the 2040 Comprehensive Plan to the Metropolitan Council for formal review.
2. Motion to deny. By voting to deny, the City Council will not direct the City Planner to distribute the 2040 Comprehensive Plan to the Metropolitan Council for formal review. Should the City Council consider this option, it must also identify specific findings that support this alternative.
3. Continue for further information. If the City Council determines that further information is needed, the items should be continued.

**CITY OF HOPKINS**  
**Hennepin County, Minnesota**

**RESOLUTION 2019-049**

**A RESOLUTION DIRECTING THE CITY PLANNER TO DISTRIBUTE THE 2040  
COMPREHENSIVE PLAN UPDATE – CULTIVATE HOPKINS TO THE  
METROPOLITAN COUNCIL PURSUANT TO MINNESOTA STATUTES SECTION  
473.864**

**WHEREAS**, Minnesota Statutes section 473.864 requires each local governmental unit to review and, if necessary, amend its entire comprehensive plan and its fiscal devices and official controls at least once every ten years to ensure its comprehensive plan conforms to metropolitan system plans and ensure its fiscal devices and official controls do not conflict with the comprehensive plan or permit activities that conflict with metropolitan system plans; and

**WHEREAS**, Minnesota Statutes sections 473.858 and 473.864 require local governmental units to complete their “decennial” reviews by December 31, 2018; and

**WHEREAS**, on April 1, 2018, the City Council of the City of Hopkins approved Resolution 2018-038 requesting additional time within which to complete the Comprehensive Plan “Decennial” Review Obligation; and

**WHEREAS**, the City Council, Planning & Zoning Commission, and the City Staff have prepared a proposed Comprehensive Plan intended to meet the requirements of the Metropolitan Land Planning Act and Metropolitan Council guidelines and procedures; and

**WHEREAS**, pursuant to Minnesota Statutes section 473.858, the proposed Comprehensive Plan was submitted to adjacent governmental units and affected special districts and school districts for review and comment on September 12, 2018, and the statutory six-month review and comment period has elapsed; and

**WHEREAS**, Hopkins Planning and Zoning Commission, pursuant to published notice, held a public hearing on the 2040 Comprehensive Plan Update – Cultivate Hopkins and reviewed such draft plan and all public comments on May 28, 2019: all persons present were given an opportunity to be heard; and

**WHEREAS**, During the May 28, 2019 meeting, the Hopkins Planning & Zoning Commission adopted Planning & Zoning Commission Resolution 2019-09 recommending the City Council direct the City Planner to distribute the 2040 Comprehensive Plan Update – Cultivate Hopkins to the Metropolitan Council pursuant to Minnesota Statutes Section 473.864.

**WHEREAS**, the City Council of the City of Hopkins has reviewed the proposed Comprehensive Plan and those recommendations, public comments, and comments from adjacent jurisdictions and affected districts during their meeting on June 18, 2019; and

**WHEREAS**, Minnesota Statutes section 473.858 requires a local governmental unit to submit its proposed comprehensive plan to the Metropolitan Council following recommendation by the Planning & Zoning Commission and after consideration but before final approval by the governing body of the local governmental unit.

**WHEREAS**, based on its review of the proposed Comprehensive Plan and Planning & Zoning Commission and staff recommendations, the City Council of the City of Hopkins is ready to submit its proposed plan to the Metropolitan Council for review pursuant to Minnesota Statutes section 473.864; and

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Hopkins hereby directs the City Planner to distribute the 2040 Comprehensive Plan Update – Cultivate Hopkins to the Metropolitan Council pursuant to Minnesota Statutes Section 473.864.

Adopted this 18th day of June 2019.

ATTEST:

\_\_\_\_\_  
Jason Gadd, Mayor

\_\_\_\_\_  
Amy Domeier, City Clerk



# MEMO

To: Honorable Mayor and City Council  
Planning & Zoning Commission

From: Jason Lindahl, City Planner and Haila Maze, Senior Urban Planner

Date: June 18, 2019

Subject: Cultivate Hopkins Comprehensive Plan Comments

---

## Overview

The latest version of the 2040 Comprehensive Plan Update – Cultivate Hopkins is now available on the City’s website for your review by [clicking here](#). This version reflects edits and revisions made based on feedback received during the required 6 month interjurisdictional review period. This memo provides an overview of the plan, summarizes the responses received during the comment period, addresses potential changes to the draft plan and describes next steps for plan review and approval. The action before the City Council is to adopt a resolution authorizing submittal of the plan to the Metropolitan Council for formal review.

## Purpose of the Plan

The purpose of this plan update is to provide long range guidance for growth, development, and investment in the City of Hopkins. It will replace the City’s current comprehensive plan which was adopted in 2009. This comprehensive plan envisions the growth and change the community will see by 2040, and creates a framework for what the City needs to do to get there. To do this, the plan interweaves guidance from City-established goals, public comments and feedback, past plans and initiatives, and analysis of data and trends.

As a community within the seven county Twin Cities metropolitan region, Hopkins is required by state statute to update its comprehensive plan every ten years, as part of an overall regional planning cycle managed through the Metropolitan Council. This plan will fulfill all requirements of this cycle.

Over the next ten years, the City will make numerous decisions related to development, infrastructure, public services, budgeting, and many other topics that need to be aligned with its overall goals. This plan provides a framework for this decision-making process – to ensure consistency, and progress toward longer range goals.

## Cultivate Hopkins Vision

The concept for Cultivate Hopkins came out of a desire to continue to cultivate and grow the City of Hopkins as a distinct and meaningful place. Based around principles of sustainability, resilience, equity,

and complete and connected communities, it provides a framework for preparing for the future. The plan emphasizes retaining what is valued, while proactively addressing and welcoming change.

The vision statement for Cultivate Hopkins is: **“Hopkins will cultivate the best elements of the Built, Natural, Social, and Economic Environments into complete and sustainable community that is rooted in tradition, characterized by vibrant and unique places, physically and socially connected, and resilient to changing conditions.”**

The plan also reflects the 2018 Hopkins City Council Goals and Strategic Plan, adopted by the City Council in 2017. While these goals do not provide detailed guidance for every area covered by the plan, they focus attention on important elements for consideration and action.

## Sustainability Framework

The vision for Hopkins is that of a sustainable community – defined as one that meets the needs of the present without compromising the ability of future generations to meet theirs. It is also envisioned as a resilient community – defined as one that is able to respond to social, economic, and environmental changes and disruptions while maintaining its integrity and purpose.

The City of Hopkins consulted several best practice materials to shape and inform the framework for the comprehensive plan update. The primary source was Sustaining Places: Best Practices for Comprehensive Plan (American Planning Association, 2015). This document details national best practices for creating a sustainable, resilient and complete community. Traditionally, comprehensive plans were developed from a top-down approach with separate stand-alone chapters focused primarily on land use and physical development. By comparison, Hopkins is using the Sustaining Places document to further enhance the City’s existing work and ensure the new comprehensive plan fully embraces the topics of resilience, system thinking, community engagement, equity, adaptation and measurable implementation practices. To supplement this framework, the following resources have been used to provide more detailed information, implementation strategies, and best practices.

- **STAR Community Rating System.** The Sustainability Tools for Assessing and Rating Communities (STAR) system, developed by STAR Communities, is used to rate community performance on a range of topics related to promoting local sustainability.
- **GreenStep Cities.** Minnesota GreenStep Cities is a voluntary program for cities that helps them achieve goals in sustainability and quality of life.
- **Regional Indicators Initiative.** Hopkins has participated in the Regional Indicators Initiative, which helps participating communities to benchmark their status on a range of metrics, to measure progress against itself and peer communities.
- **Climate Resilience Workshop Series.** In early 2017, Hopkins participated with six other cities in a workshop series designed to identify opportunities to build resilience related to local climate change.

## What’s New?

The vision for this plan contributed to the decision during the planning process to go over and above what is required by the Metropolitan Council for a comprehensive plan, to include some new elements not previously featured. These sections, detailed on the following page, include:

- New element on quality of life in Hopkins, facilitated through cross-sector and cross-discipline collaboration, including safety and emergency preparedness, community facilities and infrastructure, and public health
- New element on sense of community, exploring equity, race, and social connectedness, and the role of the city in addressing disparities and encouraging engagement and connections.
- New details related to natural resources and environmental responsibility, including renewable energy, climate change and resilience, and sustainable building practices.
- Expanded focus on economic competitiveness, including community economic development, business development, education, and disparities.

The table below summarizes the change in plan format:

Existing Plan: Stand-Alone Chapters	New Plan: Interconnected Elements
Preface and Goals	Introduction
Community Demographics	Community Profile (appendix)
	<b>Built Environment</b>
Land Use	Land Use
Transportation	Transportation
Housing	Housing
	<b>Social Environment</b>
	Quality of Life
	Sense of Community
	<b>Natural Environment</b>
Water and Solid Waste	Sustainability and Natural Resources
Parks and Trails	Parks and Trails
	<b>Economic Environment</b>
	Economic Competitiveness
Downtown	Downtown
Implementation	<b>Implementation</b>

## The Four Environments

Sustainability may be new to comprehensive planning but not to Hopkins. The City Council Goals and Strategic Plan and many of the City’s existing practices and planning documents incorporated various aspects of sustainability. The Cultivate Hopkins 2040 Comprehensive Plan Update seeks to fit together the City’s existing vision, goals and policies with comprehensive planning best practices in a more relatable, interconnected and measurable comprehensive plan for the future of Hopkins. Rather than traditional individual chapters focused on land use and physical development, the Cultivate Hopkins plan looks at the community’s through four environments detailed below.

## Built Environment

The built environment is defined as all human-made elements of a space where people live, work, and play. It includes sections on land use and development, multimodal transportation, and housing and neighborhoods. This is the most traditional element of city planning – and the land use map and supporting descriptions are at the hub of the planning framework.

This includes Land Use, Transportation, and Housing elements.



## Social Environment

The social environment is defined as human interaction and engagement in the community. It includes sections on public services and facilities, education, public health, community connections, equity, and arts and culture. Much of the content for this element is new to the Hopkins comprehensive plan this time around, motivated by the City's focus on related issues as citywide priorities.

This includes Quality of Life and Sense of Community elements.



## Natural Environment

The natural environment relates to natural systems and resources, including land, water, air, habitat, and ecology. In addition to addressing policies around these specific systems and resources, it includes direction for practices that are specifically aimed at protecting or improving the natural environment, including guidance for parks and open space, renewable energy, and climate change resilience.



## Economic Environment

The economic environment covers the economy, jobs, businesses, income and poverty, and affordability. This section includes economic development and competitiveness, and guidance for Downtown Hopkins (as the city's economic hub). Issues related to affordability and poverty are covered in overlapping sections in the built environment (housing) and social environment (equity).

This includes Economic Competitiveness and Downtown elements.



## A Plan for the Whole City

As is traditionally the case for comprehensive plans, the task of developing the document is being led by the planning staff of the city. However, as this is a plan for the **entire** city, there are elements which apply to the work of all city leadership and staff. Ways this plan will be used across the entire city include:

- Provides support for any major new initiatives or investments
- Guides priorities for capital project budgeting
- Puts short term implementation in context of longer term goals
- Establishing a framework for making decisions

This plan has been developed to reflect direction for all city operations, although some topics are covered in more detail than others.

## Review Process to Date

In the fall of 2018, the City of Hopkins completed its draft comprehensive plan update and released it for the required six-month interjurisdictional review. The Planning & Zoning Commission held a public hearing to review the draft plan during their regular meeting on August 28, 2018. There was also a public open house prior to the public hearing. The City Council reviewed and officially released the draft plan for public review and comment on September 4, 2018

On September 12, 2018, the City release the draft plan and began the required 6 month interjurisdictional review period. As required, the plan was circulated to adjacent jurisdictions for review and comment, from September 12, 2018 to March 12, 2019. The list of these jurisdictions is provided below. Those in **bold** provided comments back to the City by the March 12, 2019 deadline.

- City of Edina
- City of Minnetonka
- City of St. Louis Park
- Hennepin County
- Hopkins School District #270
- Edina School District #273
- St. Louis Park School District #283
- **Minnehaha Creek Watershed District**
- **Nine Mile Creek Watershed District**
- **Three Rivers Park District**
- **Minnesota Department of Natural Resources (MN DNR)**
- **Minnesota Department of Transportation (MnDOT)**

For the purposes of the review, it is not required that comments be received from all jurisdictions. While the City did not receive written comments from adjacent cities or the county, Hopkins staff have met with staff from St. Louis Park and Minnetonka to discuss shared issues and areas for collaboration. Ongoing coordination between cities and other stakeholders ensures that there is a regular opportunity to address and manage any concerns that arise.

During the six-month review, the plan was also submitted to the Metropolitan Council for informal review. This optional step provides an opportunity for feedback regarding consistency with Metropolitan Council standards in advance of the formal review. After the Metropolitan Council staff provided comments, City of Hopkins staff sat down with them to talk through potential responses.

During the six month review period the City took the extra step to put the draft plan online and solicit public comments through social media. By the conclusion of the comment period, the City had received comments from the following respondents. The additional stakeholders listed reflect the City of Hopkins' commitment to higher standards in priority areas, particularly related to equity, the environment, and housing affordability.

- Peg Keen, Executive Direct at ICA Food Shelf
- Nathan Miller, Resident of the Moline
- Larry Hiscock, Comprehensive Plan Steering Committee member and housing advocate
- Anonymous online commenter
- Great Plains Institute
- Center for Economic Inclusion

While this memo is focused on elements that need to be updated in the plan, the comments included recognition that the city has already made significant progress on these issues. Comments received and associated changes to the plan are detailed in the attached Comment Tracker table. Comments in the tracker are organized by the for plan elements (Built, Natural, Social and Economic).

## Summary of Comments Received

The comments received during the comment period and from the Metropolitan Council's informal review are included in the attached table. This also includes comments from the Planning Commission and public hearing in August 2018, in the interest of completeness, although some have already been addressed in the current draft. A summary of the comments by plan element is provided below.

The table distinguishes between Incomplete Comments and Advisory Comments. Incomplete Comments are identified by the Metropolitan Council as incomplete or inconsistent with regional policy, and must be addressed for the plan to be approved. Additionally, there are advisory comments that may still be important, but are not necessary to meet regional policy standards.

- **Introduction and Forecasts**
  - Need more details as to intentional inclusivity of engagement process
  - Ensure table of contents is numbered
  - Update population and employment forecasts to reflect fact that growth has exceeded expectations in recent years

### **Built Environment**

- Land Use
  - Add more detail to housing density guidance around transit station areas to reflect minimum density requirements of 50 units/acre, per Metropolitan Council guidance

- Various clarifications regarding wording and calculations related to density requirements
- Transportation
  - Add more information on roadway lanes
  - Identify local issues related to freight traffic
  - Update transit facility information with data on current facilities, existing bus service, and planned improvements
- Housing
  - Strengthen language and guidance for how affordable housing tools will be used in the community
  - Clarify approaches in housing implementation plan regarding specific tools
  - Consider additional housing strategies such as accessory dwelling units, inclusionary housing policy, and tenant protection policies
  - Ensure policies reflect high percentage of renters in Hopkins
  - Clarify language regarding encroachment into single family areas

### **Social Environment**

- Quality of Life
  - Address artist housing in context of broader affordability and equity needs
- Sense of Community
  - Disaggregate data by race where possible to show disparities, and identify needs and opportunities
  - Add more tools and approaches for addressing racial equity

### **Natural Environment**

- Sustainability and Natural Resources
  - Update solar access section with performance standards if possible
  - Add policies to support native plantings and landscaping
  - Add policies that take planning for wildlife into consideration with development and transportation projects
  - Include additional natural resource information in the plan
  - Add resilience policies related to electric vehicles, emergency response, and stormwater management; lessen focus on wind power as its not applicable in Hopkins
  - Consider targets for carbon reduction and other renewable energy targets
- Surface Water Management
  - Extensive comments from both watersheds related to compliance, documentation, and proper procedures – most of which can be fulfilled directly
  - Request for citywide stormwater modeling may be accomplished over time, but does not seem necessary at present
- Water Supply
  - Review of water supply plan is occurring on a parallel path; revised version will be incorporated here, reflecting MN DNR and Metropolitan Council input
- Wastewater

- Include documentation of existing system and its characteristics
- Need copies of intercommunity service agreement
- Additional detail as to approach to managing inflow and infiltration
- Parks and Trails
  - Minor comments related to 17<sup>th</sup> Avenue study status and length of existing trails

**Economic Environment**

- Economic Competitiveness
  - Focus on encouraging business start-ups by people of color, as well as targeting education and other strategies to these populations to support equity
  - Include reference to growing tax base and using resources efficiently
- Downtown
  - Emphasize the uniqueness of downtown as a key differentiator, including central social district concept
- **Implementation**
  - Strengthen language in implementation steps around race equity, including tracking disparities and other tools
  - Strengthen policy language and toolkit for affordable housing and tenant rights
  - Zoning and parking related priorities should be short term

**Recommendation and Next Steps**

The action before the City Council is to adopt a resolution directing the City Planner to submit the plan to the Metropolitan Council for formal review.

Once the plan is approved and submitted, the Metropolitan Council will have 15 business days to review the plan for completeness. If any issues are found, they will be brought to the attention of the city via a letter. The City then will have an opportunity to work with the Metropolitan Council to resolve any remaining items before final review and approval by both the Planning & Zoning Commission and City Council.

## City of Hopkins Comprehensive Plan Comment Tracker *(Comments as of 3/12/19)*

Comments from six-month interjurisdictional review, Metropolitan Council preliminary review, and 8/28/18 public hearing

<b>Introduction</b>			
Advisory Comments			
<b>Number</b>	<b>Comment</b>	<b>From</b>	<b>Response</b>
1.	<p>Page 6 describes the public engagement tools and strategies that informed the comprehensive plan. The Center supports the City for designing a process intended to engage all segments of the community. In particular the “Take It To Them” meetings were focused on reaching people who are usually underrepresented in public engagement processes. The Center encourages the City to go beyond the descriptions of the strategies and their intent by reporting --in the plan’s narrative» how effective these efforts were at engaging all segments of the community.</p> <p>Appendix A2 notes that only 10% of respondents to the Cultivate Hopkins survey were POC, while 27% of respondents to the Race &amp; Equity survey were non-white. In both cases, the participation falls short of the City’s 40% share of People of Color. Also, what is the significance of the demographics of the survey samples and the other engagement activities? How might it have affected the themes identified in the plan?</p> <p>The Center applauds the plan’s assertion (on page 9) that the City’s diversity “isn’t just a change in composition — it’s driving growth.” This statement is followed by a discussion of demographics, recognizing that population growth in Hopkins is driven by People of Color. The Center urges the City to expand this discussion of growth beyond population to economic growth: including everyone in the economy is the path to prosperity for all.</p>	Center for Economic Inclusion	Added preface to Appendix A2 to describe city’s approach to engagement, identifying current shortcomings and clarifying that the city has a commitment to ongoing progress in this area.
2.	Molly Van Avery is a friend/neighbor of mine – I love the poetry wagon!	Great Plains Institute	Comment acknowledged
3.	Include numbers in table of contents	8/28/18 Planning Commission public input	Added page numbers to Table of Contents

4.	Let's keep calling out that this is the land of indigenous people. The phrasing at the top of the plan can be read as if the treaties establishing US settlement were fair. In telling the history we have got to call out the war on native Americans and the conquest of America.	Nathan Miller, online comment portal	The plan currently acknowledges that this is originally the land of indigenous people
----	---	--------------------------------------	---

<b>Forecasts</b>																																															
Advisory Comments																																															
Number	Comment	From	Proposed Response																																												
1.	<p>Council staff find that recent population and employment growth have significantly exceeded what was expected in the current decade. Council staff recommends making the following immediate adjustment to the population and employment forecasts, as follows:</p> <table border="1"> <thead> <tr> <th rowspan="2"></th> <th>Census</th> <th>Estimates</th> <th colspan="3">City Preliminary Plan Forecasts</th> <th colspan="3">Council Staff Recommended Forecasts</th> </tr> <tr> <th>2010</th> <th>2017</th> <th>2020</th> <th>2030</th> <th>2040</th> <th>2020</th> <th>2030</th> <th>2040</th> </tr> </thead> <tbody> <tr> <td>Population</td> <td>17,591</td> <td>19,079</td> <td>18,900</td> <td>19,600</td> <td>20,100</td> <td>20,100</td> <td>21,000</td> <td>21,800</td> </tr> <tr> <td>Households</td> <td>8,366</td> <td>8,765</td> <td>9,300</td> <td>9,800</td> <td>10,100</td> <td>9,300</td> <td>9,800</td> <td>10,100</td> </tr> <tr> <td>Employment</td> <td>11,009</td> <td>16,825</td> <td>14,700</td> <td>15,500</td> <td>16,200</td> <td>17,000</td> <td>18,000</td> <td>19,000</td> </tr> </tbody> </table>		Census	Estimates	City Preliminary Plan Forecasts			Council Staff Recommended Forecasts			2010	2017	2020	2030	2040	2020	2030	2040	Population	17,591	19,079	18,900	19,600	20,100	20,100	21,000	21,800	Households	8,366	8,765	9,300	9,800	10,100	9,300	9,800	10,100	Employment	11,009	16,825	14,700	15,500	16,200	17,000	18,000	19,000	Met Council	Forecasts adjusted throughout plan to be consistent with recommended values, including in Community Profile, Land Use, Housing, Transportation, and Water Resources elements
	Census		Estimates	City Preliminary Plan Forecasts			Council Staff Recommended Forecasts																																								
	2010	2017	2020	2030	2040	2020	2030	2040																																							
Population	17,591	19,079	18,900	19,600	20,100	20,100	21,000	21,800																																							
Households	8,366	8,765	9,300	9,800	10,100	9,300	9,800	10,100																																							
Employment	11,009	16,825	14,700	15,500	16,200	17,000	18,000	19,000																																							

## BUILT ENVIRONMENT

<b>Land Use</b>			
Incomplete Comments			
Number	Comment	From	Proposed Response
1.	On pages 32 and B1-20, the Plan states that the 2040 Transportation Policy Plan (TPP) recommends higher minimum residential densities of 50 units/acre in transit station areas. This is incorrect. It is not a recommendation, but rather a minimum requirement related to the regional transportation system for cities with the	Met Council	Modified text on page 32 in the plan and page 20 in Appendix B1 to describe that sites within one quarter mile of the station

<p>community designation of Urban Center. The areas identified in the Plan for redevelopment within the City’s three station areas are guided with ranges of 20—100 units/acre for the Downtown Hopkins station area (Downtown Center guiding land use) and a range of 20—60 units/acre in the Shady Oak Road and Blake Road station areas (Activity Center guiding land use).</p> <p>On pages 32 and B1-20, the Plan suggests that the density range is lower and broader than otherwise would be because of its application city-wide. The Plan also states that there is an “expectation that densities like these are achievable and encouraged on redevelopment parcels in the station area, and that the City will work to support this.” However, figures in the Plan that identify redevelopment areas and guiding land use (Figures 81.7, 81.8, 81.9, and B1 .11) indicate that most of these areas fall within the 1/2 mile station area. Our records show that most recent development in Hopkins’ station areas meet the minimum 50 units/acre; and in some cases, recent projects likely exceed the maximum density of 100 units/acre, such as the Gallery Flats project at 135 units/acre.</p> <p>On pages 32 and B1-20, the Plan states that it will “work to support” higher density development. While the City has clearly demonstrated this, such a statement is not sufficient to ensure that sites near the region’s transit system are preserved by the comprehensive plan for projects at densities that are consistent with the regional investment, market context, and the minimum density required by the TPP.</p> <p>Staff offer some suggestions for rectifying these inconsistencies. Please keep in mind that the minimum density is an average of the minimum density of planned land uses for areas guided for development and redevelopment. The City could guide some locations at higher minimum densities (e.g., 75 units/acre) and some with lower (e.g., 40 units/acre). Aside from creating a new land use category, the Plan could differentiate among minimum densities based on location (eg, within 1/4 mile of the station or along certain corridors).</p>		<p>platforms are guided for higher densities of 50-100 units/acre, whereas areas on the station area periphery are guided at 20-50 u/a.</p>	
<b>Advisory Comments</b>			
<b>Number</b>	<b>Comment</b>	<b>From</b>	<b>Proposed Response</b>
1.	On page B1-36, and in Table B1.13, the Plan describes zoning that is inconsistent with the policies related to densities that are proposed in the Plan. The zoning	Met Council	One page 36 of Appendix B1 and Table B1.13, removed

	indicates that less dense development (as low as 10 units/acre in the Downtown Center, Activity Center, and Neighborhood Center) is possible under these regulations, but that higher densities “could be approved” through the City’s planned unit development and conditional use permit processes. This contradicts the policy intent of the guiding land use, creates an inconsistency between the comprehensive plan and official controls, and appears to contradict the Recommendations section on page F1-5, which relates to implementation of zoning changes.		numbers and text regarding current zoning densities, to reduce confusion.
2.	Based on recent housing market analysis for the three transit station areas, the Plan suggests (Page B1-4) that a forecast increase may be warranted through a comprehensive plan amendment. We encourage the City to propose a forecast adjustment now as part of the formal Plan submittal, and to consult staff before doing so. The 2014 Marquette Advisor’s study that the Plan cites suggests a market-driven capacity of 2,424 units for the three station areas combined. This is much higher than the forecasted growth, which can be accommodated by the Plan at minimum guided densities (notwithstanding the inconsistency of guiding densities being lower than minimum requirements of the TPP).	Met Council	On page 3 of Appendix B1, and in various other locations in the plan as noted elsewhere, incorporated revised forecasts.
3.	On page B1-40, the Plan states that the aspiration for density in station areas is “closer to 75-100 units per acre.” This statement conforms to and supports land use policy in the TPP, but it does not align with the guiding densities in two of the station areas (Activity Center 20—60du/acre.)	Met Council	Modified text on page 40 of Appendix B1 to clarify that areas closer to station will be guided for higher densities, consistent with changes made in land use chapter, with minimum of 50 units/acre within ¼ mile of LRT stations
4.	On page B1-40, Table B1.17 identifies incorrect time ranges. Presumably, the timeframes should be 2015-2020, 2021—2030, and 2031-2040. Please clarify and note related comments under Housing.	Met Council	Make corrections to time ranges in Table B1.17, page 40 of appendix, as noted
5.	On page 28, include reference to the fact that the land use approach is different than in other communities, and add percentages of land use acreages.	8/28/18 Planning Commission public input	Updated language on page 30 to reflect that it is different than conventional land use. Added percentages to existing land use map on page 27

6.	On page 31, du/ac should be spelled out “dwelling units per acre”	8/28/18 Planning Commission public input	Spelled out “dwelling units per acre” on future land use map on page 31
7.	On page 36, clarify policy on preserving and enhancing existing housing units to make it clear it is not intended to imply direct subsidy	8/28/18 Planning Commission public input	On page 36, changed language to “encourage maintenance” as opposed to “preserve housing”
8.	<p>I work for Cargill at Excelsior Crossings and live in The Moline. Graduated college in 2015 with a Business &amp; Technology degree. I’m from Wichita, Kansas originally. High-level thoughts: I love increasing density and diversity. I wish my home town planned like this. This makes me want to invest in Hopkins.</p> <p>General rule: Kill the golf courses! Kill the parking lots! Love seeings this as a transformational plan in terms of zoning Side note: I want to see rooftop patios and incredible green spaces. For inspiration of making the arts community work with small businesses: See Douglas Design District in Wichita How do we attract a Spyhouse coffee location to Hopkins? I think that we have to consider many of the ways this plan could fail. How do we prevent implementation of the plan under delivering? How do we protect from Developers taking advantage of Hopkins? How do we ensure ethics and accountability?</p>	Nathan Miller, online comment portal	Comment acknowledged

<b>Transportation</b>			
<b>Incomplete Comments</b>			
<b>Number</b>	<b>Comment</b>	<b>From</b>	<b>Proposed Response</b>
1.	Identify the future number of lanes for principal and A—minor arterial roadways.	Met Council	This information is included in Figure B2.1 on page 6 of Appendix B2
2.	Map current heavy commercial traffic volumes on principal and A-minor arterials.	Met Council	Heavy commercial freight volumes are already shown on

			Figure B2-11 on page 57 of Appendix B2
3.	Identify any local roadway issues or problem areas for goods movement, such as weight—restricted roads or bridges, bridges with insufficient height or width clearances, locations with unprotected road crossings of active rail lines, or intersections with inadequate turning radii.	Met Council	Added information on roadway locations with low clearance, offset intersections, narrow width, inadequate stacking distance, and other factors to page 55 of Appendix B2
<b>Advisory Comments</b>			
<b>Number</b>	<b>Comment</b>	<b>From</b>	<b>Proposed Response</b>
1.	Page 197, paragraph 3, consider the following replacement language The station area includes the platform, passenger drop-off, and a large surface park-and-ride facility with parking options north and south of the station platform with up to 1070 stalls. In coordination with the Shady Oak Station Area Development Strategy, the parking lot north of the station has been designed to accommodate future development and a potential future parking structure.	Met Council	Updated language as suggested on page 23 of Appendix B1
2.	Page 201 of pdf, paragraph 1, make the following correction: “Figure 81.8 shows the location of the <del>Blake Road</del> <u>Downtown Hopkins</u> LRT station.”	Met Council	Made correction to station area name on page 27 of Appendix B1
3.	Page 204, make the following correction: The station area, located along the south side of the Cedar Lake LRT Regional Trail, includes the platform, bus stop, <u>an 89-stall park-and-ride lot...</u>	Met Council	Made correction to park and ride language to page 30 of Appendix B1
4.	Page 234 / Appendix B2, Blake Road Station, make the following correction: The SWLRT project includes an <u>89-stall park and ride lot.</u>	Met Council	Made correction to park and ride language to page 16 of Appendix B2
5.	Page 234 / Appendix B2, Shady Oak Station, consider the following language: A large surface park-and-ride facility with parking options north and south of the station platform with up to 1,070 stalls is planned for opening clay. In coordination with the Shady Oak Station Area Development Strategy, the parking lot north of the station has been designed to accommodate future development and a potential future parking structure. A Wayfinding will guide users to the variety of uses in the station area.	Met Council	Added language as suggested to page 16 of Appendix B2.
6.	Page 266, the Bus Route 12 paragraph, add the following:	Met Council	Updated language as suggested on page 49 of Appendix B2

	Bus Route 12 is a regular local route operated by Metro Transit. It travels between Minnetonka, Hopkins, St. Louis Park, and Minneapolis. In Hopkins, it travels mainly along Excelsior Boulevard, Mainstreet, and 11 <sup>th</sup> Avenue south of Mainstreet. This route runs on weekdays primarily during peak hours.		
7.	Page 266 the Bus Route 612 paragraph make the following changes. This route runs on weekdays off-peak and, <del>primarily during peak hours, with more limited hours</del> on weekends and holidays	Met Council	Updated language as suggested on page 49 of Appendix B2
8.	Page 266, the <b>Bus Route 615</b> paragraph make the following change: <b>Bus Route 615</b> is a regular local route <del>operated by Metro Transit.</del>	Met Council	Updated language as suggested on page 49 of Appendix B2
9.	Page 266, add a paragraph for Bus Route 667 as follows: <b>Bus Route 667</b> is an express bus route operated by Metro Transit. The route runs east/west connecting Minnetonka, Hopkins, St. Louis Park, and Minneapolis. In Hopkins, it travels on CSAH 7. This route runs eastbound in morning peak hours and westbound in afternoon peak hours on weekdays.	Met Council	Updated language as suggested on page 49 of Appendix B2
10.	Page 266, the <b>Bus Route 670</b> paragraph, make the following changes: <b>Bus Route 670</b> is an express bus route <del>operated by Metro Transit.</del> The route runs east/west connecting Excelsior, Minnetonka, Hopkins, <del>St Louis Park,</del> and Minneapolis. In Hopkins, it travels primarily on <del>CSAH 7,</del> Excelsior Boulevard and Mainstreet.	Met Council	Updated language as suggested on page 49 of Appendix B2
11.	Page 266, add a paragraph for Bus Route 671 as follows: <b>Bus Route 671</b> is an express bus route. The route runs east/west connecting Orono, Excelsior, Minnetonka, Hopkins and Minneapolis. In Hopkins, it travels on Minnetonka Boulevard. This route runs eastbound in morning peak hours and westbound in afternoon peak hours on weekdays.	Met Council	Updated language as suggested on page 50 of Appendix B2
12.	Page 266 under Transit Facilities The park-ride at 10201 Excelsior Boulevard is a 52 vehicle lot, not 300.	Met Council	Make correction on page 50 of Appendix B2
13.	On page 45, add transit policy language that supports the development of a bus circulator between LRT stations and Downtown; also clarify the definition of demand responsive transit and include examples	8/28/18 Planning Commission public input	Added policy on a future bus circulator to page 45
14.	I love the shift to complete communities and getting rid of the automobile. How do we move Hopkins towards being a dutch-style car-free community? <a href="https://www.forbes.com/sites/carltonreid/2019/02/21/wealth-guru-plans-dutch-style-car-free-bicycle-friendly-city-near-boulder-colorado/#54488e9ed91d">https://www.forbes.com/sites/carltonreid/2019/02/21/wealth-guru-plans-dutch-style-car-free-bicycle-friendly-city-near-boulder-colorado/#54488e9ed91d</a>	Online comment portal	The plan currently addresses a range of multimodal options, including how to encourage more nonmotorized travel

	<p>Could we get sponsorship and support from organizations exploring new urban design in America? Are there streets where we would entirely remove automobiles and just turn in to walkways enabling entirely new development and use? Trees, green spaces, pop-up shops, parkways.</p> <p>Happy to see ridesharing design called out. More bike lanes! Make sure the shopping and attractions are bike friendly - pull people in to Hopkins on their bikes. Trailheads concept - how can we make the whole town of Hopkins a trailhead. Bike shops, gear outfitters, art, coffee, beer, healthy food. Hopkins is here to encourage you to bike from your downtown apartment to lake Wayzata. Or from your suburban home into the city. As we look at transit - could we make it simpler and ask: How could this plan help to encourage more people o ride the bus? For buses - where do people who live in Hopkins work?</p>		
--	---	--	--

<b>Housing</b>			
<b>Incomplete Comments</b>			
<b>Number</b>	<b>Comment</b>	<b>From</b>	<b>Proposed Response</b>
1.	As described in under the Land Use comments above, there are inconsistencies between the minimum densities described in zoning (Table B1.13) and other elements of the Plan, which describe a higher minimum density.	Met Council	Updated Table B1.13 on page 38 of Appendix B1 to remove existing zoning densities and replace with planned densities, to ensure consistency with rest of plan guidance
2.	in Table B1.17, decades overlap by using rounded years (e.g., 2020-2030 and 2030-2040). Please differentiate the decades as 2021-2030 and 2031-2040.	Met Council	Make change to date ranges on Table B1.17 and B1.18 on pages 42-43 of Appendix B1 as requested
3.	The City’s allocation of affordable housing need is forecasted for the 2021-2030 decade. The Plan needs to identify how many high density units are possible in that exact time range.	Met Council	Add clarifying language regarding the affordable housing allocation for 2021-

			2030 on page 20 of Appendix B3
4.	On page B3-20, Table B3.9 includes numerical recommendations for new rental housing by affordability for each LRT station area (from the “SWLRT Housing Study”). The preceding text states that the LRT station areas can “accommodate a significant amount of affordable units...” While this possibility exists, the Council does not consider a “recommendation” by station area to meet the need. The Council evaluates the accommodation of affordable housing need by the amount of land the Plan guides for development or redevelopment at minimum densities. Council staff recommend a modified version of Table B1.17 that includes the 2021-2030 decade.	Met Council	These are just results from a previous study, not a response to the affordable housing allocation. Adding language to clarify this to page 21 of Appendix B3.
5.	The Housing Implementation Plan on pages 20-22 of Appendix B3 does not include circumstances and sequence in which tools would be used. The narrative that precedes the table refers to a range of approaches by which the City can meet the goals. However the Plan needs to include a description of what roles the City can play (eg, apply, promote, refer, administer, fund) and under what circumstances the City would consider doing so (eg, near transit, serving large families, etc). An example is shown in the Local Planning Handbook -	Met Council	Added more detail on pages 23-25 of Appendix B3 regarding roles, circumstances, and sequences for housing implementation tools
6.	On page 16 of Appendix B3, the Plan states on “a case-by-case basis, Hopkins will consider financial participation in housing redevelopment projects when projects provide demonstrable public benefits consistent with this Comprehensive Plan and City redevelopment policies.” The purpose of the implementation plan is to lay out what types of projects the City would prioritize when considering those tools so that community members and developers know what projects to explore in the City.	Met Council	Add language on page 16 of Appendix B3 directing the reader to additional detail that has been added later in the appendix to the Housing Implementation Plan
7.	Housing tools that are mentioned, but are not paired with a description of circumstance and situation of use include: <ul style="list-style-type: none"> <li>• Tax Abatement (include circumstances of use and AMI)</li> <li>• Tax increment financing (include circumstances of use and AMI)</li> <li>• Opportunities for partnership with Hennepin County to use HOME or CDBG funds (include circumstances of use and AMI)</li> <li>• Livable Community Act programs (include circumstances of use and AMI)</li> <li>• Site Assembly, including partnership with Land Bank Twin Cities (include when site assembly might be used, AMI of developments that site assembly</li> </ul>	Met Council	Add more detail to Table B3.14 of Appendix B3 regarding circumstances and situation of use for each tool

	<p>is preferred to support, and when partnership with Land Bank Twin Cities would be considered)</p> <ul style="list-style-type: none"> <li>• Date/sequence of zoning and subdivision ordinance adoption (e.g., 2020 or within 2 years after comprehensive plan adoption)</li> <li>• Preservation strategies, like community land trusts, low-interest rehab programs, and tools that preserve private unsubsidized housing (4d) (include circumstances of use and AMI)</li> </ul>		
8.	<p>Implementation Plan Table B3.11 successfully links tools to needs, but does not consistently link to household AMI/levels of affordability or mention all widely accepted tools, which are required to be considered consistent. These include:</p> <ul style="list-style-type: none"> <li>• Tax abatement</li> <li>• TIF</li> <li>• First-time homebuyer programs</li> <li>• Livable Community Act programs</li> <li>• Site Assembly</li> <li>• Community land trusts</li> <li>• Low-interest rehab programs</li> </ul>	Met Council	Add more detail to Table B3.14 of Appendix B3 linking levels of housing affordability to widely accepted tools
9.	<p>To be consistent, all widely used tools must be acknowledged. Some widely used tools to address housing needs aren't included:</p> <ul style="list-style-type: none"> <li>• Support for or application of various funding sources within Minnesota Housing's Consolidated RFP</li> <li>• Partnership with Hennepin County to use Affordable Housing Incentive Fund (AHIF)</li> <li>• Housing Bond Issuance</li> <li>• <a href="https://metro council.org/Handbook/Files/Resources/Fact-Sheet/HOUSING/Municipal-Bond-Issuance.aspx">https://metro council.org/Handbook/Files/Resources/Fact-Sheet/HOUSING/Municipal-Bond-Issuance.aspx</a></li> <li>• Partnership, possibly with Land Bank Twin Cities for site assembly and vacant and abandoned property control through First Look. <a href="https://metro council.org/Handbook/Files/Resources/Fact-Sheet/HOUSING/Site-Assembly.aspx">https://metro council.org/Handbook/Files/Resources/Fact-Sheet/HOUSING/Site-Assembly.aspx</a></li> <li>• Participation in housing-related organizations, partnerships, and initiatives <a href="https://metro council.org/Handbook/Files/Resources/Fact-Sheet/HOUSING/Collaborating-on-Housing-Strategies.aspx">https://metro council.org/Handbook/Files/Resources/Fact-Sheet/HOUSING/Collaborating-on-Housing-Strategies.aspx</a></li> </ul>	Met Council	Add more detail to Table B3.14 of Appendix B3 regarding circumstances and situation of use for widely accepted tools

	<ul style="list-style-type: none"> <li>• Encourage or advocate for the creation of a community land trust to increase affordable homeownership option</li> <li>• Preservation tools, including monitoring expiration of LIHTC properties, and preserving public housing.</li> <li>• A local Fair Housing policy (more info provided below)</li> <li>• All widely used tools are included in Housing Tools</li> </ul> <p><a href="https://metrocouncil.org/Handbook/Files/Resources/Fact-Sheet/HOUSING/Recognized-Tools-and-Resources.aspx">https://metrocouncil.org/Handbook/Files/Resources/Fact-Sheet/HOUSING/Recognized-Tools-and-Resources.aspx</a></p>		
10.	<p>All housing tools described should be linked clearly and consistently to stated housing needs. An example is shown in the Local Planning Handbook</p> <p><a href="https://metrocouncil.org/Handbook/Files/Resources/Fact-Sheet/HOUSING/Linking-Tools-to-Needs.aspx">https://metrocouncil.org/Handbook/Files/Resources/Fact-Sheet/HOUSING/Linking-Tools-to-Needs.aspx</a></p>	Met Council	Added more detail to Table B3.14 of Appendix B3 linking housing tools to housing needs
<b>Advisory Comments</b>			
<b>Number</b>	<b>Comment</b>	<b>From</b>	<b>Proposed Response</b>
1.	<p>This Plan would be stronger if there was a clearer connection between data and policies. Staff appreciates a Plan where the main body is very readable and supplemented by data in the appendices. However, there are very few connections between the appendix and the policies in the body of the Plan. For instance, how does the information about housing and transportation costs inform Hopkins' policy? Staff suggests referring to the housing implementation appendix in the housing chapter.</p>	Met Council	Added reference on page 50 of plan, referring regarding to additional data found in Appendix B2
2.	<p>With respect to a Fair Housing policy, local housing policies do not mean that cities should or can manage or administer Fair Housing complaints. A local fair housing policy rather ensures the City is aware of fair housing requirements with regard to housing decisions and provides sufficient resources to educate and refer residents who feel their fair housing rights have been violated. This can be as simple as having links to resources on the City's website. The Metropolitan Council will require a local Fair Housing policy as a requirement to draw upon Livable Communities Act (LCA) awards beginning in 2019. To learn more, and review a template local fair housing policy, please refer to the following resources:</p> <p>Creating a Local Fair Housing Policy webinar  <a href="https://www.youtube.com/watch?v=38JY4pNGnZ8&amp;feature=youtu.be">https://www.youtube.com/watch?v=38JY4pNGnZ8&amp;feature=youtu.be</a>  Best Practices</p>	Met Council	The City has adopted a fair housing policy. Added reference to this in Table B3.14 of Appendix B3

	<a href="https://metro council.org/Handbook/PlanIt/Files/Webinar-Fair-Housing-Handout2.aspx">https://metro council.org/Handbook/PlanIt/Files/Webinar-Fair-Housing-Handout2.aspx</a> Policy Template (Click on Handout 1 under the implementing A Local Fair Housing Policy at the bottom of the screen) <a href="https://metro council.org/Handbook/Training/Webinars.aspx">https://metro council.org/Handbook/Training/Webinars.aspx</a>		
3.	Council staff encourages the City to consider an Accessory Dwelling Unit (ADU) policy or allow them as a permitted use. This is a unique way to diversify housing choices within existing single-family neighborhoods.	Met Council	Added language to Table B3.14 of Appendix B3 that says the city will evaluate the potential to incorporate ADUs
4.	Council staff encourages the City to consider a formal Inclusionary Housing policy, which have recently been adopted in Brooklyn Park, Golden Valley, and Richfield.	Met Council	Added language to Table B3.14 of Appendix B3 the city will evaluate the potential to adopt a formal inclusionary zoning policy
5.	Council staff encourages the City to consider tenant protection policies to support efforts to preserve naturally occurring affordable housing.	Met Council	Added language to Table B3.14 regarding city's ongoing work on developing tenant protection policies
6.	All of the existing housing data (including the map of ownership units above and below the price affordable to households earning 80% AMI) sourced from the Metropolitan Council have been updated with 2016 data. Consider reviewing the updated Existing Housing Assessment on Hopkins' community page in the Local Planning Handbook and updating any relevant data. <a href="https://metro council.org/Handbook/Files/Existing-Housing-Assessment/02394417Hopkins ExistingHsg.aspx">https://metro council.org/Handbook/Files/Existing-Housing-Assessment/02394417 Hopkins ExistingHsg.aspx</a>	Met Council	The data were reviewed and there were no major changes from 2015 to 2016. The 2015 numbers were retained to maintain consistency across the plan
7.	On page 4 of Appendix B3, text refers to "the table above," but there is no table above that text.	Met Council	Replaced "the table above" with reference to Table B3.1
8.	On page 19 of Appendix B3, because the Plan defines household income at AMI with descriptions on page 19, these terms can be used in the Implementation Plan to be consistent,	Met Council	Added language to Table B3.14 in implementation plan section referring to AMI limits
9.	On page 19 of Appendix B3, text refers to the allocation of affordable housing need as a goal. The allocation is a forecast of actual households expected to come to the region at various income levels. Cities must plan for that allocation per the Metropolitan Land Planning Act, but are not responsible for creating those units.	Met Council	Changed language from goal to allocation on page 19 of Appendix B3

	Since the Council negotiates affordable housing goals with cities that participate in Livable Communities Act programs, we prefer that the allocation of need not be referred to as a goal, which can confuse the different purposes of the two measures.		
10.	Council staff recommend generalizing the columns in Table B3.11 (implementation Opportunity, Policy and Fiscal) into a single “Tools” category. Since the table needs more detail as to how and when the City might use these tools, further differentiating the type of tool is not necessarily helpful and can make the information seem more complicated than it needs to be.	Met Council	Made suggested formatting changes to Table B3.11 of Appendix B3
11.	<p>The City of Hopkins 2040 Comprehensive provides a solid framework to guide the community for years come. The community is strong, diverse and ripe for investment because of the local economy, sound decisions made by local leaders and the approved METRO Green Line Extension. At the same time, Hopkins experiences many of the same racial and economic disparities as the rest of the region. The disparities in our region are not by accident. They are the result of deliberate actions by policy-makers, private citizens and business leaders. Two examples are the use of racial housing covenants and redlining used to preserve and build white wealth while denying opportunity and disinvesting in communities of color.</p> <p>It is vital that the City of Hopkins 2040 Comprehensive Plan incorporates stronger language related to racial equity, and include explicit actions and indicators to ensure Hopkins is an inclusive community in the future.</p> <p><b>Bold Action Required</b>  City of Hopkins is at 100% risk of gentrifying according to a 2019 study published by the Center for Urban and Regional (CURA) at the University of Minnesota. In the study all three census tracks were considered vulnerable in 2000. Since 2000, the census track for downtown Hopkins has already begun the process of gentrification. The other two vulnerable census tracks are at greater risk of gentrification “given the demonstrated impact of transit investment on gentrification, the rate of conversion of vulnerable neighborhoods into gentrified neighborhoods may accelerate in the future (Goets and Damiano, 2019).”</p>	Larry Hiscock	Comment acknowledged. Racial equity is addressed in the Social and Economic environments of the plan. Compared to the previous comprehensive plan, this has stronger language related to affordable housing and tenant rights.

	It is vital that the stronger policy language be included in the Comprehensive Plan to provide latitude for the City Council and City Staff to approve ordinances, policies, and development agreements that will preserve existing naturally occurring affordable housing units, require long-term affordable housing units in new construction, protect the rights of renters and mitigate the harm to people renting caused by displacement.		
12.	On page 55, clarify that enforcing housing and yard maintenance is not intended to represent a change in practice that is more proactive than the current system; also clarify what it means to protect single family neighborhoods from “encroachment” – ensure that new description references specifically development	8/28/18 Planning Commission public input	Added language on page 55 clarifying that it would be encroachment due to new development
13.	There is an intersection between affordability in Hopkins and keeping older buildings up to date. Renovated properties may increase in value/rent, making them less affordable. Plan should acknowledge the challenge in balancing these priorities.	8/28/18 Planning Commission public input	Added language to the housing needs section on pages 15-16 of Appendix B3 regarding the need to balance housing rehabilitation and affordability
14.	The plan addresses both ownership and rental housing. From experience with the community, it seems that renters are typically here because they are committed to this community and want to stay here. Some have rented in the area for many years.	8/28/18 Planning Commission public input	Comment acknowledged. The plan recognizes that renters are the majority of households in the city. The Sense of Community element includes a policy on page 67 to encourage the involvement of renters.
15.	<p>The region has entrenched racial and economic disparities, which reflect past actions by cities – which in turn have a responsibility to address them</p> <p>The comprehensive plan generally reflects values around equity and disparities, though it may need stronger language in terms of policies and more clarification as to roles and responsibilities. Policies should reflect that 66% of housing is currently rental, so rental-related policies benefit the majority of the community. Need more clarification in terms of new public sources for preserving existing housing stock and policies for new housing such as inclusionary zoning and right of first refusal. (note: individual indicated afterwards that more specific comments to this effect will be forwarded to the City during the comment period – these comments are included here as well)</p>	8/28/18 Planning Commission public input	Updated Table B3.14 in the housing implementation plan section of Appendix B3 to ensure that it includes programs that support renters and reflect initiatives for tenant rights, inclusionary zoning, and other tools

16.	<p>Thanks for this opportunity. As a member of the Blake Road Corridor Collaborative and the director of a local non-profit (ICA Food Shelf) I am pleased with the overall Comprehensive Plan. This is hard work and I commend all the community members, city council and city staff on the work that went into this. Thank you. As housing is part of this plan (Section 4), and especially as it relates to Hopkins large number of naturally occurring affordable housing units, the fact that the SWLRT will be coming through is a huge factor in the housing of Hopkins. In section 4 there is mention of "Continue to explore public policy that provides protection against tenant displacement.". It really sounds like a "plan to plan" which typically is something to steer clear of in strategic planning (or in this case Comprehensive Planning). There is no mention of tracking this or a goal knowing if this has been done. How will you know how many people have been displaced but found other housing in Hopkins? How will you know if people had to move to other communities? How will you know if those displaced are our low-income residents? What indicator will be used - a policy was created or not? Or a policy was created and this is the number/% of residents displaced. A starting point might be to change "Continue to explore public policy that provides protection against tenant displacement." to "Create a public policy that provides protection against tenant displacement." and then a corresponding indicator that tracks displacement. Not easy, but in my opinion the item has no depth without some actionable item.</p>	Peg Keenan, online comment portal	Added reference to Table B3.14 in the housing implementation section of Appendix B3 to indicate that the City is considering a tenant protection ordinance. Once developed, it will determine the appropriate indicators to track.
17.	<p>Thank you for the work on this plan. Here are a few thoughts: The narrative section of the update to the plan notes the potential for displacement and gentrification to occur in the city, and the importance of steps to prevent this. For example, in Section 4 Housing, a policy listed under Goal 2 (on page 53) is to "Continue to explore public policy that provides protection against tenant displacement." Could this be carried through and reflected in the implementation section of the plan as well? To this end, add an action step reflecting the desire to protect against displacement and gentrification, and create a way to track whether (and to what extent) displacement is occurring in the city in order to have a corresponding indicator.</p>	Online comment portal	Added reference to Table B3.14 in the housing implementation section of Appendix B3 to indicate that the City is considering a tenant protection ordinance. Once developed, it will determine the appropriate indicators to track.
18.	<p>How we will we make the townhome south of Excelsior boulevard into a complete neighborhood that meets the aesthetic standards laid out in the plan? Should there be more in this plan that encourages development of additional units on single family lots? See the Minneapolis Plan - building and renting back house and</p>	Nathan Miller, online comment portal	The future land use plan includes new mixed use districts that may help contribute to complete

	additional units is an affordable wealth building strategy and enables senior living and affordable housing options.		communities. The extent of these and descriptions are included in Appendix B1, pages 14 and following
--	--	--	---

## SOCIAL ENVIRONMENT

<b>Quality of Life</b>			
Advisory Comments			
Number	Comment	From	Proposed Response
1.	On page 69, do not specifically call out affordable housing for artists; artist housing is not consistent with racial equity goals due to typical tenant mix; if it is included emphasize the need for diverse residents; in general, focus should be on affordable housing for everyone; counterpoint: artists bring vibrancy and unique perspectives that add value to the community and so should still encourage artists to live here	8/28/18 Planning Commission public input	Updated policy on page 69 to include a focus encouraging diversity in artist housing, as part of a broader approach to affordable housing
2.	55% of ICA Food Shelf participants come from Hopkins. ICA also serves multiple communities between Hopkins and Shorewood. This means that around 17.8% of Hopkins residents at least occasionally use the food shelf – though not all are regulars.	8/28/18 Planning Commission public input	Policy language on page 60 supports the goal of fresh and healthful food access for everyone. Added language to page 9 of Appendix C1 regarding food shelf statistics.
3.	<p>As we discuss Equity and Inclusion: Can we promote new means of ownership? Community financed and owned projects? How do we enable the diverse citizens we bring in to invest in and become wealthy in Hopkins? I want more co-op community owned apartments. I want more co-op employee owned businesses. This plan will make developers rich. How could it grow the stable wealth of our diverse citizens?</p> <p>How could we learn how to organize civic life from new residents? Lets learn from citizens who were born or educated elsewhere how they would provide city services, lay out the physical environment, or ensure accountability. We need to build a new Hopkins community of everyone who has found their way to living here. We need to define new ways to celebrate together, mourn together, and progress</p>	Nathan Miller, online comment portal	This plan provides a policy framework for exploring options for affordable housing and commercial space as suggested by this comment. Appendices B3 and E1 include discussion related to these topics.

	<p>towards a shared vision of the future. What holidays do we need to add to the public calendar to celebrate with our whole community? How could mainstream Hopkins reflect all of these? Could the city of Hopkins be a pioneer in community policing? Radically change the role of police in the community. Hold the police accountable to community boards. Educate police officers as social workers and treat community health issues as health issues that we can help heal. Do we need to pay our police officers more and then hold them to higher standards and expect more education, community engagement, and working together to make a stronger community?</p>		
--	---	--	--

<b>Sense of Community</b>			
Advisory Comments			
<b>Number</b>	<b>Comment</b>	<b>From</b>	<b>Proposed Response</b>
1.	<p>The Center applauds the City for incorporating racial equity and economic inclusion into several of the plan’s foundational statements, including:</p> <ol style="list-style-type: none"> <li>1. “Race and Equity” was identified through the planning process as one of the eight focus areas (priorities for policy and plan implementation): “Proactively identify and address racial disparities in the community and promote equity for everyone.”</li> <li>2. The Cultivate Hopkins vision statement includes “equity” as one of the three guiding principles (together with sustainability and resilience).</li> <li>3. The Economic Competitiveness section provides “direction for a healthy, robust and equitable economy,” including a goal to “promote economic equity in Hopkins, to benefit residents regardless of identity or background.”</li> <li>4. The Sense of Community section provides “direction for community connections, equity and inclusiveness, and culture and identity,” including a goal to “proactively support the development and maintenance of an equitable and inclusive community.”</li> </ol> <p>Equity and accessibility are also addressed in a goal within “Parks and Trails.” Additionally, a theme of openness to change pervades the plan, which can support the achievement of racial equity goals.</p>	Center for Economic Inclusion	Comment acknowledged

2.	<p>The Center supports the data disaggregation by race in many of the plan’s appendices. Examples include: poverty, unemployment, labor force participation, household income, health insurance and homeownership. Similarly, the Race and Equity Survey data are disaggregated by race, illuminating differences in the lived experience among whites and People of Color. The Center encourages this type of data analysis because it enables the City to identify where racial disparities exist, a necessary step towards closing them. Opportunities exist to disaggregate other data in the plan by race; one example is housing cost burden. Also, by disaggregating the Cultivate Hopkins Survey data and Online Issues Mapping by race, the City could identify any specific needs and opportunities expressed by People of Color. The City might also consider including data on vehicle-free households in the plan and disaggregating it by race. The plan’s appendices include spatial analyses such as a dot map showing the residences of People of Color, and a map of the City’s Area of Concentrated Poverty. Also included is a map that shows job access (low-wage jobs and low-wage workers in 2010) and a map of regional transit accessibility. The Center supports these spatial analyses by race and income and encourages the City to replicate this approach on a local basis. For example, the City could map People of Color and the ACP in relation to community assets, investments and challenges. This would enable the City to identify opportunities to advance equity and evaluate past efforts.</p>	Center for Economic Inclusion	<p>Disaggregation of data was done where possible. In some cases, the data sets were too small to make meaningful distinctions by race and geography, or data were not complete enough.</p> <p>Added implementation step to Page 123 of plan regarding spatial analysis recommendation and other analysis.</p>
3.	<p>The plan contains several policies and action steps to promote racial equity and economic inclusion, most notably within the Sense of Community, Economic Competitiveness and Implementation sections. The Center supports these policies and strategies and offers suggestions to strengthen them in the “Additional Comments” section below. In general, the Center encourages more specificity in language, leveraging existing resources for more efficient implementation, and an asset—based approach to economic inclusion.</p>	Center for Economic Inclusion	Comment acknowledged
4.	<p>Several parts of the plan state the City’s intent to evaluate the impact of policies and strategies on People of Color in Hopkins. For example, Goal 2 under Sense of Community contains a policy about using a racial equity toolkit, and the Implementation section includes an action step to “assess equity impact of specific City policies and regulations.” The Center supports these evaluation plans and encourages the City to feature them more prominently in the plan. One way to do this would be to add an additional section in the “Implementation Tools” section</p>	Center for Economic Inclusion	<p>Added language to implementation step on page 123 of plan regarding investigating potential to use a racial equity toolkit as a next step on the City’s Race and Equity Initiative.</p>

	<p>under the “Public Program and Tools” with the subtitle “Racial Equity Evaluation.” This section could describe in detail how a racial equity tool will be applied to decisions and investments within the City. By doing so, the City would demonstrate that racial equity evaluation is a high priority and that it will apply across everything the City does, not only in the predictable areas such as workforce diversity. Racial equity evaluation works best when a diverse set of stakeholders provide input into criteria and goals. These processes can provide learning opportunities for community members, staff members and others. Therefore, the Center encourages the City to commit resources to form strong, collaborative partnerships with the community and regional partners to ensure the most effective evaluation of its investments.</p>		
5.	<p>Goal 2 under “Sense of Community” outlines four policies intended to “proactively support the development and maintenance of an equitable and inclusive community.”</p> <p>The first policy under this goal is “celebrate, respect, and represent the diverse social and cultural backgrounds of the community and its members and seek to address any disparities in outcomes.” Recognizing that this policy contains a multiplicity of related but distinct actions, the Center suggests that the City break this policy into two: one policy focused on process (celebrate, respect and represent) and the other focused on outcomes (address disparities in outcomes). Also, the Center suggests that the outcomes-focused policy should refer to the racial disparities that the plan has already uncovered and describe how it will address them. For example, a revised outcomes-based policy could read: “close racial disparities in outcomes [link to appendix] through dedicated resources, partnership, ongoing evaluation and continuous improvement.”</p> <p>The second policy under this goal is “explore the development of a race and equity toolkit to evaluate public and private projects.” Rather than developing a new toolkit, the Center encourages the City to move more quickly by leveraging one or more of the many existing high-quality tools, such as GARE’s Racial Equity Toolkit and the Equitable Development Principles and Scorecard. Also, the Center encourages the City to apply the tool to ongoing programs and investments as well as discrete projects. Finally, these tools are most effective when used by a group with diverse perspectives, that includes staff, residents and other partners. A revised policy might read: “systematically and collaboratively apply a racial equity</p>	Center for Economic Inclusion	Clarified and strengthened language of policies on Page 66 as recommended. Divided the first policy statement into two parts, and reword the second to be stronger.

	tool to public and private investments at multiple decision points, transparently report the results, and make adjustments accordingly."		
6.	<p>Second, in the Quality of Life Goal # 6, it uses the phrase "residents as empowered partners". I love that phrase!!! While this was used while talking about crime/safety, it would be great to use that phrase in other community engagement areas that occur in the Sense of Community Goal 1 area. And of course ensuring residents are empowered partners is not an easy thing to do, I think you can see it done in the Blake Road Corridor Collaborative work. It can be done. It has been done in Hopkins. But even in this feedback form, have you made this easy for all residents to respond to? You may have and congratulations if you have been able to ensure a diverse group could respond. Like senior residents without computers or technology expertise, or those whose primary language is not English, but have lived in this community for years or decades and are part of the amazing quilted fabric that makes Hopkins what it is. I did not see where if this form was able to be online in the other major languages used by Hopkins residents. Was the plan translated into different languages. So even now you may not be getting the feedback from the plan you need. With adding "residents as empowered partners" to this part of the plan, it means not only gathering the ideas and empowering of some of the community, but all segments of the community. Then, not only getting ideas, but using them! It is so easy for those in positions of power to say, "oh, but that won't work because..." How do those of us in power move outside our boxes and utilize the collective wisdom of all our residents? Then not only using ideas from different parts of the community, but having an indicator in this area - ex. outcomes, processes, programs, plans, projects, etc. that reflect the needs and interests of all residents. Thank you for this opportunity to respond.</p>	Peg Keenan, online comment portal	The plan's introduction and Appendix A2 document a range of community engagement opportunities that were provided throughout the planning process in addition to the online comment portal.
7.	<p>In the implementation section of the plan, Quality of Life Goal #6 describes collaborating with "residents as empowered partners" to prevent and reduce crime and increase perceptions of safety (page 122). I would suggest adding this description of collaborating with "residents as empowered partners" to other areas of the implementation section as well - particularly the areas that discuss community engagement. One example would be Sense of Community Goal 1 - expand the idea of "everyone participating" as currently stated in this goal to include collaborating with "residents as empowered partners." In turn, in addition to "level of involvement in community events and programs", add a potential</p>	Online comment portal	Residents are referred to as empowered in policy for Sense of Community Goal 1 on page 66. Potential indicator language on page 122 will continue to be refined during subsequent implementation work as identified in table.

	indicator to include "outcomes, processes, programs, plans, projects, etc. that reflect the needs and interests of all residents."		
--	--	--	--

## NATURAL ENVIRONMENT

<b>Sustainability and Natural Resources</b>			
Advisory Comments			
<b>Number</b>	<b>Comment</b>	<b>From</b>	<b>Proposed Response</b>
1.	<p>Overall, the resilience and solar access protection and development components are quite impressive. Staff recommend including policies that quantitatively link solar energy protection and development with greenhouse gas emissions. The following policies from the City of Farmington’s draft 2040 plan may be helpful:</p> <ul style="list-style-type: none"> <li>• Policy 4.1: Follow the state energy goal guidelines of reducing greenhouse gas emissions to 20% of the City’s 2015 baseline levels by the year 2050.</li> <li>• Policy 4.2: Establish interim goals every 5 to 10 years.</li> </ul>	Met Council	Added language to Appendix D1 page 18 to clarify plans to develop more specific metrics already addressed in implementation plan.
2.	<p>Land Use. We encourage you to discuss the importance of enhancing access to nature for your city’s residents. As the city intensifies development, the quality of public and private green spaces becomes especially important. We recommend including policies that encourage private and public developments to be planted with native flowers, grasses, shrubs and tree species. Species such as monarchs rely on these plants, and it does not take many plants to attract butterflies, other beneficial pollinators as well as migrating and resident birds. Adding more native plants into landscaping, not only enhances the health and diversity of pollinators and wildlife populations, these plants can also help filter and store storm water, a policy that is consistent with other goals in your plan. For more information consult DNR’s pollinator page.</p> <p>Plant lists and suggestions for native plants can be incorporated into:</p> <ul style="list-style-type: none"> <li>• Landscape guidelines to improve the aesthetics in for commercial and industrial areas</li> <li>• Street tree planting plans</li> <li>• City gateway features</li> </ul>	DNR	Add reference on Page 79 to encouraging use of native plants in public and private development

	<ul style="list-style-type: none"> <li>• Along ponds and waterways.</li> <li>• Small nature play areas in children’s parks</li> <li>• Along the edges of ballfield complexes.</li> <li>• o Riparian areas</li> </ul>		
3.	<p>Development / Transportation Policies to Protect wildlife. Consider adding policies that take wildlife into consideration as transportation and redevelopment projects occur on private as well as public lands. To enhance the health and diversity of wildlife populations, encourage developers of lands to retain natural areas or restore them with native species after construction. One larger area is better than several small “islands” or patches; and connectivity of habitat is important. Animals such as frogs and turtles need to travel between wetlands and uplands throughout their life cycle. Consult DNR’s Best Practices for protection of species and Roadways and Turtles Flyer for self-mitigating measures to incorporate into design and construction plans. Examples of more specific measures include:</p> <ul style="list-style-type: none"> <li>• Preventing entrapment and death of small animals especially reptiles and amphibians, by specifying biodegradable erosion control netting (‘bio-netting’ or ‘natural netting’ types (category 3N or 4N)), and specifically not allow plastic mesh netting. (p. 25)</li> <li>• Providing wider culverts or other passageways under paths, driveways and roads while still considering impacts to the floodplain.</li> <li>• Including a passage bench under bridge water crossings. (p. 17) because typical bridge riprap can be a barrier to animal movement along streambanks.</li> <li>• Use curb and storm water inlet designs that don’t inadvertently direct small mammals and reptiles into the storm sewer. (p. 24). Installing “surmountable curbs” (Type D or S curbs) allows animals (e.g., turtles) to climb over and exit roadways. Traditional curbs/gutters tend to trap animals on the roadway. Another option is to install/create curb breaks every, say, 100 feet (especially important near wetlands).</li> <li>• Using smart salting practices to reduce impacts to downstream aquatic species.</li> <li>• Fencing could be installed near wetlands to help keep turtles off the road (fences that have a j-hook at each end are more effective than those that don’t).</li> </ul>	DNR	Add language to policy on Page 79 regarding considering wildlife in transportation and development projects.

4.	Open Spaces and Natural Resources. A map of the city’s natural resources would help illustrate the concept that cities with significant urban development also contain natural resources – some of which may not be as visible. Such a map could include and label Minnehaha and Nine Mile Creeks, watershed boundaries, remaining wetlands and could also show tree canopy density using a data source such as the National Land Cover Database. The DNR’s data layer Pollution Sensitivity of Near-Surface Materials on the MN Geospatial Commons would show the areas in Hopkins with high sensitivity (a large band in the middle of the city).	DNR	Many of these features are mapped in the Natural Environment element, particularly the local water management plan.
5.	Personal Autonomous Vehicles have the potential to increase emissions, where shared vehicles would result in few emissions. I think it is important to connect this back to climate and ensure the city (and other cities) doesn’t enable unintended consequences w/ AVs. <ul style="list-style-type: none"> <li>• EVs &amp; EV infrastructure are not mentioned until much later and only very briefly – they would fit in here; I don’t see any implementation strategies related either</li> </ul>	Great Plains Institute	Add implementation strategy on Page 109 regarding tracking development of EVs and AVs.
6.	Consider adding resilience policies to Emergency Response: micro-grid, back-up power to critical infrastructure, etc. This could fit better under hazard management and mitigation	Great Plains Institute	Add policy to Page 85 emergency response section regarding resilience.
7.	Add stormwater management, vegetation to Greener Development – addressed nicely in stormwater management.	Great Plains Institute	Add policy to Page 74 regarding stormwater and landscaping
8.	Strong building section	Great Plains Institute	Comment acknowledged
9.	Wind is probably not a good resource w/in Hopkins, might be careful about including it here	Great Plains Institute	Remove reference to encouraging wind energy use in policy on Page 75
10.	In addition to renewable energy targets – consider carbon emissions reduction targets	Great Plains Institute	Add policy statement to Page 75 that city will follow the state energy guide to work towards reducing emissions.
11.	On page 74, need to define how “environmentally sensitive” areas are determined	8/28/18 Planning Commission public input	Added reference to information in Appendix D1 to page 74

12.	Can we commit to having an organic recycling option in place? Language on that goal is pretty loose.	Nathan Miller, online comment portal	At this time, the city is still exploring options as to how this could be provided
-----	--	--------------------------------------	--

<b>Surface Water Management</b>			
<b>Incomplete Comments</b>			
<b>Number</b>	<b>Comment</b>	<b>From</b>	<b>Proposed Response</b>
1.	The Plan needs to include drainage areas, volumes, rates, and paths of stormwater runoff. This information is required for a local water resources management plan and can be incorporated by reference if available from another source, but the source needs to be clearly stated.	Met Council	Added information in Section 5.3 and on Figure SW-10
2.	The stormwater runoff from the City drains to Minnehaha Creek and Nine Mile Creek, which are impaired for chloride, dissolved oxygen, and fish and aquatic invertebrate bioassessments. The Plan should discuss how the City's surface runoff affects those impaired waters and what the City's role is or will be in fulfilling current and future TMDL allocations, including related implementation projects and funding sources needed to address these impairments.	Met Council	Section 7.2, Policy 2.8 has been added to address this comment
3.	Finally, the Plan referred to a few figures, but all figures numbered as "WRX.X" are not found either in the Water Resources Management Plan or in the City's Comprehensive Plan. Please update or indicate where those figures can be found,	Met Council	The plan figure numbers have been updated
4.	Regulatory Authority. There are references in the SWMP to application of NMCWD regulatory criteria, but the SWMP also appears to rely on implementation of unspecified city ordinances to protect water resources and mitigate flood risk. The draft SWMP includes a reference to updating city ordinances "to stay compliant with the NPDES and MS4 permits, "but otherwise, the draft SWMP observes that the city, watershed districts, state agencies, Hennepin County and the US. Corps of Engineers "hav[e] some level of administration responsibility. "At the same time, under the heading "Permitting," the draft SWMP incorrectly summarizes the existing relationship between NMCWD and the city with regard to exercise of regulatory authority, stating that NMCWD serves to advise the city as to regulation.	Nine Mile Creek Watershed	Added language to Section 3.4 Permitting, that includes a statement that the City defers its permitting authority over to NMCWD. Also, a sentence was added to this section that states "MCWD and NMCWD will continue to exercise regulatory authority in accordance with Minnesota

<p>(NMCWD recognizes the SWMP’s clear affirmation, in the Goal 4: Wetlands section, that NMCWD will continue to serve as the Wetland Conservation Act Local Government Unit for that portion of the city within NMCWD's jurisdiction.) Other than with regard to the exercise of WCA jurisdiction, the SWMP does not include a clear statement of the city's intent with regard to exercise of regulatory jurisdiction to protect water resources and mitigate flood risk, as required to ensure consistency with section 6.2 of the NMCWD Plan. Further, if the city intends to exercise sole regulatory authority itself, the draft SWMP lacks the detailed, specific updates to the city’s ordinances that would be necessary for NMCWD to find that the city will protect water resources and prevent flooding to the same degree that the NMCWD rules do. <u>At a minimum, the SWMP must be revised to include a clear statement of the city’s intent with regard to the exercise of regulatory jurisdiction to protect water resources from degradation and mitigate flood risk.</u> (See Minnesota Rules 8410.0160, subpart 3(4), and the NMCWD Plan, subsection 6.2.1.) In making revisions to clarify its intent, the city needs to consider subsection 6.2.1 of the NMCWD Plan, which provides a very specific framework to ensure implementation of a cohesive and protective regulatory program, as well as specifics on local-water—plan elements needed for NMCWD approval, if the city intends to exercise sole regulatory authority. The SWMP must not only commit to submitting ordinances for a determination by NMCWD that they are at least as protective as NMCWD rules, but also that they will be amended within six months of notice of amendment of the NMCWD rules. The SWMP would also have to note that the plan and ordinances would have to provide that variances from standards adopted to achieve consistency with watershed organization rules will be provided to NMCWD for review (when applicable to land within NMCWD’s jurisdiction). (Minnesota Statutes section 103B.211, subdivision 1(a)(3)(ii).) Alternatively, if the city intends to re-authorize NMCWD to continue to exercise regulatory authority, the SWMP should specify how the city will direct potentially regulated parties to NMCWD to proceed through the permitting process. It is not for NMCWD to direct the city as to what its decision on this point should be. But the SWMP must be clear and complete on this point. NMCWD recommends that the city revise the SWMP to state that NMCWD will continue to exercise regulatory authority in accordance with Minnesota Statutes section 103B.211, subd. 1(a)(3)(ii). Hopkins always has the</p>		<p>Statute 103B.211, Subd. 1 (a) (3) (ii).”</p>
---	--	---

	option to amend the plan later and provide for exercise of sole regulatory jurisdiction by the city if it later determines that such an approach is best.		
5.	The draft SWMP includes no information on the Nine Mile Creek Bank Stabilization and Habitat Enhancement Project and the cooperative agreement between the city and NMCWD that provided the legal framework for its completion. The amended and restated agreement was fully executed by the parties on December 7, 2011. Most important, section 3.2.7 of the agreement makes Hopkins responsible for the ongoing ordinary maintenance of the project; <u>this commitment should be reflected in this section and must be shown in Table WR-6 with designation of a funding source for the work.</u>	Nine Mile Creek Watershed	This agreement has expired and is no longer valid and is therefore no included in the plan. However, the table has been updated to plan for ongoing channel maintenance.
6.	The water-quality goal for the SWMP is stated, "Achieve water quality standards in lakes, creeks, and wetlands consistent with their intended use and established classification," which appears to be a reference to state-set goals. <u>But the SWMP should address how the city will work to achieve NMCWD standards for lakes, wetlands and the creek with the Nine Mile Creek watershed in the city.</u>	Nine Mile Creek Watershed	Section 7.2, Policy 2.8 has been added to address this comment.
7.	Goal 5: Groundwater. The Goal 5 section on groundwater management policies could be greatly improved by the specification of specific groundwater-conservation steps the city will take in implementing its new plan. (NMCWD Plan subsection 7.1.1.) This section also includes discussion of the city's continued implementation of its wellhead protection plan, though <u>the most recent update is not included as an appendix to the plan as it should be.</u> Also, in accordance with the relevant requirement in subsection 7.1.1 of the NMCWD Plan, the city needs to commit to providing NMCWD with any future updates of its wellhead protection plan.	Nine Mile Creek Watershed	The WHPP is included in the Appendix. Section 7.5, Policy 5.6 has been added to address this comment.
8.	<u>As noted above with regard to water resource management-related agreements, Hopkins' commitment to and funding for maintenance of the Nine Mile Creek Bank Stabilization and Habitat Enhancement Project must be shown in Table WR-6.</u>	Nine Mile Creek Watershed	This agreement has expired and is no longer valid and is therefore no included in the plan. However, the table has been updated to plan for ongoing channel maintenance.
9.	<u>Table WR-6 must be revised to include prioritization of the city's implementation work, as required by Minnesota Rules 8410.0106. subpart 2E.</u>	Nine Mile Creek Watershed	Prioritization has been added to Table 9.4: Proposed Implementation Program.

10.	2. Identify MCWD data systems in the local plan and describe their application to LGU activity in order for the District to ensure that the LGU is aware of these systems and that they are being used for common intended purposes. Partially meets requirements. The Summary (Page 2) indicates the City will utilize MCWD's updated Plan and notes the City will continue to work to ensure that its goals, policies and development standards are consistent with MCWD's Plan and rules. Functional assessment of wetlands (FAW) is not mentioned in the Plan nor is the District's H&H study, although several water resources studies carried out as feasibility reports are listed in Table WR1.2.	Minnehaha Creek Watershed	FAW and H & H study have been included in Table 5.3
11.	4. Maps of current land use and land use at the LGU planning horizon. Partially meets requirements. Figure SW—OS provides a land cover map and Figure SW-08 provides existing land use. A future land use map is not provided in the Water Resources Management Plan. A future land use plan is included in the Comprehensive Plan. Please include or reference in the Water Resources Plan.	Minnehaha Creek Watershed	The future land use map has been referenced on Pg. 7, Section 3.1.
12.	5. Maps of drainage areas under current and future planned land use with paths, rates and volumes of stormwater runoff. Partially meets requirements. Figure SW-01 depict HHPLS subwatersheds and City "drainage districts," but does not indicate subwatershed flow direction. On page 7 the Plan notes that the City has been delineated into 60 subwatersheds, but none are depicted on a figure. Figure SW—OZ depicts drainage districts and storm sewers with sewer flow direction. The District's HHPLS study, which encompasses about a third of the City, is not referenced. Some small areas have been modeled. Please provide stormwater rate and volume information. Please provide a map of major watershed boundaries and written description of their geographical and physical characteristics	Minnehaha Creek Watershed	Subwatershed flow direction is shown on Figure SW-01. The City's subwatersheds are shown on Figure SW-08. The HHPLS study is referenced in Table 5.3. Rate and volume information has been included in Section 5.3 and Figure SW-10.
13.	6. A stormwater conveyance map meeting standards of the current MS4 general permit and indicating an outfall or a connection at the LGU boundary. Partially meets requirements. Figure 5W-02 depicts storm sewers with flow direction. M54 permit requires stormwater flow direction in the pipes, outfalls with unique ID numbers and geographic coordinates, structural stormwater BMPs and receiving waters. These details are not included in Figure 5W—02. City's M54 Permit indicates the storm sewer system map and inventory are in compliance with M54 requirements — figure from M54 permit should be included in the Water Resources Plan or at a minimum be referenced; Figure 5W-02 could also be updated.	Minnehaha Creek Watershed	NPDES Inventory Map, Figure SW-08 has been added.

14.	<p>7. An inventory of public and private stormwater management facilities including the location, facility type and party responsible for maintenance (e.g., landowner, homeowner’s association, LGU, other third party). Partially meets requirements. Table WR1.6 on Page 22 indicates a storm sewer maintenance program and storm sewer pond maintenance &amp; cleanout as being funded by a stormwater utility fund — these are assumed to be for public facilities. Policy 1.3 on Page 12 notes that the City will maintain and inspect stormwater management facilities to assure they function as designed. Page 20 indicates the stormwater utility fund is used for expenses associated with maintaining and improving the stormwater system. However, private stormwater facilities are not mentioned, and an actual inventory of public and private stormwater facilities is not presented.</p>	Minnehaha Creek Watershed	Section 7.1.1., Policy 1.3 has been added regarding private pond management. A pond inventory table has been included in Figure SW-08.
15.	<p>8. A listing and summary of existing or potential water resource—related problems wholly or partly within LGU corporate limits. A problem assessment consistent with Minnesota Rules 8410.0045, subpart 7, is to be completed for each. This includes but is not limited to:</p> <ul style="list-style-type: none"> <li>• Areas of present or potential future local flooding.</li> <li>• Landlocked areas.</li> <li>• Regional storage needs.</li> </ul> <p>Partially meets requirements. An Assessment of Problems that addresses water resource-related problems begins on Page 17. Water quantity and water quality issues are the first two problems listed. Per MN Rules 8410.0045 subpart 7, problems are identified, and funding levels addressed in Table WR1.6 (Page22), but prioritization of problems to be addressed is not addressed. A specific flooding area is described on Page 9, and flood control is the stated purpose of the Stormwater Management Goal (Page11). Page7 states that there are several landlocked areas in the City that need to be addressed. Storage needs are touched on in the floodplain management policies (Page16) and with the Stormwater Management Goal on an on-site basis (Page11).</p>	Minnehaha Creek Watershed	The Proposed Implementation Program, Table 9.4 has been prioritized.
16.	<p>10. Inventory of real property owned by the LGU, including discussion of (i) water resource issues and opportunities associated with its properties, and (ii) potential opportunities to coordinate with the District or other partners. Partially meets requirements. Water resource issues are presented beginning Page 17 — the Assessment of Problems. However, an inventory of real property (municipal buildings, lots, etc.) owned by the City is not provided and the water resource issues</p>	Minnehaha Creek Watershed	Section 8.8 - NPDES MS4 Permit was added, along with a copy of the City’s SWPPP in the appendix.

	within the context of City properties are not addressed. Coordination with MCWD is included in several portions of the Plan.		
17.	11. Incorporates the inventory and description of practices from its SWPPP regarding facilities that it owns or operates and municipal operations that may contribute pollutants to groundwater or surface waters. Does not meet requirements. City's M54 Permit states that the City will complete a facilities inventory within 12 months of permit extension. An inventory is not provided in the Plan.	Minnehaha Creek Watershed	Figure SW-08: NPDES Inventory and Figure SW-09: City Owned Property were added.
18.	12. Include map and inventory of stormwater management facilities, including responsible party and maintenance condition and schedule. See #7 above.	Minnehaha Creek Watershed	Figure SW-08: NPDES Inventory and a copy of the SWPPP were added.
19.	13. A description of the LGU's approach to maintenance of stormwater management practices constructed in conjunction with private development. Partially meets requirements. Policy 1.3 on Page 12 states the City shall maintain and periodically inspect stormwater management facilities and structures. Page 20 states the stormwater utility fund is used for expenses associated with maintaining the City's stormwater system, and Table WR1.6 addresses maintenance. However, the Plan does not describe how the City approaches maintenance of stormwater management practices in conjunction with private development.	Minnehaha Creek Watershed	Section 7.1, Policy 1.3 was added to address private stormwater facilities.
20.	14. Information related to the issue of deferred maintenance of public and private stormwater management practices, to inform a cooperative approach to addressing the issue (optional). Not addressed. Land Use Planning and Development Regulation	Minnehaha Creek Watershed	Comment acknowledged
21.	15. Identify those areas within or adjacent to the LGU that the LGU has designated in its CLUP for potential development or redevelopment within the CLUP planning horizon. This includes planned rezoning, land assembly, and infrastructure extension or expansion. Partially meets requirements. Summary on Page 2 and Future Land Use paragraph on Page 4 both indicate that the City is fully developed and land use changes will be a result of redevelopment. City's emphasis on permitting (Page 5), design criteria (Page 10), stormwater management (Page 11), and wetlands (Page 14) as they pertain to development and redevelopment are clear. However, the Plan discusses development and redevelopment in general terms and does not discuss the areas in which these activities are anticipated. The City's Comp Plan indicates that redevelopment plans "focus on several key	Minnehaha Creek Watershed	Redevelopment opportunities have been called out in Section 3.1 Future Land Use.

	<p>opportunity areas in the city, namely the Green Line Extension station areas, including adjacent areas in Downtown Hopkins and the Blake Road Corridor.” These too could be called out in this Plan and indicate that those are stormwater management opportunities.</p>		
22.	<p>17. Describe the procedures by which the LGU plans, programs and implements each of the following:</p> <ul style="list-style-type: none"> <li>• Transportation infrastructure</li> <li>• Sewer and water infrastructure</li> <li>• Park and recreation land acquisition and management</li> <li>• Conservation land acquisition and management</li> </ul> <p>The description should include the date of the most recent approved capital implementation or land acquisition and management program, the frequency of program updating, the internal procedures to develop and approve the implementation program and to implement specific actions, and how programming and implementation is coordinated with other LGU activities.</p> <p>Partially meets requirements. A Transportation Plan is included as Chapter 8 of the City’s Comprehensive Plan, and park and recreation planning are outlined in Chapter 7 of the same document — Plan should reference these chapters/plans specifically. The example of 13th Ave N (Page 9) provides a glimpse into how sewer and water infrastructure are planned and implemented; Page 10 addresses how future storm sewer collection systems are evaluated and designed. Conservation land acquisition is not addressed and no existing conservation lands are mentioned — with the City being fully developed, acquisition would not be expected. The date of the most recently—approved implementation plan is not provided, and no hyperlink is provided. Table WR1.6 suggests that the City’s stormwater utility fund has provided and will continue to provide the majority of funding for implementation.</p>	Minnehaha Creek Watershed	Section 9.3, addressing the City’s Capital Improvement Program has been added.
23.	<p>18. Provide links to small area/redevelopment plans, capital implementation programs, and land acquisition and management plans listed pursuant to item 17.</p> <p>Partially meets requirements. Whereas redevelopment is addressed in several areas of the plan, links for capital implementation programs and land acquisition/management plans are not provided.</p>	Minnehaha Creek Watershed	A hyperlink to the City’s current CIP has been added in Section 9.3.

24.	<p>19. Evaluation of LGU's official controls with respect to the integration of water resource and conservation protection.</p> <ul style="list-style-type: none"> <li>• Explain regulatory tools that create incentives to consolidate development footprint to protect resources (e.g., conservation development, clustering, density credit, transfer of development rights) –</li> <li>• Dedication or development fees applied to support acquisition or consolidation of public park, recreation or conservation land, particularly as directed toward acquiring or protecting priority water resource areas-</li> <li>• Setbacks and/or other vegetated buffer requirements with respect to wetland or other surface waters, reconciled with other terms of its development code that restrict development footprint</li> <li>• Tree preservation policy</li> </ul> <p>Partially meets requirements. Page 5 states the City reviews, approves and permits stormwater management plans on projects that meet the City's ordinance requirements and that watershed permits are required for projects that meet district requirements. Policy 2.1 on Page12 states developments must meet City erosion control ordinance and Policy 3.2 on Page 13 refers to the same erosion control ordinance. Goal 6 on Page 15 refers to the City's ordinance as it pertains to floodplain management. A summary/table of all the City's official controls would be helpful. Policy 4.4 on Page 15 refers to the City's Engineering Design Guidelines, which provide standards for protective vegetative buffers around wetlands. However, details on regulatory tools that create incentives to consolidate development footprints to protect resources, dedication of fees for park or conservation land, and tree preservation are not covered in the Plan.</p>	Minnehaha Creek Watershed	Table 9.1 -Ordinances and Official Controls has been added that show City ordinances that deal with wetlands and tree retention. Being that the City is fully developed, they do not have incentives to consolidate development footprints or park dedication fees.
25.	<p>20. Identify other regulatory mandates concerning water resources under which the LGU operates, including LGU's role, responsibility, and compliance status. Include Procedures for enforcement. Specifically addressing the following:</p> <ul style="list-style-type: none"> <li>• NPDES MS4 stormwater program</li> <li>• TMDL program impaired waters referend and TMDL framework incorporated</li> <li>• State and Federal anti-degradation requirements</li> <li>• Safe drinking water act/wellhead protection program</li> <li>• NFIP, State floodplain management law</li> <li>• State Shoreland Management Law</li> </ul>	Minnehaha Creek Watershed	Information about nondegradation was added in Section 8.2.

	<ul style="list-style-type: none"> <li>WCA</li> </ul> <p>Partially meets requirements. Water resource management related agreements and agencies with administrative responsibility in the City are presented on Page2</p> <ul style="list-style-type: none"> <li>Page2 lists the M54 permit as one with which the City must comply.</li> <li>Pages 19&amp;20 provide information on TMDLs and impaired waters within the City; Page 20 underscores the City’s willingness to work with MPCA and MCWD in the TMDL process.</li> <li>State and Federal anti-degradation requirements are not referenced in the Plan.</li> <li>Page15 refers to the City’s Wellhead Protection Plan and outlines the purpose, goal and policies.</li> <li>Pages 4&amp;5 outline the City’s floodplain ordinance and indicate MCWD’s role in regulation as well.</li> <li>Page4 indicates the City does not have a shoreland ordinance; the Summary on Page 2 suggests this is because the City has no lakes.</li> <li>Policy 4.1 on Page 14 indicates the MCWD shall administer wetland protection and mitigation in accordance with WCA—no changes to that structure proposed.</li> </ul>		
26.	<p>22. Describe how regulatory activities are coordinated with the District.</p> <ul style="list-style-type: none"> <li>How are potential permit applicants made aware of District permitting requirements</li> <li>Provide department(s) and positional contact information for regulatory coordination and how this coordination will be initiated by LGU</li> </ul> <p>Partially meets requirements. Page 5 states that MCWD serves in an advisory role on development/redevelopment and holds permitting authority—District staff review development proposals and make recommendations—MCWD permits are required for projects that meet the district’s rule criteria. Department and positional contact information is not provided, and notation on how coordination will be initiated is not stated.</p>	Minnehaha Creek Watershed	Information was added in Section 3.4 about the permitting process and Table 3.1 was added listing City Contact Information.
27.	<p>24. Sets forth a coordination plan that connects the LGU and District in ways that efficiently provide for timely coordination.</p> <ul style="list-style-type: none"> <li>Annual meeting to review SWMP implementation</li> <li>Transmittal of M54 report</li> </ul>	Minnehaha Creek Watershed	Policies 7.5, 7.6, 7.7 and 7.8 have been added to address these comments.

	<ul style="list-style-type: none"> <li>• Describes how the District can receive notice of and consult with the LGU on its land use planning, infrastructure, park and recreation, and CIP efforts</li> <li>• Describes when and how LGU will provide notice on small area plans and other focused development or redevelopment actions</li> <li>• Regulatory coordination — describe how LGU will share information and coordinate on the following: <ul style="list-style-type: none"> <li>○ Pre—application and permit reviews</li> <li>○ Construction site inspection and compliance</li> <li>○ WCA where LGU is WCA authority</li> <li>○ Implementation of District Rules where LGU is rule authority for any of MCWD rules</li> </ul> </li> <li>• Discussion of coordination opportunities now, on the horizon and/or requested in the future</li> </ul> <p>Does not meet requirements MCWD Water Resources Plan, Appendix A, Paragraph 5 details an outline for the required, stand-alone, coordination plan. MCWD staff are available to assist the City in creating this framework.</p> <p>Goals and Policies of the Plan start on Page 11; Assessment of Problems starts on Page 17; both sections outline several opportunities for coordination.</p> <ul style="list-style-type: none"> <li>• An annual meeting with the District is not proposed.</li> <li>• Goal 7 (Page 16) discusses holding at least one public meeting per year to address the SWPPP annual report, but transmittal of the M54 report to MCWD is not discussed.</li> <li>• Coordination efforts with MCWD regarding potential projects are set forth in several areas throughout the Plan. However, the Plan does not provide details on how the District will receive notice regarding planning, infrastructure, park and rec, and CIP efforts.</li> <li>• The Plan does not specifically address when and how notice will be provided on small area plans and other development/redevelopment actions.</li> </ul> <p>As stated in previous bullet, the Plan either states or suggests that coordination for the listed elements will occur, but it does not cover how that coordination will look</p>		
28.	25. For each element in 24 above, describe when and how the communication will occur and indicate the department and position for proposed communication plan.	Minnehaha Creek Watershed	Language was added to Section 3.4 Permitting. Policy 7.8 was added.

	Does not meet requirements. While coordination with MCWD is referenced throughout the Plan, it does not cover when and how communication will occur regarding points in #24 above. The Plan does not provide the department or position responsible for the communication plan.		
29.	28. P. 18, Impaired Waters section The description “Minnehaha Creek, from Porter Creek to the Minnesota River” is incorrect. Minnehaha Creek flows from Grey’s Bay to the Mississippi River.	Minnehaha Creek Watershed	This was corrected in Section 8.2., Impaired Waters.
30.	29. In a number of locations text referring to figures in the Water Resources Plan do not match numbering on the figures themselves. There are also figures (such as SW—03) that are not described or called out in the Plan.	Minnehaha Creek Watershed	The figures have been renumbered and referenced accordingly in the text.
31.	30. 1. The Plan needs to include drainage areas, volumes, rates, and paths of stormwater runoff. This information is required for a local water resources management plan and can be incorporated by reference if available from another source but needs to be clearly stated 2. The stormwater runoff from the City drains to Minnehaha Creek and Nine Mile Creek which are impaired for chloride, dissolved oxygen, and fish and aquatic invertebrate bioassessments. The Plan should discuss how the City’s surface runoff affects those impaired waters and what the City’s role is or will be in fulfilling current and future TMDL allocations, including related implementation projects and funding sources needed to address these impairments. 3. Finally, the Plan referred to a few figures, but all figures numbered as “WRx.x” are not found either in the Water Resources Management Plan or in the City’s Comprehensive Plan. Please update or indicate where those figures can be found. November 8, 2018	Met Council	1. Subwatershed flow direction is shown on Figure SW-01. The City’s subwatersheds are shown on Figure SW-08. The HHPLS study is referenced in Table 5.3. Rate and volume information has been included in Section 5.3 and Figure SW-10. 2. Addressed in Section 7.2, Policy 2.8 3. The figures have been renumbered and referenced accordingly in the text.
<b>Advisory Comments</b>			
<b>Number</b>	<b>Comment</b>	<b>From</b>	<b>Proposed Response</b>
1.	if available at the time the City formally submits its Plan for review, we request the City provide the final LWMP in an Appendix with a summary in the body of the Plan, incorporating any recommended revisions from the Council and two Watershed Districts’ reviews of the draft LWMP. if available at the time the Plan is formally submitted, we also request that the City provide the dates that the two Watershed Districts approved the final LWMP, and the date the City adopted the final LWMP.	Met Council	Comment acknowledged

2.	<p>Compliance with state rule. The SWMP briefly touches on the basic requirements of Minnesota Rules 8410.016, but needs to be expanded in several areas; this memo describes both required and suggested additions, revisions and clarifications to will be needed for the SWMP to comply with the state rule and achieve consistency with the NMCWD Plan. The SWMP is short on details, and addresses several requirements in a very minimalistic manner, and would be improved by the addition of detail on several points noted below. Performance standards and, areas and elevations for stormwater storage adequate to meet them are needed. (Indeed, the SWMP lacks performance standards throughout.) Drainage areas and volume, rates and paths of stormwater have not been defined; the SWMP notes<sup>2</sup> that the city has been delineated into roughly 60 subwatersheds, but no map or figure showing these areas or description of their features is provided. Water quality protection methods adequate to meet performance standards are not identified. NMCWD finds that while the SWMP’s goal and policy statement are generally consistent with the NMCWD Plan (with certain specific changes noted below), the city should consider referencing and/or incorporating policies and goals from relevant watershed district plans, including the NMCWD Plan, to bolster the scope and comprehensiveness of the city's goals and policies. Further, the city can significantly improve the comprehensiveness and implementation effectiveness of the SWMP by clarifying its deference to the exercise of regulatory authority by NMCWD for the portion of the city within the Nine Mile Creek watershed, as discussed in more detail below.</p>	Nine Mile Creek Watershed	Comment acknowledged
3.	<p>Mechanical, typographical specifics. A table of contents and section numbering would make the SWMP more readily navigated and would facilitate future reference by city staff and partners in water-resources protection and flood-mitigation efforts. In light of the lack of such reference points in the draft SWMP, NMCWD supplements the significant issues identified in this memo with comments and suggested (Roman text) or required (underlined) revisions as notes in the attached Adobe Acrobat file.<sup>0</sup> Also, the SWMP as presented in draft form has confusing and seemingly disconnected references and cross-references to tables and figures (e.g., there is a reference on page 16 to “Table 1.0,” but it appears that instead, perhaps, the reference should be to Table WR—4; there are references to</p>	Nine Mile Creek Watershed	A Table of Contents and section numbering has been added. References have been updated.

	Figure SW—01 in a few places in the draft plan but no such figure is readily found).0 The SWMP notes that because the city is effectively completely developed, “future land[—]use changes will be a result of redevelopment activities,” which strikes NMCWD as a sound statement of an important background fact. From here, though, the SWMP often incongruously refers to how “development” will affect stormwater and flood-flow management. The SWMP should generally address water resource issues in redevelopment, consistent with the characterization of future land-use early in the SWMP.		
4.	Baseline data update needed. The City should consider updating its hydrologic hydraulic modeling.	Nine Mile Creek Watershed	Rate and volume information has been included in Section 5.3 and Figure SW-10. Updating the model has been added as an implementation item.
5.	Land-Use Planning Coordination. Section 1.4 of the NMCWD Plan discusses NMCWD’s interests in coordinating closely with not only city water—resource and public works staffs, but with individuals and departments focused on planning and economic development as well. The stated goal and continued intention is to ensure integration of water-resource management and protection into city redevelopment initiatives. The draft SWMP does not address this opportunity, but NMCWD encourages Hopkins to consider at least a general commitment in the SWMP that would reflect projects such as the effort to coordinate integration of stormwater-management features into the construction of and redevelopment along the Southwest Light Rail corridor.	Nine Mile Creek Watershed	Added language in Section 3.1 – Future Land Use
6.	NMCWD’s flood-management elevations along the creek should be referenced.	Nine Mile Creek Watershed	The flood panel hyperlink is included in Section 3.3.
7.	Modeling & Studies. A brief description of stormwater issues in the 13th Avenue area is presented. Other problem areas within the Hopkins, if any, should be identified and described here as well.	Nine Mile Creek Watershed	Comment acknowledged. The 13 <sup>th</sup> Ave summary is provided in Table 5.3, because it was the only study with results not fully implemented.

8.	Rain Gages. The draft SWMP states that Hopkins has a precipitation gage located at the city public works facility. It should be noted that this gage is operated and maintained by NMCWD.	Nine Mile Creek Watershed	Section 6.2 has been updated to recognize this comment.
9.	Goal 2: Water Quality. Policy 2.7 states Hopkins' intent to adopt policies to minimize chloride contamination through attention to road-maintenance practices. The SWMP notes that Nine Mile Creek is impaired for chloride and that a Total Maximum Daily Load study has been approved for chloride reduction/management. No further discussion is provided for the implementation of chloride reduction in Hopkins. The language in the draft SWMP should be expanded to state awareness of NMCWD's chloride—management education and training efforts, as well as the chloride-reduction requirement added to NMCWD's rules in 2018.	Nine Mile Creek Watershed	Section 7.2, Policy 2.9 has been added to address this comment.
10.	Goal 4: Wetlands. The SWMP mentions that a protective buffer strip must be retained arounds wetlands. But no specific buffer—width requirements or standards are identified and no reference to the standards establish in NMCWD Rule 3.0: Wetland Management.	Nine Mile Creek Watershed	Policy 4.4 has been updated in Section 7.4.
11.	Goal 6: Floodplain Management. As required to harmonize the SWMP with the NMCWD Plan (subsection 7.1.1), the city must commit to coordinating with NMCWD to develop floodplain information and set consistent flood elevations, as well as maintaining critical 100-year flood-storage volumes. The SWMP states that city ordinance will regulate development adjacent to the floodplain districts, but should reference regulation of land-uses allowed by the city to ensure no encroachment in or into the floodplain, to ensure no loss of floodplain storage, and to ensure no structures are built without adequate freeboard. (The policy statements do address these requirements.) This section of the draft SWMP does not reference or discuss NMCWD's floodplain-protection rule or the role of NMCWD in regulating to mitigate flood risk.	Nine Mile Creek Watershed	Comment acknowledged
12.	1. An executive summary stating highlights of the local water plan. <b>Meets requirements.</b> Plan is organized according to MR 8410 and includes the general requirements.	Minnehaha Creek Watershed	Comment acknowledged
13.	3. A summary of water resource management—related agreements, including joint powers agreements, into which the LGU has entered with watershed management organizations, adjoining LGUs, private parties or others. <b>Meets requirements.</b> Page 2 lists the agencies that have some level of administrative responsibility in the City, including MCWD.	Minnehaha Creek Watershed	Comment acknowledged

14.	9. A statement of the process to amend the local plan, consistent with Minnesota Statutes §1038.23S. <b>Meets requirements.</b> The amendment process is covered in a section that begins on Page 4. This paragraph should clearly set forth the types of amendments that would be considered minor and would not require WMO review and approval, and those that would adhere to the statutory amendment process.	Minnehaha Creek Watershed	Comment acknowledged
15.	16. List and describe completed or programmed small area plans and similar planning activities to assess the LGU's role with respect to defined—area redevelopment. <b>Meets requirements.</b> No small area plans are listed. However, the Design Criteria section that starts on Page 9 notes the rate control requirements for redevelopment. Page 10 states that redevelopment must include facilities to provide water quality treatment and runoff control. Page 5 notes that MCWD will serve in an advisory role and permitting authority for redevelopment.	Minnehaha Creek Watershed	Comment acknowledged
16.	21. Identify District assistance or coordination that would benefit any of these programs. <b>Meets requirements.</b> Coordination with MCWD is stated and implied throughout the Plan.	Minnehaha Creek Watershed	Comment acknowledged
17.	23. Contains an implementation program, consistent with MN Rules 8410.0160. <b>Meets requirements.</b> Table WR 1.6 on Page 22 provides an implementation plan with estimated costs and funding sources. Please include priorities.	Minnehaha Creek Watershed	Comment acknowledged
18.	26. Identify any District rules for which the LGU wishes to assume sole regulatory authority, and provide the supplementary information required under Section 3.6.4 of the WMP. <b>Meets requirements.</b> Policy 4.1 on Page 14 indicates the MCWD shall administer wetland protection and mitigation in accordance with WCA—no changes to that structure proposed—no changes to that structure or to any MCWD authority proposed.	Minnehaha Creek Watershed	Comment acknowledged
19.	27. State whether the LGU intends to assume the role of "local government unit" responsible to implement the Minnesota Wetlands Conservation Act (WCA) or whether it chooses for the District to assume that role. <b>Meets requirements.</b> Policy 4.1 on Page 14 indicates the MCWD shall administer wetland protection and mitigation as LGU in accordance with WCA—no changes to that structure proposed.	Minnehaha Creek Watershed	Comment acknowledged

<b>Water Supply</b>			
<b>Incomplete Comments</b>			
<b>Number</b>	<b>Comment</b>	<b>From</b>	<b>Proposed Response</b>
1.	<p>The Council has not yet reviewed the City’s Water Supply Plan that was submitted to the Minnesota Department of Natural Resources (DNR) on March 19., 2018. if changes are made to the water supply plan resulting from the DNR's review of the plan or from changes as a result of revisions to the full comprehensive plan, such as changes to forecasts, the City will need to provide the Council and DNR with the updated information when it submits its final Plan.</p> <p>In the meantime, Council staff recommend that the City develop and include cooperative agreements for emergency water supply service.</p>	Met Council	Comments from the MnDNR have yet to be received. The water supply plan has been revised and will be resubmitted based on revised population forecasts provided by the Met Council.
2.	Please also note that Appendix WR2.’ Water Supply, Treatment, and Distribution uses outdated forecasts that are inconsistent with the forecasts used in the rest of the Plan. Forecasts must be used consistently across plan elements.	Met Council	The water supply plan has been revised and will be resubmitted based on revised population forecasts provided by the Met Council.

<b>Wastewater</b>			
<b>Incomplete Comments</b>			
<b>Number</b>	<b>Comment</b>	<b>From</b>	<b>Proposed Response</b>
1.	<p>Table that details adopted community sewered forecasts in 10-year increments to 2040 for households and employment.</p> <ul style="list-style-type: none"> <li>• This should be broken down by the four (4) discharge points to the Metropolitan Disposal System: <ul style="list-style-type: none"> <li>○ M123</li> <li>○ M122</li> <li>○ Westerly to Minnetonka</li> <li>○ Northernly to Minnetonka</li> </ul> </li> </ul>	Met Council	The table has been revised as requested. Text has been added to detail the methodology for splitting these sewer forecasts in lieu of completing a system wide sanitary sewer model.

2.	<p>An electronic map or maps (GIS shape files or equivalent) showing the following information regarding the existing sanitary sewer system.</p> <ul style="list-style-type: none"> <li>• Lift stations.</li> <li>• Existing connections points to the metropolitan disposal system.</li> <li>• Future connection points for new growth if needed.</li> <li>• Local sewer service districts by connection point.</li> <li>• Intercommunity connections.</li> </ul>	Met Council	Figure has been modified to illustrate this information.
3.	Copy of Intercommunity service agreements entered into with an adjoining community, including a map of areas covered by the agreement.	Met Council	Reference to any intercommunity service agreements has been added.
4.	<p>Table or tables that provide the following local system information:</p> <ul style="list-style-type: none"> <li>• Capacity and design flows for existing trunk sewers</li> <li>• Assignment of 2040 growth forecasts by Metropolitan interceptor.</li> </ul>	Met Council	<p>Table WR3.4 lists the data for the City’s only trunk sanitary sewer. 2040 growth forecasts have been assigned by Metropolitan Council interceptor / lift station.</p>
5.	<p>Describe the sources, extent, and significance of existing inflow and infiltration in both the municipal and private sewer systems.</p> <ul style="list-style-type: none"> <li>• Include a copy of the local ordinance or resolution requiring the disconnection of existing foundation drains, sump pumps, and roof leaders from the sanitary sewer system.</li> </ul>	Met Council	City Ordinance 705.09 is included and discussed in the Infiltration and Inflow section. For added clarity, a hyperlink to City ordinance 705.09 has now been added.
6.	<p>Describe the sources, extent, and significance of existing inflow and infiltration in both the municipal and private sewer systems.</p> <ul style="list-style-type: none"> <li>• Include a breakdown of residential housing stock age within the community into pre- and post-1970 era, and what percentage of pre-1970 era private services have been evaluated for I/I susceptibility and repair.</li> <li>• Include a cost summary for remediating the Hi sources identified in the community. If previous I/I mitigation work has occurred in the community, include a summary of flow reductions and investments completed. It costs for mitigating I/I have not been analyzed, include the anticipated wastewater service rates or other costs attributed to inflow and infiltration.</li> </ul>	Met Council	<p>An estimate of costs of I&amp;I based on the sanitary sewer rate is included on page 8 of Appendix WR3: Sanitary Sewer.</p> <p>A breakdown of housing stock age pre/post 1970 has been added. A narrative regarding inspection of sewer service</p>

			pipes during reconstruction projects has been expanded.
7.	Describe the implementation plan for preventing and eliminating excessive inflow and infiltration from entering both the municipal and private sewer systems. <ul style="list-style-type: none"> <li>• Include the strategy for implementing projects, activities, or programs planned to mitigate excessive I/I from entering the municipal and private sewer systems.</li> <li>• Include a list of priorities for I/I mitigation projects based on flow reduction, budget, schedule, or other criteria.</li> <li>• Include a schedule and the related financial mechanisms planned or needed to implement the I/I mitigation strategy.</li> </ul>	Met Council	Narratives on this subject have been expanded to respond more specifically to these comments.
<b>Advisory Comments</b>			
<b>Number</b>	<b>Comment</b>	<b>From</b>	<b>Proposed Response</b>
1.	Please review the <a href="http://www.metrocouncil.org/iandi">www.metrocouncil.org/iandi</a> website for current I/I policies and additional information.	Met Council	Comment acknowledged

<b>Parks and Trails</b>			
<b>Advisory Comments</b>			
<b>Number</b>	<b>Comment</b>	<b>From</b>	<b>Proposed Response</b>
1.	Appendix B2, Page 21 - 17 <sup>th</sup> Avenue Bicycle Facility Study: The City may wish to update their text regarding the 17 <sup>th</sup> Avenue Bicycle Facility Study to reflect its status, as it currently reads that the study was anticipated to be complete by Fall 2018. In addition, please continue to keep the Park District engaged as the study evolves.	Three Rivers Park District	Updated page 21 of Appendix B2 with current study status, as study is now complete
2.	Appendix D2, page 12 – Text modification requested: The mileage for the following is confirmed as: <ul style="list-style-type: none"> <li>• Cedar Lake LRT Regional Trail: 3.8 miles</li> <li>• North Cedar Lake Regional Trail: 4.4. miles</li> <li>• Lake Minnetonka LRT Regional Trail: 15.8 miles</li> </ul>	Three Rivers Park District	Updated mileage as indicated on page 12 of Appendix D2

## ECONOMIC ENVIRONMENT

<b>Economic Competitiveness</b>			
Advisory Comments			
<b>Number</b>	<b>Comment</b>	<b>From</b>	<b>Proposed Response</b>
1.	<p>The Economic Competitiveness section provides “direction for a healthy, robust, and equitable economy.” Racial equity and economic inclusion are weaved throughout the goals and policies. Rightly, the discussion highlights the racial disparities in the economy and strategies to close those gaps. The Center encourages the City to also include language about the economic opportunities of racial equity throughout this section. If racial disparities in workforce, business ownership, income and other areas were closed, the overall economy in Hopkins (and the region) would be noticeably more prosperous. By focusing on the positive economic opportunity of equity, the community can better value its diversity and be optimistic about the future. For resources on the benefits of inclusive growth, see the Center's website.</p> <p>Goal 2 in this section is: “Support a healthy, diverse mix of businesses in Hopkins.” The Center supports the policies under this goal and suggests the addition of a goal to promote the development of business start-ups by People of Color. Minority owned businesses grew at 3.5 times the rate of all Minnesota companies in 2014; therefore, a targeted approach to support the development of minority-owned businesses is a smart public investment.</p> <p>Goal 3 in this section is: “support the development of a well prepared, diverse workforce.” The Center supports the policies under this goal and suggests the City provide more specificity. For example, one of the six policies is “Educate about what jobs are available at the city.” Educate whom? The Center encourages the City to focus its workforce outreach efforts on communities that are currently under-represented in government staff roles. By creating a more diverse city workforce, Hopkins can advance several goals at the same time.</p> <p>Goal 4 in this section is: “promote economic equity in Hopkins, to benefit residents regardless of identity or background.” The Center suggests the addition of a policy to “explore the application of Community Wealth Building to build a more equitable</p>	Center for Economic Inclusion	<p>Add policy to Page 98 related to encouraging business ownership by disadvantaged groups, including people of color, through partnerships.</p> <p>Revise policy statement on Page 99 regarding educating about jobs in the city to reflect that underrepresented groups will be encouraged.</p> <p>Add language to policy on Page 99 regarding encouraging the ability to live and work nearby.</p> <p>Add policy on Page 99 regarding exploring potential for using Community Wealth Building.</p>

	economy.” This framework, which includes strategies such as business conversions to worker ownership, is a proven driver of racial equity.		
2.	On page 94 and others, since the city does not directly benefit from adding jobs, need more emphasis in this section on tax base, including specific goals around creating sufficient value to sustain public infrastructure and system. In addition to growing the tax base, should also emphasize using limited resources and infrastructure more efficiently; also ensure this is reflected as possible benchmark value in the implementation element.	8/28/18 Planning Commission public input	Added statement on importance of tax base to Page 94, and add corresponding policy language around tax base and resource allocation to Page 97, as suggested
3.	<p>The Economic environment is missing economic inequality - the rich are getting richer How do we ensure we are not shifting wealth out of Hopkins? How do we turn this plan in to a call for action from every different persona of citizen of Hopkins?</p> <p>Identifying tech infrastructure investment as something the city can control to help with economic development is important. 5G is coming. In three or so years there will be opportunities to enable high-speed broadband wireless across the whole city. That’s the investment to make. We don’t want VC-backed startups in Hopkins. We want bootstrapped growth companies. Yes to coworkings spaces. Great equity points. Overall this plan is incredible and excited me. I think we need to move quickly to create the community.</p> <p>The only challenges I have to this already holistic and aspirational plan is how can this be more comprehensive, inclusive, and aspirational?</p>	Nathan Miller, online comment portal	The social environment element covers disparities more directly. Additional content added regarding encouraging diverse business development and entrepreneurs

<b>Downtown</b>			
Advisory Comments			
<b>Number</b>	<b>Comment</b>	<b>From</b>	<b>Proposed Response</b>
1.	On page 100, move “remaining unique” to the top of the list; this is very important and a key differentiator for Hopkins; central social district is also very important. Should indicate that the unique downtown is an important marketing tool for Hopkins – and it keeps getting nicer.	8/28/18 Planning Commission public input	Reordered points and added statement on marketing tool and getting better on Page 100

## IMPLEMENTATION

<b>Implementation</b>			
Advisory Comments			
<b>Number</b>	<b>Comment</b>	<b>From</b>	<b>Proposed Response</b>
1.	<p>The Center supports the plan’s implementation section, which identifies action steps, timelines and potential indicators for every plan goal. The following are suggestions for strengthening this section in regard to racial equity:</p> <ul style="list-style-type: none"> <li>• Page 123 suggests “social and economic disparities” as potential indicators. The Center encourages the City to identify specific racial disparity indicators that might be used from the data included in plan (e.g. poverty, unemployment, labor force participation, household income, health insurance and homeownership).</li> <li>• Page 123 also states “Pursue next steps on Hopkins Race and Equity Initiative, including implementing GARE recommendations.” This is the first time that GARE is mentioned in the plan; the Center suggests including the GARE recommendations in an appendix as a reference.</li> </ul>	Center for Economic Inclusion	<p>Add more information on potential indicators on Page 123.</p> <p>Also on Page 123, add link to more information on GARE, and revise language regarding who this and other tools will be used.</p>
2.	<p>Page 113</p> <p>Goal H #1 Alternative Language Indicator Language:</p> <ul style="list-style-type: none"> <li>• Number of preserved units of Naturally Occurring Affordable Housing Units (NOAH) – A specific goal % or numeric goals could be developed based on current availability of affordable housing.</li> <li>• Increase the number of units of affordable housing that are either permanently affordable or long-term housing</li> </ul>	Larry Hiscock	<p>Goal H #2 Page 113</p> <p>Add action step: Explore opportunities to preserve NOAH properties and communicate this goal to existing NOAH owners.</p> <p>Recognizing that some NOAH properties will lose their affordable status due to gentrification, attempt to increase the number of affordable housing units that have legally-binding affordability requirements.</p>

3.	<p>113 H #1, 2 Actions: Utilize innovative mechanism to fund or encourage affordable housing. This could include tax abatement, establishing a scatter site Tax Increment Finance District or other value capture method to fund acquisition or create an incentive for landlords to sell their rental property to a preservation buyer.</p>	Larry Hiscock	<p>The City of Hopkins has limited resources to establish a funding stream for acquisition or preservation of affordable housing while still maintaining a reasonable tax rate for all properties. The City will pursue new funding sources for affordable housing development and preservation through grants, partnerships and creative solutions as identified in H#2.</p>
4.	<p>121 QL#3 Actions:</p> <ul style="list-style-type: none"> <li>• Partner directly with culturally based organization (including funding) to build ties with immigrant and refugee communities in Hopkins.</li> <li>• Hire community cultural liaisons to engage community members.</li> </ul>	Larry Hiscock	<p>Aligns better with QL#2. Add action step to Page 121: Look for opportunities to partner with culturally-based organizations to build ties with immigrant communities in Hopkins. Continue the work of building relationships with all residents of the community but especially with those who are new to the community or have not found a meaningful way to make their voices heard.</p>
5.	<p>110 T#3 Actions: The market is already being impacted by the METRO Green Line Extension. The \$2 billion infrastructure improvement is creating private value for property owners. The increased value should be captured to ensure a broader public benefit beyond property owners and infrastructure.</p> <ul style="list-style-type: none"> <li>• Utilize a value capture tool to redirect revenue to develop a grant/loan pool to fund equitable development projects.</li> </ul>	Larry Hiscock	<p>The City of Hopkins has a responsibility to all property owners (and renters) to keep our tax rate reasonable and affordable. In order to do this, the City must grow its tax base. The City will use value capture</p>

			tools when it is deemed necessary to achieve City goals, on a case by case basis.
6.	106 LU#1 Actions: All development agreements should include clear benefits for the community: affordable housing, local hiring, space for small/disadvantaged business, etc.	Larry Hiscock	Each development project has their own set of community benefits and every project is reviewed through that lens. The City of Hopkins ability to require certain community benefits varies greatly depending on the City's role and level of financial and/or land use approvals.
7.	106 LU#1,2 Indicators: <ul style="list-style-type: none"> <li>• Number/Percentage of preserved NOAH units</li> <li>• Development agreements requiring new long-term/permanent affordable</li> </ul>	Larry Hiscock	Add indicators to Housing Policy section page 113, H#2
8.	126 EC#4 Actions: It is very positive that the City of Hopkins will be proactively applying an equity lens to its procurement and hiring practices. The City of Hopkins is also home to and borders by large corporate entities. The City of Hopkins should proactively engage and partner with corporations in the area to make the same changes. <ul style="list-style-type: none"> <li>• The City of Hopkins will convene and engage local businesses in an effort to advance racial and economic equity.</li> </ul>	Larry Hiscock	The City of Hopkins has no oversight in the hiring practices of private businesses and cannot claim to have proven methods in place around equitable hiring and procurement.
9.	The Hopkins City Council can take immediate action to encourage the production of new affordable housing and protect our neighbors who are renting and vulnerable to being displaced. The Council should act to approve the following: <ol style="list-style-type: none"> <li>1. Inclusionary Zoning Policy</li> <li>2. Just Cause Eviction Requirement</li> <li>3. Advanced Notice of Sale Requirement</li> <li>4. Section 8 Protection Ordinance</li> </ol> <p>Please see the attached fact sheets (on Section 8 protection ordinance, inclusionary housing ordinance, extending just cause requirement, and advanced notice</p>	Larry Hiscock	<ol style="list-style-type: none"> <li>1. The current draft of the Comp Plan identifies pursuing inclusionary zoning standards under Housing Policy H#2 action steps.</li> <li>2. State Statute allows for no-fault nonrenewal of leases with only 30 days of written notice. Cities are prohibited from adopting</li> </ol>

	ordinance). Other communities have adopted these policies. It is time for Hopkins to do the same.		<p>regulations that give up this right.</p> <p>3. The proposed Tenant Protection Ordinance accomplishes many of the same goals as an Advanced Notice of Sale Requirement.</p> <p>4. The ability of cities to prohibit the denial of prospective tenants on the sole basis that they use the Section 8 program to pay rent is currently being challenged in the courts. The City of Hopkins will monitor the results of the court action and look for ways to encourage the acceptance of the Section 8 voucher program.</p>
10.	On page 106, move parking requirements study to short term; any zoning related items should be in the short term too	8/28/18 Planning Commission public input	Made changes as suggested on Pages 106 and 107
11.	On page 113, move affordable housing implementation steps into the short term timeframe, rather than medium term – these are high priorities	8/28/18 Planning Commission public input	Made changes as suggested to Page 113