

**HOPKINS CITY COUNCIL
AGENDA
Tuesday, September 21, 2021
7:00 pm**

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

Schedule Special HRA Meeting immediately following City Council Meeting

I. CALL TO ORDER

II. ADOPT AGENDA

III. PRESENTATIONS

IV. CONSENT AGENDA

1. Minutes of the September 7, 2021 City Council Regular Meeting Proceedings
2. Minutes of the September 14, 2021 City Council Work Session Proceedings
3. Order Public Assessment Hearing – 2021 Miscellaneous Special Assessments; Bishop
4. Approve Special Assessment of Private Waterline Repairs; Bishop
5. Sub-Grant Agreements between the City and Vista 44 LLC; Youngquist
6. Livable Communities Demonstration Account Funding for 325 Blake Road; Youngquist

V. PUBLIC HEARING

1. Spending Plan for TIF Districts 1-2, 2-9 and 2-11; Elverum

VI. OLD BUSINESS

VII. NEW BUSINESS

1. Order Public Improvement Hearing - 2022 Street and Utility Improvements, City Project 2021-10; Klingbeil

VIII. PUBLIC COMMENT

IX. ANNOUNCEMENTS

- Next Regular City Council Meeting: Tuesday, October 5 at 7:00 p.m.
- Next City Council Work Session: Tuesday, October 12 at 6:30 p.m.

X. ADJOURN

**HOPKINS CITY COUNCIL
REGULAR MEETING PROCEEDINGS
SEPTEMBER 7, 2021**

CALL TO ORDER

Pursuant to due call and notice thereof a regular meeting of the Hopkins City Council was held on Tuesday, September 7, 2021 at 7:05 p.m. in the Council Chambers at City Hall, 1010 1st Street South.

Mayor Gadd called the meeting to order with Council Members Beck, Brausen, Halverson and Hunke attending. Others attending included City Manager Mornson, Assistant City Manager Lenz, City Engineer Stanley, City Clerk Domeier, Director of Planning and Development Elverum, City Attorney Riggs, Community Development Coordinator Youngquist, Management Analyst Imihy, Finance Director Bishop and City Planner Lindahl.

ADOPT AGENDA

Motion by Brausen. **Second** by Hunke.

Motion to Adopt the Agenda.

Ayes: All.

Nays: None. Motion carried.

CONSENT AGENDA

Mayor Gadd stated that Item 4 Approval of Hennepin County Healthy Tree Canopy Grant Agreement; Stadler was updated to include a resolution.

Motion by Beck. **Second** by Brausen.

Motion to Approve the Consent Agenda.

1. Minutes of the August 17, 2021 City Council Regular Meeting Proceedings
2. Ratify Checks Issued in August 2021; Bishop
3. Extension of On-Sale Liquor License for LTD Brewing LLC; Domeier
4. Approval of Hennepin County Healthy Tree Canopy Grant Agreement; Stadler

Ayes: All.

Nays: None. Motion carried.

NEW BUSINESS

VII.1. Conditional Use Permit Applications for Kid Zone Daycare at 715 2nd Avenue South; Lindahl

City Planner Lindahl provided a summary of Council Report 2021-084. Marcy Dearking on behalf of Kid Zone Early Learning Center, requested a conditional use permit approval (CUP) to locate a daycare facility within the former Aspen Medical Clinic at 715 2nd Avenue South. Council Member Brausen requested additional information about the relocated play structures. The applicant also provided more information about the program including the timeline for opening.

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Motion by Beck. **Second** by Hunke.

Motion to adopt Resolution 2021-051 approving a conditional use permit for a daycare facility for the property located at 715 2nd Ave South, subject to the conditions.

Ayes: All.

Nays: None. Motion carried.

VII.2. 325 Blake Road Concept Plan Review; Lindahl

City Planner Lindahl provided a summary of Council Report 2021-085. The applicant, Alatus, LLC on behalf of the property owner the Minnehaha Creek Watershed District (MCWD), requests concept plan review of their plans to redevelop the property at 325 Blake Road (the former Cold Storage site). This 17-acre property is located on the west side of Blake Road between Lake Street Northeast and the Southwest Light Rail Transit/Cedar Lake Regional Trail corridor. As proposed, approximately 4-5 acres will be retained by the Minnehaha Creek Watershed District for creek restoration and stormwater management with the remaining portion of the property available for private redevelopment by Alatus. Chris Osmundson with Alatus provided a detailed presentation of their proposal.

Mayor Gadd recognized the community engagement efforts by the developer and the significance of the project. He questioned the construction impact to adjacent properties. Mr. Osmundson provided their history working with affected properties during projects.

Council Member Beck questioned if the MCWD reviewed the plans. Mr. Osmundson provided a summary of MCWD's comments. Mr. Beck appreciated the road design but questioned the limited access to the site. Mr. Osmundson talked about the traffic studies that will be done. Mr. Beck also requested clarification on the project phasing.

Council Member Brausen asked the developer to share more information about the proposed senior housing cooperative. He also commented on the overall site use including the public amenities.

Council Member Halverson questioned if the 14-story building includes a hotel. Mr. Osmundson stated that a hotel use is still being contemplated. Ms. Halverson also supported the senior housing cooperative and all the other housing options.

Council Member Hunke supported the different housing styles, sustainability focus, pedestrian focus, the emphasis given to the creek and the 14-story building. He asked the developer to prioritize connections to SWLRT, make commercial spaces affordable and design buildings "without backs".

Mayor Gadd echoed previous comments including the proposed pedestrian connections, support for the 14-story tower, and the public amenities.

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VII.3. Approval of Proposed 2022 Levy, Proposed 2022 General Fund Budget and Set Budget Meeting Date; Bishop

Finance Director Bishop provided a summary of Council Report 2021-079. Adoption of resolution 2021-048 will set a maximum tax levy for 2022, will set debt levies at amounts sufficient to pay debt service requirement taking into consideration other revenue sources and fund reserves, approve a proposed 2022 general fund budget and set the Truth in Taxation hearing for Monday, December 6, 2021.

Mayor Gadd questioned if the 2.92% levy increase covers what is needed for departments to maintain their current services. City Manager Mornson confirmed yes. Council Member Beck cautioned the proposed increase and stated he would feel more comfortable with a lower increase. Council Members Brausen, Halverson and Hunke concurred. All members preferred to see the levy increase less than 3%.

Motion by Hunke. **Second** by Brausen.

Motion to Approve Resolution 2021-048 Approving proposed 2022 tax levy, debt service levies at levels under those required in bond covenants, proposed general fund budget, and setting budget meeting dates.

Ayes: Brausen, Gadd, Halverson, Hunke.

Nays: Beck. Motion carried.

VII.4. Approval of Proposed 2022 HRA/EDA Tax Levy; Bishop

Finance Director Bishop provided a summary of Council Report 2021-080. The City is required to certify a proposed HRA/EDA tax levy and submit it to the county by September 30th.

Brief discussion was held about the propose levy impact to residents.

Motion by Hunke. **Second** by Brausen.

Motion to approve Resolution 2021-049 Approving proposed 2022 HRA tax levy.

Ayes: All.

Nays: None. Motion carried.

VII.5. Resolution Approving Hopkins Business Retention Pilot Program; Bishop

Finance Director Bishop provided a summary of Council Report 2021-081. The Hopkins Business Retention Pilot Program (the Program) is intended to support businesses that have been displaced by redevelopment near light rail stations. The Program will provide reimbursements of up to \$3,000 for businesses that choose to stay in Hopkins. This is a pilot program to gauge the effectiveness of the reimbursement. The Program budget is limited to \$24,000 and will be disbursed on a first come first serve basis. The Program is funded through the City's Economic Development Fund.

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Council Member Brausen thanked staff for working together on the program. Council Member Beck questioned if businesses that already relocated qualify. Mr. Bishop shared the City attorney's interpretation of public purpose expenditures. Any incentive to a business already relocated would be considered a gift.

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

Motion to Approve Resolution 2021-050 Approving Hopkins Business Retention Pilot Program.

Ayes: All.

Nays: None. Motion carried.

ANNOUNCEMENTS

City Manager shared that a GreenCorps Member will be starting on September 20. He added that more budget discussions will occur in October. Mayor Gadd provided the upcoming meeting schedule.

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 8:48 p.m.

Respectfully Submitted,
Amy Domeier, City Clerk

ATTEST:

Jason Gadd, Mayor

Amy Domeier, City Clerk

**HOPKINS CITY COUNCIL
WORK SESSION PROCEEDINGS
SEPTEMBER 14, 2021**

CALL TO ORDER

Pursuant to due call and notice thereof a work session of the Hopkins City Council was held on Tuesday, September 14, 2021 at 6:30 p.m. in the Council Chambers at City Hall, 1010 1st Street South.

Mayor Gadd called the meeting to order with Council Members Beck, Brausen, Hunke and Halverson attending. Others attending included City Manager Mornson, Assistant City Manager Lenz, City Engineer Stanley, City Clerk Domeier, Director of Planning and Development Elverum, City Attorney Riggs, Director of Public Works Stadler and Solid Waste Coordinator Hove.

Reasonable Accommodation Process; Riggs

City Attorney Riggs provided a general overview of the applicability of the federal Americans with Disabilities Act (ADA) and Fair Housing Act/Fair Housing Amendments Act (FHA) to reasonable accommodation requests. He provided examples of reasonable accommodations made in other cities. The City Council supported moving forward with anticipated process review in October.

Community Notification of Development Projects; Elverum

Director of Planning and Development Elverum provided information on changes made to the process and procedures for notifying the public of upcoming development proposals. Brief discussion was held about the timeline for sign placement, logistics, the notification process based on type of land use application, and social media outreach. The City Council supported the notification changes and encouraged staff to keep exploring outreach ideas.

TIF Spending Plan; Elverum

Director of Planning and Development Elverum provided information on the TIF Spending Plan for the September 21, 2021 public hearing and subsequent action. Council Member Brausen requested more information about when TIF Districts go back on the tax roll be shared at the next meeting. City Manager Mornson questioned if the funds could be used towards a Shady Oak Station parking ramp. Ms. Elverum will provide that information at the next meeting. Council Member Beck questioned the TIF funds movement from one district to another district and excess TIF funds. Ms. Elverum explained the retention of funds and use of excess TIF funds.

Update on Residential Curbside Organics Recycling Program; Stadler

Solid Waste Coordinator Hove provided an update on the upcoming residential curbside organics recycling program. City staff are working with Republic to amend the current recycling contract to include the provision of residential curbside organics recycling collection for the same customers covered by that contract.

2022 Trunk Water Main Rehabilitation Project; Stanley

Mitchell Hoefft and Nick Amatuccio from Bolton & Menk presented the results of the preliminary engineering report undertaken to investigate rehabilitation of the City's trunk water main system in the area of the Water Treatment Plant. Discussion was held about

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the proposed project, materials used and construction phases. The City Council supported moving forward to final design.

ADJOURNMENT

There being no further business to come before the City Council and upon a motion by Brausen, second by Beck, the meeting was unanimously adjourned at 8:16 p.m.

Respectfully Submitted,
Amy Domeier, City Clerk

ATTEST:

Jason Gadd, Mayor

Amy Domeier, City Clerk



**Order Public Assessment Hearing
2021 Miscellaneous Special Assessments**

Proposed Action:

Staff recommends adoption of the following motion: Move that Council adopt Resolution 2021-055, Resolution for Hearing on Proposed Assessments, 2021 Miscellaneous Special Assessments.

Overview:

Each year the City Council considers assessing delinquent utility bills, delinquent invoices, and delinquent citations. Each property owner has received a minimum of two invoices, which have not been paid, and thus they have been included with this assessment roll.

A provisional assessment roll has been calculated and staff recommends setting an assessment hearing. Notices of the public hearing will be mailed out to each of the affected property owners in addition to placing a notice publication in the local newspaper.

Primary Issues to Consider:

Timeline Schedule:

- | | |
|----------------|-----------------------------------------------------|
| • September 21 | City Council orders public hearing |
| • September 30 | Notice in Sun Sailor |
| • October 19 | Public assessment hearing and adopt assessment roll |
| • November 19 | Deadline for interest free payments |

Recommendation:

Staff recommends adoption of Resolution 2021-055 that sets an assessment hearing date for October 19, 2021.

Supporting Information:

Resolution 2021-055

A handwritten signature in cursive script, appearing to read "Melanie Ortiz".

Melanie Ortiz
Special Assessment Clerk

**CITY OF HOPKINS
HENNEPIN COUNTY, MINNESOTA**

RESOLUTION NO: 2021-055

**RESOLUTION FOR HEARING ON PROPOSED ASSESSMENTS
2021 MISCELLANEOUS SPECIAL ASSESSMENTS**

WHEREAS, the Special Assessment Clerk, has prepared an assessment roll for 2021 Miscellaneous Special Assessments, and

WHEREAS, the City Clerk has notified the Council that such proposed assessments have been completed and filed in her office for public inspection,

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE
CITY OF HOPKINS, MINNESOTA:**

1. A hearing shall be held on the 19th day of October, 2021, at the City Hall, at 7: 00 P.M. to pass upon such proposed assessments and at such time and place all persons will be given an opportunity to be heard with reference to such assessment.
2. Questions or comments related to the public hearing may be emailed to nbishop@hopkinsmn.com, made by phone at (952)-548-6330 or mailed to 1010 First Street South, Hopkins, MN 55343. Comments submitted through these methods must be received by Tuesday, October 19, 2021 at noon in order to be considered during the hearing. The City Clerk is hereby directed to cause a notice of hearing on the proposed assessments to be published in the official newspaper at least two weeks prior to the hearing and to mail notices to the owners of all property affected by said assessments.
3. The notice of hearing shall state the date, time and place of hearing, and the reason for the assessment, and that the proposed assessment roll is on file with the clerk and that written or oral objections will be considered.
4. Miscellaneous Assessments shall be due and payable in full in 1 year and shall bear interest at the rate of 5 percent per annum from the date of the adoption of the resolution.

Adopted by the City Council this 21st day of September, 2021.

Jason Gadd, Mayor

ATTEST:

Amy Domeier, City Clerk
City of Hopkins, Minnesota



APPROVE SPECIAL ASSESSMENT OF PRIVATE WATERLINE REPAIRS

Proposed Action.

Staff recommends that the Council approve the following motion: Move that the Hopkins City Council adopt Resolution 2021-056 Approving Special Assessment for Waterline 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. Following receipt of estimated repair costs the homeowner signed an agreement on September 9, 2021 petitioning the City to do the repairs and waiving their right to object to the assessment. The repairs were completed at a total cost of \$4,650.00. As part of the agreement a 10 year assessment at 4% was proposed and agreed to.

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

Supporting Information:

- Resolution 2021-056

Melanie Ortiz
Accounting Technician

Financial Impact: \$ <u>4,650.00</u> Budgeted: Y/N ___ N <u>X</u> Source: <u>property owner</u> Related Documents (CIP, ERP, etc.): _____ Notes: _____

**CITY OF HOPKINS
HENNEPIN COUNTY, MINNESOTA**

RESOLUTION 2021-056

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

WHEREAS, On September 9, 2021 the owner of property at 231 19th Ave N, Hopkins, MN, and identified as 23-117-22-14-0107, 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 has 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 \$4,650.00 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 21st day of September, 2021.

By: _____
Jason Gadd, Mayor

ATTEST:

Amy Domeier, City Clerk

SUB-GRANT AGREEMENT

(Metropolitan Council Livable Communities Act Grant - LCDA Development Grant Program)

THIS SUB-GRANT AGREEMENT (this “Agreement”) is made as of this ___ day of _____, 2021 (the “Effective Date”), by and between the CITY OF HOPKINS, a Minnesota municipal corporation (the “Grantee”) and VISTA 44 LLC, a Minnesota limited liability company (the “Sub-Grantee”).

WHEREAS, on April 20, 2021, the Grantee entered into the Metropolitan Livable Communities Act Grant Agreement with the Metropolitan Council (the “Metropolitan Council”), a copy of which is attached hereto as Exhibit A (the “Grant Agreement”) and is incorporated herein and made part of this Agreement; and

WHEREAS, the Grant Agreement provides that the Metropolitan Council is to grant to the Grantee a sum not to exceed \$1,500,000, which funds shall be used to fund a portion of the Sub-Grantee’s acquisition and development of certain real property, which is legally described on the attached Exhibit B (the “Property”); and

WHEREAS, the Grantee and the Sub-Grantee have agreed for the Sub-Grantee to assume certain duties and responsibilities of the Grantee under the Grant Agreement in consideration of receiving funds provided for in the Grant Agreement and subject to the terms, conditions, and limitations set forth therein.

NOW, THEREFORE, in consideration of the premises and the mutual promises set forth herein, the parties hereto covenant and agree as follows:

1. Grant Funds. The Grantee will distribute funds received under the Grant Agreement upon the continuing compliance by the Sub-Grantee with its obligations hereunder. The Sub-Grantee shall use the grant proceeds which are being provided by the Grantee under this Agreement solely for the Project (as defined in the Grant Agreement), which includes the acquisition of the Property and certain stormwater and site preparation work on said Property, as further specified within the Livable Communities Project Summary (attached to the Grant Agreement). The grant proceeds shall not be used for any ineligible uses as described in the Grant Agreement. The Sub-Grantee understands and agrees that any reduction or termination of Livable Communities Demonstration Account funds made available to the Metropolitan Council from the Livable Communities Demonstration Account of the Metropolitan Livable Communities Fund may result in a like reduction in the amount of the grant proceeds that will be made available to the Sub-Grantee pursuant to this Agreement. Pursuant to Section 2.07 of the Grant Agreement, the parties agree that none of the grant funds may be made available to any subgrantee or subrecipient without the prior written consent of the Metropolitan Council.

2. Grantee’s Obligations. The Grantee will be responsible for reimbursing the Sub-Grantee for the costs of the Activities (as later defined) up to a total amount of \$1,500,000, which will be funded from the grant proceeds received from the Metropolitan Council. The Grantee will disburse funds to the Sub-Grantee pursuant to this Agreement and the Grant Agreement, based upon reimbursement requests submitted by the Sub-Grantee and reviewed and approved by the Grantee and the Metropolitan Council. Reimbursement requests must be accompanied by all information and documentation needed by the Grantee pursuant to Section 2.11 of the Grant Agreement to submit a payment request form to the Metropolitan Council. In order to ensure that all funds are drawn prior to the expiration of the grant, all payment requests must be received

by the Grantee at least 60 days prior to the grant-term expiration date of December 31, 2023 unless extended by the Grantee in writing, otherwise any unrequested funds will be lost. The Grantee shall have no obligation to disburse any of these funds if, at the time of disbursement, the Sub-Grantee is in default under any of the terms of this Agreement.

3. Sub-Grantee's Obligations. The Sub-Grantee shall perform and satisfy certain obligations of the Grantee under the Grant Agreement. Specifically, but without limiting the foregoing, the Sub-Grantee must perform all the following with respect to the Activities and in satisfaction of the Grant Agreement obligations:

- a. The Sub-Grantee will be responsible for performing all of the activities on the Property set forth in the Livable Communities Project Summary that is attached to the Grant Agreement (the "Activities"). All Activities provided by the Sub-Grantee under this Agreement must be performed to the Grantee's and the Metropolitan Council's reasonable satisfaction and in accordance with all applicable federal, state, and local laws, ordinances, rules, and regulations. The Sub-Grantee will not receive payment for Activities found by the Grantee or the Metropolitan Council to be reasonably unsatisfactory or performed in violation of federal, state, or local law.
- b. The Sub-Grantee will comply with all requirements and conditions of the Grant Agreement applicable to the Activities that, by their nature, must be performed by Sub-Grantee rather than Grantee and that are conditions of award of funds under the Grant Agreement.
- c. The Sub-Grantee must take all other actions as are needed to ensure compliance with the Grant Agreement and provide such information and assistance to the Grantee as may reasonably be needed to ensure the Grantee can comply with the requirements of the Grant Agreement that, by their nature, must be performed by the Grantee rather than the Sub-Grantee.
- d. In order to permit the Grantee and the Metropolitan Council to monitor compliance with this Agreement, the Sub-Grantee shall permit any person that the Grantee or the Metropolitan Council designate, at the Grantee or the Metropolitan Council's expense, to visit and inspect the Property, corporate books and financial records and documents of the Sub-Grantee as relevant to receipt and expenditure of the grant funds or this Agreement and to discuss its affairs, finances, and accounts (as they relate to receipt and expenditure of the grant funds or this Agreement) with the principal officers of Sub-Grantee, all at such reasonable times and as often as the Grantee or the Metropolitan Council may reasonably request during the term of this Agreement and for a period of six years after the termination of this Agreement.
- e. The Sub-Grantee will not discriminate against any employee or applicant for employment because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, membership or activity in a local civil rights commission, disability, sexual orientation or age and will take affirmative action to insure applicants and employees are treated equally with respect to all aspects of employment, rates of pay and other forms of compensation, and selection for training.

- f. If the Sub-Grantee earns any interest or other income from the grant funds received from the Grantee under this Agreement, the Sub-Grantee must use the interest earnings or income only for the purposes of implementing the Activities.
- g. Pursuant to Section 3.01 of the Grant Agreement, because the Project includes affordable housing units, Grantee is required to ensure that said housing units will remain “affordable,” as that term is defined in the Grant Agreement, for a minimum period of 15 years. Said obligation may be satisfied if other Project funding sources require an affordability term of at least 15 years. Because the Project is funded by Minnesota Housing Finance Agency (“MHFA”) Housing Infrastructure Bonds pursuant to Minn. Stat. 462A.37, it has been determined that the affordability requirement in Section 3.01 will be ensured for a period of at least 15 years. However, if at any point it is determined that the Sub-Grantee is not participating in said program or in another state or federal program that will ensure such affordability for the period required via formal instrument, or if there is any other reason to believe that there are no instruments in place to ensure the same, as required in the Grant Agreement, Sub-Grantee agrees that it will execute any instruments to ensure such affordability, in a form that meets the Grantee’s satisfaction. A failure to adhere to this subsection may result , at Grantee’s request, in Sub-Grantee being required to pay back grant funds received pursuant to this Agreement.
- h. Pursuant to Section 3.02 of the Grant Agreement, Sub-Grantee agrees and acknowledges that it, as Project owner, must adopt and implement an affirmative fair housing marketing plan for all housing units within the Project. To that end, Sub-Grantee agrees that before it will be eligible for any grant funds under the terms of this Agreement, it shall adopt and implement such a plan, which shall substantially conform to affirmative fair housing marketing plans published by the U.S. Department of Housing and Urban Development (“HUD”) or sample affirmative fair housing marketing plans published by MHFA. Such plan shall be made available to Grantee upon its request. A failure to adhere to this subsection may result , at Grantee’s request, in Sub-Grantee being required to pay back grant funds received pursuant to this Agreement.
- i. Sub-Grantee will receive Project-based Housing Choice Vouchers for all units contained within the housing project, which means that it does not need to adopt and implement a separate Section 8 Housing Choice Voucher policy as required in Section 3.03 of the Grant Agreement. However, if it is later determined by the Grantee that such a policy is required, by Metropolitan Council or otherwise, or if it is later determined that Sub-Grantee is not participating in a Project-based program, Grantee may require Sub-Grantee to adopt and implement a separate Section 8 Housing Choice Voucher policy as required in the Grant Agreement. A failure to adhere to this subsection may result , at Grantee’s request, in Sub-Grantee being required to pay back grant funds received pursuant to this Agreement.

4. Ownership and Condition of the Property. The Sub-Grantee makes the following representations:

- a. It is the owner of the Property in fee simple.
- b. To the best of the Sub-Grantee’s knowledge, the Property does not violate any applicable federal, state, or local law, ordinance, or regulation.

- c. There are no actions, suits, or proceedings pending, at law or in equity, or to the knowledge of the Sub-Grantee threatened, against or affecting it or the Property, and the Sub-Grantee is not in default with respect to any order, writ, injunction, decree, or demand of any court or any governmental authority.
 - d. The consummation of this transaction and performance of the Sub-Grantee's obligations under this Agreement will not result in any breach of, or constitute a default under any mortgage, deed of trust, lease, bank loan, or credit agreement, partnership agreement, or other instrument which affects the Sub-Grantee, or to which the Sub-Grantee is a party.
 - e. It has not used the Property in connection with the generation, disposal, storage, treatment, or transportation of hazardous substances and that the Property will not be so used during the term of this Agreement by the Sub-Grantee, its agents, tenants, or assigns, except in compliance with a Minnesota Pollution Control Agency ("MPCA") approved Development Response Action Plan.
 - f. It has obtained or caused its contractors and/or affiliates to obtain, all the insurance described in Section 5 of this Agreement and such policies of insurance are in full force and effect as of the date of this Agreement.
 - g. The individual(s) signing this Agreement on behalf of the Sub-Grantee are duly authorized to execute this Agreement on the Sub-Grantee's behalf.
5. Affirmative Covenants. The Sub-Grantee hereby covenants and agrees that it shall:
- a. Insurance.
 - i. Purchase and maintain such insurance, or cause its contractors and/or affiliates to purchase and maintain such insurance, as will protect it from claims which may arise out of, or result from, the Activities completed under this Agreement, whether such operations be by the Sub-Grantee or by any subcontractor, or by anyone directly employed by them, or by anyone for whose acts any one of them may be liable.
 - ii. For the term of this Agreement and in connection with the Activities completed pursuant to this Agreement, secure the following coverages and comply with all provisions noted, or cause its contractors and/or affiliates to secure, the following coverages and comply with all provisions noted. Upon written request by Grantee, during the term of this Agreement, the Sub-Grantee will provide certificates of insurance evidencing current coverages.

Commercial General Liability Insurance:
 \$1,500,000 per occurrence
 \$2,000,000 general aggregate
 \$2,000,000 products/completed operations total limit
 \$1,000,000 personal injury and advertising injury

This policy shall be written on an occurrence basis using ISO form CG 00 01 or its equivalent. The Sub-Grantee represents that there is no per

claim limit under the Sub-Grantee's occurrence-based policy. Coverage shall include contractual liability and XCU. Notwithstanding the foregoing, the Sub-Grantee will obtain, or cause its contractor and/or affiliates to obtain completed operations coverage for three years after substantial completion of the Activities. Upon written request by Grantee, the Sub-Grantee is required to add, or to cause its contractors and/or affiliates to add, the Grantee and any specified officials, employees, volunteers, and agents as Additional Insureds to the Commercial General Liability and Umbrella policies fulfilling the requirements of this Agreement with respect to liabilities caused in whole or in part by the Sub-Grantee's acts or omissions, or the acts or omissions of those acting on the Sub-Grantee's behalf in the performance of the ongoing operations, services, and completed operations of the Sub-Grantee under this Agreement. The coverage provides shall be primary and non-contributory.

Automobile Insurance:

Coverage shall be provided for hired, non-owned, and owned automobiles. Minimum limits of \$1,000,000 combined single limit.

Workers' Compensation and Employers' Liability:

Workers' Compensation as required by Minnesota statutes.

Employers' Liability Limits: \$500,000/\$500,000/\$500,000

Professional Liability/Errors and Omissions Coverage (if applicable):

Per Claim Limit: \$500,000

Per Occurrence Limit: \$1,500,000

Aggregate Limit: \$2,000,000

This policy is to be written as acceptable to the Grantee. Certificates of Insurance must indicate if the policy is issued on a claims-made or occurrence basis. If coverage is carried on a claims-made basis, then: i) the retroactive date shall be noted on the certificate and shall be prior to or the day of the inception of this Agreement; and ii) evidence of coverage shall be provided for three years beyond expiration of this Agreement.

- iii. The Sub-Grantee shall provide the Grantee with prior notice of any lapse in the insurance required under this Agreement including cancellation, and/or non-renewal or material change in coverage.
- iv. The above sub-paragraphs establish minimum insurance requirements, and it is the sole responsibility of the Sub-Grantee to purchase and maintain, or cause its contractors and/or affiliates to purchase and maintain, additional coverages as Sub-Grantee may deem necessary in connection with this Agreement.

- v. The Certificate of Insurance must demonstrate that the policy is issued pursuant to these requirements. Copies of insurance policies shall be submitted to the Grantee upon written request.
 - vi. Certificates shall specifically indicate if the policy is written with an admitted or non-admitted carrier. Best's Rating for the insurer shall be noted on the certificate and shall not be less than an A-.
- b. To the fullest extent permitted by law, the Sub-Grantee shall defend, indemnify, and hold harmless the Grantee and the Metropolitan Council and their officials, employees, and agents from and against all claims, damages, losses and expenses, including but not limited to, attorneys' fees, arising out of or resulting from the conduct or implementation of the Activities funded by this Agreement, except to the extent the claims, damages, losses, and expenses arise from the Grantee or the Metropolitan Council's own negligence. Claims included in this indemnification include, without limitation, any claims asserted pursuant to the Minnesota Environmental Response and Liability Act (MERLA), Minnesota Statutes Chapter 115B (CERCLA) as amended, United States Code Title 42, Section 9601 et seq., and the federal Resource Conservation and Recovery Act of 1976 (RCRA) as amended, United States Code Title 42, Sections 6901 et seq. This obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which otherwise would survive the expiration or termination of this Agreement. This indemnification shall not be construed as a waiver on the part of either the Grantee or the Metropolitan Council of any immunities or limits on liability provided by Minnesota Statutes Chapter 466 or other applicable state or federal law.
 - c. Promptly pay and discharge all taxes, assessments, and other governmental charges imposed upon it or upon its income and profits or upon the Property, and any and all claims for labor, material or supplies or rental charges or charges of any other kind which, if unpaid, might by law become a lien or charge upon the Property, provided, however, that the Sub-Grantee shall not be required to pay any such tax, assessment, charge or claim, if the Sub-Grantee is contesting the validity of such matters, in good faith, through appropriate proceedings, and the Sub-Grantee sets aside on its books adequate reserves for the payment of such claims.
 - d. Maintain the Property in good repair, working order, and condition and from time to time, make or cause to be made all necessary renewals, replacements, and repairs so that at all times the Sub-Grantee's business can be conducted efficiently.
 - e. Establish and maintain accurate and complete accounts and records relating to the receipt and expenditure of all grant funds received from the Grantee. Notwithstanding the expiration and termination provisions of this Agreement, such accounts and records shall be kept and maintained by the Sub-Grantee for a period of six years following the completion of the Activities for six years following the expenditure of the grant funds, whichever occurs earlier. Accounting methods shall be in accordance with generally accepted accounting principles.
 - f. The accounts and records of the Sub-Grantee shall be audited in the same manner as all other accounts and records of the Sub-Grantee are audited and may be audited or inspected

on the Sub-Grantee's premises or otherwise by individuals or organizations designated and authorized by the Grantee or the Metropolitan Council at any time, following reasonable notification to the Sub-Grantee, for a period of six years following the completion of the Activities or six years following the expenditure of the grant funds, whichever occurs earlier. Pursuant to Minnesota Statutes Section 16C.05, subdivision 5, the books, records, documents, and accounting procedures and practices of the Sub-Grantee that are relevant to this Agreement are subject to examination by the Grantee and the Metropolitan Council and either the Legislative Auditor or the State Auditor, as appropriate, for a minimum of six years.

- g. The Sub-Grantee shall include in any contract or subcontract for the Activities appropriate provisions to ensure contractor or subcontractor compliance with all applicable state and federal laws and this Agreement, including, but not limited to, federal and state laws relating to stormwater discharges (i.e. Code of Federal Regulations, Title 40, parts 122 and 123 and the Metropolitan Council's 2040 Water Resources Policy Plan and the local water management plan). Along with such provisions, the Sub-Grantee shall require that contractors and subcontractors performing activities covered by this grant obtain all required permits, licenses, and certifications, and comply with all applicable state and federal Occupational Safety and Health Act regulations.
- h. Construct the Property to meet all applicable local codes, rehabilitation standards, ordinances, and zoning regulations. The Grantee and the Metropolitan Council assume no responsibility for obtaining any applicable local, state, or federal licenses, permits, bonds, authorizations, or approvals necessary to perform or complete the Activities. The Sub-Grantee and its contractors, if any, must comply with all applicable licensing, permitting, bonding, authorization, and approval requirements of federal, state, and local governmental and regulatory agencies, including conservation districts.
- i. Acknowledge the financial assistance provided by the Metropolitan Council in promotional materials, press releases, reports and publications relating to the Activities which are funded in whole or in part with the grant funds. The acknowledgment must contain the following or comparable language:

"Financing for this project was provided by the Metropolitan Council Metropolitan Livable Communities Fund."

Until the Activities are completed, the Sub-Grantee must ensure the above acknowledgment language, or alternative language approved by the Metropolitan Council's authorized agent, is included on all signs (if any) located on the Property or construction sites. The acknowledgments and signage should refer to the "Metropolitan Council" (not the "Met Council" or the "Metro Council").

- j. Provide the Grantee with all information that is needed by the Grantee to submit the required written progress reports and annual written reports required by Section 4.03 of the Grant Agreement.

6. Negative Covenants. The Sub-Grantee covenants and agrees that for the term of this Agreement, it will not:

- a. Merge or consolidate with or into any other entity.
 - b. Default upon any contract or fail to pay any contract or fail to pay any of its debts or obligations as the same mature, subject to the applicable cure periods set forth in such a contract.
 - c. Generate, dispose of, use, store, treat, or transport hazardous waste substances on, in, over or across the Property or allow the Sub-Grantee's tenants to do so; provided, however, that Sub-Grantee may treat or remediate hazardous substances pursuant to an MPCA approved Development Response Action Plan and Sub-Grantee and its tenants may use, store, and transport hazardous substances on, over or across the Property as is reasonably necessary to the use of the Property as residential, commercial, or office property provided such use, storage, and transportation complies at all times with all applicable federal, state, and local statutes, codes, regulations, and ordinances.
7. Miscellaneous.
- a. All representations and warranties contained herein or made in writing by or on behalf of the Sub-Grantee in connection with the transactions contemplated hereby shall be made as of the Effective Date but survive the execution and delivery of this Agreement and the advances hereunder. All statements contained in any certificate or other instrument delivered by or on behalf of the Sub-Grantee pursuant thereto or in connection with the transactions contemplated hereby shall constitute representations and warranties by the Sub-Grantee.
 - b. This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties.
 - c. No amendment, change, waiver, or modification of this Agreement shall be valid unless it is in a written document which Sub-Grantee, and the Grantee sign, and the Grantee's waiver of any breach or default of any of the Sub-Grantee's obligations, agreements, or covenants under this Agreement shall not be deemed to be a waiver of any subsequent breach of this Agreement, or any other obligation, agreement, or covenant. The Grantee's forbearance in pursuing or enforcing a remedy for the Sub-Grantee's breach of any of the obligations set forth in this Agreement shall not be deemed a waiver of the Grantee's rights and remedies with respect to such breach.
 - d. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be an original, but all of which shall constitute one agreement.
 - e. This Agreement supersedes and has merged into all prior oral agreements between the Grantee and the Sub-Grantee regarding the Activities.
 - f. Any notices required or contemplated hereunder shall be effective upon the placing thereof in the United States Mail, certified mail, return receipt requested, postage prepaid, and addressed as follows:

If to the Grantee:
City of Hopkins
1010 1st Street South
Hopkins, MN 55343
Attn: Jan Youngquist, Community Development Coordinator

If to the Sub-Grantee:
Vista 44 LLC
2610 University Avenue West, Suite 100
St. Paul, MN 55114
Attn: Lee Bons

And copy to:
Bridget A. Hust
Hust Law Firm, PLLC
1900 Fifth Street Towers
100 South Fifth Street
Minneapolis, MN 55402

- g. This Agreement shall be interpreted and construed according to the laws of the State of Minnesota. All litigation regarding this Agreement shall be venued in the appropriate state or federal district court in Hennepin County, Minnesota.
- h. Neither party may assign or transfer its rights and obligations under this Agreement without the prior consent of the other party, provided that such party's assignee or transferee assumes all obligations under this Agreement and the other party consents to the assignment in writing. Said agreement to assignment shall not unreasonably be withheld by the consenting party.

8. Relationship. It is agreed that nothing contained in this Agreement is intended or should be construed as creating the relationship of agents, partners, joint venturers, or associates between the parties hereto or as constituting the Sub-Grantee as the employee of the Grantee for any purpose or in any manner whatsoever. The Sub-Grantee is an independent contractor and neither it, nor its employees, agents, or representatives are employees of the Grantee.

9. MGDPA. All data collected, created, received, maintained or disseminated for any purpose in the course of the Sub-Grantee's performance of this Agreement is governed by the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, and any other applicable state statutes, any state rules adopted to implement the Act and statutes, as well as federal statutes and regulations on data privacy.

10. Copyrights. The Sub-Grantee certifies that it: (a) is the owner of any renderings, images, perspectives, sections, diagrams, photographs or other copyrightable materials (collectively "copyrightable materials") that are in the grant application or submitted to the Grantee as part of the grant application process or that the Sub-Grantee is fully authorized to grant permissions regarding the copyrightable materials; and (b) the copyrightable materials do not infringe upon the copyrights of others. The Sub-Grantee agrees that the Grantee and the Metropolitan Council have a non-exclusive royalty-free license and all necessary permissions to reproduce and publish the copyrightable materials for noncommercial purposes, including but not limited to press releases, presentations, reports and on the

Internet. The Sub-Grantee also agrees that it will not hold the Grantee or the Metropolitan Council responsible for the unauthorized use of the copyrightable materials by third parties.

11. Restrictions on Loans or Grants by Sub-Grantee. The Sub-Grantee shall not use the grant proceeds for loans or grants to any subrecipient at any tier unless the Sub-Grantee obtains the prior written consent of the Metropolitan Council.

12. Business Subsidy Law. The Sub-Grantee must comply, if appropriate and applicable, with any “business subsidy” requirements of Minnesota Statutes Sections 116J.993 to 116J.995 that apply to the Sub-Grantee’s expenditures or uses of the grant funds.

13. Expiration and Termination. This Agreement shall automatically expire upon the expiration or termination of the Grant Agreement, or upon the satisfactory completion of all obligations hereunder, whichever occurs first (the “Expiration Date”), except that the obligations contained in subsections 3(g), 3(h), and 3(i) shall survive any such expiration. This Agreement may be terminated by the Grantee for cause at any time upon 14 calendar days’ written notice to the Sub-Grantee. “For cause” shall mean a material breach of this Agreement and any amendments to this Agreement. If this Agreement is terminated prior to the Expiration Date, the Sub-Grantee shall receive payment on a pro rata basis for eligible Activities that have been completed prior to the termination. Termination of this Agreement does not alter the Grantee or the Metropolitan Council’s authority to recover grant funds on the basis of a later audit or other review, and does not alter the Sub-Grantee’s obligation to return any grant funds due to the Grantee or the Metropolitan Council as a result of later audits or corrections. If the Grantee or the Metropolitan Council determines that the Sub-Grantee has failed to comply with the terms and conditions of this Agreement, the Grant Agreement, or the applicable provisions of the Metropolitan Livable Communities Act, the Grantee may take any action to protect the Grantee or the Metropolitan Council’s interests and may refuse to disburse additional grant funds and may require the Sub-Grantee to return all or part of the grant funds already disbursed.

14. Effect of Grant. Issuance of this grant neither implies any Grantee or Metropolitan Council responsibility for the condition of the Property nor imposes any obligation on the Grantee or the Metropolitan Council to participate in any activities on the Property. By awarding grant funds to the Sub-Grantee for the Activities and executing this Agreement, the Grantee and the Metropolitan Council assume no responsibility for (a) any damage to persons, property, or the environment caused by implementation of the Activities; or (b) determining whether intended uses of the Property identified in the grant application or potential future uses of the Property, including any residential uses, are suitable for the Property.

[signatures to follow]

VISTA 44 LLC

By: _____

Its: _____

STATE OF MINNESOTA)
) ss
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2021, by _____, the _____ of Vista 44 LLC, a limited liability company.

Notary Public

NOTARY STAMP OR SEAL

EXHIBIT A

Grant Agreement

[to be attached]

EXHIBIT B

Legal Description of the Property

Lots 14, 15, 16, 17, 18 and 19, inclusive, Block 8, West Minneapolis, according to the recorded plat thereof, Hennepin County, Minnesota, together with that part of the adjacent vacated alley that accrued thereto by reason of the vacation thereof, and that part of Lots 13 and 20, said West Minneapolis, which lies southerly of the following described line:

Commencing at the southeast corner of said Lot 16; thence North 03 degrees 02 minutes 02 seconds East along the east line of said Block 8, a distance of 156.25 feet to the point of beginning of the line to be described; thence North 86 degrees 52 minutes 42 seconds West a distance of 264.42 feet to the west line of said Lot 20 and said line there terminating.

SUB-GRANT AGREEMENT

(Metropolitan Council Livable Communities Act Grant – TBRA Contamination Cleanup Grant Program)

THIS SUB-GRANT AGREEMENT (this “Agreement”) is made as of this ___ day of _____, 2021 (the “Effective Date”), by and between the CITY OF HOPKINS, a Minnesota municipal corporation (the “Grantee”) and VISTA 44 LLC, a Minnesota Limited Liability Company (the “Sub-Grantee”).

WHEREAS, on April 20, 2021, the Grantee entered into the Metropolitan Livable Communities Act Grant Agreement with the Metropolitan Council (the “Metropolitan Council”), a copy of which is attached hereto as Exhibit A (the “Grant Agreement”) and is incorporated herein and made part of this Agreement; and

WHEREAS, the Grant Agreement provides that the Metropolitan Council is to grant to the Grantee a sum not to exceed \$172,300, which funds shall be used to fund a portion of the Sub-Grantee’s environmental clean-up of its property, which is legally described on the attached Exhibit B (the “Property”); and

WHEREAS, the Grantee and the Sub-Grantee have agreed for the Sub-Grantee to assume certain duties and responsibilities of the Grantee under the Grant Agreement in consideration of receiving funds provided for in the Grant Agreement and subject to the terms, conditions, and limitations set forth therein.

NOW, THEREFORE, in consideration of the premises and the mutual promises set forth herein, the parties hereto covenant and agree as follows:

1. Grant Funds. The Grantee will distribute funds received under the Grant Agreement upon the continuing compliance by the Sub-Grantee with its obligations hereunder. The Sub-Grantee shall use the grant proceeds which are being provided by the Grantee under this Agreement solely for Cleanup Costs (as defined in the Grant Agreement) for the cleanup of the Property in accordance with the Project Summary (as defined and attached to the Grant Agreement). The grant proceeds shall not be used for any ineligible uses as described in the Grant Agreement. The Sub-Grantee understands and agrees that any reduction or termination of Tax Base Revitalization Account funds made available to the Metropolitan Council from the Tax Base Revitalization Account of the Metropolitan Livable Communities Fund may result in a like reduction in the amount of the grant proceeds that will be made available to the Sub-Grantee pursuant to this Agreement. Pursuant to Section 2.07 of the Grant Agreement, the parties agree that none of the grant funds may be made available to any subgrantee or subrecipient without the prior written consent of the Metropolitan Council.

2. Grantee’s Obligations. The Grantee will be responsible for reimbursing the Sub-Grantee for the costs of the Work (as later defined) up to a total amount of \$172,300 (which will be funded from the grant proceeds received from the Metropolitan Council). The Grantee will disburse funds to the Sub-Grantee pursuant to this Agreement and the Grant Agreement, based upon reimbursement requests submitted by the Sub-Grantee and reviewed and approved by the Grantee and the Metropolitan Council. Reimbursement requests must be accompanied by all information and documentation needed by the Grantee pursuant to Section 2.10 of the Grant Agreement to submit a payment request form to the Metropolitan Council. In order to ensure that all funds are drawn prior to the expiration of the grant, all payment requests must be received by the Grantee at least 60 days prior to the grant-term expiration date of December 31, 2023 unless extended by the Grantee in writing, otherwise any unrequested funds will be lost. The Grantee shall have no obligation

to disburse any of these funds if, at the time of disbursement, the Sub-Grantee is in default under any of the terms of this Agreement.

3. Sub-Grantee's Obligations. The Sub-Grantee shall perform and satisfy certain obligations of the Grantee under the Grant Agreement. Specifically, but without limiting the foregoing, the Sub-Grantee must perform all the following with respect to the Work and in satisfaction of the Grant Agreement obligations:

- a. The Sub-Grantee will be responsible for performing all of work on the Property set forth in the Project Summary that is attached to the Grant Agreement (the "Work"). All work provided by the Sub-Grantee under this Agreement must be performed to the Grantee's and the Metropolitan Council's reasonable satisfaction and in accordance with all applicable federal, state, and local laws, ordinances, rules, and regulations. The Sub-Grantee will not receive payment for work found by the Grantee or the Metropolitan Council to be reasonably unsatisfactory or performed in violation of federal, state, or local law.
- b. The Sub-Grantee will comply with all requirements and conditions of the Grant Agreement applicable to the Work that, by their nature, must be performed by Sub-Grantee rather than Grantee and that are conditions of award of funds under the Grant Agreement.
- c. The Sub-Grantee must take all other actions as are needed to ensure compliance with the Grant Agreement and provide such information and assistance to the Grantee as may reasonably be needed to ensure the Grantee can comply with the requirements of the Grant Agreement that, by their nature, must be performed by the Grantee rather than the Sub-Grantee.
- d. Upon completion of the Work, the Sub-Grantee must provide to the Grantee the required certifications from the Minnesota Pollution Control Agency and the Minnesota Department of Health as set forth in Section 3.04 of the Grant Agreement.
- e. In order to permit the Grantee and the Metropolitan Council to monitor compliance with this Agreement, the Sub-Grantee shall permit any person that the Grantee or the Metropolitan Council designate, at the Grantee or the Metropolitan Council's expense, to visit and inspect the Property, corporate books and financial records and documents of the Sub-Grantee as relevant to receipt and expenditure of the grant funds or this Agreement and to discuss its affairs, finances, and accounts (as they relate to receipt and expenditure of the grant funds or this Agreement) with the principal officers of Sub-Grantee, all at such reasonable times and as often as the Grantee or the Metropolitan Council may reasonably request during the term of this Agreement and for a period of six years after the termination of this Agreement.
- f. The Sub-Grantee will not discriminate against any employee or applicant for employment because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, membership or activity in a local civil rights commission, disability, sexual orientation or age and will take affirmative action to insure applicants and employees are treated equally with respect to all aspects of employment, rates of pay and other forms of compensation, and selection for training.

- g. If the Sub-Grantee recovers funds pursuant to an action under Minnesota Statutes Section 115B.04, or other law, to recover the reasonable and necessary costs of the Work incurred to clean up the Property, the Sub-Grantee shall repay to the Grantee that portion of the grant. The reasonable litigation expenses or other costs of legal or technical assistance incurred by the Sub-Grantee may be deducted from recovery obtained in accordance with this paragraph and reimbursed to the Sub-Grantee before the proceeds of recovery are distributed in accordance with this paragraph. Subject to the deduction provided in this paragraph, amounts recovered by the Sub-Grantee or the Grantee from responsible persons and all other amounts otherwise received by the Sub-Grantee or the Grantee for cleanup of the Property shall be used to reimburse the Grantee, the Metropolitan Council, or any other non-responsible party who contributed funds for cleanup of the Property in proportion to their respective payments for response costs. This provision shall survive the expiration or termination of this Agreement.
- h. If the Sub-Grantee earns any interest or other income from the grant funds received from the Grantee under this Agreement, the Sub-Grantee must use the interest earnings or income only for the purposes of implementing the Work.
- i. Pursuant to Section 6.01 of the Grant Agreement, because the Project includes affordable housing units, Grantee is required to ensure that said housing units will remain “affordable,” as that term is defined in the Grant Agreement, for a minimum period of 15 years. Said obligation may be satisfied if other Project funding sources require an affordability term of at least 15 years. Because the Project is funded by Minnesota Housing Finance Agency (“MHFA”) Housing Infrastructure Bonds pursuant to Minn. Stat. 462A.37, it has been determined that the affordability requirement in Section 6.01 will be ensured for a period of at least 15 years. However, if at any point it is determined that the Sub-Grantee is not participating in said program or in another state or federal program that will ensure such affordability for the period required via formal instrument, or if there is any other reason to believe that there are no instruments in place to ensure the same, as required in the Grant Agreement, Sub-Grantee agrees that it will execute any instruments to ensure such affordability, in a form that meets the Grantee’s satisfaction. A failure to adhere to this subsection may result , at Grantee’s request, in Sub-Grantee being required to pay back grant funds received pursuant to this Agreement.
- j. Pursuant to Section 6.02 of the Grant Agreement, Sub-Grantee agrees and acknowledges that it, as Project owner, must adopt and implement an affirmative fair housing marketing plan for all housing units within the Project. To that end, Sub-Grantee agrees that before it will be eligible for any grant funds under the terms of this Agreement, it shall adopt and implement such a plan, which shall substantially conform to affirmative fair housing marketing plans published by the U.S. Department of Housing and Urban Development (“HUD”) or sample affirmative fair housing marketing plans published by MHFA. Such plan shall be made available to Grantee upon its request. A failure to adhere to this subsection may result , at Grantee’s request, in Sub-Grantee being required to pay back grant funds received pursuant to this Agreement.
- k. Sub-Grantee will receive Project-based Housing Choice Vouchers for all units contained within the housing project, which means that it does not need to adopt and implement a separate Section 8 Housing Choice Voucher policy as required in Section 6.03 of the Grant

Agreement. However, if it is later determined by the Grantee that such a policy is required, by Metropolitan Council or otherwise, or if it is later determined that Sub-Grantee is not participating in a Project-based program, Grantee may require Sub-Grantee to adopt and implement a separate Section 8 Housing Choice Voucher policy as required in the Grant Agreement. A failure to adhere to this subsection may result, at Grantee's request, in Sub-Grantee being required to pay back grant funds received pursuant to this Agreement.

4. Ownership and Condition of the Property. The Sub-Grantee makes the following representations:

- a. It is the owner of the Property in fee simple.
- b. To the best of the Sub-Grantee's knowledge, the Property does not violate any applicable federal, state, or local law, ordinance, or regulation.
- c. There are no actions, suits, or proceedings pending, at law or in equity, or to the knowledge of the Sub-Grantee threatened, against or affecting it or the Property, and the Sub-Grantee is not in default with respect to any order, writ, injunction, decree, or demand of any court or any governmental authority.
- d. The consummation of this transaction and performance of the Sub-Grantee's obligations under this Agreement will not result in any breach of, or constitute a default under any mortgage, deed of trust, lease, bank loan, or credit agreement, partnership agreement, or other instrument which affects the Sub-Grantee, or to which the Sub-Grantee is a party.
- e. It has not used the Property in connection with the generation, disposal, storage, treatment, or transportation of hazardous substances and that the Property will not be so used during the term of this Agreement by the Sub-Grantee, its agents, tenants, or assigns, except in compliance with a Minnesota Pollution Control Agency ("MPCA") approved Development Response Action Plan.
- f. It has obtained or caused its contractors and/or affiliates to obtain, all the insurance described in Section 5 of this Agreement and such policies of insurance are in full force and effect as of the date of this Agreement.
- g. The individual(s) signing this Agreement on behalf of the Sub-Grantee are duly authorized to execute this Agreement on the Sub-Grantee's behalf.

5. Affirmative Covenants. The Sub-Grantee hereby covenants and agrees that it shall:

- a. Insurance.
 - i. Purchase and maintain such insurance, or cause its contractors and/or affiliates to purchase and maintain such insurance, as will protect it from claims which may arise out of, or result from, the Work completed under this Agreement, whether such operations be by the Sub-Grantee or by any subcontractor, or by anyone directly employed by them, or by anyone for whose acts any one of them may be liable.

- ii. For the term of this Agreement and in connection with the Work completed pursuant to this Agreement, secure the following coverages and comply with all provisions noted, or cause its contractors and/or affiliates to secure, the following coverages and comply with all provisions noted. Upon written request by Grantee, during the term of this Agreement, the Sub-Grantee will provide certificates of insurance evidencing current coverages.

Commercial General Liability Insurance:

\$1,500,000 per occurrence

\$2,000,000 general aggregate

\$2,000,000 products/completed operations total limit

\$1,000,000 personal injury and advertising injury

This policy shall be written on an occurrence basis using ISO form CG 00 01 or its equivalent. The Sub-Grantee represents that there is no per claim limit under the Sub-Grantee's occurrence-based policy. Coverage shall include contractual liability and XCU. Notwithstanding the foregoing, the Sub-Grantee will obtain, or cause its contractor and/or affiliates to obtain completed operations coverage for three years after substantial completion of the Work. Upon written request by Grantee, the Sub-Grantee is required to add, or to cause its contractors and/or affiliates to add, the Grantee and any specified officials, employees, volunteers, and agents as Additional Insureds to the Commercial General Liability and Umbrella policies fulfilling the requirements of this Agreement with respect to liabilities caused in whole or in part by the Sub-Grantee's acts or omissions, or the acts or omissions of those acting on the Sub-Grantee's behalf in the performance of the ongoing operations, services, and completed operations of the Sub-Grantee under this Agreement. The coverage provides shall be primary and non-contributory.

Automobile Insurance:

Coverage shall be provided for hired, non-owned, and owned automobiles. Minimum limits of \$1,000,000 combined single limit.

Workers' Compensation and Employers' Liability:

Workers' Compensation as required by Minnesota statutes.

Employers' Liability Limits: \$500,000/\$500,000/\$500,000

Professional Liability/Errors and Omissions Coverage (if applicable):

Per Claim Limit: \$500,000

Per Occurrence Limit: \$1,500,000

Aggregate Limit: \$2,000,000

This policy is to be written as acceptable to the Grantee. Certificates of Insurance must indicate if the policy is issued on a claims-made or occurrence basis. If coverage is carried on a claims-made basis, then: i) the retroactive date shall be noted on the certificate and shall be prior to

or the day of the inception of this Agreement; and ii) evidence of coverage shall be provided for three years beyond expiration of this Agreement.

- iii. The Sub-Grantee shall provide the Grantee with prior notice of any lapse in the insurance required under this Agreement including cancellation, and/or non-renewal or material change in coverage.
 - iv. The above sub-paragraphs establish minimum insurance requirements, and it is the sole responsibility of the Sub-Grantee to purchase and maintain, or cause its contractors and/or affiliates to purchase and maintain, additional coverages as Sub-Grantee may deem necessary in connection with this Agreement.
 - v. The Certificate of Insurance must demonstrate that the policy is issued pursuant to these requirements. Copies of insurance policies shall be submitted to the Grantee upon written request.
 - vi. Certificates shall specifically indicate if the policy is written with an admitted or non-admitted carrier. Best's Rating for the insurer shall be noted on the certificate and shall not be less than an A-.
- b. To the fullest extent permitted by law, the Sub-Grantee shall defend, indemnify, and hold harmless the Grantee and the Metropolitan Council and their officials, employees, and agents from and against all claims, damages, losses and expenses, including but not limited to, attorneys' fees, arising out of or resulting from the conduct or implementation of the Work funded by this Agreement, except to the extent the claims, damages, losses, and expenses arise from the Grantee or the Metropolitan Council's own negligence. Claims included in this indemnification include, without limitation, any claims asserted pursuant to the Minnesota Environmental Response and Liability Act (MERLA), Minnesota Statutes Chapter 115B (CERCLA) as amended, United States Code Title 42, Section 9601 et seq., and the federal Resource Conservation and Recovery Act of 1976 (RCRA) as amended, United States Code Title 42, Sections 6901 et seq. This obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which otherwise would survive the expiration or termination of this Agreement. This indemnification shall not be construed as a waiver on the part of either the Grantee or the Metropolitan Council of any immunities or limits on liability provided by Minnesota Statutes Chapter 466 or other applicable state or federal law.
- c. Promptly pay and discharge all taxes, assessments, and other governmental charges imposed upon it or upon its income and profits or upon the Property, and any and all claims for labor, material or supplies or rental charges or charges of any other kind which, if unpaid, might by law become a lien or charge upon the Property, provided, however, that the Sub-Grantee shall not be required to pay any such tax, assessment, charge or claim, if the Sub-Grantee is contesting the validity of such matters, in good faith, through appropriate proceedings, and the Sub-Grantee sets aside on its books adequate reserves for the payment of such claims.

- d. Maintain the Property in good repair, working order, and condition and from time to time, make or cause to be made all necessary renewals, replacements, and repairs so that at all times the Sub-Grantee's business can be conducted efficiently.
- e. Establish and maintain accurate and complete accounts and records relating to the receipt and expenditure of all grant funds received from the Grantee. Notwithstanding the expiration and termination provisions of this Agreement, such accounts and records shall be kept and maintained by the Sub-Grantee for a period of six years following the completion of the Work or six years following the expenditure of the grant funds, whichever occurs earlier. Accounting methods shall be in accordance with generally accepted accounting principles.
- f. The accounts and records of the Sub-Grantee shall be audited in the same manner as all other accounts and records of the Sub-Grantee are audited and may be audited or inspected on the Sub-Grantee's premises or otherwise by individuals or organizations designated and authorized by the Grantee or the Metropolitan Council at any time, following reasonable notification to the Sub-Grantee, for a period of six years following the completion of the Work or six years following the expenditure of the grant funds, whichever occurs earlier. Pursuant to Minnesota Statutes Section 16C.05, subdivision 5, the books, records, documents, and accounting procedures and practices of the Sub-Grantee that are relevant to this Agreement are subject to examination by the Grantee and the Metropolitan Council and either the Legislative Auditor or the State Auditor, as appropriate, for a minimum of six years.
- g. The Sub-Grantee shall include in any contract or subcontract for the Work appropriate provisions to ensure contractor or subcontractor compliance with all applicable state and federal laws and this Agreement, including, but not limited to, federal and state laws relating to stormwater discharges (i.e. Code of Federal Regulations, Title 40, parts 122 and 123 and the Metropolitan Council's 2040 Water Resources Policy Plan and the local water management plan). Along with such provisions, the Sub-Grantee shall require that contractors and subcontractors performing work covered by this grant obtain all required permits, licenses, and certifications, and comply with all applicable state and federal Occupational Safety and Health Act regulations, especially the federal Hazardous Waste Operations and Emergency Response standards under Code of Federal Regulations, Title 29, Sections 1910.120 and 1926.65.
- h. Construct the Property to meet all applicable local codes, rehabilitation standards, ordinances, and zoning regulations. The Grantee and the Metropolitan Council assume no responsibility for obtaining any applicable local, state, or federal licenses, permits, bonds, authorizations, or approvals necessary to perform or complete the Work. The Sub-Grantee and its contractors, if any, must comply with all applicable licensing, permitting, bonding, authorization, and approval requirements of federal, state, and local governmental and regulatory agencies, including conservation districts.
- i. Acknowledge the financial assistance provided by the Metropolitan Council in promotional materials, press releases, reports and publications relating to the Work which are funded in whole or in part with the grant funds. The acknowledgment must contain the following or comparable language:

“Financing for this project was provided by the Metropolitan Council Metropolitan Livable Communities Fund.”

Until the Work is completed, the Sub-Grantee must ensure the above acknowledgment language, or alternative language approved by the Metropolitan Council’s authorized agent, is included on all signs (if any) located on the Property or construction sites. The acknowledgments and signage should refer to the “Metropolitan Council” (not the “Met Council” or the “Metro Council”).

- j. Provide the Grantee with all information that is needed by the Grantee to submit the required written progress reports and annual written reports required by Section 3.03 of the Grant Agreement.
6. Negative Covenants. The Sub-Grantee covenants and agrees that for the term of this Agreement, it will not:
- a. Merge or consolidate with or into any other entity.
 - b. Default upon any contract or fail to pay any contract or fail to pay any of its debts or obligations as the same mature, subject to the applicable cure periods set forth in such a contract.
 - c. Generate, dispose of, use, store, treat, or transport hazardous waste substances on, in, over or across the Property or allow the Sub-Grantee’s tenants to do so; provided, however, that Sub-Grantee may treat or remediate hazardous substances pursuant to an MPCA approved Development Response Action Plan and Sub-Grantee and its tenants may use, store, and transport hazardous substances on, over or across the Property as is reasonably necessary to the use of the Property as residential, commercial, or office property provided such use, storage, and transportation complies at all times with all applicable federal, state, and local statutes, codes, regulations, and ordinances.
7. Miscellaneous.
- a. All representations and warranties contained herein or made in writing by or on behalf of the Sub-Grantee in connection with the transactions contemplated hereby shall be made as of the Effective Date but survive the execution and delivery of this Agreement and the advances hereunder. All statements contained in any certificate or other instrument delivered by or on behalf of the Sub-Grantee pursuant thereto or in connection with the transactions contemplated hereby shall constitute representations and warranties by the Sub-Grantee.
 - b. This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties.
 - c. No amendment, change, waiver, or modification of this Agreement shall be valid unless it is in a written document which Sub-Grantee, and the Grantee sign, and the Grantee’s waiver of any breach or default of any of the Sub-Grantee’s obligations, agreements, or covenants

under this Agreement shall not be deemed to be a waiver of any subsequent breach of this Agreement, or any other obligation, agreement, or covenant. The Grantee's forbearance in pursuing or enforcing a remedy for the Sub-Grantee's breach of any of the obligations set forth in this Agreement shall not be deemed a waiver of the Grantee's rights and remedies with respect to such breach.

- d. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be an original, but all of which shall constitute one agreement.
- e. This Agreement supersedes and has merged into all prior oral agreements between the Grantee and the Sub-Grantee regarding the Work.
- f. Any notices required or contemplated hereunder shall be effective upon the placing thereof in the United States Mail, certified mail, return receipt requested, postage prepaid, and addressed as follows:

If to the Grantee:
City of Hopkins
1010 1st Street South
Hopkins, MN 55343
Attn: Jan Youngquist, Community Development Coordinator

If to the Sub-Grantee:
Vista 44 LLC
2610 University Avenue West, Suite 100
St. Paul, MN 55114
Attn: Lee Bons

And copy to:
Bridget A. Hust
Hust Law Firm, PLLC
1900 Fifth Street Towers
100 South Fifth Street
Minneapolis, MN 55402

- g. This Agreement shall be interpreted and construed according to the laws of the State of Minnesota. All litigation regarding this Agreement shall be venued in the appropriate state or federal district court in Hennepin County, Minnesota.
- h. Neither party may assign or transfer its rights and obligations under this Agreement without the prior consent of the other party, provided that such party's assignee or transferee assumes all obligations under this Agreement and the other party consents to the assignment in writing. Said agreement to assignment shall not unreasonably be withheld by the consenting party.

8. **Relationship.** It is agreed that nothing contained in this Agreement is intended or should be construed as creating the relationship of agents, partners, joint venturers, or associates between the parties hereto or as constituting the Sub-Grantee as the employee of the Grantee for any purpose or in any manner

whatsoever. The Sub-Grantee is an independent contractor and neither it, nor its employees, agents, or representatives are employees of the Grantee.

9. MGDPA. All data collected, created, received, maintained or disseminated for any purpose in the course of the Sub-Grantee's performance of this Agreement is governed by the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, and any other applicable state statutes, any state rules adopted to implement the Act and statutes, as well as federal statutes and regulations on data privacy.

10. Copyrights. The Sub-Grantee certifies that it: (a) is the owner of any renderings, images, perspectives, sections, diagrams, photographs or other copyrightable materials (collectively "copyrightable materials") that are in the grant application or submitted to the Grantee as part of the grant application process or that the Sub-Grantee is fully authorized to grant permissions regarding the copyrightable materials; and (b) the copyrightable materials do not infringe upon the copyrights of others. The Sub-Grantee agrees that the Grantee and the Metropolitan Council have a non-exclusive royalty-free license and all necessary permissions to reproduce and publish the copyrightable materials for noncommercial purposes, including but not limited to press releases, presentations, reports and on the Internet. The Sub-Grantee also agrees that it will not hold the Grantee or the Metropolitan Council responsible for the unauthorized use of the copyrightable materials by third parties.

11. Restrictions on Loans or Grants by Sub-Grantee. The Sub-Grantee shall not use the grant proceeds for loans or grants to any subrecipient at any tier unless the Sub-Grantee obtains the prior written consent of the Metropolitan Council.

12. Business Subsidy Law. The Sub-Grantee must comply, if appropriate and applicable, with any "business subsidy" requirements of Minnesota Statutes Sections 116J.993 to 116J.995 that apply to the Sub-Grantee's expenditures or uses of the grant funds.

13. Expiration and Termination. This Agreement shall automatically expire upon the expiration or termination of the Grant Agreement, or upon the satisfactory completion of all obligations hereunder, whichever occurs first (the "Expiration Date"), except that the obligations contained in subsections 3(i), 3(j), and 3(k) shall survive any such expiration. This Agreement may be terminated by the Grantee for cause at any time upon 14 calendar days' written notice to the Sub-Grantee. "For cause" shall mean a material breach of this Agreement and any amendments to this Agreement. If this Agreement is terminated prior to the Expiration Date, the Sub-Grantee shall receive payment on a pro rata basis for eligible Work activities that have been completed prior to the termination. Termination of this Agreement does not alter the Grantee or the Metropolitan Council's authority to recover grant funds on the basis of a later audit or other review, and does not alter the Sub-Grantee's obligation to return any grant funds due to the Grantee or the Metropolitan Council as a result of later audits or corrections. If the Grantee or the Metropolitan Council determines that the Sub-Grantee has failed to comply with the terms and conditions of this Agreement, the Grant Agreement, or the applicable provisions of the Metropolitan Livable Communities Act, the Grantee may take any action to protect the Grantee or the Metropolitan Council's interests and may refuse to disburse additional grant funds and may require the Sub-Grantee to return all or part of the grant funds already disbursed.

14. Effect of Grant. Issuance of this grant neither implies any Grantee or Metropolitan Council responsibility for the contamination at the Property nor imposes any obligation on the Grantee or the Metropolitan Council to participate in the cleanup of the Property contamination or in the cleanup costs beyond the grant amount of this Agreement. By awarding grant funds to the Sub-Grantee for the

Work and executing this Agreement, the Grantee and the Metropolitan Council assume no responsibility for (a) any damage to persons, property, or the environment caused by Property cleanup activities or implementation of the Work; or (b) determining whether intended uses of the Property identified in the grant application or potential future uses of the Property, including any residential uses, are suitable for the Property.

[signatures to follow]

VISTA 44 LLC

By: _____

Its: _____

STATE OF MINNESOTA)
) ss
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2021, by _____, the _____ of Vista 44 LLC, a Minnesota limited liability company.

Notary Public

NOTARY STAMP OR SEAL

EXHIBIT A

Grant Agreement

[to be attached]

EXHIBIT B

Legal Description of the Property

Lots 14, 15, 16, 17, 18 and 19, inclusive, Block 8, West Minneapolis, according to the recorded plat thereof, Hennepin County, Minnesota, together with that part of the adjacent vacated alley that accrued thereto by reason of the vacation thereof, and that part of Lots 13 and 20, said West Minneapolis, which lies southerly of the following described line:

Commencing at the southeast corner of said Lot 16; thence North 03 degrees 02 minutes 02 seconds East along the east line of said Block 8, a distance of 156.25 feet to the point of beginning of the line to be described; thence North 86 degrees 52 minutes 42 seconds West a distance of 264.42 feet to the west line of said Lot 20 and said line there terminating.

**CITY OF HOPKINS
HENNEPIN COUNTY, MINNESOTA**

RESOLUTION 2021-053

**RESOLUTION IDENTIFYING THE NEED FOR LIVABLE COMMUNITIES
DEMONSTRATION ACCOUNT FUNDING AND AUTHORIZING APPLICATION FOR
GRANT FUNDS FOR 325 BLAKE ROAD**

WHEREAS, the City of Hopkins is a participant in the Livable Communities Act's Local Housing Incentives Account Program for 2021 as determined by the Metropolitan Council, and is therefore eligible to apply for Livable Communities Demonstration Account funds; and

WHEREAS, the City has identified a proposed project within the City that meets the Demonstration Account's purposes and criteria and is consistent with and promotes the purposes of the Metropolitan Livable Communities Act and the policies of the Metropolitan Council's adopted metropolitan development guide; and

WHEREAS, Alatus LLC has requested that the City sponsor an application for Livable Communities Demonstration Account funds for its 325 Blake Road project in the City of Hopkins; and

WHEREAS, the City has the institutional, managerial and financial capability to ensure adequate project grant administration; and

WHEREAS, the City certifies that it will comply with all applicable laws and regulations as stated in the grant agreement; and

WHEREAS, the City agrees to act as legal sponsor for the project contained in the grant application submitted on or before September 27, 2021; and

WHEREAS, the City acknowledges Livable Communities Demonstration Account grants are intended to fund projects or project components that can serve as models, examples or prototypes for development or redevelopment projects elsewhere in the region, and therefore represents that the proposed project(s) or key components of the proposed project(s) can be replicated in other metropolitan-area communities; and

WHEREAS, only a limited amount of grant funding is available through the Metropolitan Council's Livable Communities Demonstration Account during each funding cycle and the Metropolitan Council has determined it is appropriate to allocate those scarce grant funds only to eligible projects that would not occur without the availability of Demonstration Account grant funding.

NOW THEREFORE BE IT RESOLVED that, after appropriate examination and due consideration, the governing body of the City:

1. Finds that it is in the best interests of the City's development goals and priorities for the proposed project to occur at this particular site and at this particular time.
2. Finds that the project components for which Livable Communities Demonstration Account funding is sought:
 - a. will not occur solely through private or other public investment within the reasonably foreseeable future; and
 - b. will occur within three years after a grant award only if Livable Communities Demonstration Account funding is made available for this project at this time.
3. Represents that Alatus LLC has undertaken reasonable and good faith efforts to procure funding for the project components for which Livable Communities Demonstration Account funding is sought but was not able to find or secure from other sources funding that is necessary for project component completion within three years.
4. Authorizes its City Manager or designee to submit on behalf of the City and Alatus LLC an application for Metropolitan Council Livable Communities Demonstration Account grant funds for the project component(s) identified in the application, and authorizes the Mayor and City Manager to execute such agreements as may be necessary to implement the project on behalf of the City.

Adopted by the City Council of the City of Hopkins this 21st day of September, 2021.

By: _____

Jason Gadd, Mayor

ATTEST:

Amy Domeier, City Clerk

SPENDING PLAN FOR TIF DISTRICTS 1-2, 2-9 AND 2-11

Proposed Action

Staff recommends adoption of the following motion following the public hearing: Move to approve Resolution 2021-057 Approving the Spending Plan for TIF Districts 1-2, 2-9 and 2-11.

With this motion, the Spending Plan will be submitted to the Office of the State Auditor.

Overview

The State Legislature amended the TIF law in 2021 to provide flexibility to cities to utilize unobligated TIF balances in existing districts in order to promote construction and job creation in their communities. The law allows HRAs/EDAs/cities to provide assistance for private development that creates or retains jobs, without counting against the pooling limitations of the districts.

The City has three TIF Districts that are potential sources of unobligated TIF revenue; No. 1-2 (Entertainment District), 2-9 (Oaks of Main) and 2-11 (SuperValu). The City's HRA has until December 31, 2022, to transfer the funds to another designated City/HRA fund and the dollars must be spent by December 31, 2025.

In order to preserve the ability to use this tool, the City and HRA are required to develop a Spending Plan that identifies the TIF districts that will fund defined projects, hold a public hearing, adopt the Plan and submit it to the State Auditor. The projects identified for possible assistance in the Plan include Blake Road Station by Trilogy and 325 Blake Road by Alatus.

Primary Issues to Consider

By approving the Spending Plan, the City does not commit any specific assistance to a development project but rather reserves the right to do so in the future by utilizing an incentive available by the State of Minnesota.

Supporting Information

- Resolution 2021-057
- Memo from Stacie Kvilvang, Ehlers
- Spending Plan for TIF Districts 1-2, 2-9 and 2-11

 Kersten Elverum
 Director of Planning & Development

Financial Impact: \$ <u>0</u> Budgeted: Y/N <u> </u> Source: _____ Related Documents (CIP, ERP, etc.): _____ Notes: _____

CITY OF HOPKINS
HENNEPIN COUNTY
STATE OF MINNESOTA

RESOLUTION NO. 2021-057

**RESOLUTION APPROVING A SPENDING PLAN FOR TAX INCREMENT
FINANCING DISTRICTS NO. 1-2, NO. 2-9 AND NO. 2-11 IN THE CITY OF
HOPKINS**

BE IT RESOLVED by the City Council (the "City Council") of the City of Hopkins (the "City"), Hennepin County, Minnesota as follows:

Section 1. Background; Findings.

(a) The City and the Hopkins Housing and Redevelopment Authority (the "Authority") have previously established Tax Increment Financing Districts No. 1-2, No. 2-9 and No. 2-11 (the "TIF Districts") and adopted the tax increment financing plans therefor (the "TIF Plans").

(b) Subject to the approval of the City Council following a public hearing, the Authority has adopted a spending plan for the TIF Districts in accordance with Minnesota Statutes, Section 469.176 Subd. 4n in the form submitted to the City Council by the Authority (the "Spending Plan") to utilize existing tax increment revenues from the TIF Districts in order to stimulate construction or substantial rehabilitation of private development in a way that will also create or retain jobs.

(c) The City and Authority have performed all actions required by law to be performed prior to the approval of the Spending Plan, including, but not limited to, causing notice of a public hearing to be published and holding a public hearing on the date hereof on the adoption of the Spending Plan.

Section 2. Approval of the Spending Plan and Program Policy.

(a) The Spending Plan for the TIF Districts, is hereby approved.

(b) The Authority is hereby authorized to carry out the terms of the Spending Plan in such manner as it determines to be consistent with the Spending Plan.

Dated: September 21, 2021

Adopted:

Mayor

ATTEST:

City Manager

MEMORANDUM

TO: Kersten Elverum – Director of Planning and Development
FROM: Stacie Kvilvang - Ehlers
DATE: September 21, 2021
SUBJECT: Public Hearing on TIF Spending Plan

The State Legislature amended the TIF law (the “Law”) in 2021 to provide flexibility to cities to utilize unobligated TIF balances in their districts to promote construction and job creation in their communities. Dollars expended under the Law do not count against the pooling limitations of the districts, which for the City/HRA’s applicable districts, is 25% of the TIF collected over their respective terms.

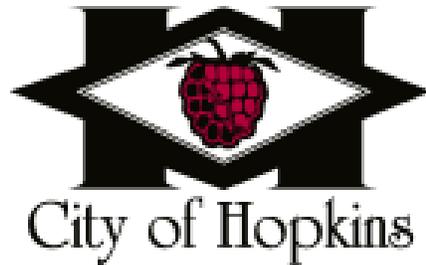
The law allows HRA’s/EDA’s/cities to provide improvements, loans, interest rate subsidies, or assistance in any form to private development consisting of the construction or substantial rehabilitation of buildings and ancillary facilities if it will create or retain jobs in this state, including construction jobs. In addition, they can make an equity or similar investment in a corporation, partnership, or limited liability company that they determine it is necessary to make construction of private development happen. The City’s HRA has until December 31, 2022 to transfer the funds to another designated City/HRA fund, and the dollars must be expended by December 31, 2025. Any unused TIF dollars must be returned to the applicable TIF district after this date.

In order to implement this provision of the Law, the City and HRA are required to develop a Spending Plan (the “Plan”) that identifies the TIF districts that will fund the projects and describe the projects to be assisted. In addition, the City is required to hold a public hearing on the Plan and if approved, staff will provide a copy to the Office of the State Auditor as required by the Law.

The HRA has dollars available under the Plan for projects in TIF Districts 1-2, 2-9 and 2-11. The City/HRA are currently working with two (2) developers on redevelopment sites in the City where construction of their projects require assistance, and they would meet the above referenced timeline for expenditure of the funds. Trilogy’s proposed three-phase apartment and commercial development located at 1009 Hill Street and 8594 and 8490 Excelsior Boulevard requested assistance for demolition and environmental remediation. The HRA agreed to provide \$685,000 for Phase I (which will be provided under the Plan) and agreed to review future requests for Phases II and III. In addition, Alatus is developing the site at 325 Blake road and has requested TIF assistance for public improvements, site preparation, underground parking, affordable housing and other development costs related to construction of the residential and commercial uses. Once an actual TIF application is filed with the HRA by Alatus, the HRA may use dollars under the Plan to reduce the amount of TIF required under the new TIF District, thus potentially reducing the number of years of the TIF Note(s).

Please contact me at 651-697-8506 with any questions.

HRA Adoption Date: September 21, 2021
CITY Adoption Date: September 21, 2021



Hopkins Housing and Redevelopment Authority

City of Hopkins,
Hennepin County, Minnesota

SPENDING PLAN

TIF District 1-2 (Entertainment District)

TIF District 2-9 (Oaks of Main)

TIF District 2-11 (Super Valu)



Prepared by:

Ehlers
3060 Centre Pointe Drive
Roseville, Minnesota 55113

BUILDING COMMUNITIES. IT'S WHAT WE DO.

SPENDING PLAN

FOR TIF DISTRICTS 1-2 (ENTERTAINMENT DISTRICT), 2-9 (OAKS OF MAIN), AND 2-11 (SUPER VALUE)

I. PURPOSE

The Hopkins Housing and Redevelopment Authority (the "Authority") administers the Tax Increment Financing Districts listed above (the "TIF Districts") in the City of Hopkins, Minnesota (the "City"), and proposes to adopt a Spending Plan for the TIF Districts in accordance with Minnesota Statutes, Section 469.176 Subd. 4n (the "Act").

The purpose of the Spending Plan is to develop or redevelop sites, lands or areas within the City in conformity with the City's Comprehensive Plan or other City plans or objectives by using available tax increments from the TIF Districts to provide improvements, loans, interest rate subsidies, or assistance in any form to private development consisting of the construction or substantial rehabilitation of buildings and ancillary facilities, which will create or retain jobs in this state, including construction jobs.

II. PLAN

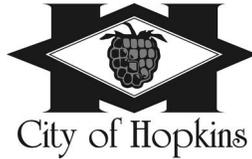
The Authority is authorized as follows:

(a) To use available tax increments from the TIF Districts to provide improvements, loans, interest rate subsidies, or assistance in any form to private development consisting of the construction or substantial rehabilitation of buildings and ancillary facilities (the "Projects") in financing assistance to further the goals in the City's Comprehensive Plan or other City plans or objectives, if doing so will create or retain jobs in the state, including construction jobs. Preference for financing assistance will be for environmental remediation, demolition, soil corrections and site preparation for Trilogy's proposed three-phase apartment and commercial development located at 1009 Hill Street and 8594 and 8490 Excelsior Boulevard and for public improvements, site preparation, underground parking, affordable housing and other development costs related to construction of residential and commercial uses at 325 Blake Road. The Projects shall commence before December 31, 2025 (unless a later commencement date is authorized by law) and shall constitute Projects that would not commence by such date without the assistance provided pursuant to this Spending Plan.

(b) To amend the budget set forth in the Tax Increment Financing Plans for the TIF Districts as necessary to provide for the assistance authorized by this Spending Plan.

(c) To take any other action necessary and authorized under the Act in connection with the construction or substantial rehabilitation of facilities of the type described in clause (a) above.

The assistance provided pursuant to this Plan shall be subject to Minnesota Statutes, Sections 116J.993 to 116J.995 (the "Business Subsidy Law"), if applicable, and shall be subject to the City's Business Subsidy Policy.



September 21, 2021

Council Report 2021-086

**ORDER PUBLIC IMPROVEMENT HEARING
2022 STREET AND UTILITY IMPROVEMENTS
CITY PROJECT 2021-10**

Proposed Action

Staff recommends the following motion: adopt Resolution 2021-054, Resolution Ordering Public Improvement Hearing for 2022 Street and Utility Improvements.

This action continues an assessable project for street and utility improvements.

Overview

At its May 18, 2021 meeting, the Hopkins City Council authorized Bolton & Menk, Inc. to prepare a feasibility report concerning street and utility improvements along 6th Avenue South and 7th Avenue South from Mainstreet to 2nd Street South. The report is complete and is now submitted to Council for review and further action. A summary of the issues is provided here, and staff will provide a detailed summary of the report at the Council meeting.

Primary Issues to Consider

- Scope of Improvements
- Public Input
- Assessments
- Project Budget and Costs
- Project Schedule
- Staff Recommendation

Supporting Information

- Feasibility Report (Available Upon Request)
- Project Location Map
- Resolution 2021-054

Eric Klingbeil, P.E., Assistant City Engineer

Financial Impact: \$3,131,000 Budgeted: Y/N Y Source: PIR, SA, Water, Sanitary, Storm

Related Documents (CIP, ERP, etc.): CIP Notes: _____

ANALYSIS OF ISSUES

Scope of Improvements

This project includes improvement of the following streets:

- 6th Avenue South from Mainstreet to 2nd Street South
- 7th Avenue South from Mainstreet to 2nd Street South

The pavement condition index for most of the project area is below 40, which indicates failed pavement and warrants reconstruction. Proposed street improvements for 7th Avenue South include full reconstruction of streets and new curb and gutter. Proposed street improvements for 6th Avenue South include full depth reclamation and resurfacing with spot concrete sidewalk and curb replacement.

Water main is proposed to be replaced on 7th Avenue South. Most of the existing main is in excess of 60 years old and made from cast iron. New main will be ductile iron, which has better reliability and when properly installed a longer lifecycle than cast iron. All water services will be replaced from the main to the property line.

Sanitary sewer improvements on 7th Avenue South include the removal and replacement of the main, manholes and service lines to the property line.

Proposed storm sewer improvements on 7th Avenue South include new curb and gutter, removal and replacement of the storm sewer main, addition of storm sewer inlets to reduce water ponding in the street and improvements to reduce sediment accumulation.

Sanitary sewer, watermain, and storm sewer improvements on 6th Avenue South consist of targeted rehabilitation. The sanitary sewer, watermain, and storm sewer systems were upgraded in a previous storm sewer led project.

Pedestrian facilities include replacement of existing sidewalk and pedestrian ramps.

During the scoping for this project, it was determined that there was other work that should be included in the project. Traditionally this work was bid as a separate, standalone project but it was decided to bid as one project due not only to proximity, but to capitalize on pricing. This additional work will be funded by separate items in the CIP and Budget and includes the following:

- Reclamation and resurfacing of 10th Ave N between Mainstreet and 1st Street N
- Mill and overlay of 1st Street N between
- Mill and overlay of 2nd Avenue S between 5th Street S and Nine Mile Cove
- Mill and overlay 7th Street S from 2nd Ave S to TH 169
- Sanitary Sewer Lining in areas across the City identified by the Public Works Department.
- Citywide sidewalk repairs

Public Input

A public informational meeting regarding the improvements was held on September 8th. The meeting format consisted of a presentation of the overall project scope, with an open house style question and

answer session. A 2nd neighborhood meeting has been scheduled for October 13th to review proposed improvements and provide detailed information on proposed assessments.

A questionnaire was sent to all properties in the project area in May 2021 in advance of the neighborhood meetings. Nine questionnaires were returned. Drainage concerns, desire for improved street surface, and property specific concerns were the most common responses.

Assessments

The proposed street assessments are based on the City’s assessment policy, whereby 70% of the street reconstruction cost and 50% of the water and sewer service replacement are assessed to benefiting properties. The policy also allows for assessments to be capped should assessments exceed previous year assessments by 20%; the costs for this project will trigger the assessment cap. A preliminary assessment roll has been calculated and can be found in the appendix of the attached Feasibility Report.

The assessment cap for residential properties is \$100.05 per front foot, following the typical 3% increase per year. Without the cap assessments could be more than double the capped rate.

Project Budget and Costs

The estimate for this project, which includes contingency, and costs for legal, administrative, and engineering costs for all the work, totals to \$3,131,000.

Project costs and funding sources are as follows:

Funding Source	CIP Budget Street Reconstruction	CIP Budget Street Rehabilitation	Estimated Cost
PI-PIR/General Obligation Bonds	\$650,000	\$400,000	\$2,070,000
Assessments	500,000		382,000
Storm Sewer Fund	225,000		119,000
Sanitary Sewer Fund	500,000		262,000
Water Fund	500,000		298,000
Total	\$2,375,000	\$400,000	\$3,132,000

Preliminary cost estimates show the project tracking slightly higher than the CIP budget, this is due to additional work outside the original scope included with the project, and conservative estimates for contingencies and soft costs. It is anticipated that costs will come down as design progresses due to reduced contingency and efficiencies in design.

Several portions of the project are street maintenance projects outside the original scope and are being bid as “Add Alternates”. We will have the option of moving forward with these items or to remove them from the project once bids are received, based on budget constraints.

Project Schedule

Accept feasibility report/order public hearing	September 21, 2021
Public Informational Neighborhood Meeting	October 13, 2021
Public hearing/order final design	October 19, 2021
Approve final plans/order bids	December 21, 2021
Order Assessment Hearing	February 1, 2022
Public Informational Neighborhood Meeting	February 21-24, 2022 (Date TBD)
Conduct Public Assessment Hearing	March 1, 2022
Adopt Assessment Roll/Award Contract	March 1, 2022
Begin Construction	Spring 2022
Complete Construction	Fall 2022

Staff Recommendation

Staff recommends accepting the feasibility report and ordering a public hearing for October 19, 2021.

**CITY OF HOPKINS
HENNEPIN COUNTY, MINNESOTA**

RESOLUTION 2021-054

**RESOLUTION ORDERING PUBLIC IMPROVEMENT HEARING FOR
2022 STREET AND UTILITY IMPROVEMENTS
CITY PROJECT 2021-10**

WHEREAS, the City Council authorized and directed the City Engineer to prepare a report with reference to the aforesaid improvement, and

WHEREAS, the City Engineer has caused to be prepared the aforesaid report for improvements on 6th Avenue South and 7th Avenue South from Mainstreet to 2nd Street South; and this report was received by the City Council on September 21st, 2021, and

WHEREAS, the report provides information regarding whether the proposed improvement is necessary, cost-effective, and feasible; whether it should best be made as proposed or in connection with some other improvement; the estimated cost of the improvement as recommended; and a description of the methodology used to calculate individual assessments for affected parcels,

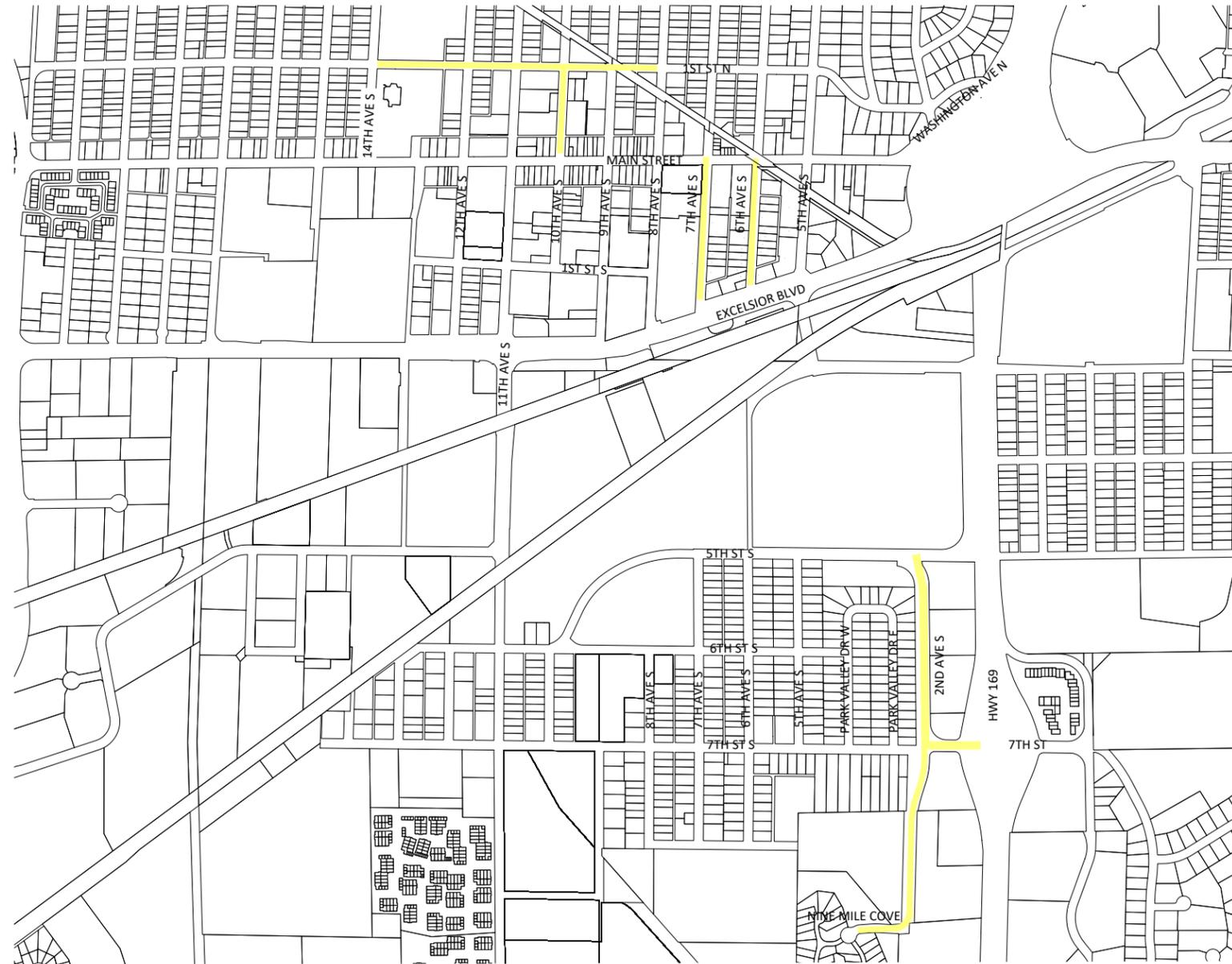
NOW THEREFORE, BE IT RESOLVED by the City Council of Hopkins, Minnesota:

1. The Council will consider the improvement of such streets and utilities in accordance with the report and the assessment of benefitting properties for all or a portion of the cost of the improvement pursuant to Minnesota Statutes Chapter 429 at an estimated total cost of \$2,493,000.
2. A public hearing shall be held on such proposed improvement on Tuesday, the 19^h day of October in the Council Chambers at 1010 1st Street South at 7:00 P.M. and the City Clerk shall give mailed and published notice of said hearing and improvements as required by law.

Adopted by the City Council this 21st day of September, 2021.

Jason Gadd, Mayor

Amy Domeier, City Clerk



LEGEND

PROJECT AREA



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