

HOPKINS CITY COUNCIL

AGENDA

Tuesday, June 6, 2023

6:30 pm

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

Schedule HRA Regular Meeting, 6:30 p.m. – City Council Meeting immediately following meeting

I. CALL TO ORDER

II. ADOPT AGENDA

III. PRESENTATIONS

1. Appointments to Park Board and Planning Commission and Oath of Office; Domeier
2. Update of Hopkins Pride 2023; West Kokesh
3. Proclamation Recognizing June 19, 2023, as Juneteenth in Hopkins; Imihy Bean
4. Equity Update; Imihy Bean

IV. CONSENT AGENDA

1. Minutes of the May 16, 2023 City Council Regular Meeting Proceedings
2. Approval of Temporary Liquor License for American Legion 320 DBA John Wilbur Moore Post; Domeier
3. Approval of Temporary Liquor License for BPOE Lodge 2221 DBA Hopkins Elks Lodge; Domeier
4. Approval of Temporary Liquor License for JCI Hopkins; Domeier
5. Extension of On-Sale Liquor License for LTD Brewing LLC DBA LTD Brewing Co.; Domeier
6. Resolution Approving Repair and Maintenance Addendum to Cooperative Agreement Between City of Hopkins and Nine Mile Creek Watershed District (NMCWD); Klingbeil
7. Approval of Miller's Application for Deferral of Special Assessment; Bishop
8. Ratify Checks Issued in May 2023; Bishop

V. PUBLIC HEARINGS

VI. OLD BUSINESS

VII. NEW BUSINESS

1. First Reading: Ordinance Granting Comcast a Cable Television Franchise; Lenz/Grogan
2. Resolution Denying the Variance Request for the property located at 13 Harrison Avenue South; Howard
3. First Reading: Ordinance Amending Chapter 102 of the Hopkins City Code Regarding Attached Garages in N3-B Zones; Howard

VIII. PUBLIC COMMENT

IX. ANNOUNCEMENTS

- Next City Council Regular Meeting: June 20 at 6:30 p.m.

X. ADJOURN



CITY OF HOPKINS

Administration

City Council Report 2023-055

To: Honorable Mayor and Council Members
Mike Mornson, City Manager

From: Amy Domeier, City Clerk

Date: June 6, 2023

Subject: Appointments to Park Board and Planning Commission and Oath of Office

RECOMMENDED ACTION

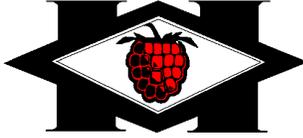
MOTION TO appoint Callie Flynn and Wendy Woodfill to the Park Board; reappoint Matthew Miller and Kimberly Stiele to the Park Board; appoint Travis Fauchald and Diane Ilstrup to the Planning Commission; and reappoint Andrew Wright to the Planning Commission all with terms ending on June 30, 2025.

OVERVIEW

City Code establishes that appointments to boards and commissions shall be made by the City Council. City Clerk Domeier will issue the Oaths of Office to the new commissioners in attendance.

SUPPORTING INFORMATION

- N/A



Administration

CITY OF HOPKINS

Memorandum

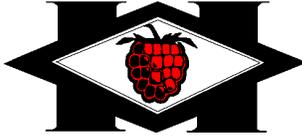
To: Honorable Mayor and Council Members
Mike Mornson, City Manager

From: Amy Domeier, City Clerk

Date: June 6, 2023

Subject: Update on Hopkins Pride 2023

Hopkins Pride has applied for a Special Event Permit to hold Hopkins Pride 2023 on Saturday, June 17. The event will be held in conjunction with LTD Brewing at the brewery and on 8th Avenue from Mainstreet to just north of the LTD Brewing parking lot from 11 a.m. to 7p.m. The applicant, West Kokesh along with a LTD representative will be in attendance to share more information about the event. Mr. Kokesh along with LTD Brewing will be required to follow the requirements of Legislative Policy 5-D regulating special events. The applicant has paid the required deposit for the event. Mr. Kokesh and LTD Brewing are working with staff to ensure that all requirements and issues concerning liquor compliance and public safety have been met. The liquor sales require an extension of the LTD Brewing's liquor license premise which will be considered on the Consent Agenda tonight.



CITY OF HOPKINS

City Council Report 2023-047

To: Honorable Mayor and Council Members
Mike Mornson, City Manager

From: PeggySue Imihy Bean, Special Projects and Initiatives Manager

Date: June 6, 2023

Subject: Proclamation Recognizing June 19, 2023, as Juneteenth in Hopkins

RECOMMENDED ACTION

MOTION TO Adopt a Proclamation recognizing June 19, 2023, as Juneteenth in Hopkins.

OVERVIEW

Juneteenth is the oldest nationally celebrated commemoration of the ending of slavery in the United States.

The Emancipation Proclamation, signed by President Abraham Lincoln, officially abolished slavery in the United States, on January 1, 1863. For many enslaved African Americans, it would be more than 2 and a half years before news of freedom would make it to parts of the deep south. The first known celebration of freedom is documented as June 19, 1865, when Union soldiers led by Major General Gordon Granger, arrived in Galveston, Texas, with the message that the war had ended and all enslaved people were free.

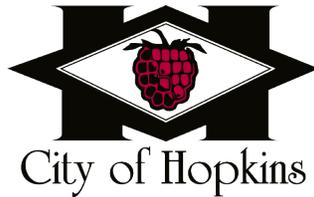
The observance of Juneteenth acknowledges the journey and achievement of African-Americans and is a story of pride, determination, and resilience.

This year, in alignment with legislation that made Juneteenth a federal holiday in June 2021, this year the State of Minnesota has also passed legislation declaring June 19th a state holiday. In observance of this, City Hall will be closed, and City staff have been provided a holiday.

For those looking to celebrate Juneteenth residents can attend MN ROOTS! A community gathering in honor of Juneteenth, at the Hopkins Center for the Arts on June 17th from 4-7pm.

SUPPORTING INFORMATION

- Proclamation for Juneteenth



A Proclamation Commemorating Juneteenth

WHEREAS, The United States of America is a nation founded on the principles of liberty and justice for all, and the Civil War was fought to ensure that freedom would be shared by all; and

WHEREAS, On January 1, 1863, the Emancipation Proclamation, signed by President Abraham Lincoln, abolished slavery in the United States; and

WHEREAS, Awareness of the Emancipation Proclamation was delayed in reaching authorities and African American people in the South and Southwestern United States for two and a half years; and

WHEREAS, it was in Galveston, Texas, on June 19, 1865, that the news of freedom and the Emancipation Proclamation finally reached the South and Southwestern parts of the United States, and is considered the first celebration of the ending of slavery in the United States; and

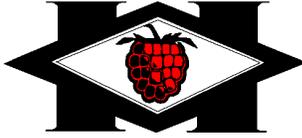
WHEREAS, the day of June 19 holds special meaning to African-American people, and “Juneteenth” is a portmanteau of “June” and “Nineteenth”, a time of celebration for over 150 years; and

WHEREAS, the City of Hopkins celebrates our African-American community members, City staff and volunteers, local businesses, and community organizations, such as 17, 2023, for their diversity in our community; and

NOW THEREFORE, I, Patrick Hanlon, Mayor of the City of Hopkins in the State of Minnesota, along with my fellow Council Members, recognize, adopt, and proclaim June 19th, 2023, as Juneteenth in the City of Hopkins, and urge all residents to become more aware of the significance of this celebration in African-American History, and in the heritage of our City and nation.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Hopkins, Minnesota to be affixed this 6th day of June 2023.

Brian Hunke, Mayor Pro Tempore



CITY OF HOPKINS

Memorandum

To: Honorable Mayor and Council Members
Mike Mornson, City Manager

From: PeggySue Imihy Bean, Special Projects and Initiatives Manager

Date: June 06, 2023

Subject: Equity Update

PURPOSE

In alignment with the City Council's strategic focus on Diversity, Equity and Inclusion, tonight Staff will review the ongoing work within the organization, including the recent work with consultant firm, CultureBrokers LLC to develop an Equity Strategic Action Plan.

Equity Strategic Action Plan

For several years, the City has been exploring ways to make more systemic change related to Diversity, Equity and Inclusion (DEI) efforts across the organization. For more than a year, Staff worked to learn from other communities about what efforts proved most successful in this area. Additionally, direction from the City Council was that DEI work should be strategic enough so that there might be measurable outcomes following any investment.

Staff were advised by other communities to seek a process that could evaluate and assess where the City was at in regard to DEI across the organization, and to then work to create a plan moving forward. After interviewing several firms to assist with this work, Staff recommended entering into a contract with [CultureBrokers, LLC.](#), using the ARPA funds set aside by the City Council in summer 2022.

Work with CultureBrokers began in November 2022, with the launch of their proprietary Diamond Inclusiveness Assessment (DIA) which evaluates the City's level of inclusiveness across eight areas. 120 stakeholders, including staff, board and commission members, consultants, and residents took the assessment, which then provided leadership with insight into areas of strengths, weaknesses and opportunities for improvement. A copy of this assessment is attached to this report.

Using the information in the DIA, two focus areas for improvement were selected – Financial Investment and Human Development. Drilling down into two statements from the DIA; *“This organization has an objective process for finding, hiring and retaining people of different cultures and views for roles across the organization,”* and *“This organization has an annual budget for diversity and inclusion work that allows it to meet its goals,”* Staff alongside the consultant created a plan to improve in these two areas.

The plan, called an Equity Strategic Action Plan (ESAP), is a highly detailed one-year strategy to define the strategic improvements and required resources (including staff time, funding and other necessary items) to make progress on the above statements. The ESAP is attached to this report, and includes the framework for decision making, agreed upon language regarding what is discussed in the plan and outlines responsibilities for making progress on the document.

For 2022, Staff will focus on this version of the action plan and either select new goal statements from the DIA or continue working on the existing statements prior to 2023. With one area focused on financial investment, the Council will see some outcomes of the ESAP at the end of the summer in alignment with the budget process.

Recent Initiatives

Advancing Careers and Employment (ACE) Program

Now entering its second year, the ACE Program is a youth employment program that offers young people ages 16-24 paid summer internship and professional development experience. Participants are able to explore a variety of careers within the cities of Hopkins and Minnetonka, and build and grow their professional and leadership skills. The program is partially grant-funded through the United Way's Purpose Driven Paychecks Program and focuses on meeting the needs of youth traditionally under-represented in the workforce and farthest from justice.

This year, the program will have 9 interns working in departments across both cities for 8 weeks from mid-June to mid-August, for 18 hours a week. In addition to working alongside staff in their departments, interns are paired with a mentor and receive professional development training once a week.

More information about the need for young adult focused workforce development can be found in an [October 2022 report on the program](#), and an overview of the ACE Program and qualification can be viewed at <https://www.hopkinsmn.com/1144/Advancing-Careers-and-Employment-ACE>

Community Connectors

Recent census data shows that Hopkins continues to be one of the most diverse communities in the metro area, with nearly 40% of the community identifying as non-white. Many of our residents of color are recent immigrants from East Africa, in addition to having a sizable Hispanic community. To address common needs related to translation of documents and interpretation at events, the City has created two part-time positions which can be a resource to both staff and residents. Community Connectors elevate underrepresented voices and build trust between community members and city government. These positions partner with the City to assist with engagement, share resources and address community concerns. Community Connectors strive to be someone residents can rely on and communicate issues with confidence. We have hired a Spanish speaking connector, and are planning to hire a Somali speaking connector by the end of summer.

Zaira Calixto-Rosas, our Spanish speaking Community Connector is available to the community by phone, email or in-person at her office hours at City Hall or the Art Center. More information about the community connector program can be found at <https://www.hopkinsmn.com/1147/Community-Connectors>

SPEEDS

This summer the City of Hopkins Police Department has taken a proactive approach to driver safety and traffic stop reduction through a program called SPEEDS or Speaking with Police to Educate and Enhance Drive Safety. These events, held in the early evenings once a month at several local parks, help drivers learn about common traffic safety issues, provide vouchers for vehicle light repairs and assist residents with information on how to obtain a valid driver's license. This program is intended to be targeted at residents who may be new drivers or drivers newly driving in the United States, as Hopkins has a high proportion of new Americans. A flyer for this program is attached.

Continued Work

Hopkins Race and Equity Initiative

The Hopkins Race and Equity Initiative (HREI) is a collaborative effort creating opportunities to increase awareness and understanding of race, equity and diversity and promoting a sense of community that welcomes and values all residents. Partnering organizations include the City of Hopkins, the Hopkins Public School District, the Hopkins Police Department and the local faith community, led by Gethsemane Lutheran Church. This partnership has existed since 2016, and this year, staff alongside policy makers from partner organizations have worked to modify the structure of HREI so that it can continue to be an effective and valuable resource. Looking ahead the goals of HREI are to:

Advise & Support

- Offer an interjurisdictional place of support, idea incubation, collaboration and exchange related to racial equity, specifically for staff.
- Support regional efforts related to racial equity.
- Act in an advisory capacity on racial equity-related issues including community safety.

Educate

- Assist with educating the community on racial equity-related issues and racial equity policy initiatives.
- Identify and assist with addressing racial equity-related disparities including identifying resources, offering organizational support, action where applicable, and grant-related work.

Connect

- Gather together our community and various individuals interested in working on racial equity.
- Build relationships with religious and cultural stakeholders in the community around racial equity work.
- Continue to strengthen relationships with current HREI member organizations.

Just Deeds

The City continues to participate in the Just Deeds Coalition, and recently achieved the halfway mark in the removal of covenants from properties in Hopkins. Staff has begun working with a local resident and attorney to continue researching the long history of restrictive covenants in Hopkins – many of which are not shown on current Just Deeds

maps, and are planning an event some time this fall to share more about exclusionary covenants.

Park System Master Plan (PSMP)

Equity was a major focus of the PSMP engagement, and continuing to focus on building greater equity and access in the system was chosen goal of the community, Park Board and City Council. The RFP for this process was the first where the City utilized equity criterion to evaluate a consultant, requiring a minimum equity score that measured a firm's experience and readiness to do work in our diverse community. Throughout the process, residents had multiple opportunities to engage with their plan in their own language and in venues that may be more comfortable to them such as religious institutions through the work of sub-consultant, Putting Change in Motion.

Looking ahead to implantation, lead consultant Confluence, has created an equity matrix which evaluates parks based on a number of factors such as income, access to a vehicle, and other criterion to help the City understand which parks should be prioritized for investment.

This information and plans for the parks will be available for the public to review by mid-June, and more information can be found at <https://www.hopkinsmn.com/1119/Park-System-Master-Plan>

Hopkins Heat Vulnerability Study

In 2022, the City of Hopkins received a grant from the Minnesota Pollution Control Agency (MPCA) to develop strategies that reduce the negative impacts of extreme heat, which disproportionately affect residents of color and low-income residents. The Blake Road and Excelsior Boulevard corridors have been identified by the Metropolitan Council as areas that are especially vulnerable to extreme heat events due to low tree canopy coverage and high impervious and heat-absorbing surfaces. These corridors are also home to a large majority of city rental housing stock as well as many immigrant, BIPOC, and low-income renters.

Through work with consultants LHB and Local Climate Solutions, these areas were studied alongside deep engagement with local residents to help consider strategies which can reduce the effects of heat over time. The final report is [a story map which can be viewed online](#) and demonstrates solutions from all over the country and shows what they might look like here in Hopkins. This tool has been instrumental in helping develop the upcoming Hopkins Climate Solutions Fund, a program which will help off-set costs of energy improvements for residents and business owners.

Equity Zoning Committee & Inclusionary Zoning Policy

In 2021 and 2022, as part of the update to the zoning code, Staff worked alongside community members to audit the code and implement best practices related to equity within the code. As part of this conversation, access to affordable housing continued to rise to the top as a major issue the City should focus on as one strategy to help reduce economic disparities within the community. In Spring 2023, the City Council approved an Inclusionary Housing Policy which furthers the goal of preserving and promoting economically diverse housing options in our community by creating high quality housing for households of various income levels, ages, and sizes. More information about the

inclusionary housing policy can be found at <https://www.hopkinsmn.com/1143/Affordable-Housing>

FUTURE ACTION

As part of the Equity Strategic Action Plan, budgeting for Diversity Equity and Inclusion work across the organization is a planned outcome. Staff will propose some funds for this in the budget process and bring it back to the City Council to review in the early fall.

Supporting Documentation:

- Diamond Inclusiveness Assessment (DIA)
- Equity Strategic Action Plan (ESAP)
- ACE Program Flier
- SPEEDS Fliers
- Community Connector Advertisement



DIA

GAP REPORT

City of Hopkins, MN
NOVEMBER 2022
DRAFT2

CultureBrokers® LLC

www.culturebrokers.com

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TIPS FOR ANALYZING YOUR DIA GAP REPORT

Share the DIA Gap Report Results

- With those who completed the assessment.
- With organizational leaders (e.g. management, board).
- With a broad or targeted group of other stakeholders.

Explore and Learn

If many respondents answered, “Don’t Know” to a DIA statement, consider why. For instance, consider or ask whether that issue is:

- Part of their knowledge base.
- Part of their experience.
- Part of their responsibilities.

If many respondents disagreed with a DIA statement, consider further exploration:

- What is the source of the disagreement?
- Is the disagreement organization-wide, or more specific?
- Has this area been addressed previously? If so, how?

Even if many respondents agreed with a DIA statement, there is still opportunity to learn. Explore the various ways the organization demonstrates behaviors to gain insight into individual and organizational strengths. Investigate the level of institutionalization of the position or behavior to ensure sustainability.

Identify the Level of Significance

For each DIA dimension / statement, consider the significance of the issue for your organization:

- Does the issue matter to the organization? To what extent?
- Does it make strategic sense to focus on this area now?
- Does it make sense to increase communication or transparency in any area?
- Is it feasible to have an impact on this issue now? (Consider both internal and external factors).

Decide

Based on the above considerations, decide whether you want to further explore or address this aspect of your organization now. If so, IMMEDIATELY ACT ON IT.

Act

Investigate

If there are issues to explore or address, create a team* to research, audit or assess the situation. If knowledge in this area is closely held, inquiry with those ‘in the know’ will be needed.

Plan and Implement

If the issue warrants a change to policy, practice or procedure, create a team* to research and plan for the implementation of the changes.

Communicate

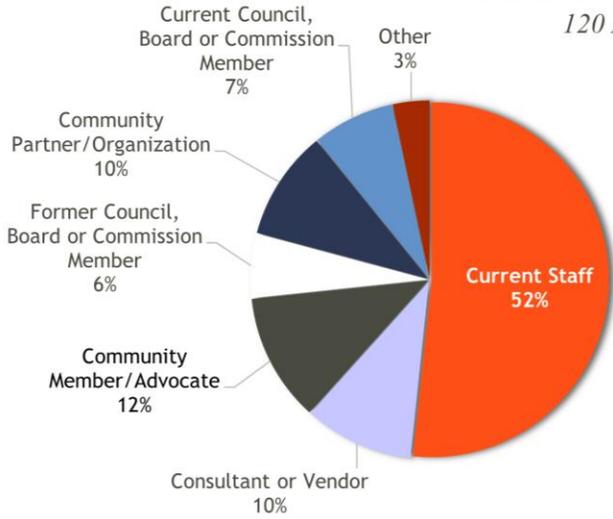
Identify who needs more information and why. Create key messages around the issue and engage a variety of mechanisms to communicate this information to the target audiences.

*When forming teams, always consider which stakeholders can or should be included (e.g., management, direct service staff, board members, volunteers, clients / program participants or even vendors).

ABOUT CITY OF HOPKINS DIA PARTICIPANTS

Stakeholder Groups

120 Respondents



Spiritual or Religious Group

57 Respondents



Race, Ethnicity, and/or Cultural Group

64 Respondents



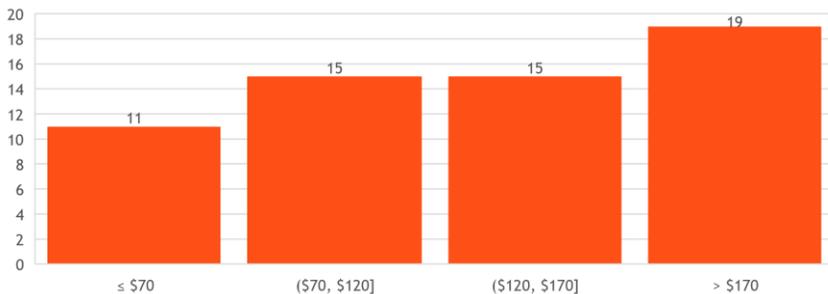
Primary Language

69 Respondents



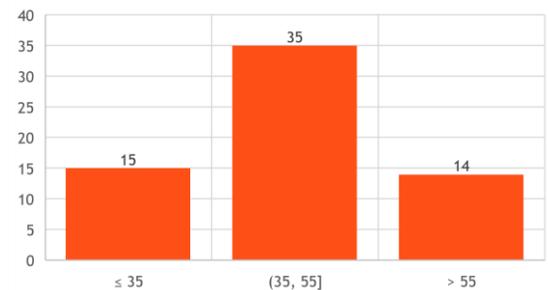
Household Income (Thousands of Dollars)

60 Respondents



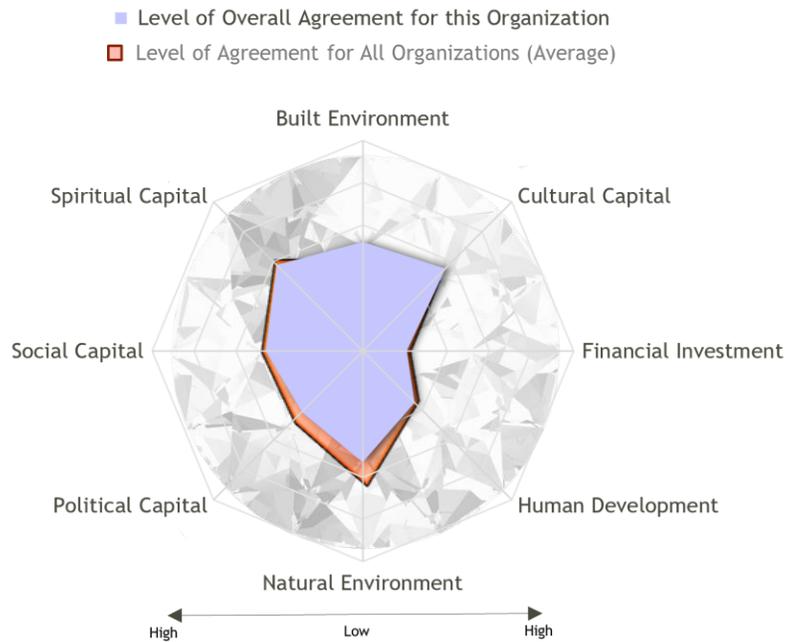
Age (Years)

64 Respondents

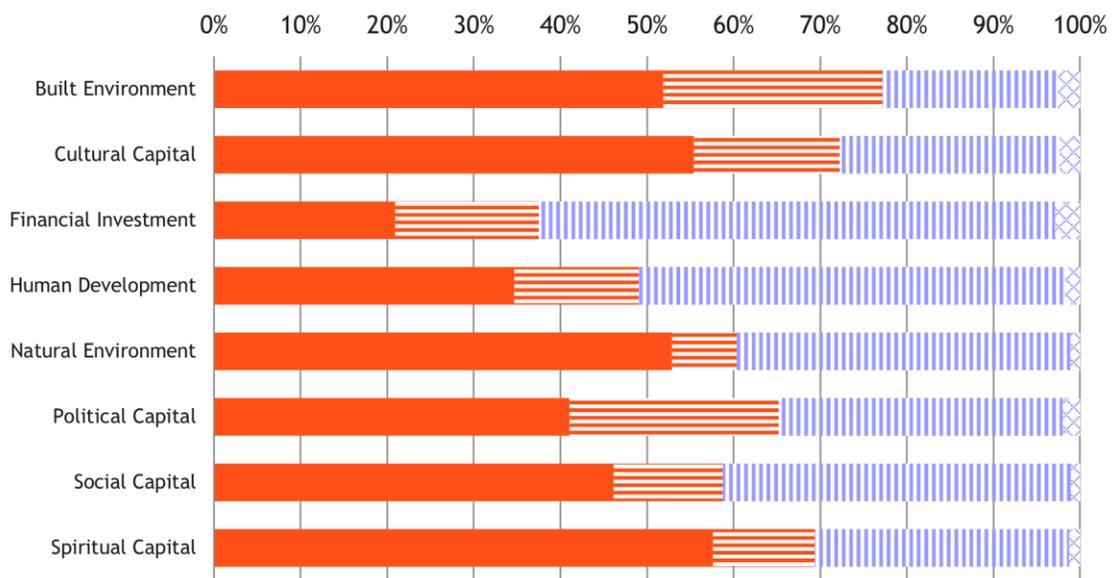


CITY OF HOPKINS DIA GAP REPORT

DIAMOND INCLUSIVENESS PICTURE



GAP BY DIMENSION



■ Agree & Strongly Agree ■ Disagree & Strongly Disagree ■ Don't know ◊ Does not apply

CITY OF HOPKINS DIA GAP REPORT

SUGGESTED STRATEGIC IMPROVEMENT FOCUS AREAS

Relative
**DIMENSION OF
STRENGTH**

According to the DIA results



- Overall:
- ✓ Highest Agreement
 - ✓ Low Disagreement
 - ✓ Low Don't Know

Relative
**DIMENSION OF
WEAKNESS**

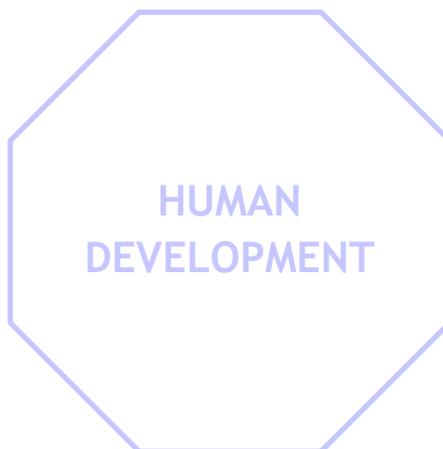
According to the DIA results



- Overall:
- ✓ Lowest Agreement
 - ✓ Highest Don't Know
 - ✓ Disagreement

Chosen
**DIMENSION OF
OPPORTUNITY**

According to Leadership

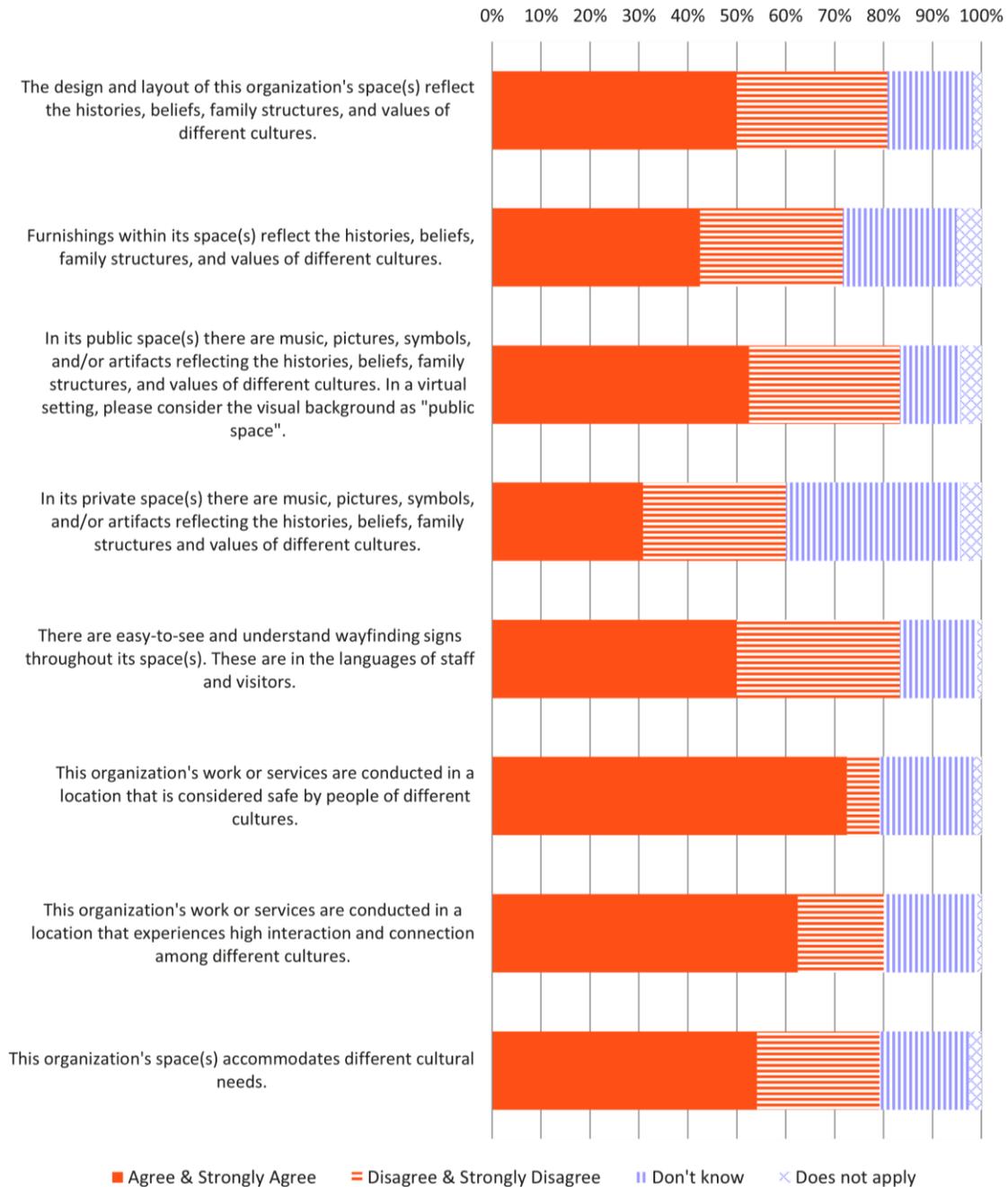


- Overall:
- ✓ Leverages Assets
 - ✓ Addresses Trends
 - ✓ Supports Existing Strategies
 - ✓ Importance to the Organization

CITY OF HOPKINS DIA GAP REPORT

BUILT ENVIRONMENT

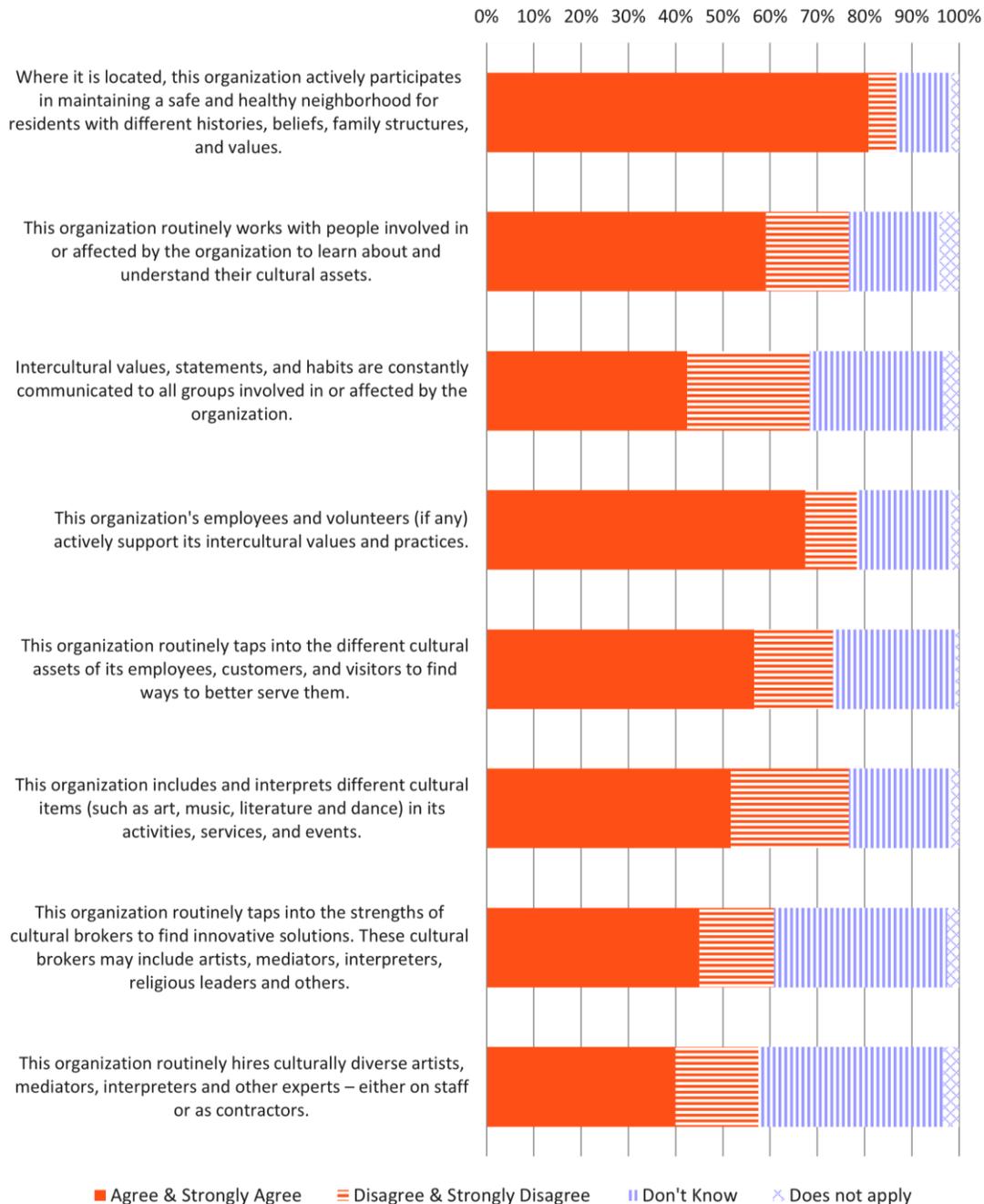
Eight DIA statements address aspects of a welcoming and culturally inclusive built environment. This includes all human-made items, such as the building, offices, signage, machines, furnishings, and technology. It also reflects choices made, such as location.



CITY OF HOPKINS DIA GAP REPORT

CULTURAL CAPITAL

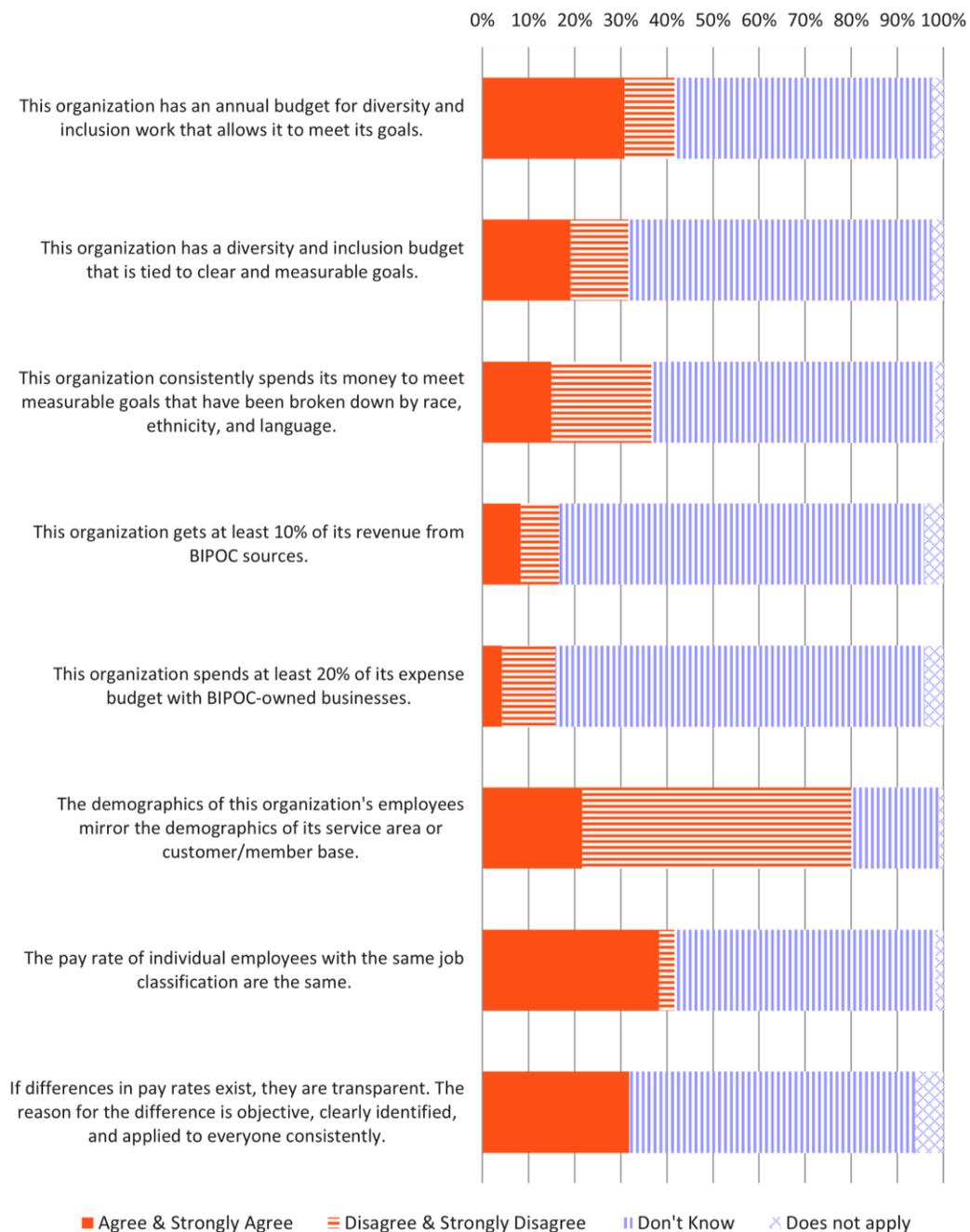
Eight DIA statements describe aspects of your organization’s ability to create a shared intercultural identity and community. It may do this through its symbols and language, celebrations, events and relationships.



CITY OF HOPKINS DIA GAP REPORT

FINANCIAL INVESTMENT

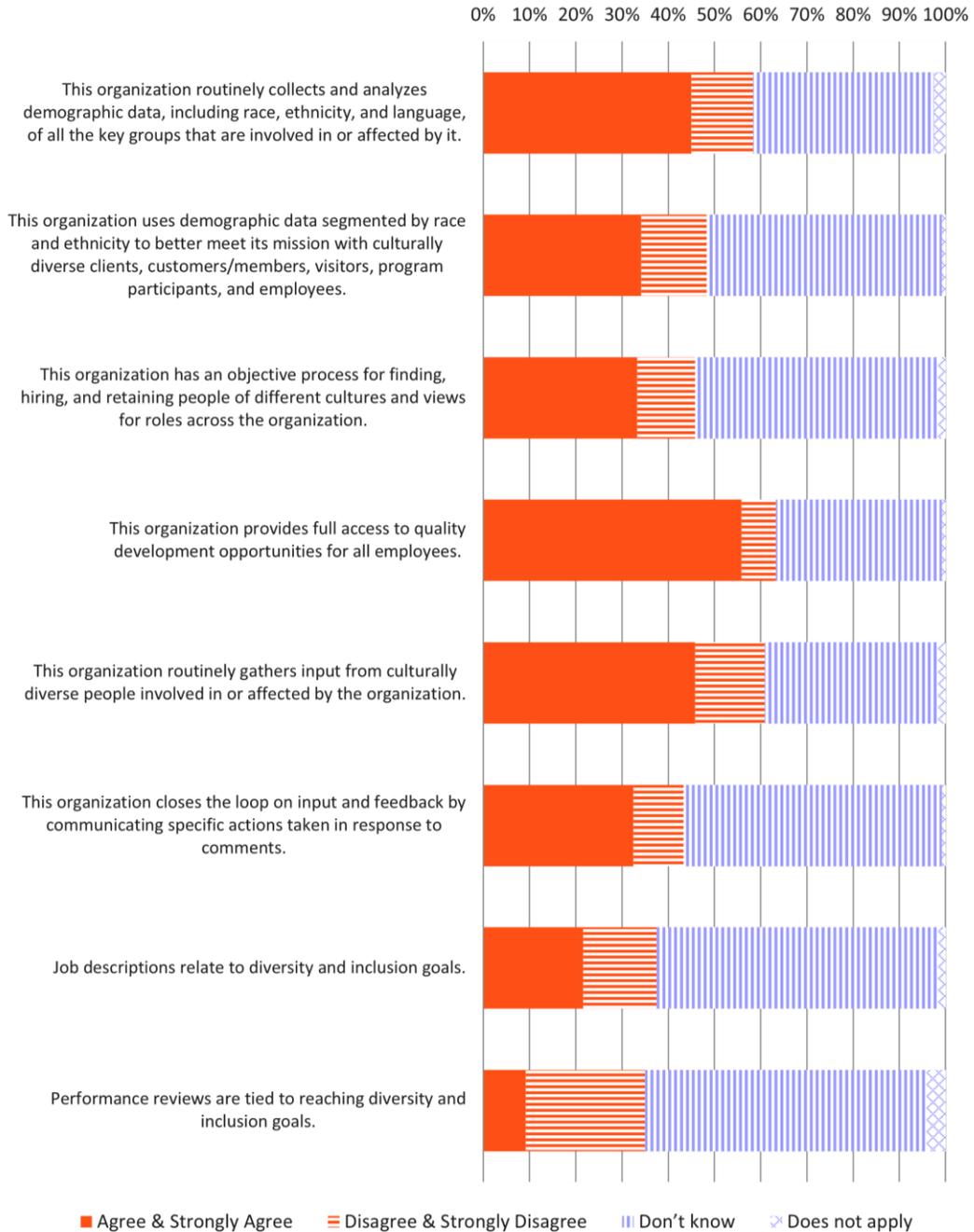
Eight DIA statements describe aspects of a culturally inclusive financial program, including from whom money is acquired, to whom it goes, and where it is invested.



CITY OF HOPKINS DIA GAP REPORT

HUMAN DEVELOPMENT

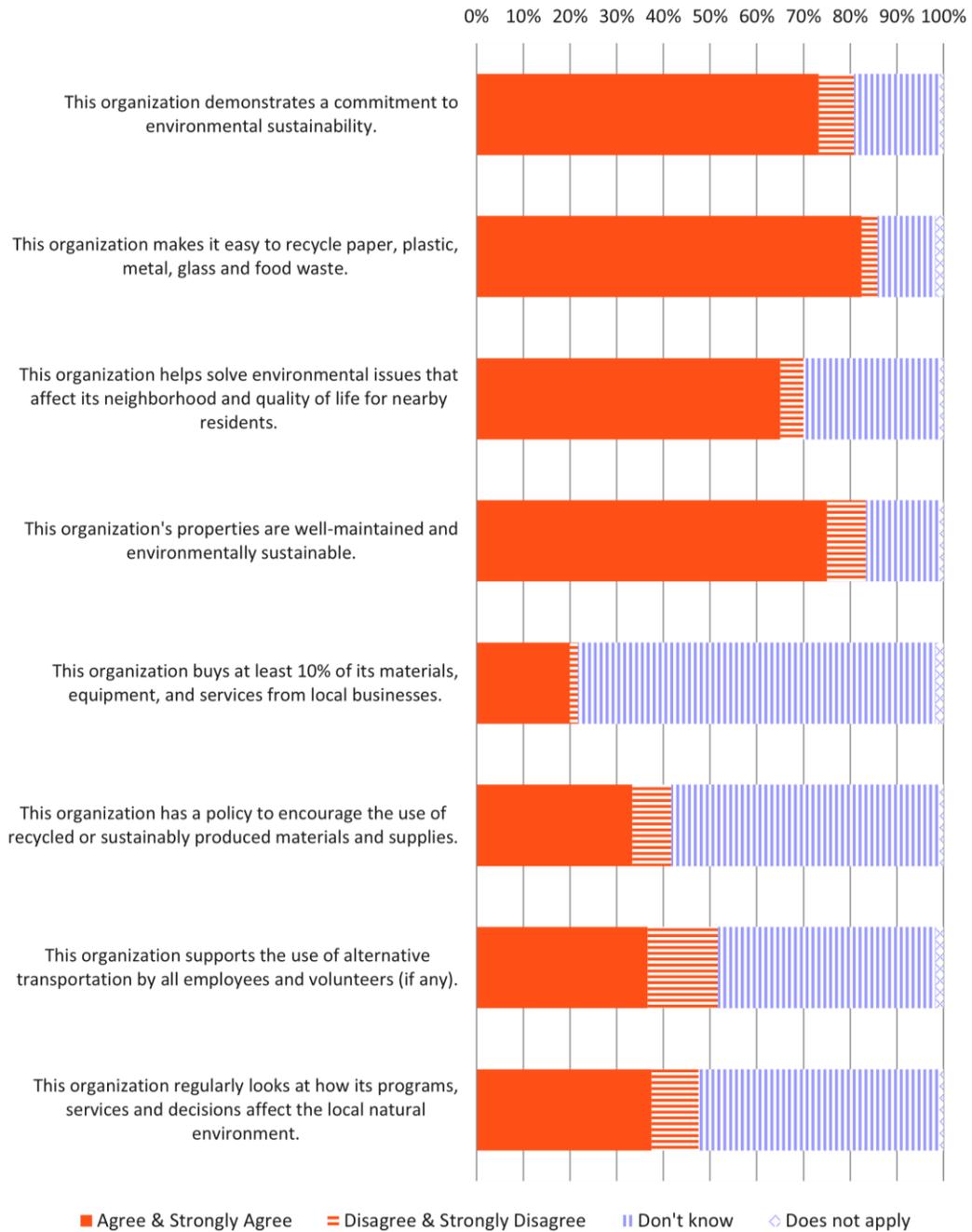
Eight DIA statements describe aspects of a culturally inclusive human development program, including hiring, development, promotion and engagement.



CITY OF HOPKINS DIA GAP REPORT

NATURAL ENVIRONMENT

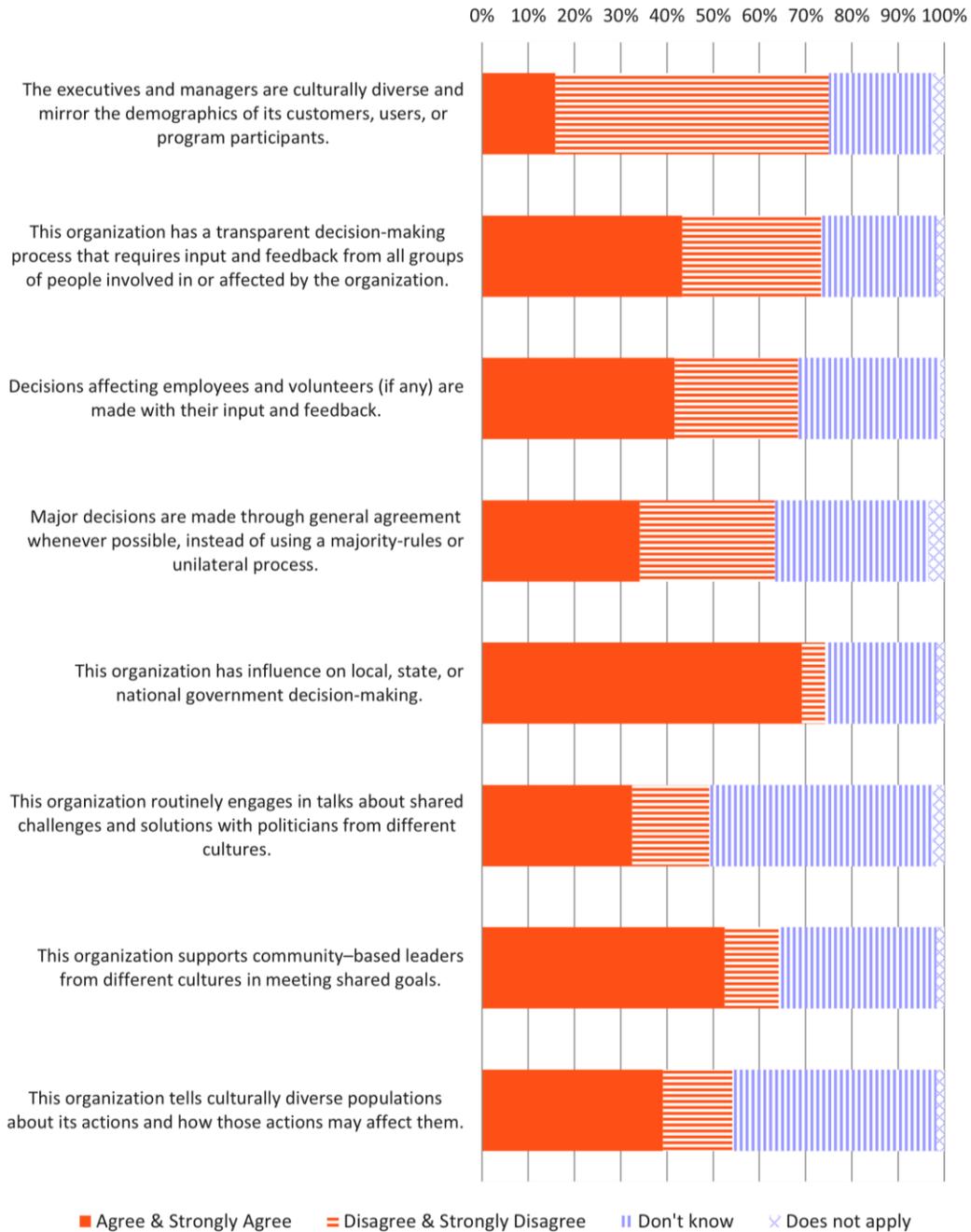
Eight DIA statements describe aspects of your organization’s approach to environmental health and sustainability.



CITY OF HOPKINS DIA GAP REPORT

POLITICAL CAPITAL

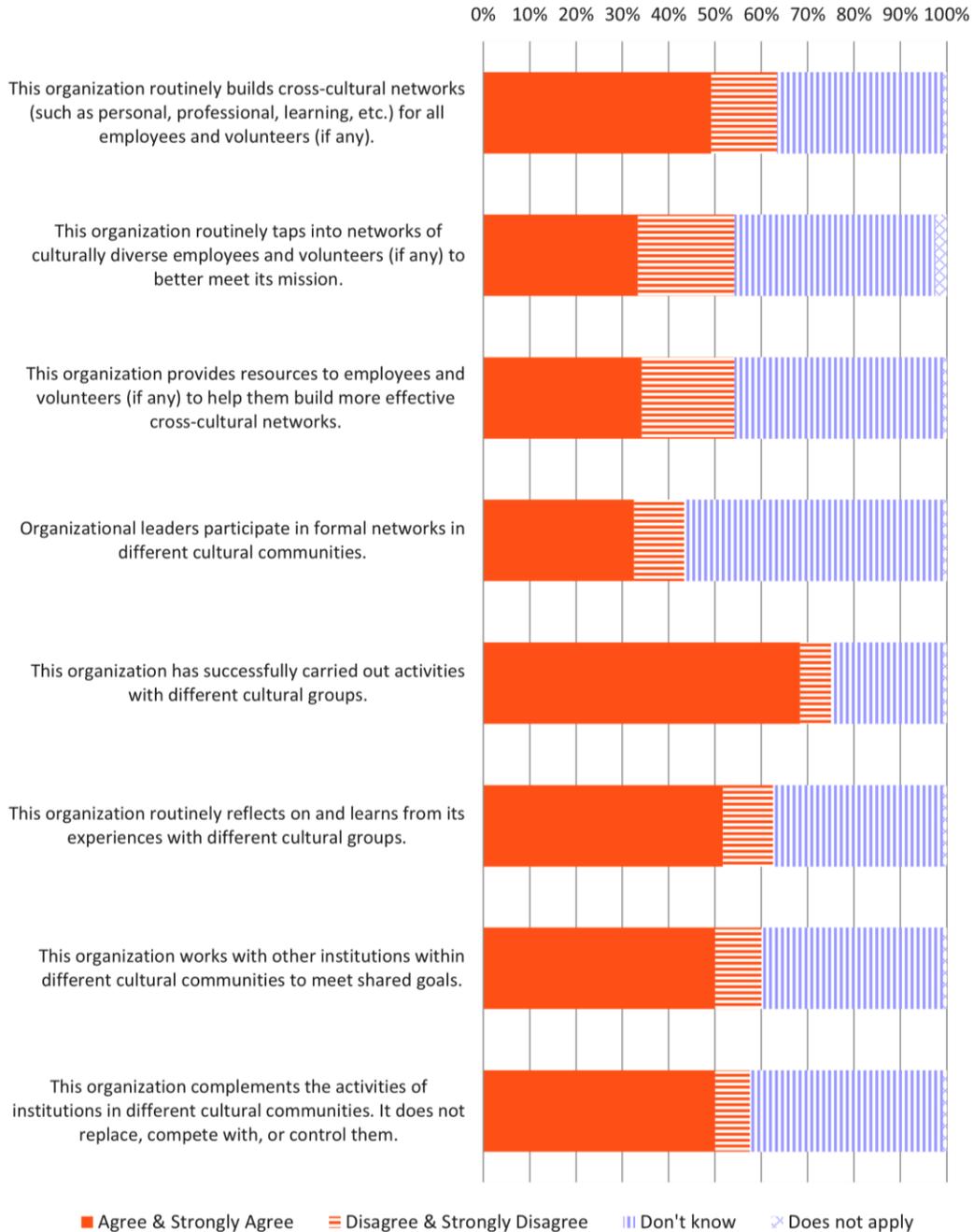
Eight DIA statements describe aspects of an organization that makes decisions in a culturally inclusive manner and has strong ties to diverse external leaders.



CITY OF HOPKINS DIA GAP REPORT

SOCIAL CAPITAL

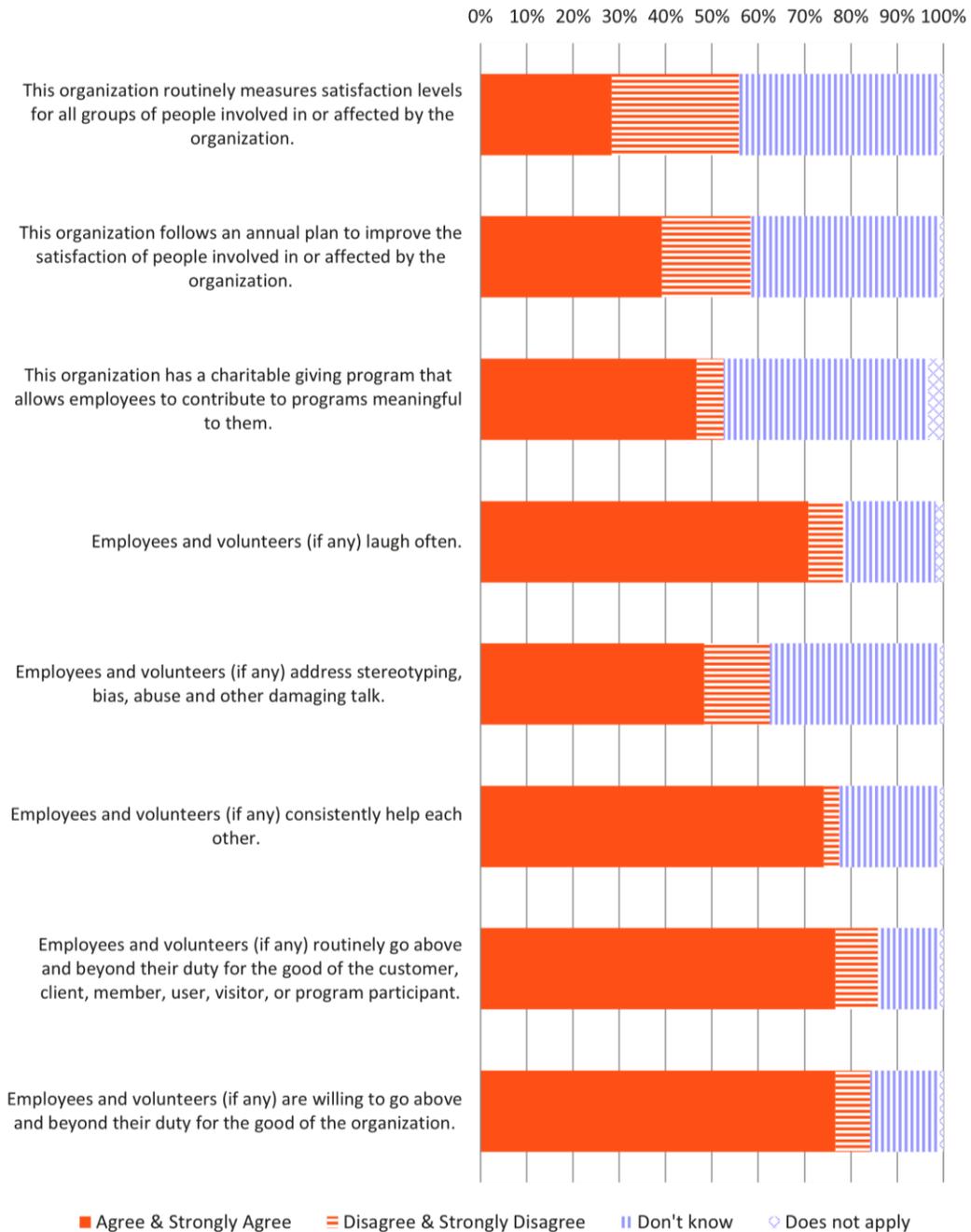
Eight DIA statements describe aspects of your organization’s ability to shape social interactions across cultures, especially with external groups.



CITY OF HOPKINS DIA GAP REPORT

SPIRITUAL CAPITAL

Eight DIA statements describe aspects of your organization’s ability to deliver inclusive moral behavior, trust, sharing and motivation.



Equity Strategic Action Plan 2023

City of Hopkins
Hopkins, Minnesota

April 3, 2023 (Final)

Initiated by Lisa Tabor, CultureBrokers® LLC.

Completed by:

Financial Investment ESAP Development Team Members

- Katelyn Lindbery, Assistant Finance Director
- Kersten Elverum, Director of Planning and Economic Development
- Brent Johnson, Chief of Police
- Nick Bishop, Finance Director
- Don Olson, Facilities Superintendent
- Ari Lenz, Assistant City Manager
- PeggySue Imihy Bean, Special Projects and Initiatives Manager

Human Development ESAP Development Team Members

- Laura Wolfson, HR Analyst
- James Ruffin, Building Inspector
- Chuck Autio, Public Works Director
- Greg Pilon, Police Lieutenant
- Ari Lenz, Assistant City Manager
- PeggySue Imihy Bean, Special Projects and Initiatives Manager

I. FRAMEWORK

Mission

Inspire, Educate, Involve, Communicate

Vision

Creating a spirit of community where...

- All people feel safe and respected, and diversity is celebrated.
- Business growth is supported, and a vibrant downtown is maintained.
- People enjoy exceptional government services, neighborhoods, and outstanding schools.

Equity Statement

The City of Hopkins believes that our community and staff deserve to be treated with dignity and respect, that everyone should feel welcome, and all voices should be heard. To do this the City is actively and continually working to evaluate our practices and policies of how we provide services and the diversity of our employees.

Background

The City of Hopkins has a long history of actively working to evaluate our practices and policies to ensure that all communities feel welcome and engaged, both in the way we provide services and in the diversity of our employees.

A major goal of the Hopkins City Council is to “Take it to Them,” a key strategy to involve our community with intentional emphasis on diverse populations and engaging the rental community of Hopkins. By making diversity, equity, and inclusion a part of our key goals, the City Council has set a clear expectation for accountability to the community.

Our activities have included:

- Since 2008, the Multicultural Advisory Committee (MAC) provides advice, suggestions, and assistance to the Hopkins Police Department to aid them in better serving, communicating with, and understanding the many cultures that reside in, work in, or visit the Hopkins area.
- The Hopkins Public School District, City Administration, the City’s Police Department, and members of the faith community collectively meet quarterly in a partnership known as the Hopkins Race and Equity Initiative (HREI). Formed in early 2016, the group meets to advise and support member organizations and staff on reducing racial disparities, educate the community on issues of race and equity, provide resources, and connect and build capacity around eliminating racial disparities.
- In 2017, the City was one of the first in Minnesota to participate in the Government Alliance on Racial Equity (GARE)
- In 2018, all City employees completed two credits of diversity training as part of our commitment to improving and providing high quality services and creating an inclusive environment.

- Through the Joint Community Policing Partnership (JCPP) the police department participates in an award-winning, collaborative effort in the west metro to enhance communication and understanding between law enforcement and multicultural residents.
- In 2021, we hired a special projects and initiatives manager to continue to advance our work on Diversity Equity and Inclusion within the organization and the work we do as an organization.
- In 2022, the City Council allocated funds for an Equity Strategic Action Plan, the City consulted with CultureBrokers® and has resulted in the creation of this document.
- Also in 2022, City leadership participated in the Intercultural Development Inventory (IDI) profile and are working individually and collectively on development plans.

Our Commitments

The City of Hopkins fully commits to the long-term work of becoming culturally competent, welcoming, and inclusive of all people both within and outside our organization, as well as in the range of issues and challenges that we engage in. This includes (but is not limited to):

- Supporting, engaging, and including people with different racial, cultural, economic, housing choices, ages, and religious backgrounds as well as those with varying physical abilities, gender identities and sexual orientations.
- Reaching beyond our traditional allies, engaged communities, and constituencies.
- Entering intercultural relationships with humility, prepared to listen, learn, follow their lead, and adapt our methods and practices to achieve mutual benefit.
- Recruiting, hiring, retaining, and developing a culturally competent staff whose demographics more closely mirror our Hopkins community.
- Recruiting, retaining, and developing culturally competent board members and other volunteers whose demographics more closely mirror that of our Hopkins community.

Definitions¹

Bias

A tendency or preference that inhibits impartial judgment, such as a bias toward or against a person or group. A concentration on or interest in one area or subject, such as a bias toward action. Bias occurs unconsciously (implicit) and consciously (explicit).

BIPOC (or other collective term, if used (See “People of Color”))

BIPOC is the acronym for Black, Indigenous, and People of Color. It is used to undo Native invisibility, and anti-Blackness with the intention of dismantling white supremacy and advancing racial justice.

“Pronounced "bye-pock," this is a term specific to the United States, intended to center the experiences of Black and Indigenous groups and demonstrate solidarity between communities of color.”²

The term may be used by CultureBrokers as shorthand to describe people who identify as member(s) of at least one of the following racial and ethnic census categories: Black or African American, Asian, American Indian, and Alaska Native, Native Hawaiian, and Other Pacific Islander, Some Other Race³, and Hispanic or Latino⁴. **We recognize the problems inherent in using such a broad term. However, we use it to increase document readability.**

BIPOC may be used interchangeably with “People of Color”.

Many resources are available on the internet for additional insights, including The BIPOC Project⁵ and the YWCA⁶.

Culture

Culture is a social system. It includes such things as a group’s shared language, customs, beliefs, values, and institutions. It is passed down from generation to generation.

Culture affects our thoughts and actions, often without us even being aware.

Customer (or other term for the same group of people)

An actual or potential user of an organization’s products, programs, services, or efforts. They are who must be satisfied by the organization; they are the ultimate judges of performance – if they leave or we stop getting new ones, the organization will end.

¹ These definitions are used by CultureBrokers in the Diamond Inclusiveness System. They are adapted from multiple sources.

² <https://www.ywcaworks.org/blogs/ywca/fri-01152021-1332/why-we-use-bipoc>

³ U.S. Census. <https://bit.ly/3D2GOIX>

⁴ <https://www.census.gov/topics/population/hispanic-origin/about.html>

⁵ <https://www.thebipocproject.org/>

⁶ <https://www.ywcaworks.org/blogs/ywca/fri-01152021-1332/why-we-use-bipoc>

This includes our residents, staff, visitors, vendors, business owners, partners, contractors, and consultants who currently, or potentially, interact with our organization.

Disparity

A condition of inequality in which services to one segment of the community, relative to other segments, are presumptively allocated, poorly provided or inadequate in addressing underlying needs; it also means that these differences are not justifiable based on identified need, available agency resources or other objective criteria. The effect is that differences may appear unnecessary, avoidable, unfair or unjust. The issue of disparity in society warrants great concern because individuals, their families and their institutions that do not get the help they need are at increased risk of experiencing negative childhood, youth and family outcomes which ripple through the rest of society in the form of increased social and economic costs.

Disparities are often social, political, economic and attitudinal in nature. Disparities are often interconnected in a way that produces a ripple effect and may cause individuals and groups to experience disparate treatment at multiple points throughout their relationships with the broader society.

Diversity

The presence of variety in one place. For humans, variety is often measured quantitatively as differences in age, communication style, class, culture, disability, education, ethnicity, familial status, gender, intelligence, language, learning style, marital status, national origin, occupation, physical appearance, physical & mental health, politics, race, regional origin, religion, sexual orientation, socio-economic status, thinking style, viewpoints, etc. The benefit of diversity is in providing the components for adapting or constructing novel combinations; the value of diversity is that major innovations might be generated.

It is common to find people using the word “diversity” to also describe a set of actions geared to accommodating variety (i.e., acknowledging, understanding, accepting, valuing, and celebrating differences). As the pool of knowledge and experience of diversity work continues to evolve, professionals are increasingly differentiating between activities that increase variety (diversity) and behaviors that leverage variety to create belonging (inclusion).

Effective

How well a process or a measure addresses its intended purpose. Determining effectiveness requires (1) evaluating how well the process is aligned with the organization’s needs and how well it is deployed, or (2) evaluating the outcome of the measure as an indicator of process or product performance.⁷

Equity

Performance results that do not vary across meaningful socio-economic differences, particularly across racial/ethnic groups. Results are described by data around: opportunity, accessibility, quality, fairness, outcomes, impact, repair, and restoration.

⁷ 2021-2022 Baldrige Excellence Framework

Freedom from systemic bias or favoritism. Parity across differences.

ESAP

Acronym for Equity Strategic Action Plan, a CultureBrokers deliverable. It lists the fewest, most impactful improvements and the actions your organization will take to achieve them. It follows a specific format that has been proven effective in helping clients get measurable results.

Ethnicity

Describes a group of people who share a distinct culture, religion, language or place of origin. It is a category independent of Race. Therefore, in the U.S., people of the same *ethnicity* may be members of different *races*, such as Black Hispanics (such as people from Cuba, Brazil, or Dominican Republic).

Inclusion

Interactions among diverse people and objects that create opportunities for diversity, mutual learning, benefit and growth. The benefit of inclusion is reciprocity; the value of inclusion is increased trust, cooperation and effectiveness. Inclusion has generally been measured through surveys asking subjective questions about an individual's feelings of belonging, respect, support and engagement. But inclusion can also be measured more objectively by observing the patterns of interaction and their results.

Network

Interconnected relationships among people and/or organizations.

Formal Network: Interconnected relationships among people and/or organizations that is centralized, managed, and involves a process for engagement.

People of Color (or other collective term, if used (See "BIPOC"))

The term used in this plan as shorthand to describe a person who identifies as a member of at least one of the following racial census categories: Black or African American, Asian, American Indian and Alaska Native, Native Hawaiian and Other Pacific Islander, Some other race, and Hispanic. **We recognize the problems inherent in using such a broad term.** However, we use it only to increase plan readability.

Race

In the U.S., race is a construct that established various categories of people and a hierarchy of their value to society. In that worldview, people have, according to their physical characteristics, innate qualities that define them as different. Race has the express purpose of establishing and perpetuating caste (superiority and dominance for the group at the top of the hierarchy. In the U.S. that group is the collection of people determined to be White).

The U.S. Office of Management and Budget (OMB) sets the standards on race which guide the Census Bureau in classifying written responses to the race question. The main race categories are:

White – A person having origins in any of the original peoples of Europe, the Middle East, or North Africa. It includes people who report race entries such as Irish, German, Italian, Lebanese, Arab, Moroccan, or Caucasian.

Black or African American – A person having origins in any of the Black racial groups of Africa. It includes people who report entries such as Negro, African American, Kenyan, Nigerian, or Haitian.

American Indian or Alaska Native – A person having origins in any of the original peoples of North and South America (including Central America) and who maintains tribal affiliation or community attachment. This category includes people who report entries such as Navajo, Blackfeet, Inupiat, Yupik, or Central American Indian groups or South American Indian groups.

Asian – A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent. It includes people who report other detailed Asian responses.

Native Hawaiian or Other Pacific Islander – A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands. It includes people who report entries such as Chamorro and other detailed responses.

Some Other Race - Includes all other responses not covered above.

Racism is any act, practice, process or policy that reinforces and maintains this dominance, whether or not the result is intentional.

Results

Outputs and outcomes achieved. Results should be evaluated based on current performance; performance relative to appropriate comparisons; the rate, breadth, and importance of performance improvements; and the relationship of results measures to key organizational performance requirements.

Senior Leaders

List of titles of all executives and anyone else considered to be a senior most leader.

Stakeholder

A person or group who is (or could be) affected by the organization's actions, goals, and policies.

Workforce (or other term for this group of people)

All people actively supervised by our organization and involved in accomplishing our work, including paid employees, volunteers, and interns (paid or unpaid).

Principles

The following principles must be front and center when executing this Equity Plan.

Use Disaggregated Data and Information

One of the drivers of disparity is the inability or unwillingness to examine results of policies and activities for segmented racial, ethnic or cultural groups. To achieve equity, therefore, we must collect and analyze quantitative and qualitative information in this way. Collect data segmented (at minimum) by census-based racial and ethnic categories and use that data to create options and make decisions.

Make Data-Driven Decisions

Another driver of disparity is the unwillingness to use segmented data to make decisions that ensure parity. Consider racial and ethnic information as we work. Compare results for each group against their presence in our service areas and against results of the other groups. Provide these analyses when making recommendations.

Leverage Existing Assets

We have valuable assets at our fingertips: knowledgeable staff, board members, partners, community members, technical experts and professional services, state agencies and more. Tap into these institutional resources at all phases of your work.

Use Existing Authority

Senior leaders, supervisors, other staff members and the Board of Directors have individual powers within their jobs and roles. Explore and utilize these authorities as necessary to deliver on this Equity Plan.

Make Policy Changes

We have dozens of policies – those with an external focus and those with an internal focus. While delivering on this Equity Plan, uphold or strengthen policies that will deliver strong equity results. Be ready to change policies that create barriers.

Use Equity to Balance Decisions

When making decisions, give equity sufficient weight. Use segmented data, historical information, and quality comparisons. Develop a method for considering equity results balanced against financial and other business results, such as a decision matrix⁸ or balanced scorecard⁹. This will ensure People of Color get due consideration, and that their interests are respected.

⁸ <http://asq.org/learn-about-quality/decision-making-tools/overview/decision-matrix.html>

⁹ <http://asq.org/learn-about-quality/balanced-scorecard/overview/overview.html>

Improvement Plan Purpose

We Will Deliver Results

The City of Hopkins serves 19,079 residents in addition to our 184 employees, and innumerable visitors, vendors, business owners, partners, contractors, and consultants each year. Almost 38% of our residents¹⁰ and 11% of our employees identify as People of Color. Hopkins is also made up of 65% residents who rent, and 90% of our residents of color live in rental housing. The largest non-White group is Black or African America, and within that group residents predominately come from Somalia and parts of East Africa. Twenty-two percent our residents speak a language other than English at home¹¹. Compared to our nearest neighbors, Hopkins is a significantly more diverse community and not as applicable to neighboring communities for direct comparisons. The City recognizes the expectation and urgency to deliver results to our community due to our demographics and location. The City recognizes our diversities put us in the position to be a model or motivator for other less diverse communities.

We must ensure every group is receiving full consideration, quality service, and positive results from our activities.

The main purpose of this Equity Strategic Action Plan is to help us measure and significantly improve our results with culturally diverse customers, employees, and other key stakeholders. Such results include, but are not limited to, improvements in:

- Budgeting and work planning for diversity, inclusion, and equity results
- Staff diversity and cultural competency development
- Board diversity and cultural competency development
- Social network diversity and quality improvement

We have chosen two high-impact areas in which to make measurable improvements over the next year. By January 1, 2024, we will know what we are doing to achieve our goals, why we are doing those things, what the results should be, and how well we are doing compared to our own past results and the results of others. We will have processes in place to ensure our resources are sufficient and being appropriately applied to get results. Finally, we will analyze our new results and revise our plan as needed.

¹⁰ <https://www.census.gov/quickfacts/hopkinscityminnesota>

¹¹ Metropolitan Council, U.S. Census Data, Twin Cities Region (7 county)

https://stats.metc.state.mn.us/data_download/DD_Years.aspx?datasource=cen&comms=&subjects=%27POPRACEETH%27&level=region

Improvement Plan Development

This Equity Strategic Action Plan is the next logical step toward operationalizing our commitment to diversity, inclusion, and equity. It is based on results from the Diamond Inclusiveness Assessment, feedback and lessons learned over the last few years, as well as efforts of other organizations seeking to improve diversity, cultural inclusiveness and racial equity.

We believe this plan shows careful consideration of high-impact actions, understanding of individual and organizational capacities, a desire to authentically engage people from culturally diverse backgrounds as key assets, and a commitment to getting measurable results from our chosen activities.

Other Diversity, Equity, and Inclusion Activities

Diversity and inclusion work are happening in many ways throughout the organization. This plan is not intended to restrict that work, but rather identify our required minimum efforts necessary to achieve key diversity and inclusion goals over the next year. Leaders and managers are welcome to support additional opportunities to deliver equity results as their resources allow if the enclosed strategic improvements are on accomplished on time.

Main Audience

This plan is written specifically to guide staff and City Council in:

- Deciding how to allocate organizational resources;
- Supervising others to ensure our plans are executed; and/or
- Supporting our equity work.

The target audience for this plan are senior leaders, supervisors, program managers and special teams. If we fall into these groups, we will refer to this Equity Plan as we make decisions about where and how to assign people, money, materials, time, energy, and attention. We will also help hold our direct reports accountable to achieving these equity goals.

Other Audiences

For general transparency, this plan will be easily accessible to all staff, City Council, boards, volunteers, vendors, partners, and other key stakeholders so they are knowledgeable about our path forward.

Plan Management

Plan Coordination

The Senior Leadership Team is responsible for managing this Equity Strategic Action Plan. They will model desirable behaviors, assure consistent application of this plan and its principles, and manage for equity results. They will also coordinate with special teams and functional units. Their roles are to provide excellent leadership and support to others as they execute the plan.

Responsibilities include:

- Track work plan progress regularly.
- Brief staff, City Council, and other key stakeholders regularly on work plan progress.
- Coordinate regular meetings with designated individuals and teams who are responsible for certain activities.
- Collectively make Equity Plan decisions.
- Provide regular internal communications to introduce this Plan to the staff and report its results.
- Identify and address resource gaps in the plan, including working with those responsible to put forward proposals for additional organizational resources, where needed.
- Track and celebrate accomplishments.

Plan Oversight

The City Manager is responsible for ensuring governance and workforce accountability to this Equity Strategic Action Plan.

It is to be noted that this plan is intended to be fluid and timelines may be changed or updated to accommodate staff capacity or new information.

II. ACTION PLAN

Strategic Improvements

1. This organization has an annual budget for diversity and inclusion work that allows it to meet its goals. (Financial Investment Dimension)

Guidance:

- The first year is focused on existing DEI work within the organization and setting organization-wide goals. Future years should focus on departmental and division specific DEI goals and budgets.
- The organization will also implement the procedure for this work during the annual budgeting process which occurs from April to November.
- A DEI budget will be established at the beginning of each year. Following the submission of budget forms, the DEI budget will be re-allocated to specific departments by the executive leadership team according to their needs to reach DEI achievements.
- Some of this is an art, not a science and cost estimates will be based on our best information.

Criteria/Definitions:

- **Annual Budget** – A DEI budget will be incorporated into the City's annual budgeting process and be budgeted as a reflection of the priorities and values of the work.
- **Goals** - Should be SMART and meet the needs of all levels of the organization (organization wide, departmental, division and service specific).
- **Diversity and Inclusion Work** – Time and costs associated with anything whose outcome is specifically meant to increase diversity, equity, and inclusion, this can include but is not limited to:
 - Community engagement
 - Communications and translation
 - Finding, hiring and retention processes
 - Materials and resources
 - Time and costs of policy development or implementation
 - Service and program review
 - Capital planning and acquisition
 - Facilities (rental costs or in-kind costs)
 - Food
 - Training time and costs

Time and costs can be based on actual numbers or estimates based on calculations. All work should only include the specific differential amounts related to increasing diversity, equity and inclusion. Cost (investment amounts) calculations must reflect what money is spent by or passes through the organization and should not include outside external investments made by others in the community. Grant-funded activities should be included.

- **Staff time** – Hours or a percentage of job calculations should be an estimate of the direct time spent on the development or implementation of practices or policies that further diversity and inclusion.

SMART¹² Goal:

By 2024, the City will have defined equity goals which will be reflected in the 2024 budget and communicated to staff and key stakeholders.

Benefits of achieving this goal:

- Increased engagement and commitment with employees.
- Allows for staff and departments to follow the City's mission.
- Helps us all work towards similar goals.
- Creates organizational accountability and clarity.
- Collaboration with more experienced departments and departments that have not done this work.
- Allows employees at various levels to be a part of the process.
- Builds a more inclusive environment within the organization.
- Allows creativity in achieving new goals.
- Allows for objective and measurable goals and direction for improvement.
- More efficient and effective use of resources to achieve organizational change.
- Provides more resources for employees and departments who are already doing this work.
- Better communication and transparency between Council, Staff and Community related to DEI work.
- Shows incremental results, year over year.
- Shows gaps in existing work.
- Creates opportunities for measurable risk taking and ability to course correct.
- Builds momentum by celebrating successes.
- Helps define and clarify DEI work for our organization.
- Builds capacity within the organization.
- Builds confidence in discussing DEI work.
- Creates clearer awareness/transparency of DEI work.
- Creates awareness of disparities within our organization/system.
- Directs resources toward disparity reduction.

Oversight for the Improvement: Finance Director

Responsible for the Improvement: Assistant Finance Director

¹² Specific, Measurable, Achievable, Relevant, Time-bound

Milestones	Responsible	Deadline	Resources Required
<u>PLAN: Measure and Plan</u>			
Define DEI work from a budgeting standpoint.	Management Analyst	03/22/2023	Staff time Department Heads Finance Director
<p>Create a form (with collection and reporting mechanism) to send to department heads/ division supervisors to fill out related to their current practices and goals.</p> <ul style="list-style-type: none"> • Staff time spent (in hours, or percentage of job) • Hard costs (programming, food, supplies) • In-kind costs (facilities) • Training • Other 	Assistant Finance Director	03/31/2022	Finance Director Deputy Clerk
Send forms to Department Heads	Deputy Clerk	04/10/2023	Department Heads Supervisors
Provide coaching session to departments heads to complete forms	Finance Director	04/10 - 6/10/2023	Department Heads Assistant City Manager Department Heads

Milestones	Responsible	Deadline	Resources Required
Department Heads fill out form	Department Heads	06/09/2023	Division directors/Supervisors/Staff Budgeting Software Finance Department Microsoft Office Assistant City Manager Management Analyst
Collect and combine forms	Deputy Clerk	06/23/2023	Deputy Clerk
Identify budget allowance for goals	Finance Director	06/30/2023	City Council Budgeting Software
Facilitate discussion and debrief forms and data to Department Heads.	Finance Director	07/07/2023	Department Heads Executive leadership team Assistant Finance Director Lunch

Milestones	Responsible	Deadline	Resources Required
Review forms to identify annual spending estimate for the organization and by department and/or program.	Assistant Finance Director	07/31/2023	Management Analyst(s)
Affirm or set goals for what we're already doing.	Assistant City Manager	07/31/2023	Department Heads Future equity committee Lunch
Collect feedback from Council on proposed goals.	Assistant City Manager	08/01/2023	City Council City Manager Management Analyst Finance Director
Finalize and approve goals	Management Analyst	08/11/2023	Department Heads City Manager Executive leadership team Deputy Clerk

Milestones	Responsible	Deadline	Resources Required
Allocate budget based on previous spending and goals. <ul style="list-style-type: none"> Provide direction on how to use budget. 	Finance Director	11/01/2023	City Council City Manager Assistant City Manager Management Analyst
Develop communication strategy to both internal and external stakeholders on SMART goal development and progress.	Communications Coordinator	Ongoing Highlights & annual report deadlines	Department Heads City Manager Future equity committee
Develop celebration strategy to recognize first year of progress.	Director of Planning and Development	Celebration before 12/31/2023	Lunch Balloons Cookies Management Analyst
<u>DO: Execute Work Plan(s) and Measure Results</u>			
Identify ongoing equity work and associated spending	Assistant Finance Director	07/31/2023	Executive Leadership Team Finance Director Management Analyst

Milestones	Responsible	Deadline	Resources Required
Define equity goals for the organization	Management Analyst	08/01/2023	City Manager Department Heads Executive Leadership Team
Plan equity budget in 2024 based on previous annual spending + goals	Finance Director	09/30/2023	Executive Leadership Team City Manager Assistant City Manager Future equity committee
Communicate equity budget and goals to stakeholders	Finance Director	11/01/2023	City Council Executive Leadership Team Communications coordinator Highlights Annual Report City website

Milestones	Responsible	Deadline	Resources Required
<u>CHECK: Learn and Improve</u>			
Create space for internal feedback	Management Analyst	06/23/2023	Survey Monkey Communications Coordinator Intranet
Research equity best practices and examples based on the selected goals	Management Analyst	09/30/2023	Outside communities Future Equity Committee
Develop internal process to measure and monitor spending	Assistant Finance Director	12/31/2023	Finance Director Department Heads
Plan for the next year	Management Analyst	Annually by 11/01	Future Equity Committee Department Heads City Council
<u>ACT: Make it Habit</u>			
Ongoing ESAP communications	Communications Coordinator	Quarterly	Future equity committee Department Heads

Milestones	Responsible	Deadline	Resources Required
Ensure new policies and processes are institutionalized into the budget process.	Finance Director	Ongoing	All Employees

2. This organization has an objective process for finding, hiring, and retaining people of different cultures and views for roles across the organization. (Human Development Dimension)

Guidance

The first year of this goal is focused on employees, but it is recognized that a similar process should happen in the future related to Boards and Commissions, and advisory/volunteer roles.

Criteria/Definitions:

- **Finding** – Processes associated with outreach and increasing the candidate pool, sharing job opportunities, job fairs, recruitment incentives, trainee programs, and where the City shares job postings. Succession planning can cross over with finding opportunities.
- **Hiring** – Processes associated with the job posting through completion of the probationary period, including the posting of positions with qualifications/minimum requirements, compensation and benefits, application system, scoring and qualifications, employee on-boarding, training and feedback given throughout the probationary period (there is cross over between hiring and retaining related to the on-boarding, supervisor training and compensation and benefit processes).
- **Retaining** - Starting at the point of on-boarding the processes and systems associated setting employees up to navigate and be successful, employee engagement, feedback/coaching, and reviews. Includes items like maintaining competitive compensation and benefits, recognition, supervisor and employee training and opportunities for career growth and expansion, including succession planning.
- **Different Cultures and Views** – Recognition of the diverse identities, cultures, race, abilities, and perspectives, in our community and working to mirror those same factors back into our formalized roles in our organization at all levels.
- **Roles** – Employee positions, City Council and HRA Board, Commissions including Planning, Park and Charter, and established on-going committees (MAC, Friends of the HCA, Hopkins Public Art Advisory Committee, Partners in Energy Committee).

SMART¹³ Goal:

By 2024 document current processes by collecting and reporting data related to finding, hiring and retention and develop goals in those areas to work on in 2024 and communicate to staff, residents, and stakeholders.

Benefits of achieving this goal:

- Allow us to be appropriately staffed which reduces organizational stress from staffing shortages.
- More qualified candidates/employees to meet organizational/and community needs who better reflect the community we serve.
- Increase efficiencies with the documented processes to filling vacancies.
- Increase diverse perspectives in the organization.
- Reduces turnover creates cost savings and builds/maintains organizational capacity.

¹³ Specific, Measurable, Achievable, Relevant, Time-bound

- Better communication, collaboration, transparency, and accountability to the organization.
- Easier access to processes and information for employees and supervisors.
- Increase willingness to refer friends/family/former colleagues.
- Increased engagement and happiness, optimism, and commitment for employees
- Able to provide a higher, better level of service to the community.
- Better training for new and existing employees leading to predictability in the process.
- Better work life balance for employees, leading to better family lives and relationships, and reduced PTSD.
- Better guidance and communication reducing HR, Department heads and supervisor questions.
- Formalization can allow for review and process improvement/adaptation.
- Increased creative thought.

Oversight for the Improvement: Assistant City Manager

Responsible for the Improvement: HR Analyst

Milestones	Responsible	Deadline	Resources Required
<u>PLAN: Measure and Plan</u>			
Create form to collect missing information and departures from typical process from Departments related to current finding, hiring and retention practices and goals related to each area.	HR Analyst	03/31/2023	Staff time Typical Hiring Process Map
Map the typical organization-wide recruitment, hiring, and retention process.	Assistant City Manager	04/10/2023	HR Analyst Current Hiring Checklists
Send out form and Map to Department Heads.	Deputy Clerk	04/10/2023	Department Heads Division Directors/Supervisors

Milestones	Responsible	Deadline	Resources Required
Department Heads fill out forms	Department Heads	06/09/2023	Division Directors/Supervisors/ Staff
Provide coaching to Department Heads as they complete the forms.	Assistant City Manager	06/09/2023	HR Analyst Management Analyst
<p>Draft a survey for the organization on finding, hiring and retaining</p> <ul style="list-style-type: none"> • Where did they learn about the position? • Evaluating on-boarding processes • Evaluating career/retention motivators • Understand why they choose Hopkins • How long they have been with organization • Would you recommend the City of Hopkins to a friend or former colleague? 	Management Analyst	06/30/2023	Future ESAP Working Group Department Heads Survey Monkey
Collect forms (EEO and form from department heads)	Deputy City Clerk	06/23/2023	HR Analyst
Create form for employees to update EEO data and languages spoken. Include levels of leadership	HR Analyst	06/30/2023	Word Springbrook EEO Categories Staff Time

Milestones	Responsible	Deadline	Resources Required
Send out individual updated forms to employees	Deputy Clerk	07/05/2023	HR Analyst Department Heads Division Supervisors All Employees
Employees fill out updated forms and send back to HR	Employees	07/21/2023	Department Heads Division Directors HR Analyst Deputy City Clerk
Update EEO data into Springbrook	HR Analyst	07/31/2023	Springbrook Deputy Clerk Forms filled out by Employees
Combine all of the information and data collected into one report and send out to Department Heads and future ESAP group to review.	Deputy City Clerk	07/31/2023	HR Analyst Assistant City Manager Management Analyst Department Heads Future ESAP Group City Manager

Milestones	Responsible	Deadline	Resources Required
Host meeting with Department Heads and future ESAP group to debrief and analyze the report of information collected, recognize strengths, and set organization and department goals for improvement	Assistant City Manager	08/01/2023	Department Heads Future ESAP Working Group Lunch
Draft communication materials and strategy related to the compilation of the data and next steps. Internal and External Communications	Communications Coordinator	08/30/2023	Microsoft Word Assistant City Manager Management Analyst
Review draft communication materials and strategy	Communications Coordinator	09/01/2023	Department Heads Future ESAP Working Group
<u>DO: Execute Plan; Measure Results</u>			
Evaluate current practices and set goals for 2024.	Assistant Manager	11/01/2023	Department Heads Future ESAP Team

Milestones	Responsible	Deadline	Resources Required
<p>Communicate existing status and goals to organization, residents and stakeholders.</p>	<p>Communications Coordinator</p>	<p>12/01/2023</p>	<p>Assistant City Manager Future ESAP Team Department Heads Website Intranet</p>
<p><u>CHECK: Learn and Improve</u></p>			
<p>Create metrics to set baseline data for measurement in future years and developing on-going check in process.</p>	<p>Assistant City Manager</p>	<p>08/15/2023</p>	<p>Management Analyst HR Analyst Deputy Clerk</p>
<p>Develop plan for next year.</p> <ul style="list-style-type: none"> • Research best practices related to finding, hiring, and retaining employees focused on the goal areas selected and make recommendations. • Update policies and guidelines to reflect goals and formalized practices. • Update data and communications materials 	<p>Management Analyst</p>	<p>11/01/2023</p>	<p>Assistant City Manager HR Analyst Other communities HR Staff and/or Websites Major businesses HR Staff and/or websites</p>

Milestones	Responsible	Deadline	Resources Required
<u>ACT: Make it Habit</u>			
Budget for process improvements/goals for 2024.	Assistant City Manager	12/15/2023	Finance Director Assistant Finance Director City Council Management Analyst HR Analyst Department Heads Subject Matter Experts
Update policies and guidelines to reflect goals and formalized practices.	Assistant City Manager	January 2024	HR Analyst Management Analyst City Clerk Deputy City Clerk Department Heads

Milestones	Responsible	Deadline	Resources Required
Update data bi-annually	HR Analyst	On-going (bi-annually in odd years to correlate with EEO Data (Due August) collection/submission process)	Assistant City Manager Management Analyst Deputy Clerk Department Heads Employees
Update Communications on internal and external websites.	Communications Coordinator	On-going, after Budget Adoption	Assistant City Manager Management Analyst HR Analyst Deputy Clerk Intranet Website

Appendix I

Diamond Inclusiveness Assessment™ (DIA)

To get to our destination, we must first know where we are in relation to it. This requires us to know at the individual, team and enterprise levels just what our current capacity is to engage in the level of intercultural knowledge and experience required to excel with culturally diverse stakeholders.

We used the Diamond Inclusiveness Assessment (DIA) to get a baseline understanding of how well our organization policies, practices and situations support cultural inclusiveness, as perceived by a culturally diverse set of respondents. It identified our organizational strengths and opportunities for improvement. While not yet independently validated, the tool has proven useful to more than 24 organizations and helped them make measurable improvements in their results with culturally diverse employees and customers.

A culturally diverse group of internal and external stakeholders participated in the City of Hopkins 2022 DIA assessment and feedback sessions. A group that included the senior leadership team, and staff and board equity teams, analyzed this information, selected two focus areas for improvement, and developed this Equity Strategic Action Plan.

The City of Hopkins 2022 DIA Gap Analysis Report is available at <https://www.hopkinsmn.com/581/Race-Equity>

JOIN THE HOPKINS POLICE DEPARTMENT FOR A

S.P.E.E.D.S

(SPEAKING WITH POLICE TO EDUCATE AND ENHANCE DRIVER SAFETY)

NEIGHBORHOOD GATHERING

**WEDNESDAY, JUNE 21, AT 5:30 P.M.
VALLEY PARK, 700 8TH STREET S**

- » **SPEAK WITH POLICE OFFICERS ABOUT TRAFFIC SAFETY CONCERNS**
- » **LEARN HOW HOPKINS POLICE CONDUCT ENFORCEMENT, PROBLEM SOLVE**
 - » **RECEIVE FREE VOUCHERS FOR VEHICLE LIGHT REPAIRS**
- » **LEARN HOW TO OBTAIN A VALID LICENSE (EVEN WITH PRIOR TRAFFIC VIOLATIONS) THROUGH THE MN DRIVER DIVERSION PROGRAM**

FEATURING

- » **FREE KONA SHAVED ICE TRUCK AND SNACKS**
- » **\$50 LOCAL HOPKINS BUSINESS GIFT CARD DRAWING**
 - » **FUN GAMES/ACTIVITIES FOR KIDS**



HOPKINS POLICE DEPARTMENT | WWW.HOPKINSMN.COM/POLICE | 952-258-5321

ÚNASE AL DEPARTAMENTO DE POLICÍA DE HOPKINS PARA UNA

S.P.E.E.D.S

COMVERSA CON LA POLICÍA PARA EDUCAR Y MEJORAR
LA SEGURIDAD DEL CONDUCTOR

ENCUENTRO EN EL BARRIO

MIÉRCOLES 21 DE JUNIO, 5:30 P.M.
PARQUE DEL VALLE, 700 8TH STREET S
(VALLEY PARK, 700 8TH STREET S)

- » HABLE CON LOS OFICIALES DE POLICÍA SOBRE PREOCUPACIONES DE SEGURIDAD DEL TRÁFICO
- » APRENDA CÓMO LA POLICÍA DE HOPKINS REALIZA EL CUMPLIMIENTO DE LA LEY, RESUELVAN EL PROBLEMA
- » RECIBA VALES GRATIS PARA REPARAR LAS LUCES DEL VEHÍCULO
- » APRENDA CÓMO OBTENER UNA LICENCIA VÁLIDA (AUN CON VIOLACIONES DE TRÁFICO ANTERIORES) A TRAVÉS DEL PROGRAMA DE DESVÍO DEL CONDUCTOR DE MN

¡PARTICIPE!

- » **¡GRATIS! CAMIÓN DE HIELO RIZADO Y BOGADILLOS DE KONA**
- » **SORTEO DE TARJETA DE REGALO DE NEGOCIO LOCAL DE HOPKINS DE \$50**
- » **JUEGOS DIVERTIDOS/ACTIVIDADES PARA NIÑOS**

DEPARTAMENTO DE HOPKINS | WWW.HOPKINSMN.COM/POLICE | 952-258-5321





ZAIRA CALIXTO ROSAS

Spanish Speaking Community Connector

WHAT'S A COMMUNITY CONNECTOR?

Community Connectors are ambassadors to the Hopkins Spanish Speaking Community, and help the City of Hopkins facilitate and build relationships between these populations.

Community Connectors will have office hours every week to work directly with residents, and to hear about issues and concerns from the community.

WHAT CAN A COMMUNITY CONNECTOR DO?

Community Connectors can:

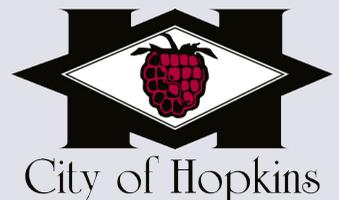
- Help residents navigate websites
- Translate documents and forms
- Share upcoming events or opportunities for residents to be involved
- Provide interpretation at events or meetings
- Assist with permitting processes
- Connect residents to resources available in the community

HOW CAN I MEET WITH A COMMUNITY CONNECTOR?

Zaira is available to meet with residents on XXdays at XX at the Hopkins Activity Center, 33 14th Avenue N, Hopkins. No appointment necessary.

Contact Zaira

Zaira Calixto Rosas
Spanish Speaking Community Connector
zrosas@hopkinsmn.com
952-228-8419





BECOME AN ACE THIS SUMMER!

ADVANCING CAREERS AND EMPLOYMENT (ACE) PROGRAM

The ACE Program is a youth employment program that offers young people paid summer internship and professional development experience

AVAILABLE POSITIONS:

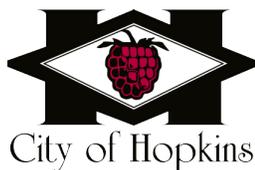
- Fire Department
- Police Department
- Public Works
- Hopkins Center for the Arts
- Hopkins Activity Center
- Administration
- Community Development & Inspections

APPLY TODAY!

Visit www.hopkinsmn.com/ACE or scan the QR code to learn more and apply online

QUESTIONS?

Contact ACE Program Coordinator PeggySue Imihy Bean at pimihy@hopkinsmn.com



ELIGIBILITY:

- 16-24 years old
- Face a barrier to employment
- Attend ACEentials training

BENEFITS:

- Get paid \$16/hour
- Gain valuable work experience
- Get a headstart in a career path that interests you
- Expand your skillset
- Learn how city government works

ADVANCING CAREERS AND EMPLOYMENT (ACE) PROGRAM TIMELINE

APPLY
April 11

Applications for internships
open

ACEENTIALS
May 6

Complete your internship prep

INTERVIEW
May 6

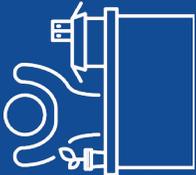
Interview for internship spots

SELECTION
May 10

Confirm internship match

ORIENTATION
June 12

Mandatory Internship and
Caregiver Orientation

FIRST DAY
June 21

Start your first day!

**HOPKINS CITY COUNCIL
REGULAR MEETING PROCEEDINGS
MAY 16, 2023**

CALL TO ORDER

Pursuant to due call and notice thereof a regular meeting of the Hopkins City Council was held on Tuesday, May 16, 2023, at 6:30 p.m. in the Council Chambers at City Hall, 1010 1st Street South.

Mayor Hanlon called the meeting to order. Council Members Balan, Beck, Garrido, and Hunke were in attendance. Others attending included City Manager Mornson, Assistant City Manager Lenz, Special Projects and Initiatives Manager Imihy Bean, City Attorney Riggs, Public Works Director Autio, Director of Planning and Development Elverum, City Planner Howard, City Engineer Eric Klingbeil, Finance Director Bishop, and Deputy City Clerk Vidoloff.

ADOPT AGENDA

Motion by Balan. **Second** by Hunke.

Motion to Adopt the Agenda.

Ayes: Balan, Beck, Garrido, Hanlon, Hunke

Nays: None. **Motion carried.**

PRESENTATIONS

III.1. Proclamation for LGBTQIA+ Pride Month (Pride Month); Imihy Bean

Special Projects and Initiatives Manager Imihy Bean summarized Council Report 2023-046, which included a motion to adopt a proclamation declaring June as LGBTQIA+ Pride Month (Pride Month), and to hang Pride flags from every other flagpole along Main Street. Council Member Balan stated he would abstain from the vote because although he supported Pride Month, he had received many calls last year from people about the Pride Flags on Mainstreet and there were good people on both sides of the issue.

Motion by Garrido. **Second** by Hunke.

Motion Adopt a Proclamation for LGBTQIA+ Pride Month (Pride Month) in Hopkins, and to hang Pride flags from every other flagpole along Mainstreet.

Ayes: Beck, Garrido, Hanlon, Hunke

Nays: None. **Abstain:** Balan. **Motion carried.**

III.2. Update on Park System Master Plan; Imihy Bean

Special Projects and Initiatives Manager Imihy Bean provided the City Council with an update on the Park System Master Plan. Discussion ensued about the fact that the plan is still in a concept phase, that the public was engaged to get initial needs and wants for the park system and this concept would be shared with the public for feedback.

CONSENT AGENDA

**HOPKINS CITY COUNCIL
REGULAR MEETING PROCEEDINGS
MAY 16, 2023**

Motion by Balan. **Second** by Garrido.

Motion to Approve the Consent Agenda.

1. Minutes of the May 9, 2023, City Council Regular Meeting Proceedings
2. Approval of Liquor License Renewals for the term of July 1, 2023, to June 30, 2024; Domeier
3. Approval of Business License Renewals for the term of July 1, 2023 to June 30, 2024; Domeier
4. Second Reading of an Ordinance Amending Appendix A of the Hopkins City Code to Establish a Tree Replacement Fee; Krzos
5. Approval of First Amendment to Temporary Easement Agreement between the City of Hopkins and the Metropolitan Council; Elverum

Ayes: Balan, Beck, Garrido, Hanlon, Hunke

Nays: None. Motion carried.

NEW BUSINESS

VII.1. Enter into an Operations and Maintenance Agreement and Cottageville Park Cooperative Agreement with the Minnehaha Watershed District; Imihy Bean

Special Projects and Initiative Manager Imihy Bean summarized Council Report 2023-049. Minnehaha Creek Watershed District (MCWD) Project Planning Manager Hayman explained that the history of the partnership between MCWD and the City and how the new Agreement better incorporated that partnership.

Council Member Beck asked about the timeline for process. MCWD staff noted the Cottageville Park component could bid and start next year.

Motion by Beck. **Second** by Balan.

Motion to enter into an Operations and Maintenance Agreement and Cottageville Park Cooperative Agreement with the Minnehaha Watershed District.

Ayes: Balan, Beck, Garrido, Hanlon, Hunke

Nays: None. Motion carried.

VII.2. Update on Alatus Development at 325 Blake Road; Elverum

Bob Lux and Erica Miller, representatives from the Alatus Company, provided an update on the redevelopment of 325 Blake Road. Building A is on schedule for possible occupancy by December 2023. There is not yet a name for Building A, but the company is working with a branding group and hopes to release that name soon.

VII.3. Resolution 2023-018 establishing Legislative Policy 7-H Inclusionary Housing Policy; Elverum

Director of Planning & Development Elverum summarized Council Report 2023-048 regarding inclusionary housing policy. Discussion ensued about the policy.

Motion by Beck. **Second** by Garrido.

Motion to adopt Resolution 2023-018 establishing Legislative Policy 7-H Inclusionary Housing Policy.

Ayes: Balan, Beck, Garrido, Hanlon, Hunke
Nays: None. Motion carried.

VII.4. Commercial Façade Loan Program; Elverum

Director of Planning and Development Elverum and Planner Howard provided an overview of the Commercial Façade Loan Program and asked for Council's input on continuing this program in the future.

The City Council discussed whether properties eligible to apply could be expanded all the way down Mainstreet to the Shady Oak intersection and whether or not to allocate more funding. Council Member Hunke was open to expanding the eligible territory but was cognizant that there would be more requests. Council Member Balan noted that the program seems to be working just fine as it is. Council Member Beck stated he would be in favor of expanding the eligible area to Shady Oak but was hesitant to allocate more funding.

Mayor Hanlon asked if staff had inquired about possible tax credits for possible applicants. Ms. Elverum stated there would be a lot of work that goes into that analysis but would certainly be open to pursuing it with applicants who are interested in investing that amount of time and effort into the process.

Mayor Hanlon asked staff to determine if there was funding available for the businesses that did not make the cut for program loans in the 2022 funding process.

The entire City Council was in support of continuing the program in 2024.

VII.5. Discussion of Historic Items for Mainstreet; Autio

At the request of Council Member Beck, Public Works Director Autio provided a review on the possibility of Historic Signage on Mainstreet/the Historic District.

Discussion ensued on whether to have signs that read, "Historic Downtown" or "Historic Main Street" and determining in what area the signs should be hung. Agreement was reached that the signs would say, "Historic District" and the signs should be hung in the entire historical district, not just on Mainstreet. The City Council also liked the idea of medallions or badges on the sidewalks as well.

VII.6. Approval of Amendment to the 2023-2027 Capital Improvement Plan; Bishop/Klingbeil

Finance Director Bishop and City Engineer Klingbeil summarized Council Report 2023-052 regarding a motion to approve an amendment to the 2023-2027 Capital Improvement Plan, increasing the cost of the Street Rehabilitation Improvements by \$70,000. This request was supported by a recommendation from Council Member Hunke.

**HOPKINS CITY COUNCIL
REGULAR MEETING PROCEEDINGS
MAY 16, 2023**

Mr. Bishop explained the financing basis for the improvement and Mr. Klingbeil explained how the two-block area was a good candidate for a mill and overlay procedure as it is just the pavement surface that is deteriorating, and the underlying surface is in good shape.

Motion by Hunke. **Second** by Garrido.

Motion to approve an amendment to the 2023-2027 Capital Improvement Plan increasing the cost of the Street Rehabilitation Improvements by \$70,000.

Ayes: Balan, Beck, Garrido, Hanlon, Hunke

Nays: None. Motion carried.

ANNOUNCEMENTS

Mayor Hanlon reviewed the upcoming meeting schedule.

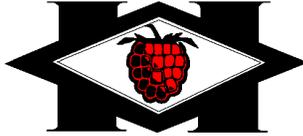
ADJOURNMENT

There being no further business to come before the City Council and upon a motion by Balan, second by Hunke, the meeting was unanimously adjourned at 8:51 p.m.

Respectfully Submitted,



Ann M. Vidoloff, Deputy City Clerk



CITY OF HOPKINS

Administration

City Council Report 2023-034

To: Honorable Mayor and Council Members
Mike Mornson, City Manager

From: Amy Domeier, City Clerk

Date: June 6, 2023

Subject: Approval of Temporary Liquor License for American Legion 320 DBA
John Wilbur Moore Post

RECOMMENDED ACTION

MOTION TO Approve the Issuance of a Temporary On-Sale Liquor License to American Legion 320 DBA John Wilbur Moore Post (Legion) for Raspberry Festival events scheduled for July 14, 15 and 16, 2023.

OVERVIEW

The Legion has submitted an application for a temporary on-sale liquor license for their Raspberry Festival events. The liquor service will be 9 a.m. to 1 a.m. Temporary on-sale liquor licenses must be approved by the State of Minnesota, Alcohol & Gambling Enforcement Division.

The applicant meets the requirements set for by State Statute to obtain a temporary liquor license. Staff has reviewed the request to ensure that all requirements and issues concerning liquor compliance and public safety have been met.

SUPPORTING INFORMATION

- The application and certificate of insurance are on file in the City Clerk's office.



CITY OF HOPKINS

Administration

City Council Report 2023-034

To: Honorable Mayor and Council Members
Mike Mornson, City Manager

From: Amy Domeier, City Clerk

Date: June 6, 2023

Subject: Approval of Temporary Liquor License for BPOE Lodge 2221 DBA
Hopkins Elks Lodge

RECOMMENDED ACTION

MOTION TO Approve the Issuance of a Temporary On-Sale Liquor License to BPOE Lodge 2221 DBA Hopkins Elks Lodge (Elks) for Raspberry Festival events scheduled for July 14, 15 and 16, 2023.

OVERVIEW

The Elks have submitted an application for a temporary on-sale liquor license for their Raspberry Festival events. The liquor service will be 9 a.m. to 1 a.m. Temporary on-sale liquor licenses must be approved by the State of Minnesota, Alcohol & Gambling Enforcement Division.

The applicant meets the requirements set for by State Statute to obtain a temporary liquor license. Staff has reviewed the request to ensure that all requirements and issues concerning liquor compliance and public safety have been met.

SUPPORTING INFORMATION

- The application and certificate of insurance are on file in the City Clerk's office.



CITY OF HOPKINS

Administration

City Council Report 2023-034

To: Honorable Mayor and Council Members
Mike Mornson, City Manager

From: Amy Domeier, City Clerk

Date: June 6, 2023

Subject: Approval of Temporary Liquor License for JCI Hopkins

RECOMMENDED ACTION

MOTION TO Approve the Issuance of a Temporary On-Sale Liquor License to JCI Hopkins for their Raspberry Festival event scheduled for July 15, 2023.

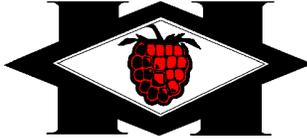
OVERVIEW

JCI Hopkins has submitted an application for a temporary on-sale liquor license for their Raspberry Festival event at Central Park. The liquor service will be 5 p.m. to midnight. Temporary on-sale liquor licenses must be approved by the State of Minnesota, Alcohol & Gambling Enforcement Division.

The applicant meets the requirements set for by State Statute to obtain a temporary liquor license. Staff has reviewed the request to ensure that all requirements and issues concerning liquor compliance and public safety have been met.

SUPPORTING INFORMATION

- The application and certificate of insurance are on file in the City Clerk's office.



CITY OF HOPKINS

Administration

City Council Report 2023-033

To: Honorable Mayor and Council Members
Mike Mornson, City Manager

From: Amy Domeier, City Clerk

Date: June 6, 2023

Subject: Extension of On-Sale Liquor License for LTD Brewing LLC DBA LTD
Brewing Co.

RECOMMENDED ACTION

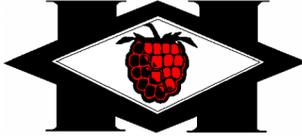
MOTION TO Approve the Extension of On-Sale Liquor License for LTD Brewing LLC DBA LTD Brewing Co. (LTD) for the Hopkins Pride event scheduled for June 17, 2023.

OVERVIEW

LTD has submitted a request to extend their on-sale liquor license for the Hopkins Pride event. The event and liquor sales will be located within their parking lot and extended into 8th Avenue from Mainstreet to just north of their parking lot. The liquor service will be 11 a.m. to 7 p.m. Staff has reviewed the request and met with LTD and Hopkins Pride organizer West Kokesh to ensure that all requirements and issues concerning liquor compliance and public safety have been met.

SUPPORTING INFORMATION

- The application and certificate of insurance are on file in the City Clerk's office.



CITY OF HOPKINS

Engineering

City Council Report 2023-061

To: Honorable Mayor and Council Members
Mike Mornson, City Manager

From: Eric Klingbeil, City Engineer

Date: June 6, 2023

Subject: Approve Repair and Maintenance Addendum to Cooperative Agreement
Between City of Hopkins and Nine Mile Creek Watershed District
(NMCWD)

RECOMMENDED ACTION

MOTION TO Adopt Resolution 2023-019, Approving Repair and Maintenance Addendum to Cooperative Agreement between Nine Mile Creek Watershed District (NMCWD) and City of Hopkins.

OVERVIEW

The City of Hopkins and NMCWD entered into a cooperative agreement dated December 7, 2011 to implement the Nine Mile Creek Stabilization Project. This project stabilized the streambank of Nine Mile Creek through a portion of Hopkins. The project achieved its intended purposes, but there are small segments that need repair. The original Cooperative Agreement covers "Ordinary Maintenance", but the repairs needed could be construed to fall out of the "Ordinary Maintenance" category. This Addendum will provide for the repair and maintenance of the stabilized areas needing repair to fulfill the original intent and terms of the Cooperative Agreement to ensure the continued integrity and effectiveness of the project.

Staff has reviewed the agreement and find it acceptable.

SUPPORTING INFORMATION

- Repair and Maintenance Addendum
- Resolution 2023-019

**CITY OF HOPKINS
HENNEPIN COUNTY, MINNESOTA**

RESOLUTION 2023-019

**RESOLUTION APPROVING REPAIR AND MAINTENANCE ADDENDUM TO
COOPERATIVE AGREEMENT BETWEEN NINE MILE CREEK WATERSHED
DISTRICT (NMCWD) AND CITY OF HOPKINS**

WHEREAS, The City of Hopkins and the NMCWD entered into a Cooperative Agreement on December 7, 2011 for streambank stabilization of Nine Mile Creek within Hopkins; and

WHEREAS, repair is needed to a stretch of the improved streambank to ensure its integrity and continuing effective of the stabilization; and

NOW THEREFORE BE IT RESOLVED, The City of Hopkins and NMCWD are authorized by Minnesota Stat. Sec. 471.59 to enter into this cooperative repair and maintenance addendum; and

BE IT FURTHER RESOLVED, The Mayor Pro Tempore and City Manager are hereby authorized and directed for and on behalf of the City to execute and enter into this Repair and Maintenance Addendum to the Cooperative Agreement dated December 7, 2011 with the NMCWD, a copy of which said agreement was before the City Council and which is made a part hereof by reference.

Adopted by the City Council of the City of Hopkins this 6th day of June, 2023.

By: _____
Brian Hunke, Mayor Pro Tempore

ATTEST:

Amy Domeier, City Clerk

**Cooperative Agreement
Between the City of Hopkins and Nine Mile Creek Watershed District**

NINE MILE CREEK BANK STABILIZATION AND HABITAT ENHANCEMENT PROJECT – HOPKINS
Repair & Maintenance Addendum

This cooperative agreement is made by and between the City of Hopkins, a home rule charter city under Article XII of the Minnesota Constitution (Hopkins), and Nine Mile Creek Watershed District, a special purposes unit of government created pursuant to Minnesota Statutes chapters 103B and 103D (NMCWD), for purposes of effecting repairs to and providing for the long-term ongoing maintenance of the Nine Mile Creek streambank-stabilization project substantially completed by the parties in 2012.

Recitals

Whereas NMCWD has authority under chapters 103B and 103D to design and implement projects to improve water quality, protect water resources and mitigate risk of flooding within the Nine Mile Creek watershed;

Whereas pursuant to its then-adopted watershed management plan and NMCWD's February 18, 2009, grant of an amended petition filed by Hopkins, NMCWD successfully implemented the Nine Mile Creek Stabilization Project, stabilizing the streambanks of Nine Mile Creek as it flows through the city to improve water quality in Nine Mile Creek and restore habitat within the riparian corridor (the Project);

Whereas the Project was implemented in collaboration with the City of Hopkins and in accordance with the terms of cooperative agreement entered into by the parties and finally agreed to as amended and restated December 7, 2011 (the Cooperative Agreement), and construction of the Project was substantially completed in accordance with the Cooperative Agreement, which has expired on its terms;

Whereas the Project was constructed on private property under land-use rights held by Hopkins and NMCWD and on land owned in fee by Hopkins and the City of Minnetonka;

Whereas the Cooperative Agreement provided for the collaborative development by Hopkins and NMCWD of a post-construction maintenance plan for the Project, but such plan has not yet been completed and the Cooperative Agreement provides – in paragraph 3.2.7 – only for ongoing “ordinary maintenance” of the Project by Hopkins;

Whereas while the Project achieved its intended purposes, repair is needed to a stretch of the improved streambank in Hopkins' Valley Park that has destabilized and eroded, as shown and labeled “Project Area” in Exhibit A (the Valley Park Repair), attached to and made a part of this agreement, to ensure its integrity and continuing effectiveness of the Project in Valley Park and as a whole;

Whereas the parties wish to develop and implement inspection and maintenance protocols, along with a corresponding schedule, to fulfill the intent and terms of the Cooperative Agreement to ensure the continued integrity and effectiveness of the Project;

Whereas Hopkins and NMCWD are authorized by Minnesota Statutes section 471.59 to enter into this cooperative repair and maintenance addendum for the Project;

Whereas the NMCWD Board of Managers authorized the execution of this agreement at its June 1, 2023, workshop meeting; and

Whereas the Hopkins City Council authorized the execution of this agreement at its June 6, 2023 regular meeting.

Repair and Maintenance Agreement

Now therefore, in consideration of the foregoing recitals, which are incorporated into and made a part of this agreement, Hopkins and NMCWD acknowledge that their mutual and abiding interest in ensuring the effectiveness of the Project provides sufficient consideration for this agreement. And the parties enter into this repair and maintenance agreement to document their understanding as to the scope of both the Valley Park Repair and long-term maintenance of the Project, affirm their responsibilities for tasks to be undertaken, grant and assign the property necessary, establish procedures for performing these tasks and fulfilling responsibilities, and facilitate communications and cooperation to ensure the continuing effectiveness of the Project.

1 Valley Park Repair

- a. Under contract with NMCWD, Barr Engineering prepared the plans and design drawings attached to and incorporated into this agreement as Exhibit B, providing for stabilization of the streambank erosion in Valley Park through removal of root wads installed as part of the Project and restoration of the streambank at a 2:1 slope, conforming to the design of the Project and incorporating cobble-size stone toe protection, as well as erosion-control measures and reestablishment of native vegetation.
- b. By the signature of its authorized representative(s) hereunder, Hopkins approves the plans and design drawings for the Valley Park Repair in Exhibit B.
- c. Under contract with NMCWD, Barr Engineering will also prepare the additional plans and specifications necessary to solicit a contractor for the completion of the repair work shown in Exhibit B, and will provide construction oversight for the Valley Park Repair and completion and certification of as-built drawings of the Valley Park Repair.
- d. NMCWD will solicit quotes for, select a contractor and enter a contract for implementation of the Valley Park Repair in accordance with applicable public-procurement law. The contract for construction of the Valley Park Repair will provide that on completion of the Valley Park Repair, all Hopkins property accessed

and improved as provided in paragraph 1b of this agreement will be restored to a condition materially equivalent to preexisting conditions, except to the extent that the property is improved by completion of the Valley Park Repair.

- e. *Land-use rights.* The design, plans and specifications prepared in accordance with paragraphs 1a and 1c of this agreement will provide for work exclusively in Valley Park, which is owned in fee by Hopkins, and by the signature of its authorized representative hereunder Hopkins conveys to NMCWD, its contractors, agents and assigns a nonexclusive temporary license to access and use Valley Park, and adjacent city streets for purposes of completing the Valley Park Repair. NMCWD, on reasonable notice to Hopkins, may temporarily restrict or preclude public access to and in Valley Park and adjacent streets to ensure safety while Valley Park Repair activities are under way. Hopkins will forbear from any activity that unreasonably interferes with NMCWD's ability to exercise its rights or meet its obligations to complete the Valley Park Repair under this agreement, including the transfer of ownership of any Hopkins-owned property. Subject to its interest in preserving public safety, Hopkins will facilitate NMCWD's reasonable exercise of its rights under this agreement with regard to access to and use of Valley Park. Hopkins will not take any action within or adjacent to Valley Park that could reasonably be expected to diminish the effectiveness or function of the Valley Park Repair for the purposes intended.
- f. Within 90 days of certification of the Valley Park Repair as substantially complete for the intended purposes, NMCWD will provide as-built drawings of the repaired streambank to Hopkins.
- g. On completion of the Valley Park Repair, Hopkins will retain ownership of the improvements to Valley Park, and will provide routine maintenance of the Project in accordance with the Maintenance Plan developed in accordance with section 2 of this agreement.

2 Maintenance Plan – development and implementation

- a. In conjunction with completion of the Valley Park Repair, Hopkins and NMCWD will collaborate on the development and implementation of a schedule and specifications for routine inspection and upkeep of the Project (the Maintenance Plan) in fulfillment the relevant terms of the Cooperative Agreement and in accordance with the following:
 - i. NMCWD will contract with the NMCWD engineer for the development, in collaboration with Hopkins, of specific written procedures and protocols for routine monitoring and maintenance of the integrity and performance of the Project as repaired by the Valley Park Repair and on the City of Hopkins and privately owned properties shown in the scaled site plan attached herinto and incorporated herein as Exhibit C (altogether, the Maintenance Properties). The schedule, specifications and protocols will constitute the Maintenance Plan. The Maintenance Plan will provide, at a minimum, for maintenance of constructed

streambank-stabilization practices and vegetation established as part of the Project and Valley Park Repair to ensure the continued integrity and function for the intended purposes. The Maintenance Plan will also provide for recordkeeping and reporting on the condition of the Project and maintenance work completed.

- ii. NMCWD, or the NMCWD engineer on NMCWD's behalf, will submit the final draft Maintenance Plan to Hopkins for review and approval in accordance with paragraph 5.3 herein below.
 - iii. Hopkins will complete or contract for the completion at its sole expense of routine maintenance of the Project as defined and specified in the Maintenance Plan.
- b. *Land-use rights for maintenance.* The Maintenance Plan will provide for the conduct of routine maintenance of the Project on the Maintenance Properties. To facilitate the implementation of the Maintenance Plan, Hopkins will assess whether extant land-use rights allow it to fulfill its obligations under the Maintenance Plan, and will obtain such additional land-use rights as it determines necessary to maintain the Project in accordance with the Maintenance Plan. Hopkins will timely advise NMCWD of any inability to obtain land-use rights necessary to implement the Maintenance Plan, and the parties will collaborate to pursue means to obtain such rights.
 - c. *Major repair and maintenance.* The parties will jointly and in good faith determine the need for and means to accomplish repair of the Project beyond the scope of the Valley Park Repair and routine maintenance specified in the Maintenance Plan.

3 Cost-Sharing

3.1 In fulfillment of the relevant provisions of its contract with Barr Engineer, NMCWD will pay the contracted costs of development and finalization of the design, plans and specifications and construction oversight for the Valley Park Repair, and completion of as-built drawings, as provided in paragraphs 1a and 1c, as well as the development of the Maintenance Plan, as described in section 2 of this agreement. In fulfillment of the relevant provisions of its contract with the contractor selected in accordance with paragraph 1d of this agreement, NMCWD will pay the contracted costs of implementation of the Valley Park Repair.

3.2 On receipt from NMCWD of proofs of payment and such other documentation as may be reasonably required by Hopkins for the purpose, Hopkins will reimburse NMCWD 50 percent of all contracted costs described in paragraph 3.1 herein. The parties will work in good faith to determine the need and cost-sharing for repair of the Project beyond the Valley Park Repair, as needed, and maintenance and repair beyond the routine maintenance specified in the Maintenance Plan.

3.3 Each party will pay the internal and incidental costs incurred to fulfill its obligations under this agreement for the Valley Park Repair and development and implementation of the Maintenance Plan not otherwise specified as subject to cost-sharing described herein.

4 NMCWD – additional specific rights and duties

4.1 As provided in paragraph 1a and 1c, NMCWD will contract with the NMCWD engineer for the development of the design of the Valley Park Repair, along with the plans and specifications and all other necessary construction documentation and as-built drawings, and, in accordance with paragraph 1d, will contract for the implementation of the Valley Park Repair. As provided in paragraph 2a.i, NMCWD will contract with the NMCWD engineer for the development of the Maintenance Plan. Notwithstanding, NMCWD makes no warranty to Hopkins regarding the NMCWD engineer's, the contractor's or any another third party's performance in design, construction or construction management for the Project, the Valley Park Repair or the Maintenance Plan.

4.2 NMCWD will contract for the implementation of the Valley Park Repair with a qualified and responsible contractor, as determined by NMCWD in its sole discretion. The contract for the implementation of the Valley Park Repair will:

- a. Require the contractor to indemnify, defend and hold harmless Hopkins, its officers, council members, employees and agents from any and all actions, costs, damages and liabilities of any nature arising from the contractor's negligent or otherwise wrongful act or omission, or breach of a specific contractual duty, or a subcontractor's negligent or otherwise wrongful act or omission, or breach of a specific contractual duty owed by the contractor to NMCWD. The contract will require that for any claim subject to indemnification by an employee of selected contractor or a subcontractor, the indemnification obligation is not limited by a limitation on the amount or type of damages, compensation or benefits payable by or for the contractor or a subcontractor under workers' compensation acts, disability acts or other employee benefit acts.
- b. Require that the contractor name Hopkins as an additional insured with primary coverage for general liability on a noncontributory basis for both ongoing work and completed operations to the extent of NMCWD's statutory liability limit.
- c. Extend the contractor's warranties under the contract, if any, to Hopkins.

4.3 As between the parties and with the assistance and cooperation of Hopkins, NMCWD will obtain all permits, licenses and other necessary approvals for the Valley Park Repair for itself and Hopkins from entities with regulatory authority, as determined by NMCWD, and will ensure that the Valley Park Repair is completed in accordance with applicable law and regulatory standards and criteria.

4.4 NMCWD may adjust the plans and specifications for the Valley Park Repair during implementation with notice to Hopkins, as long as the revised plans do not require NMCWD to exceed the scope of the rights granted under this agreement. Until completion of the Valley Park Repair, if NMCWD, in its judgment, should decide that the Valley Park

Repair is infeasible, NMCWD, at its option, may declare the agreement rescinded and annulled. If NMCWD so declares, all obligations herein, performed or not, will be void; NMCWD will return any portions of Valley Park disturbed by activities meant to effect the Valley Park Repair to their preexisting conditions or to a condition agreed on by Hopkins and NMCWD.

5 Additional specific rights and duties – Hopkins

5.1 Hopkins will cooperate with NMCWD's efforts to obtain permits and approvals needed for the Valley Park Repair and act to facilitate proper and efficient processing of applications for city approvals.

5.2 Hopkins will timely reimburse NMCWD in accordance with paragraph 3.2 of this agreement for its portion of expenditures made in accordance with sections 1 and 2 and paragraph 3.1.

5.3 Hopkins will work in collaboration with NMCWD to develop the draft Maintenance Plan and will approve the final draft Maintenance Plan within 45 days of submission of the final draft by NMCWD or on NMCWD's behalf to Hopkins, such approval not to be unreasonably withheld. Failure by Hopkins to timely act on its rights and obligations under this paragraph will constitute approval of the Maintenance Plan. If Hopkins disapproves the Maintenance Plan, Hopkins will become solely responsible for maintenance of the Project and Valley Park Repair to ensure continued effective function for the intended purposes. On approval of the Maintenance Plan, Hopkins will perform or contract for the performance of all routine maintenance and monitoring of the Project, along with reporting as may be required by the Maintenance Plan. Hopkins will notify NMCWD of any need for major repair or maintenance of the Project (beyond the scope of the Maintenance Plan), and the parties in good faith will develop a collaborative approach to designing and implementing major repairs or maintenance.

5.4 Hopkins will obtain all regulatory and other approvals necessary for implementation of the Maintenance Plan in accordance with applicable law and regulatory standards and criteria.

6 General Terms

6.1 **LEGAL RELATIONSHIP TO COOPERATIVE AGREEMENT.** The rights and responsibilities of the parties under the terms of this agreement are independent of and in addition to any obligations assigned under the Cooperative Agreement, and where any term hereof explicitly modifies a term or terms of the Cooperative Agreement, the terms in this agreement prevail.

6.2 **INDEPENDENT RELATIONSHIP; LIABILITY.** This agreement does not create a joint powers board or organization within the meaning of Minnesota Statutes section 471.59, and neither party agrees to be responsible for the acts or omissions of the other pursuant to subdivision 1(a) of the statute. Only contractual remedies are available for the failure of a party to fulfill the terms of this agreement. Hopkins and NMCWD enter this agreement solely for the purposes of improving the ecological health and condition of Nine Mile Creek in Hopkins.

Accordingly, with respect to any and all activity undertaken pursuant to this agreement, Hopkins and NMCWD will each hold harmless, defend and indemnify the other, its officers, employees and agents for all claims, damages, liabilities, losses and expenses asserted against the other party at any time by any third party, including any governmental body. Notwithstanding the foregoing or any other provision of this agreement, Hopkins's and NMCWD's obligations under this paragraph will survive the termination of the agreement.

This agreement creates no right in and waives no immunity, defense or liability limitation with respect to any third party. As between the parties, only contract remedies are available for a breach of this agreement. Notwithstanding the foregoing, NMCWD will not be deemed to have acquired by entry into or performance under this agreement, any form of interest or ownership in or to any portion of the land that is the site of the construction of the Project or adjacent property. NMCWD will not by entry into or performance under this agreement be deemed to have exercised any form of control over the use, operation or management of any portion of the property that is the site of the Project or adjacent property so as to render NMCWD a potentially responsible party for any contamination under state and/or federal law.

6.3 PUBLICITY AND ENDORSEMENT. Any publicity regarding the Project, Valley Park Repair or the Maintenance Plan must identify Hopkins and NMCWD as the sponsoring entities. For purposes of this provision, publicity includes notices, informational pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for Hopkins or NMCWD individually or jointly with others, or any subcontractors, with respect to the Project. NMCWD and Hopkins will collaborate on the development of educational and informational signage pertinent to the Project, and each party, at its cost, may develop, produce and, after approval of the other party, distribute educational, outreach and publicity materials related to the Project, Valley Park Repair and Maintenance Plan.

6.4 DATA MANAGEMENT. All designs, written materials, technical data, research or any other work-in-progress will be shared between the parties to this agreement on request, except as prohibited by law. As soon as is practicable, the party preparing plans, specifications, contractual documents, materials for public communication or education will provide them to the other party for recordkeeping and other necessary purposes.

6.5 DATA PRACTICES. All data created, collected, received, maintained, or disseminated for any purpose in the course of this agreement is governed by the Data Practices Act, Minnesota Statutes chapter 13, any other applicable state statute, or any state rules adopted to implement the act, as well as federal regulations on data privacy.

6.6 ENTIRE AGREEMENT. This agreement, as it may be amended in writing, contains the complete and entire agreement between the parties relating to the subject matter hereof, and supersedes all prior negotiations, agreements, representations and understandings, if any, between the parties respecting such matters. The recitals stated at the outset are incorporated into and a part of the agreement.

6.7 WAIVERS. The waiver by Hopkins or NMCWD of any breach or failure to comply with any provision of this agreement by the other party will not be construed as nor will it constitute a continuing waiver of such provision or a waiver of any other breach of or failure to comply with any other provision of this agreement.

6.8 NOTICES. Any notice, demand or communication under this agreement by either party to the other will be deemed to be sufficiently given or delivered if it is dispatched by registered or certified mail, postage prepaid to:

Hopkins

Eric Klingbeil, City Engineer
City of Hopkins
Eklingbeil@HOPKINSmn.com
952-548-6357

NMCWD

Randall J. Anhorn, Administrator
12800 Gerard Drive
Eden Prairie, MN 55346
ranhorn@ninemilecreek.org; 952-835-2078

6.9 TERM; TERMINATION. This agreement is effective on execution by both parties and will terminate three years from the date of execution of the latest amendment hereto or on the written agreement of both parties, except that obligations and responsibilities incurred prior to the expiration or termination of this agreement will remain valid and enforceable.

(Signature page follows.)

IN WITNESS WHEREOF, the parties have caused the agreement to be duly executed intending to be bounded thereby.

City of Hopkins

Nine Mile Creek Watershed District

_____, Mayor Pro Tempore

Robert Cutshall, President

Date: _____

Date: _____

Approved as to form & execution:

_____, City Manager

NMCWD counsel

Date: _____

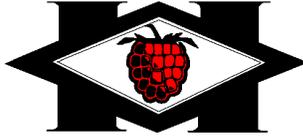
Approved as to form & execution:

City attorney

EXHIBIT A
Valley Park Repair Site

EXHIBIT B
Plans and Design – Valley Park Repair

EXHIBIT C
The Maintenance Properties



CITY OF HOPKINS

City Council Report 2023-054

To: Honorable Mayor and Council Members
Mike Mornson, City Manager

From: Ann M. Vidoloff, Deputy City Clerk, Special Assessments

Date: June 06, 2023

Subject: Approve Miller's Application for Deferral of Special Assessment

RECOMMENDED ACTION

MOTION TO Approve Miller's Application for Deferral of Special Assessment.

OVERVIEW

The City Council adopted special assessments for the 2023 Street & Utility Improvements project, namely Project 2022-10, on March 21, 2023. City Code § 2-120 of Article 5 allows for a discretionary deferral of a special assessment when a property owner meets the following requirements: is either 65 years of age or older, or retired by virtue of permanent disability; Is the owner of the property; Occupies the property as a principal source of residence; and the owner's annual income does not exceed the low-income limit as established by the Department of Housing and Urban Development as used in determining eligibility for Section VIII housing.

Virginia M. Miller, the resident and property owner of 125 – 15th AVE N, Hopkins, Minnesota, has applied for deferral of the special assessment against her property in the amount of \$10,790.79. Staff has verified that Mrs. Miller is more than 65 years of age, owns the property listed above, has homestead status, and satisfies the income requirement. If granted, the assessment shall accrue simple interest at a rate of 5.71% until the assessment is paid.

Further, if granted, a certification of deferment shall be reviewed and verified annually. The deferral shall terminate upon any of the following conditions: failure to renew the document certification; Death of the owner (here there is no surviving or successor owner that would be eligible for the deferral); Sale or transfer of the property or any part of the property; Loss of homestead status; or Determination there would be no hardship to require immediate or partial payment.

Staff recommends the City Council approve the deferral as it has been verified that a hardship exists for Mrs. Miller and she meets the required conditions for deferral.

SUPPORTING INFORMATION

- Virginia M. Miller – Application for Deferral of Special Assessment (Attached)

CITY OF HOPKINS
APPLICATION FOR DEFERRAL OF SPECIAL ASSESSMENT

I hereby make application for deferral of special assessment this 10TH day of MAY, 2023 for the following assessment and levy number (if available):

Project 2022-10

Levy 24059

On the following property address and PIN:

125 - 15th AVE N, Hopkins, MN 55343

PIN: 24-117-22-32-0125

I understand that this deferral can only be granted if I meet the following requirements:

- 1) I am either
 - a. 65 years of age or olderⁱ, or
 - b. Retired by virtue of permanent disabilityⁱⁱ;
- 2) I am the owner of the propertyⁱⁱⁱ;
- 3) I occupy the property as a principal source of residence^{iv}; and
- 4) My annual income does not exceed the low-income limit as established by the Department of Housing and Urban Development as used in determining eligibility for Section VIII housing^v.

These requirements are verified by Exhibit A, attached hereto and incorporated herein.

Furthermore, I understand that I must renew the deferment annually during the term of the deferment and all required supporting documents or information must be delivered to the City not later than September 30 of each year. Deferred assessments shall accrue simple interest during the deferment period at the rate established for payment of assessments at the time the assessment roll was adopted.^{vi}

Upon failure to renew the deferment certification, or upon one of the following: (a) the death of the owner, providing that the surviving or successor owner is not otherwise eligible for the deferment; (b) the sale, transfer or subdivision of the property or any part thereof; (c) if the property should for any reason lose its homestead status; or, (d) if for any reason the City shall determine that there would be no hardship to require immediate or partial payment; the deferment shall terminate and the City Clerk shall promptly certify to the County Auditor the amount of the deferred assessment including interest to be inserted on the tax assessment or in full if the property was sold or the period of time for repayment of the original assessment has expired.

CITY OF HOPKINS
APPLICATION FOR DEFERRAL OF SPECIAL ASSESSMENT

Virginia M. Miller

Virginia Miller

Printed Name

Signature

952-649-2051

mmillerski@gmail.com

Telephone

Email address

State of MINNESOTA

County of HENNEPIN

Signed and sworn to (or affirmed) before me on MAY 10, 2023 (date) by
VIRGINIA M. MILLER

Ann M. Vidoloff
Signature of Notarial Officer

(stamp)



NOTARY PUBLIC

Title (and Rank)

My Commission Expires: Jan 31, 2027

- ⁱ This can be verified by a driver's license, identification card or other document with a photo and date of birth.
- ⁱⁱ This must be verified in the form of a physician's statement.
- ⁱⁱⁱ Verified on the Hennepin County website or with a copy of the most current deed.
- ^{iv} This is verified by having homestead status on the property.
- ^v The income limit for this year is listed on Exhibit A accompanying this application.
- ^{vi} The interest rate for this assessment is listed on Exhibit A accompanying this application.



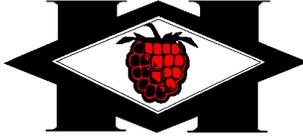
City of Hopkins

1010 First Street South • Hopkins, MN 55343-3435 • Phone: 952-548-6331 • Fax: 952-935-1834
Web address: www.hopkinsmn.com

EXHIBIT A Accompanying the Application for Deferral of Special Assessment Checklist of Eligibility

Name: VIRGINIA M. MILLER
Property Address: 125 - 15TH AVE N, HOPKINS, MN 55343
PID: 24-117-22-32-0125

	Item	Verifying Documentation
1.	<ul style="list-style-type: none">• Date of Birth OR• Retired by Virtue of Permanent Disability	Valid MN Driver's License
2.	Owner of Property	Deed and HC website
3.	Occupy as Principal Source of Residence (Homestead)	Hennepin County Recorder
4.	Satisfy Annual Income Limit of: \$45,625.00	Recent Tax Return



CITY OF HOPKINS

Finance Department

City Council Report 2023-064

To: Honorable Mayor and Council Members
Mike Mornson, City Manager

From: Nicholas Bishop, Finance Director

Date: June 6, 2023

Subject: Ratify Checks Issued in May 2023

RECOMMENDED ACTION

MOTION TO Ratify Checks issued between April 28, 2023 and May 31, 2023 with numbers 130738 thru 131054 for total distribution of \$1,086,548.92.

OVERVIEW

The checks issued, along with the purpose for those payments are attached for your review.

The check registers and detail of those checks can be reviewed at any time in the Finance Department.

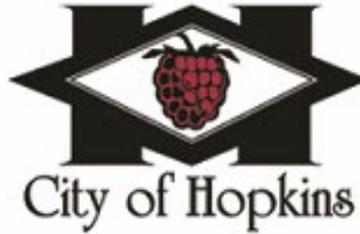
SUPPORTING INFORMATION

- Check Register

Accounts Payable

Checks by Date - Summary by Check Date

User: cdahlstrom@hopkinsmn.com
Printed: 5/31/2023 3:59 PM



1010 First Street South
Hopkins, MN 55343

952-935-8474

M-F, 8 am-4:30 pm

www.hopkinsmn.com

Check No	Vendor No	Vendor Name	Check Date	Void Checks	Check Amount
130738	01045	ABM EQUIPMENT & SUPPLY LLC	05/04/2023	0.00	853.35
130739	28422	ADVANCED IMAGING SOLUTIONS	05/04/2023	0.00	2,985.00
130740	01493	AMERICAN PRESSURE, INC	05/04/2023	0.00	286.25
130741	28600	APPLE VALLEY FORD LINCOLN	05/04/2023	0.00	2,073.55
130742	01095	DANIEL ARETZ	05/04/2023	0.00	495.00
130743	28840	AUDIO LOGIC SYSTEMS	05/04/2023	0.00	1,268.75
130744	02047	BADGER METER INC	05/04/2023	0.00	1,500.00
130745	UB*00879	THOMAS/SHELLY BILLIET	05/04/2023	0.00	5.04
130746	29817	GARY BINGER	05/04/2023	0.00	3,800.00
130747	31485	BLUE HOG MUSIC LLC	05/04/2023	0.00	3,000.00
130748	02563	BOLTON & MENK, INC	05/04/2023	0.00	2,782.00
130749	27782	BOUND TREE MEDICAL LLC	05/04/2023	0.00	359.16
130750	27822	BRADS PRO AUDIO	05/04/2023	0.00	550.00
130751	31410	CARLSON PRINTING COMPANY	05/04/2023	0.00	4,172.47
130752	03160	CENTERPOINT ENERGY MINNEGASCO	05/04/2023	0.00	21.03
130753	03331	CITY OF ST LOUIS PARK	05/04/2023	0.00	154.17
130754	27467	CITY OF ST PAUL	05/04/2023	0.00	600.00
130755	31158	CLARK COMPANIES INCORPORATED	05/04/2023	0.00	9,050.00
130756	26951	COMCAST	05/04/2023	0.00	158.35
130757	26951	COMCAST	05/04/2023	0.00	2.10
130758	26951	COMCAST	05/04/2023	0.00	69.95
130759	26951	COMCAST	05/04/2023	0.00	10.50
130760	31281	CONFLUENCE INC	05/04/2023	0.00	11,417.90
130761	UB*00880	DELI DOUBLE INC	05/04/2023	0.00	45.65
130762	04690	DRISKILLS FOODS	05/04/2023	0.00	94.85
130763	01523	EARL F. ANDERSEN, INC	05/04/2023	0.00	204.95
130764	28898	ECM PUBLISHERS INC	05/04/2023	0.00	57.60
130765	05481	EMERGENCY APPARATUS MAINT INC	05/04/2023	0.00	9,951.52
130766	27569	EMERGENCY AUTOMOTIVE TECHNO	05/04/2023	0.00	4,806.86
130767	29070	ENGAGE PRINT INC	05/04/2023	0.00	1,463.75
130768	05729	ESRI	05/04/2023	0.00	9,359.00
130769	31076	FERGUSON US HOLDINGS INC	05/04/2023	0.00	324.95
130770	31346	PAULA FINNEY	05/04/2023	0.00	160.00
130771	30555	MARGARET GONGOLL	05/04/2023	0.00	405.00
130772	07689	GRAFIX SHOPPE	05/04/2023	0.00	261.65
130773	29377	GRAINGER, INC	05/04/2023	0.00	141.00
130774	UB*00881	CONNOR GUINN	05/04/2023	0.00	52.67
130775	08001	HACH COMPANY	05/04/2023	0.00	15,474.00
130776	31143	SARA HALPERN	05/04/2023	0.00	460.00
130777	31456	ERICA HEINRICHS	05/04/2023	0.00	120.00
130778	27248	HENNEPIN CTY TREASURER	05/04/2023	0.00	434.00
130779	27454	HENNEPIN CTY TREASURER	05/04/2023	0.00	15,000.00
130780	31483	CHARLES HOFFMAN	05/04/2023	0.00	150.00
130781	08576	HOPKINS F.D. RELIEF ASSOC	05/04/2023	0.00	540.00
130782	31480	SAFIA HUSSEIN	05/04/2023	0.00	52.50
130783	09320	IIMC	05/04/2023	0.00	185.00
130784	09578	INNOVATIVE OFFICE SOLUTIONS LLC	05/04/2023	0.00	1,227.46

Check No	Vendor No	Vendor Name	Check Date	Void Checks	Check Amount
130785	30269	JANELLE JASPERS JONES	05/04/2023	0.00	320.00
130786	10172	JEFFERSON FIRE & SAFETY	05/04/2023	0.00	900.00
130787	28601	JENN ARI GROUP	05/04/2023	0.00	3,208.55
130788	29774	LAURSEN PIANO SERVICE	05/04/2023	0.00	120.00
130789	12200	LHB INC	05/04/2023	0.00	4,922.60
130790	30145	ZACH LUNDBERG	05/04/2023	0.00	350.00
130791	30145	ZACH LUNDBERG	05/04/2023	0.00	2,650.00
130792	13012	MACQUEEN EQUIPMENT INC	05/04/2023	0.00	775.63
130793	31471	MAXWELL MARS	05/04/2023	0.00	800.00
130794	UB*00877	DANIEL MARTIN	05/04/2023	0.00	86.18
130795	30998	MASTER TECHNOLOGY GROUP INC	05/04/2023	0.00	553.90
130796	UB*00878	SUSAN MAYER	05/04/2023	0.00	8.67
130797	31305	MARY MCCALLUM	05/04/2023	0.00	320.00
130798	13160	MEDICINE LAKE TOURS	05/04/2023	0.00	2,016.00
130799	13167	MENARDS	05/04/2023	0.00	54.97
130800	13172	METRO ELEVATOR, INC	05/04/2023	0.00	184.00
130801	13192	METROPOLITAN FORD	05/04/2023	0.00	562.41
130802	29177	RENEE A MEUWISSEN	05/04/2023	0.00	345.00
130803	13275	MICRO CENTER	05/04/2023	0.00	323.93
130804	13354	MN BENEFIT ASSOCIATION	05/04/2023	0.00	84.18
130805	UB*00876	NOBERG HOMES INC	05/04/2023	0.00	6.16
130806	30300	NORDIC SOLAR HOLDCO LLC	05/04/2023	0.00	4,822.93
130807	31294	JASON O'DELL	05/04/2023	0.00	155.00
130808	31481	HAWA OMAR	05/04/2023	0.00	52.50
130809	31306	TERRI OSLAND	05/04/2023	0.00	144.00
130810	29331	POSTMASTER	05/04/2023	0.00	250.00
130811	30125	PROJECT COMPANY FINCO PHASE III	05/04/2023	0.00	2,256.93
130812	17806	QWEST CORP	05/04/2023	0.00	60.72
130813	31469	RAFTELIS FINANCIAL CONSULTANTS	05/04/2023	0.00	21,225.00
130814	31484	SAFEWARE INC	05/04/2023	0.00	3,400.00
130815	28834	SHI INTERNATIONAL CORP	05/04/2023	0.00	286.94
130816	29115	MANUEL SOTELO	05/04/2023	0.00	5,800.00
130817	30091	RAY STAFFORD	05/04/2023	0.00	480.00
130818	19777	STREICHERS	05/04/2023	0.00	19,977.43
130819	UB*00882	JOSEPH SUNDE	05/04/2023	0.00	14.67
130820	27981	ULINE INC	05/04/2023	0.00	297.93
130821	03440	ULTIMATE SAFETY CONCEPTS INC	05/04/2023	0.00	2,350.94
130822	29466	VERIZON WIRELESS	05/04/2023	0.00	1,298.33
130823	29475	VERIZON WIRELESS	05/04/2023	0.00	105.03
130824	29490	VERIZON WIRELESS	05/04/2023	0.00	829.38
130825	30819	VERIZON WIRELESS	05/04/2023	0.00	322.46
130826	31361	VIQ SOLUTIONS INC	05/04/2023	0.00	15.33
130827	31276	KENNETH WOODARD	05/04/2023	0.00	48.00
130828	25080	XCEL ENERGY	05/04/2023	0.00	86.89
130829	25080	XCEL ENERGY	05/04/2023	0.00	224.95
130830	25080	XCEL ENERGY	05/04/2023	0.00	609.14
130831	26320	ZIEGLER, INC	05/04/2023	0.00	2,087.42
Total for 5/4/2023:				0.00	192,381.08
5082023	29950	CREDIT CARD - WELLS FARGO	05/08/2023	0.00	48,325.62
Total for 5/8/2023:				0.00	48,325.62
130832	01328	AIRGAS USA	05/11/2023	0.00	255.30
130833	28600	APPLE VALLEY FORD LINCOLN	05/11/2023	0.00	2,742.47
130834	29300	BERGERSON-CASWELL INC	05/11/2023	0.00	26,215.00

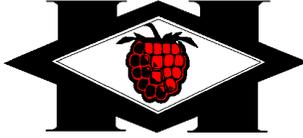
Check No	Vendor No	Vendor Name	Check Date	Void Checks	Check Amount
130835	14571	BLUE TARP FINANCIAL INC	05/11/2023	0.00	549.77
130836	02563	BOLTON & MENK, INC	05/11/2023	0.00	32,996.96
130837	31400	BZDOK INSPECTIONS INC	05/11/2023	0.00	2,154.75
130838	31490	CEMENT RAISING INC	05/11/2023	0.00	7,500.00
130839	03160	CENTERPOINT ENERGY MINNEGASC	05/11/2023	0.00	11,752.87
130840	28981	CHESTNUT CAMBRONNE PA	05/11/2023	0.00	16,412.40
130841	30604	CIPALA DECORATIVE CONCRETE INC	05/11/2023	0.00	1,800.00
130842	31158	CLARK COMPANIES INCORPORATED	05/11/2023	0.00	7,460.85
130843	31158	CLARK COMPANIES INCORPORATED	05/11/2023	0.00	1,714.29
130844	26951	COMCAST	05/11/2023	0.00	14.70
130845	30560	COMPUTER INTEGRATION TECHNOLO	05/11/2023	0.00	800.00
130846	31384	CONSOLIDATED COMMUNICATIONS	05/11/2023	0.00	165.31
130847	28747	CULLIGAN BOTTLED WATER CO	05/11/2023	0.00	63.60
130848	04004	DALCO ENTERPRISES INC	05/11/2023	0.00	382.72
130849	30966	DELTA FIRE & SAFETY INC	05/11/2023	0.00	205.60
130850	04217	DISCOUNT STEEL INC	05/11/2023	0.00	206.91
130851	04690	DRISKILLS FOODS	05/11/2023	0.00	717.70
130852	30431	EHLERS INVESTMENT PARTNERS LLC	05/11/2023	0.00	1,444.59
130853	29430	ELECTRICAL PRODUCTION SERVICES	05/11/2023	0.00	30,473.00
130854	05481	EMERGENCY APPARATUS MAINT INC	05/11/2023	0.00	1,834.02
130855	27569	EMERGENCY AUTOMOTIVE TECHNO	05/11/2023	0.00	18,076.76
130856	27569	EMERGENCY AUTOMOTIVE TECHNO	05/11/2023	0.00	2,837.51
130857	29006	ENTERPRISE FLEET MANAGEMENT	05/11/2023	0.00	8,307.25
130858	29491	FERGUSON WATERWORKS #2518	05/11/2023	0.00	215.64
130859	06567	FORCE AMERICA	05/11/2023	0.00	220.00
130860	07564	GOPHER STATE ONE-CALL, INC	05/11/2023	0.00	346.95
130861	08004	HANCE HARDWARE, INC	05/11/2023	0.00	1,185.89
130862	08038	HAWKINS, INC	05/11/2023	0.00	5,214.61
130863	08166	HENNEPIN CTY TREASURER	05/11/2023	0.00	1,973.07
130864	08186	HENNEPIN CTY TREASURER	05/11/2023	0.00	87.00
130865	08223	HENNEPIN CTY TREASURER	05/11/2023	0.00	10,906.83
130866	31453	HERITAGE BRICK LLC	05/11/2023	0.00	10,050.00
130867	31342	HI-LINE ELECTRIC COMPANY INC	05/11/2023	0.00	111.90
130868	08576	HOPKINS F.D. RELIEF ASSOC	05/11/2023	0.00	120.00
130869	29345	IMPACT MAILING OF MN	05/11/2023	0.00	2,416.97
130870	28537	IS LAX LLC	05/11/2023	0.00	3,262.50
130871	09002	I-STATE TRUCK CENTER	05/11/2023	0.00	236.12
130872	27456	JAZZ88 KBEM	05/11/2023	0.00	105.00
130873	30747	KORTERRA INC	05/11/2023	0.00	2,300.00
130874	31486	DASHA LEVALLEY	05/11/2023	0.00	300.00
130875	29529	LEXISNEXIS RISK SOLUTIONS	05/11/2023	0.00	93.79
130876	13012	MACQUEEN EQUIPMENT INC	05/11/2023	0.00	5,532.51
130877	13047	MARCO	05/11/2023	0.00	1,740.00
130878	31489	NEHA MARKANDA	05/11/2023	0.00	300.00
130879	13179	METROPOLITAN COUNCIL	05/11/2023	0.00	145,973.17
130880	13275	MICRO CENTER	05/11/2023	0.00	259.96
130881	30363	MINNEAPOLIS OXYGEN COMPANY	05/11/2023	0.00	91.08
130882	09085	MISSION SQUARE - ROTH IRA - 70626	05/11/2023	0.00	986.40
130883	28599	MN PUBLIC RADIO	05/11/2023	0.00	833.00
130884	13564	MOTOROLA	05/11/2023	0.00	24,960.00
130885	31266	NOKOMIS SHOE SHOP INC	05/11/2023	0.00	714.85
130886	15441	OLSEN CHAIN AND CABLE CO INC	05/11/2023	0.00	418.69
130887	16440	PLASTIC BAGMART INC	05/11/2023	0.00	158.75
130888	16801	PUMP & METER SERVICE, INC	05/11/2023	0.00	1,860.65
130889	31120	REPUBLIC SERVICES INC	05/11/2023	0.00	32,904.68
130890	09084	MISSION SQUARE RETIREMENT TRUS	05/11/2023	0.00	2,572.61
130891	31487	DAVID ROTHMAN	05/11/2023	0.00	60.00

Check No	Vendor No	Vendor Name	Check Date	Void Checks	Check Amount
130892	19004	SAMARITAN TIRE COMPANY	05/11/2023	0.00	292.00
130893	19085	SCHINDLER ELEVATOR CORP	05/11/2023	0.00	428.10
130894	31461	ANDREW SEGAL	05/11/2023	0.00	181.25
130895	29609	SHRED-N-GO	05/11/2023	0.00	2,950.00
130896	19581	SOUTHWEST LOCK & KEY	05/11/2023	0.00	359.00
130897	19567	SOUTHWEST SUB CABLE COMM	05/11/2023	0.00	5,370.00
130898	29200	SPRINGBROOK SOFTWARE INC	05/11/2023	0.00	1,400.50
130899	19681	SRF CONSULTING GROUP INC	05/11/2023	0.00	990.00
130900	31157	THOMPSON INSPECTIONS INC	05/11/2023	0.00	120.00
130901	20294	THYSSENKRUPP ELEVATOR	05/11/2023	0.00	665.23
130902	20560	TOLL GAS & WELDING SUPPLY	05/11/2023	0.00	69.84
130903	30093	TRANSUNION RISK AND ALTERNATIV	05/11/2023	0.00	215.00
130904	27981	ULINE INC	05/11/2023	0.00	88.80
130905	28123	WRAP CITY GRAPHICS INC	05/11/2023	0.00	100.00
130906	25080	XCEL ENERGY	05/11/2023	0.00	74.91
130907	25080	XCEL ENERGY	05/11/2023	0.00	423.12
Total for 5/11/2023:				0.00	449,324.70
130908	01767	A TO Z RENTAL CENTER	05/18/2023	0.00	280.50
130909	29535	ADVANCED ENGINEERING	05/18/2023	0.00	4,720.30
130910	31482	AMERICA WILD, LLC	05/18/2023	0.00	9,684.00
130911	01543	ANCOM COMMUNICATIONS INC	05/18/2023	0.00	3,514.00
130912	01600	APACHE GROUP	05/18/2023	0.00	1,510.00
130913	30899	BAUERS MINNOCO	05/18/2023	0.00	45.94
130914	28430	CENTURY LINK	05/18/2023	0.00	30.93
130915	28430	CENTURY LINK	05/18/2023	0.00	26.21
130916	31267	CINTAS CORPORATION	05/18/2023	0.00	237.95
130917	30127	CINTAS CORPORATION NO. 2	05/18/2023	0.00	432.51
130918	31493	COLLABORATIVE DESIGN GROUP INC	05/18/2023	0.00	897.03
130919	26951	COMCAST	05/18/2023	0.00	404.74
130920	26951	COMCAST	05/18/2023	0.00	168.35
130921	26951	COMCAST	05/18/2023	0.00	136.45
130922	26951	COMCAST	05/18/2023	0.00	135.97
130923	30560	COMPUTER INTEGRATION TECHNOL	05/18/2023	0.00	2,412.00
130924	31032	COVERALL NORTH AMERICA	05/18/2023	0.00	5,423.50
130925	03640	CPT SERVICES, INC	05/18/2023	0.00	525.00
130926	03808	CUMMINS SALES AND SERVICE	05/18/2023	0.00	3,124.18
130927	29731	DATA CENTER SYSTEMS INC.	05/18/2023	0.00	98.00
130928	05282	EHLERS AND ASSOCIATES, INC	05/18/2023	0.00	1,725.00
130929	29070	ENGAGE PRINT INC	05/18/2023	0.00	475.00
130930	05524	ENTENMANN-ROVIN CO	05/18/2023	0.00	726.00
130931	07681	GRAINGER, INC	05/18/2023	0.00	20.91
130932	31474	GRANITE TELECOMMUNICATIONS LI	05/18/2023	0.00	125.84
130933	29820	GROUP HEALTH PLAN INC	05/18/2023	0.00	1,946.00
130934	08001	HACH COMPANY	05/18/2023	0.00	208.20
130935	31492	HENNEPIN COUNTY	05/18/2023	0.00	5,000.00
130936	29748	HENNEPIN COUNTY PUBLIC WORKS -	05/18/2023	0.00	10,276.86
130937	08166	HENNEPIN CTY TREASURER	05/18/2023	0.00	3,491.50
130938	08166	HENNEPIN CTY TREASURER	05/18/2023	0.00	269.90
130939	08220	HENNEPIN TECHNICAL COLLEGE	05/18/2023	0.00	10,350.00
130940	08220	HENNEPIN TECHNICAL COLLEGE	05/18/2023	0.00	5,400.00
130941	08336	HIRSHFIELDS	05/18/2023	0.00	94.05
130942	09521	INDELCO	05/18/2023	0.00	3,472.00
130943	29249	JR'S ADVANCED RECYCLERS	05/18/2023	0.00	30.00
130944	13012	MACQUEEN EQUIPMENT INC	05/18/2023	0.00	32.15
130945	31257	SCOTT ANDREWS MARKS	05/18/2023	0.00	320.00

Check No	Vendor No	Vendor Name	Check Date	Void Checks	Check Amount
130946	28665	METRO ALARM & LOCK	05/18/2023	0.00	450.00
130947	13275	MICRO CENTER	05/18/2023	0.00	359.99
130948	13363	MN CITY/COUNTY MGMT ASSOC	05/18/2023	0.00	198.00
130949	13438	MN DEPT OF HEALTH	05/18/2023	0.00	40.00
130950	31064	MR CUTTING EDGE LLC	05/18/2023	0.00	43.00
130951	13760	MTI DISTRIBUTING INC	05/18/2023	0.00	165.16
130952	14582	NORTHWEST ASPHALT INC	05/18/2023	0.00	142,834.22
130953	29753	NOVACARE REHABILITATION	05/18/2023	0.00	120.00
130954	29317	OFFICE OF MN IT SERVICES	05/18/2023	0.00	169.05
130955	29452	OFFICE OF MN IT SERVICES	05/18/2023	0.00	293.43
130956	16035	PACE ANALYTICAL SERVICES INC	05/18/2023	0.00	703.10
130957	30575	PREMIER LIGHTING INC	05/18/2023	0.00	189.39
130958	04573	QUALITY RESOURCE GROUP INC	05/18/2023	0.00	55.48
130959	19117	SCHERER BROS. LUMBER CO.	05/18/2023	0.00	72.80
130960	28309	SCOTT COUNTY TREASURER	05/18/2023	0.00	575.00
130961	19520	SNAP PRINT INC	05/18/2023	0.00	991.67
130962	30495	SPEEDWAY LLC	05/18/2023	0.00	50.00
130963	19824	SUNSHINE CAR WASH	05/18/2023	0.00	104.92
130964	20120	TDS METROCOM - MN	05/18/2023	0.00	181.32
130965	29644	TRENCHERS PLUS	05/18/2023	0.00	342.36
130966	20887	TWIN CITY WATER CLINIC	05/18/2023	0.00	340.00
130967	27981	ULINE INC	05/18/2023	0.00	525.84
130968	03440	ULTIMATE SAFETY CONCEPTS INC	05/18/2023	0.00	577.44
130969	22321	VIKING ELECTRIC SUPPLY INC	05/18/2023	0.00	25.96
130970	26320	ZIEGLER, INC	05/18/2023	0.00	540.27
Total for 5/18/2023:				0.00	227,719.37
130971	16166	PETTY CASH	05/24/2023	0.00	20.50
Total for 5/24/2023:				0.00	20.50
130972	30728	AFSCME COUNCIL 5	05/25/2023	0.00	796.94
130973	20883	API GARAGE DOOR INC	05/25/2023	0.00	1,300.00
130974	28600	APPLE VALLEY FORD LINCOLN	05/25/2023	0.00	78.48
130975	30481	BATTERIES PLUS BULBS #018	05/25/2023	0.00	49.68
130976	27839	BATTERIES R US	05/25/2023	0.00	77.52
130977	31414	DIANE BLAU	05/25/2023	0.00	70.00
130978	31500	BLEEDING EDGE ENSYS LLC	05/25/2023	0.00	6,626.92
130979	31208	DENIS BOCI-BEARD	05/25/2023	0.00	30.00
130980	28430	CENTURY LINK	05/25/2023	0.00	687.51
130981	26951	COMCAST	05/25/2023	0.00	142.39
130982	31502	COURT SURFACES & REPAIR INC	05/25/2023	0.00	6,850.00
130983	04328	DISPLAY SALES	05/25/2023	0.00	466.00
130984	28898	ECM PUBLISHERS INC	05/25/2023	0.00	179.20
130985	29398	ENTERPRISE FLEET MANAGEMENT	05/25/2023	0.00	2,345.93
130986	30330	FAE LSE 6 LLC	05/25/2023	0.00	6,056.31
130987	06008	FASTENAL CO	05/25/2023	0.00	1,962.77
130988	29491	FERGUSON WATERWORKS #2518	05/25/2023	0.00	35,465.00
130989	31346	PAULA FINNEY	05/25/2023	0.00	160.00
130990	28628	FLEETPRIDE INC	05/25/2023	0.00	249.18
130991	07185	GENUINE PARTS	05/25/2023	0.00	478.89
130992	29377	GRAINGER, INC	05/25/2023	0.00	150.83
130993	29745	GRAYBAR ELECTRIC COMPANY, INC.	05/25/2023	0.00	37.00
130994	31494	JAMES GREGORY	05/25/2023	0.00	157.50
130995	30190	PRATIBHA GUPTA	05/25/2023	0.00	119.00
130996	08001	HACH COMPANY	05/25/2023	0.00	902.08

Check No	Vendor No	Vendor Name	Check Date	Void Checks	Check Amount
130997	08038	HAWKINS, INC	05/25/2023	0.00	30.00
130998	31456	ERICA HEINRICHS	05/25/2023	0.00	120.00
130999	08179	HENNEPIN CTY TREASURER	05/25/2023	0.00	1,399.04
131000	08184	HENNEPIN CTY TREASURER	05/25/2023	0.00	2,528.00
131001	31501	HEWLETT-PACKARD FINANCIAL SER	05/25/2023	0.00	9,000.00
131002	31342	HI-LINE ELECTRIC COMPANY INC	05/25/2023	0.00	137.80
131003	08336	HIRSHFIELDS	05/25/2023	0.00	59.37
131004	08627	HOME DEPOT CREDIT SERVICES	05/25/2023	0.00	1,746.37
131005	08625	HOPKINS POLICE ASSOCIATION	05/25/2023	0.00	1,260.00
131006	30941	HOPKINS POLICE CRIME FUND	05/25/2023	0.00	36.86
131007	29576	HOPKINS RASPBERRY ASSOCIATION	05/25/2023	0.00	500.00
131008	09801	I.U.O.E. CENTRAL PENSION FUND	05/25/2023	0.00	1,760.00
131009	09002	I-STATE TRUCK CENTER	05/25/2023	0.00	18.02
131010	12012	LAW ENFORCEMENT LABOR SERVICE	05/25/2023	0.00	320.82
131011	31259	SHARON S LEAH	05/25/2023	0.00	108.50
131012	30392	CIGNA LIFE INS COMP OF AMERICA -	05/25/2023	0.00	708.04
131013	30023	CIGNA LIFE INS COMP OF N AMERICA	05/25/2023	0.00	825.08
131014	30391	THE HARTFORD LTD	05/25/2023	0.00	2,272.87
131015	13012	MACQUEEN EQUIPMENT INC	05/25/2023	0.00	206.23
131016	29059	MANSFIELD OIL COMPANY	05/25/2023	0.00	23,204.60
131017	31505	MARTIN MARIETTA MATERIALS INC	05/25/2023	0.00	183.08
131018	13160	MEDICINE LAKE TOURS	05/25/2023	0.00	790.00
131019	13167	MENARDS	05/25/2023	0.00	211.58
131020	31495	SANDRA MESSER	05/25/2023	0.00	52.50
131021	09085	MISSION SQUARE - ROTH IRA - 70626	05/25/2023	0.00	986.40
131022	13363	MN CITY/COUNTY MGMT ASSOC	05/25/2023	0.00	192.00
131023	31499	KAREN MARIE MONSON	05/25/2023	0.00	175.00
131024	15521	ON SITE COMPANIES	05/25/2023	0.00	1,547.00
131025	26974	O'REILLY AUTO PARTS	05/25/2023	0.00	49.97
131026	31306	TERRI OSLAND	05/25/2023	0.00	192.00
131027	31497	NANCY CAROL PARR	05/25/2023	0.00	105.00
131028	16337	PIRTEK PLYMOUTH	05/25/2023	0.00	69.75
131029	30575	PREMIER LIGHTING INC	05/25/2023	0.00	13,637.50
131030	16801	PUMP & METER SERVICE, INC	05/25/2023	0.00	122.00
131031	28245	QUADIENT FINANCES USA INC	05/25/2023	0.00	2,500.00
131032	08568	RESOURCE WEST	05/25/2023	0.00	18.98
131033	09084	MISSION SQUARE RETIREMENT TRUS	05/25/2023	0.00	2,572.61
131034	30360	JULIA ROSS	05/25/2023	0.00	28.89
131035	31498	LINDA SALLEE	05/25/2023	0.00	175.00
131036	19004	SAMARITAN TIRE COMPANY	05/25/2023	0.00	493.24
131037	29143	SHRED IT USA	05/25/2023	0.00	73.76
131038	19520	SNAP PRINT INC	05/25/2023	0.00	495.58
131039	19581	SOUTHWEST LOCK & KEY	05/25/2023	0.00	355.00
131040	19602	SPS COMPANIES INC	05/25/2023	0.00	2,008.14
131041	30390	THE HARTFORD STD	05/25/2023	0.00	3,152.23
131042	19777	STREICHERS	05/25/2023	0.00	11,976.34
131043	31504	TB GLASS	05/25/2023	0.00	635.00
131044	30608	THE FENCE STORE LLC	05/25/2023	0.00	4,097.50
131045	28350	TOWMASTER INC	05/25/2023	0.00	2,469.00
131046	20887	TWIN CITY WATER CLINIC	05/25/2023	0.00	340.00
131047	21523	UNION LOCAL 49	05/25/2023	0.00	770.00
131048	21529	UNITED WAY	05/25/2023	0.00	38.46
131049	31503	ROBERT C VANDELL	05/25/2023	0.00	250.00
131050	29473	VERIZON WIRELESS	05/25/2023	0.00	416.19
131051	29490	VERIZON WIRELESS	05/25/2023	0.00	766.77
131052	30017	VERIZON WIRELESS	05/25/2023	0.00	2,778.51
131053	27692	VESSCO INC	05/25/2023	0.00	2,007.94

Check No	Vendor No	Vendor Name	Check Date	Void Checks	Check Amount
131054	31496	ANNIE YOUNG	05/25/2023	0.00	364.00
Total for 5/25/2023:				0.00	168,777.65
Report Total (318 checks):				0.00	1,086,548.92



CITY OF HOPKINS

Administration

City Council Report 2023-063

To: Honorable Mayor and Council Members
Mike Mornson, City Manager

From: Ari Lenz, Assistant City Manager
Brian T. Grogan, Esq., Moss & Barnett

Date: June 6, 2023

Subject: First Reading: Ordinance Granting Comcast a Cable Television Franchise

RECOMMENDED ACTION

MOTION TO hold First Reading of Ordinance 2023-1192 an Ordinance Renewing the Grant of a Franchise to Comcast of Minnesota, Inc. to Operate and Maintain a Cable System in the City of Hopkins, Minnesota; Setting Forth Conditions Accompanying the Grant of the Franchise; Providing for City Regulation and Administration of the Cable System; and Terminating Ordinance No. 2012-1051.

OVERVIEW

The Southwest Suburban Cable Commission (“Cable Commission”) consists of the cities of Eden Prairie, Edina, Hopkins, Minnetonka and Richfield, Minnesota (“Member Cities”). The Cable Commission administers and enforces cable franchises on behalf of its member cities.

Effective August 1, 2012 each of the Member Cities granted a cable franchise to Comcast. The initial term of the franchise ran for ten (10) years and was extended by the Member Cities through January 31, 2023. In 2019 Comcast requested renewal of the franchise and the Cable Commission has since been engaged in informal renewal negotiations with Comcast to reach mutually acceptable terms for a renewal cable franchise.

In response to Comcast’s request for franchise renewal, the Cable Commission retained an outside consultant to conduct a needs assessment of the future cable-related needs and interests of the member cities for the next franchise term. The Cable Commission also prepared a draft renewal franchise which incorporated the findings of the needs assessment.

Cable Commission Goals:

The Cable Commission’s primary goals during renewal negotiations were:

1. Ensure each city’s ROW Code is incorporated into the Renewal Franchise.
2. Retain ability to regulate noncable services provided by Comcast – broadband.
3. Ensure all local PEG (public, educational and governmental) access channels are provided in HD (high-definition).

4. Increase the level of capital support for PEG access channels.
5. Maintain the 5% franchise fee as consideration for use of the City's ROW.
6. Maintain strong customer service standards.
7. Renew for a 10 year term.
8. Adopt enforcement procedures and security to ensure compliance.

Negotiation Process:

The final Needs Assessment Report and draft renewal franchise were sent to Comcast for review on July 5, 2022. The Commission and Comcast have exchanged draft documents and held multiple negotiation sessions to discuss the terms and conditions of the document in an effort to reach mutually acceptable language for the next cable franchise. On May 24, 2023, the Cable Commission adopted Resolution 2023-1 (copy attached) recommending that the renewal cable franchise be adopted by each Member City.

All five Member Cities are considering the renewal cable franchise simultaneously. Any proposed revisions from one of the cities may require the Cable Commission to seek agreement not only from Comcast but also from the other four Member Cities which may have already taken action to adopt the renewal cable franchise. This point is raised not to suggest that further revisions are impossible, but to emphasize the complexity of the approval process and the steps which must be undertaken to complete the approval process.

Final Results of Franchise Negotiations:

Existing Franchise	Renewal Franchise
“Gross Revenue” definition	Stronger definition
5% franchise fee	Same % as Existing Franchise – federal law (maximum allowed)
\$.65/subscriber/month PEG Fee	2% of gross revenues
3 PEG Channels	Same as Existing Franchise
Option for 1 HD PEG channel	All PEG channels will be provided in HD
Complimentary cable service at certain public buildings	Maintain status quo; however, FCC 621 Order adopted in 2019 allows Comcast to deduct “marginal costs” from franchise fees upon 120 days notice to Member City
PEG Transport	Maintain status quo and same comment as above regarding FCC 621 Order
10 year term	10 year term, effective February 1, 2023
Performance bond \$100,000 per Member City	Same as Existing Franchise
Security fund \$10,000 per Member City, upon violation notice	\$25,000 security fund per Member City

SUPPORTING INFORMATION

- Draft Ordinance 2023-1192
- Commission Resolution 2023-1

City of Hopkins, Minnesota

Ordinance Granting a Cable Television Franchise

to

Comcast of Minnesota, Inc.

June 1, 2023

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**CITY OF HOPKINS
COUNTY OF HENNEPIN**

ORDINANCE NO. 2023-1192

AN ORDINANCE RENEWING THE GRANT OF A FRANCHISE TO COMCAST OF MINNESOTA, INC. TO OPERATE AND MAINTAIN A CABLE SYSTEM IN THE CITY OF HOPKINS, MINNESOTA; SETTING FORTH CONDITIONS ACCOMPANYING THE GRANT OF THE FRANCHISE; PROVIDING FOR CITY REGULATION AND ADMINISTRATION OF THE CABLE SYSTEM; AND TERMINATING ORDINANCE NO. 2012-1051

RECITALS

The City of Hopkins, Minnesota (“City”) pursuant to applicable federal and state law, is authorized to grant one or more nonexclusive cable television franchises to construct, operate, maintain, and reconstruct cable television systems within the City limits.

Comcast of Minnesota, Inc. (“Grantee”) has operated a Cable System in the City, under a cable television franchise granted pursuant to Ordinance No. 2012-1051.

Negotiations between Grantee and the City have been completed and the franchise renewal process followed in accordance with the guidelines established by the City Code, Minnesota Statutes Chapter 238, and the Cable Act (47 U.S.C. § 546).

The Franchise granted to Grantee by the City is nonexclusive and complies with existing applicable Minnesota Statutes, federal laws and regulations.

The City has exercised its authority under Minnesota law to enter into a Joint and Cooperative Agreement with other cities authorized to grant cable communications franchises and has delegated certain authority to the Southwest Suburban Cable Communications Commission to make recommendations to the City regarding this Franchise and to be responsible for the ongoing administration and enforcement of this Franchise as herein provided.

The City has determined that it is in the best interest of the City and its residents to renew the cable television franchise with Grantee.

NOW, THEREFORE, THE CITY OF HOPKINS, MINNESOTA DOES ORDAIN that a franchise is hereby granted to Comcast of Minnesota, Inc., to operate and maintain a Cable System in the City upon the following terms and conditions:

**SECTION 1
DEFINITIONS**

For the purpose of this Franchise, the following terms, phrases, words, derivations, and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the

singular number and words in the singular number include the plural number. In the event the meaning of any word or phrase not defined herein is uncertain, the definitions contained in applicable local, state, or federal law shall apply.

1.1 “Access Channels” means any channel or portion of a channel utilized for public, educational, or governmental programming.

1.2 “Affiliate” or “Affiliated Entity” means any Person who owns or controls, is owned or controlled by, or is under common ownership or control with, Grantee and its successors.

1.3 “Applicable Laws” means any law, statute, charter, ordinance, rule, regulation, code, license, certificate, franchise, permit, writ, ruling, award, executive order, directive, requirement, injunction (whether temporary, preliminary, or permanent), judgment, decree or other order issued, executed, entered or deemed applicable by any governmental authority of competent jurisdiction.

1.4 “Basic Cable Service” means any service tier which includes the lawful retransmission of local television broadcast.

1.5 “Cable Act” means the Cable Communications Policy Act of 1984, 47 U.S.C. §§ 521 et seq., as amended by the Cable Television Consumer Protection and Competition Act of 1992, as further amended by the Telecommunications Act of 1996, as further amended from time to time.

1.6 “Cable Service” means (a) the one-way transmission to Subscribers of (i) Video Programming or (ii) Other Programming Service, and b) Subscriber interaction, if any, which is required for the selection or use of such Video Programming or Other Programming Service.

1.7 “Cable System” or “System” means a facility, consisting of a set of closed transmission paths and associated signal generation, reception and control equipment which is designed to provide Cable Service that includes Video Programming, and which is provided to multiple Subscribers within a community, but such term does not include:

- (a) a facility that serves only to retransmit the television signals of one (1) or more television broadcast stations;
- (b) a facility that serves Subscribers without using any Streets;
- (c) a facility of a common carrier which is subject, in whole or in part, to the provisions of 47 U.S.C. § 201 et seq., except that such facility shall be considered a Cable System (other than for purposes of 47 U.S.C. § 541(c)) to the extent such facility is used in the transmission of Video Programming directly to Subscribers, unless the extent of such use is solely to provide interactive on-demand services;
- (d) an open video system that complies with 47 U.S.C. § 573; or

(e) any facilities of any electric utility used solely for operating its electric utility system.

Unless otherwise specified, it shall in this document refer to the Grantee's Cable System constructed and operated in the City under this Franchise.

1.8 "Channel" means a portion of the electromagnetic frequency spectrum which is used in a Cable System, and which is capable of delivering a television channel as defined by the FCC by regulation.

1.9 "City" means the City of Hopkins, a municipal corporation in the State of Minnesota.

1.10 "City Code" means the Municipal Code of the City of Hopkins, Minnesota, as may be amended from time to time.

1.11 "Commission" means the Southwest Suburban Cable Communications Commission consisting of the cities of Eden Prairie, Edina, Hopkins, Minnetonka and Richfield, Minnesota.

1.12 "Connection" means the attachment of the Drop to the television set of the Subscriber.

1.13 "Converter" means an electronic device, including digital transport adapters, which converts signals to a frequency not susceptible to interference within the television receiver of a Subscriber, and by an appropriate Channel selector also permits a Subscriber to view Cable Service signals.

1.14 "Council" means the governing body of the City.

1.15 "Day" means a calendar day, unless otherwise specified.

1.16 "Drop" means the cable that connects the Subscriber terminal to the nearest feeder cable of the cable in the Street and any electronics on Subscriber property between the Street and Subscriber terminal.

1.17 "Effective Date" means February 1, 2023.

1.18 "FCC" means the Federal Communications Commission, or a designated representative.

1.19 "Franchise" means the right granted by this Ordinance and conditioned as set forth herein.

1.20 "Franchise Area" means the entire geographic area within the City as it is now constituted or may in the future be constituted.

1.21 “Franchise Fee” means the fee assessed by the City to Grantee, in consideration of Grantee’s right to operate the Cable System within the City’s Streets, determined in amount as a percentage of Grantee’s Gross Revenues and limited to the maximum percentage allowed for such assessment by federal law. The term Franchise Fee does not include the exceptions noted in 47 U.S.C. §542(g)(2)(A-E).

1.22 “GAAP” means generally accepted accounting principles as promulgated and defined by the Financial Accounting Standards Board (“FASB”), Emerging Issues Task Force (“EITF”) and/or the U.S. Securities and Exchange Commission (“SEC”).

1.23 “Gross Revenues” means, and shall be construed broadly to include, all revenues derived directly or indirectly by Grantee and/or an Affiliated Entity that is the cable operator of the Cable System, from the operation of Grantee’s Cable System to provide Cable Services within the City. Gross Revenues include, by way of illustration and not limitation:

(a) monthly fees for Cable Services, regardless of whether such Cable Services are provided to residential or commercial customers, including revenues derived from the provision of all Cable Services (including but not limited to pay or premium Cable Services, pay-per-view, pay-per-event, and video-on-demand Cable Services);

(b) fees paid to Grantee for Channels designated for commercial/leased access use and shall be allocated on a pro rata basis using total Cable Service Subscribers within the City;

(c) Converter, digital video recorder, remote control, and other Cable Service equipment rentals, leases, or sales;

(d) installation, disconnection, reconnection, change-in service, “snow-bird” fees;

(e) Advertising Revenues as defined herein;

(f) late fees, convenience fees, and administrative fees;

(g) other service fees such as HD fees, convenience fees, broadcast fees, regional sports fees, home tech support fees, bill payment fees for in-person or phone payments, additional outlet fees, and related charges relating to the provision of Cable Service;

(h) revenues from program guides and electronic guides;

(i) Franchise Fees;

(j) FCC regulatory fees;

(k) except as provided in subsection (ii) below, any fee, tax or other charge assessed against Grantee by municipality, which Grantee chooses to pass through and collect from its Subscribers; and

(l) commissions from home shopping channels and other Cable Service revenue sharing arrangements, which shall be allocated on a pro rata basis using total Cable Service Subscribers within the City.

(i) “Advertising Revenues” shall mean revenues derived from sales of advertising that are made available to Grantee’s Cable System Subscribers within the City and shall be allocated on a pro rata basis using total Cable Service Subscribers reached by the advertising. Additionally, Grantee agrees that Gross Revenues subject to Franchise Fees shall include all commissions, representative fees, Affiliated Entity fees, or rebates paid to National Cable Communications and Comcast Spotlight, or their successors associated with sales of advertising on the Cable System within the City allocated according to this paragraph using total Cable Service Subscribers reached by the advertising.

(ii) “Gross Revenues” shall not include:

1. actual bad debt write-offs, except any portion which is subsequently collected, which shall be allocated on a pro rata basis using Cable Services revenue as a percentage of total Subscriber revenues within the City; and

2. unaffiliated third-party advertising sales agency fees which are reflected as a deduction from revenues.

(m) Grantee shall allocate fees and revenues generated from bundled packages and services to cable revenues pro rata based on the current published rate card for the packaged services delivered on a stand-alone basis as follows:

(i) To the extent revenues are received by Grantee for the provision of a discounted bundle of services which includes Cable Services and non-Cable Services, Grantee shall calculate revenues to be included in Gross Revenues using a GAAP methodology that allocates revenue, on a pro rata basis, when comparing the bundled service price and its components to the sum of the published rate card, except as required by specific Applicable Law (for example, it is expressly understood that equipment may be subject to inclusion in the bundled price at full rate card value). The City reserves its right to review and to challenge Grantee’s calculations.

(ii) Grantee reserves the right to change the allocation methodologies set forth in this section in order to meet the standards required by governing accounting principles as promulgated and defined by the Financial Accounting Standards Board (“FASB”), Emerging Issues Task Force (“EITF”) and/or the U.S. Securities and Exchange Commission (“SEC”). Grantee will explain and document the required changes to the City upon request or as part of any audit or review of Franchise Fee payments, and any such changes shall be subject to the next subsection below.

(iii) Resolution of any disputes over the classification of revenue should first be attempted by agreement of the parties, but should no resolution be reached, the parties agree that reference shall be made to GAAP as promulgated and defined by the Financial Accounting Standards Board (“FASB”), Emerging Issues Task Force (“EITF”) and/or the U.S. Securities and Exchange Commission (“SEC”). Notwithstanding the foregoing, the City reserves its right to challenge Grantee’s calculation of Gross Revenues, including the interpretation of GAAP as promulgated and defined by the FASB, EITF and/or the SEC.

1.24 “Normal Business Hours” means those hours during which most similar businesses in City are open to serve customers. In all cases, “Normal Business Hours” must include some evening hours, at least one (1) night per week and/or some weekend hours.

1.25 “Normal Operating Conditions” means those Service conditions which are within the control of Grantee. Those conditions which are not within the control of Grantee include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Those conditions which are ordinarily within the control of Grantee include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the Cable System.

1.26 “Other Programming Service” is information that a cable operator makes available to all Subscribers generally.

1.27 “PEG” means public, educational and governmental.

1.28 “Person” means any natural person and all domestic and foreign corporations, closely held corporations, associations, syndicates, joint stock corporations, partnerships of every kind, clubs, businesses, common law trusts, societies and/or any other legal entity.

1.29 “Section 621 Order” means the Third Report and Order in MB Docket No. 05-311 adopted by the FCC on August 1, 2019, as modified by any court of competent jurisdiction or any subsequent order of the FCC.

1.30 “Street” means the area on, below, or above a public roadway, highway, street, cartway, bicycle lane, and public sidewalk in which the City has an interest, including other dedicated rights-of-way for travel purposes and utility easements. A Street does not include the airwaves above a public right-of-way with regard to cellular or other non-wire telecommunications or broadcast service.

1.31 “Subscriber” means a Person who lawfully receives Cable Service.

1.32 “Twin Cities Region” shall mean the cities in Minnesota wherein Grantee or Affiliate hold a franchise agreement to provide Cable Service.

1.33 “Video Programming” means programming provided by, or generally considered comparable to programming provided by, a television broadcast station.

1.34 “Wireline MVPD” means any entity, including the City, that utilizes the Streets to install cable or fiber and is engaged in the business of making available for purchase, by Subscribers, multiple Channels of Video Programming in the City, which could also include the City. For purposes of this Franchise, the term “Wireline MVPD” shall not be limited to entities defined by the FCC as “multichannel video programming distributors” and shall include entities that provide multiple Channels of Video Programming via open video systems, as defined by the FCC, but it is the intent of the Grantee and the City that the term Wireline MVPD shall not include small cell providers, unless the City has the legal authority under Applicable Law to regulate or to impose cable franchise obligations upon such small cell providers.

SECTION 2 FRANCHISE

2.1 **Grant of Franchise.** The City hereby authorizes Grantee to occupy or use the City’s Streets subject to: 1) the provisions of this non-exclusive Franchise to provide Cable Service within the City; and 2) all applicable provisions of the City Code. Unless this Franchise has expired pursuant to Section 2.8 herein or this Franchise is otherwise terminated pursuant to Section 11.2 herein, this Franchise shall constitute both a right and an obligation to provide Cable Services as required by the provisions of this Franchise. Nothing in this Franchise shall be construed to prohibit Grantee from: (1) providing services other than Cable Services to the extent not prohibited by Applicable Law; or (2) challenging any exercise of the City’s legislative or regulatory authority in an appropriate forum. The City hereby reserves all of its rights to regulate such other services to the extent not prohibited by Applicable Law and no provision herein shall be construed to limit or give up any right to regulate.

2.2 **Reservation of Authority.** The Grantee specifically agrees to comply with the lawful provisions of the City Code and applicable regulations of the City. Subject to the police power exception below, in the event of a conflict between (A) the lawful provisions of the City Code or applicable regulations of the City and (B) this Franchise, the express provisions of this Franchise shall govern. Subject to express federal and state preemption, the material terms and conditions contained in this Franchise may not be unilaterally altered by the City through subsequent amendments to the City Code, ordinances, or any regulation of City, except in the lawful exercise of City’s police power. Grantee acknowledges that the City may modify its regulatory policies by lawful exercise of the City’s police powers throughout the term of this Franchise. Grantee agrees to comply with such lawful modifications to the City Code; however, Grantee reserves all rights it may have to challenge such modifications to the City Code whether arising in contract or at law. The City reserves all of its rights and defenses to such challenges whether arising in contract or at law. Nothing in this Franchise shall (A) abrogate the right of the City to perform any public works or public improvements of any description, (B) be construed as a waiver of any codes or ordinances of general applicability promulgated by the City, or (C) be construed as a waiver or release of the rights of the City in and to the Streets.

2.3 **Franchise Term.** The term of this Franchise shall be ten (10) years from the Effective Date, unless renewed, amended, or extended by mutual written consent in accordance with Section 17.7 or terminated sooner in accordance with this Franchise.

2.4 **Franchise Area.** This Franchise is granted for the Franchise Area defined herein. Grantee shall extend its Cable System to provide Service to any residential unit in the City in accordance with Section 6.6 herein. This Franchise governs any Cable Services provided by Grantee to residential and commercial Subscribers to Grantee's Cable System.

2.5 **Franchise Nonexclusive.** The Franchise granted herein shall be nonexclusive. The City specifically reserves the right to grant, at any time, such additional franchises for a Cable System as it deems appropriate provided, however, such additional grants shall not operate to materially modify, revoke, or terminate any rights previously granted to Grantee other than as described in Section 17.18. The grant of any additional franchise shall not of itself be deemed to constitute a modification, revocation, or termination of rights previously granted to Grantee. Any additional cable franchise grants shall comply with Minn. Stat. § 238.08 and any other applicable federal level playing field requirements.

2.6 **Periodic Public Review of Franchise.** Within sixty (60) Days of the third and sixth annual anniversary of the Effective Date of this Franchise, the City may conduct a public review of the Franchise. The purpose of any such review shall be to ensure, with the benefit of full opportunity for public comment, that the Grantee continues to effectively serve the public in the light of new developments in cable law and regulation, cable technology, cable company performance with the requirements of this Franchise, local regulatory environment, community needs and interests, and other such factors. Both the City and Grantee agree to make a full and good faith effort to participate in the review. So long as Grantee receives reasonable notice, Grantee shall participate in the review process and shall fully cooperate. The review shall not operate to modify or change any provision of this Franchise without mutual written consent in accordance with Section 17.7 of this Franchise.

2.7 **Transfer of Ownership.**

(a) No sale, transfer, assignment or "fundamental corporate change", as defined in Minn. Stat. § 238.083, of this Franchise shall take place until the parties to the sale, transfer, or fundamental corporate change files a written request with City for its approval, provided, however, that said approval shall not be required where Grantee grants a security interest in its Franchise and assets to secure an indebtedness.

(b) City shall reply in writing and indicate approval of the request or its determination that a public hearing is necessary due to potential adverse effect on Grantee's Subscribers resulting from the sale or transfer.

(c) If a public hearing is deemed necessary pursuant to (b) above, such hearing shall be handled in accordance with local law or fourteen (14) Days prior to the hearing by publishing notice thereof once in a newspaper of general circulation in City. The notice shall contain the date, time and place of the hearing and shall briefly state the substance of the action to be considered by City.

(d) After the closing of the public hearing, City shall approve or deny in writing the sale or transfer request. City shall set forth in writing with particularity its reason(s) for denying approval. City shall not unreasonably withhold its approval.

(e) The parties to the sale or transfer of the Franchise only, without the inclusion of the System in which substantial construction has commenced, shall establish that the sale or transfer of only the Franchise will be in the public interest.

(f) Any sale or transfer of stock in Grantee so as to create a new controlling interest in the System shall be subject to the requirements of this Section 2.7. The term “controlling interest” as used herein is not limited to majority stock ownership but includes actual working control in whatever manner exercised.

(g) In no event shall a transfer or assignment of ownership or control be approved without the transferee becoming a signatory to this Franchise and assuming all rights and obligations thereunder, and assuming all other rights and obligations of the transferor to the City.

(h) In accordance with Minn. Stat. § 238.084, Subd. 1(y), the City shall have the right to purchase the System in the event the Franchise or System is proposed to be transferred or sold on the same terms and conditions as the offer pursuant to which transfer notice was provided pursuant to this section.

(i) City shall be deemed to have waived its rights under this paragraph (h) in the following circumstances:

(i) If it does not indicate to Grantee in writing, within ninety (90) Days of notice of a proposed sale or assignment, its intention to exercise its right of purchase; or

(ii) It approves the assignment or sale of the Franchise as provided within this section.

2.8 **Expiration.** Upon expiration of the Franchise, the City shall have the right at its own election and subject to Grantee’s rights under Section 626 of the Cable Act to:

(a) extend the Franchise, though nothing in this provision shall be construed to require such extension;

(b) renew the Franchise, in accordance with Applicable Laws;

(c) invite additional franchise applications or proposals;

(d) terminate the Franchise subject to any rights Grantee has under Section 626 of the Cable Act; or

(e) take such other action as the City deems appropriate.

2.9 **Right to Require Removal of Property.** At the expiration of the term for which this Franchise is granted, provided no renewal is granted, or upon its forfeiture or revocation as provided for herein, the City shall have the right to require Grantee to remove at Grantee’s own expense all or any part of the Cable System from all Streets and public ways within the Franchise

Area within a reasonable time. If Grantee fails to do so, the City may perform the work and collect the cost thereof from Grantee. However, Grantee shall have no obligation under this Franchise to remove the Cable System where it utilizes the system to provide other non-Cable Services and has any other authority under Applicable Law to maintain facilities in the Streets, or where Grantee is able to find a purchaser of the Cable System who holds such authorization.

2.10 Continuity of Service Mandatory. It shall be the right of all Subscribers to receive Cable Service in accordance with the terms of this Franchise and Applicable Law. In the event that Grantee elects to overbuild, rebuild, modify, or transfer the Cable System in accordance with Section 2.7, or the City revokes or fails to renew the Franchise, Grantee shall make its best effort to ensure that all Subscribers receive continuous uninterrupted service, regardless of the circumstances, while the Franchise remains effective. In the event of expiration, purchase, lease-purchase, condemnation, acquisition, taking over or holding of plant and equipment, sale, lease, or other transfer to any other Person, including any other grantee of a cable franchise, the current Grantee shall cooperate fully to operate the Cable System in accordance with the terms and conditions of this Franchise for a temporary period sufficient in length to maintain continuity of Cable Service to all Subscribers.

SECTION 3 OPERATION IN STREETS AND RIGHTS-OF-WAY

3.1 Use of Streets.

(a) Grantee may, subject to the terms of this Franchise, erect, install, construct, repair, replace, reconstruct, and retain in, on, over, under, upon, across and along the Streets within the City such lines, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, pedestals, attachments and other property and equipment as are necessary and appurtenant to the operation of a Cable System within the City. Without limiting the foregoing, Grantee expressly agrees that it will construct, operate, and maintain its Cable System in compliance with, and subject to, the requirements of the City Code, including by way of example and not limitation, those requirements governing the placement of Grantee's Cable System; and with other applicable City Codes, and will obtain and maintain all permits and bonds required by the City Code in addition to those required in this Franchise.

(b) All wires, conduits, cable and other property and facilities of Grantee shall be so located, constructed, installed, and maintained as not to endanger or unnecessarily interfere with the usual and customary trade, traffic, and travel upon, or other use of, the Streets of City. Grantee shall keep and maintain all of its property in good condition, order and repair so that the same shall not menace or endanger the life or property of any Person.

(c) All wires, conduits, cables and other property and facilities of Grantee, shall be constructed and installed in an orderly and workmanlike manner in accordance with the City Code and Applicable Law. All wires, conduits and cables shall be installed, where possible, parallel with electric and telephone lines. Multiple cable configurations shall be arranged in parallel and bundled with due respect for engineering considerations.

(d) Nothing in this Franchise shall be construed to prevent the City from constructing, maintaining, repairing, or relocating sewers; grading, paving, maintaining, repairing, relocating and/or altering any Street; constructing, laying down, repairing, maintaining, or relocating any water mains; or constructing, maintaining, relocating, or repairing any sidewalk or other public work.

3.2 **Construction or Alteration.** Grantee shall in all cases comply with the City Code, City resolutions and City regulations regarding the acquisition of permits and/or such other items as may be reasonably required in order to construct, alter, or maintain the Cable System. Grantee shall, upon request, provide information to the City regarding its progress in completing or altering the Cable System.

3.3 **Non-Interference.** Grantee shall exert its best efforts to construct and maintain a Cable System so as not to interfere with other use of Streets. Grantee shall, where possible in the case of above ground lines, make use of existing poles and other facilities available to Grantee. When residents receiving underground service or who will be receiving underground service will be affected by proposed construction or alteration, Grantee shall provide such notice as set forth in the permit or in City Code of the same to such affected residents.

3.4 **Consistency with Designated Use.** Notwithstanding the above grant to use Streets, no Street shall be used by Grantee if the City, in its sole opinion, determines that such use is inconsistent with the terms, conditions or provisions by which such Street was created or dedicated, or presently used under Applicable Laws.

3.5 **Undergrounding.**

(a) Grantee shall place underground all of its transmission lines which are located or are to be located above or within the Streets of the City in the following cases:

(i) all other existing utilities are required to be placed underground by statute, resolution, policy or other Applicable Law;

(ii) Grantee is unable to get pole clearance;

(iii) underground easements are obtained from developers of new residential areas; or

(iv) utilities are overhead but residents prefer underground (service provided at cost).

(b) If an ordinance is passed which involves placing underground certain utilities including Grantee's cable plant which is then located overhead, Grantee shall participate in such underground project and shall remove poles, cables and overhead wires if requested to do so and place facilities underground. Nothing herein shall mandate that City provide reimbursement to Grantee for the costs of such relocation and removal. However, if the City makes available funds for the cost of placing facilities underground, nothing herein shall preclude the Grantee from participating in such funding to the extent consistent with the City Code or Applicable Laws.

(c) Grantee shall use conduit or its functional equivalent to the greatest extent possible for undergrounding, except for Drops from pedestals to Subscribers' homes and for cable on other private property where the owner requests that conduit not be used. Cable and conduit shall be utilized which meets the highest industry standards for electronic performance and resistance to interference or damage from environmental factors. Grantee shall use, in conjunction with other utility companies or providers, common trenches for underground construction wherever available.

3.6 **Maintenance and Restoration.**

(a) **Restoration.** In case of disturbance of any Street, public way, paved area or public improvement, Grantee shall, at its own cost and expense and in accordance with the requirements of Applicable Law, restore such Street, public way, paved area or public improvement to substantially the same condition as existed before the work involving such disturbance took place. All requirements of this section pertaining to public property shall also apply to the restoration of private easements and other private property. Grantee shall perform all restoration work within a reasonable time and with due regard to seasonal working conditions. If Grantee fails, neglects, or refuses to make restorations as required under this section, then the City may do such work or cause it to be done, and the cost thereof to the City shall be paid by Grantee. If Grantee causes any damage to private property in the process of restoring facilities, Grantee shall repair such damage.

(b) **Maintenance.** Grantee shall maintain all above ground improvements that it places on City Streets pursuant to the City Code and any permit issued by the City. In order to avoid interference with the City's ability to maintain the Street, Grantee shall provide such clearance as is required by the City Code and any permit issued by the City. If Grantee fails to comply with this provision, and by its failure, property is damaged, Grantee shall be responsible for all damages caused thereby.

(c) **Disputes.** In any dispute over the adequacy of restoration or maintenance relative to this section, final determination shall be the prerogative of the City, Department of Public Works and consistent with the City Code and any permit issued by the City.

3.7 **Work on Private Property.** Grantee, with the consent of property owners, shall have the authority, pursuant to the City Code, to trim trees upon and overhanging Streets, alleys, sidewalks, and public ways so as to prevent the branches of such trees from coming in contact with the wires and cables of Grantee, except that at the option of the City, such trimming may be done by it or under its supervision and direction at the reasonable expense of Grantee.

3.8 **Relocation.**

(a) **City Property.** If, during the term of the Franchise, the City or any government entity elects or requires a third party to alter, repair, realign, abandon, improve, vacate, reroute or change the grade of any Street, public way or other public property; or to construct, maintain or repair any public improvement; or to replace, repair

install, maintain, or otherwise alter any cable, wire conduit, pipe, line, pole, wire-holding structure, structure, or other facility, including a facility used for the provision of utility or other services or transportation of drainage, sewage or other liquids, for any public purpose, Grantee shall, upon request, except as otherwise hereinafter provided, at its sole expense remove or relocate as necessary its poles, wires, cables, underground conduits, vaults, pedestals, manholes and any other facilities which it has installed. Nothing herein shall mandate that City provide reimbursement to Grantee for the costs of such relocation and removal. However, if the City makes available funds for the cost of placing facilities underground, nothing herein shall preclude the Grantee from participating in such funding to the extent consistent with the City Code or Applicable Laws.

(b) Utilities and Other Franchisees. If, during the term of the Franchise, another entity which holds a franchise or any utility requests Grantee to remove or relocate such facilities to accommodate the construction, maintenance or repair of the requesting party's facilities, or their more efficient use, or to "make ready" the requesting party's facilities for use by others, or because Grantee is using a facility which the requesting party has a right or duty to remove, Grantee shall do so. The companies involved may decide among themselves who is to bear the cost of removal or relocation, pursuant to City Code, and provided that the City shall not be liable for such costs.

(c) Notice to Remove or Relocate. Any Person requesting Grantee to remove or relocate its facilities shall give Grantee no less than forty-five (45) Days' advance written notice advising Grantee of the date or dates that removal or relocation is to be undertaken, provided that no advance written notice shall be required in emergencies or in cases where public health and safety or property is endangered.

(d) Failure by Grantee to Remove or Relocate. If Grantee fails, neglects or refuses to remove or relocate its facilities as directed by the City; or in emergencies or where public health and safety or property is endangered, the City may do such work or cause it to be done, and the cost thereof to the City shall be paid by Grantee. If Grantee fails, neglects, or refuses to remove or relocate its facilities as directed by another franchisee or utility, that franchisee or utility may do such work or cause it to be done, and if Grantee would have been liable for the cost of performing such work, the cost thereof to the party performing the work or having the work performed shall be paid by Grantee.

(e) Procedure for Removal of Cable. Grantee shall not remove any underground cable or conduit which requires trenching or other opening of the Streets along the extension of cable to be removed, except as hereinafter provided. Grantee may remove any underground cable from the Streets which has been installed in such a manner that it can be removed without trenching or other opening of the Streets along the extension of cable to be removed. Subject to Applicable Law, Grantee shall remove, at its sole cost and expense, any underground cable or conduit by trenching or opening of the Streets along the extension thereof or otherwise which is ordered to be removed by the City based upon a determination, in the sole discretion of the City, that removal is required in order to eliminate or prevent a hazardous condition. Underground cable and

conduit in the Streets which is not removed shall be deemed abandoned and title thereto shall be vested in the City.

(f) **Movement of Buildings.** Grantee shall, upon request by any Person holding a building moving permit, franchise or other approval issued by the City, temporarily remove, raise, or lower its wire to permit the movement of buildings. The expense of such removal, raising or lowering shall be paid by the Person requesting same, and Grantee shall be authorized to require such payment in advance. The City shall require all building movers to provide not less than fifteen (15) Days' notice to the Grantee to arrange for such temporary wire changes.

SECTION 4 REMOVAL OR ABANDONMENT OF SYSTEM

4.1 **Removal of Cable System.** In the event that: (1) the use of the Cable System is discontinued for any reason for a continuous period of twelve (12) months; or (2) the Cable System has been installed in a Street without complying with the requirements of this Franchise or the City Code, Grantee, at its expense shall, at the demand of the City remove promptly from the Streets all of the Cable System other than any which the City may permit to be abandoned in place. In the event of any such removal Grantee shall promptly restore to a condition as nearly as possible to its prior condition the Street or other public places in the City from which the System has been removed. However, Grantee shall have no obligation under this Franchise to remove the Cable System where it utilizes the system to provide other non-Cable Services and has any other authority under Applicable Law to maintain facilities in the Streets, or where Grantee is able to find a purchaser of the Cable System who holds such authorization.

4.2 **Abandonment of Cable System.** In the event of Grantee's abandonment of the Cable System, City shall have the right to require Grantee to conform to the state right-of-way rules, Minn. Rules, Ch. 7819. The Cable System to be abandoned in place shall be abandoned in the manner prescribed by the City. Grantee may not abandon any portion of the System without having first given three (3) months written notice to the City. Grantee may not abandon any portion of the System without compensating the City for damages resulting from the abandonment.

4.3 **Removal after Abandonment or Termination.** If Grantee has failed to commence removal of System, or such part thereof as was designated by City, within thirty (30) Days after written notice of City's demand for removal consistent with Minn. Rules, Ch. 7819, is given, or if Grantee has failed to complete such removal within twelve (12) months after written notice of City's demand for removal is given, City shall have the right to apply funds secured by the letter of credit and performance bond toward removal and/or declare all right, title, and interest to the Cable System for the City with all rights of ownership including, but not limited to, the right to operate the Cable System or transfer the Cable System to another for operation by it.

4.4 **City Options for Failure to Remove Cable System.** If Grantee has failed to complete such removal within the time given after written notice of the City's demand for removal is given, the City shall have the right to exercise one of the following options:

(a) Declare all right, title and interest to the System for the City or its designee with all rights of ownership including, but not limited to, the right to operate the System or transfer the System to another for operation by it; or

(b) Declare the System abandoned and cause the System, or such part thereof as the City shall designate, to be removed at no cost to the City. The cost of said removal shall be recoverable from the security fund, indemnity and penalty section provided for in this Franchise or from Grantee directly.

(c) Upon termination of service to any Subscriber, Grantee shall promptly remove all its facilities and equipment from within the dwelling of a Subscriber who owns such dwelling upon his or her written request, except as provided by Applicable Law. Such Subscribers shall be responsible for any costs incurred by Grantee in removing the facilities and equipment.

4.5 System Construction and Equipment Standards. The Cable System shall be installed and maintained in accordance with standard good engineering practices and shall conform, when applicable, with the National Electrical Safety Code, the National Electrical Code and the FCC's Rules and Regulations.

4.6 System Maps and Layout. In addition to any generally applicable mapping requirements included in the City Code and required of other utilities, Grantee shall maintain complete and accurate system maps and records of all of its wires, conduits, cables and other property and facilities located, constructed, and maintained in the City, which shall include trunks, distribution lines, and nodes. Such maps shall include up-to-date route maps showing the location of the Cable System adjacent to the Streets. Grantee shall make all maps and records available for review by the appropriate City personnel.

SECTION 5 SYSTEM DESIGN AND CAPACITY

5.1 Availability of Signals and Equipment.

(a) The Cable System utilizes a fiber to the fiber node architecture, with fiber optic cable deployed from Grantee's headend to Grantee's fiber nodes, tying into Grantee's coaxial Cable System serving Subscribers. The System shall pass a minimum of 750 MHz (with a minimum passband of between 50 and 750 MHz) and shall be maintained to provide to Subscribers a minimum of at least two hundred (200) or more activated downstream Cable Service Channels.

(b) The entire System shall be technically capable of transmitting industry-standard digital television signals in a manner and quality consistent with applicable FCC regulations.

(c) Grantee agrees to maintain the Cable System in a manner consistent with, or in excess of the specifications in Section 5.1 (a) and (b) throughout the term of the Franchise with sufficient capability and technical quality to enable the implementation and performance of all requirements of this Franchise, including the exhibits hereto, and

in a manner which meets or exceeds FCC technical quality standards at 47 C.F.R. § 76 Subpart K, regardless of the particular format in which a signal is transmitted.

5.2 Equal and Uniform Service. To the extent required by Applicable Law, Grantee shall provide access to equal and uniform Cable Service throughout the City.

5.3 System Specifications.

(a) **System Maintenance.** In all its construction and service provision activities, Grantee shall meet or exceed the construction, technical performance, extension, and service requirements set forth in this Franchise.

(b) **Emergency Alert Capability.** At all times during the term of this Franchise, Grantee shall provide and maintain an Emergency Alert System (EAS) consistent with Applicable Laws including 47 C.F.R., Part 11, and any Minnesota State Emergency Alert System requirements. The City may identify authorized emergency officials for activating the EAS consistent with the Minnesota State Emergency Statewide Plan (“EAS Plan”). The City may also develop a local plan, containing methods of EAS message distribution, subject to Applicable Laws and the EAS Plan. Nothing in this section is intended to expand Grantee’s obligations beyond that which is required by the EAS Plan and Applicable Law.

(c) **Standby Power.** Grantee shall provide standby power generating capacity at the Cable System control center and at all hubs. Grantee shall maintain standby power system supplies, rated at least at two (2) hours duration throughout the trunk and distribution networks. In addition, Grantee shall have in place throughout the Franchise term a plan, and all resources necessary for implementation of the plan, for dealing with outages of more than two (2) hours.

(d) **Technical Standards.** The technical standards used in the operation of the Cable System shall comply, at minimum, with the technical standards promulgated by the FCC relating to Cable Systems pursuant to Title 47, Section 76, Subpart K of the Code of Federal Regulations, as may be amended or modified from time to time, which regulations are expressly incorporated herein by reference. The Cable System shall be installed and maintained in accordance with standard good engineering practices and shall conform with the National Electrical Safety Code and all other Applicable Laws governing the construction of the Cable System.

(e) **System Upgrades.** The Cable System will be upgraded consistent with future System upgrades performed in Grantee’s other Twin Cities Region Cable Systems, when any other of Grantee’s Cable Systems in Hennepin County also receives a System upgrade, understanding that work on the Cable System is done based on Grantee’s construction schedules.

5.4 Performance Testing. Grantee shall perform all system tests at the intervals required by the FCC, and all other tests reasonably necessary to determine compliance with technical standards required by this Franchise. These tests shall include, at a minimum:

- (a) Initial proof of performance for any construction; and
- (b) Tests in response to Subscriber complaints; and
- (c) Tests requested by the City to demonstrate franchise compliance; and
- (d) Written records of all system test results performed by or for Grantee shall be maintained and shall be available for City inspection upon request.

5.5 Special Testing.

(a) Throughout the term of this Franchise, City shall have the right to inspect all construction or installation work performed pursuant to the provisions of the Franchise. In addition, City may require special testing of a location or locations within the System if there is a particular matter of controversy or unresolved complaints regarding such construction or installation work or pertaining to such location(s). Demand for such special tests may be made on the basis of complaints received or other evidence indicating an unresolved controversy or noncompliance. Such tests shall be limited to the particular matter in controversy or unresolved complaints. City shall endeavor to so arrange its request for such special testing so as to minimize hardship or inconvenience to Grantee or to the Subscribers caused by such testing.

(b) Before ordering such tests, Grantee shall be afforded thirty (30) Days following receipt of written notice to investigate and, if necessary, correct problems or complaints upon which tests were ordered. City shall meet with Grantee prior to requiring special tests to discuss the need for such and, if possible, visually inspect those locations which are the focus of concern. If, after such meetings and inspections, City wishes to commence special tests and the thirty (30) Days have elapsed without correction of the matter in controversy or unresolved complaints, the tests shall be conducted at Grantee's expense by Grantee's qualified engineer. The City shall have a right to participate in such testing by having an engineer of City's choosing, and at City's expense, observe and monitor said testing.

**SECTION 6
PROGRAMMING AND SERVICES**

6.1 Categories of Programming Service. Grantee shall provide Video Programming services in at least the following broad categories:

- Local Broadcast (subject to federal carriage requirements)
- Public Broadcast
- News and Information
- Sports
- General Entertainment
- Arts/Performance/Humanities
- Science/Technology
- Children/Family/Seniors
- Foreign Language/Ethnic Programming

PEG Programming (to the extent required by the Franchise)
Movies
Leased Access

6.2 Changes in Programming Services. As required by Applicable Law, Grantee shall provide at least thirty (30) Days' prior written notice to Subscribers and to the City of Grantee's request to effectively delete any broad category of programming or any Channel within its control, including all proposed changes in bandwidth or Channel allocation and any assignments including any new equipment requirements that may occur as a result of these changes.

6.3 Parental Control Device. Upon request by any Subscriber, Grantee shall make available for sale or lease a parental control or lockout device that will enable the Subscriber to block all access to any and all Channels without affecting those not blocked. Grantee shall inform Subscribers of the availability of the lockout device at the time of original subscription and annually thereafter.

6.4 FCC Reports. The results of any tests required to be filed by Grantee with the FCC shall also be copied to City within ten (10) Days of the conduct of the date of the tests.

6.5 Annexation. Unless otherwise provided by Applicable Law, including the City Code, upon the annexation of any additional land area by City, the annexed area shall thereafter be subject to all the terms of this Franchise upon sixty (60) Days written notification to Grantee of the annexation by City. Unless otherwise required by Applicable Laws, nothing herein shall require the Grantee to expand its Cable System to serve, or to offer Cable Service to any area annexed by the City if such area is then served by another Wireline MVPD franchised to provide multichannel video programming.

6.6 Line Extension.

(a) Grantee shall construct and operate its Cable System so as to provide Cable Service within the Franchise Area where there exists a density equivalent of seven (7) dwelling units per one-quarter (1/4) mile of feeder cable as measured from the nearest active plant of the Cable System if the extension is to be constructed using aerial plant, and nine (9) dwelling units per one-quarter (1/4) mile of feeder cable as measured from the nearest active plant if the extension is to be constructed using underground plant. The City, for its part, shall endeavor to exercise reasonable efforts to require developers and utility companies to provide the Grantee with at least fifteen (15) Days advance notice of an available open trench for the placement of necessary cable.

(b) Where the density is less than that specified above, Grantee shall inform Persons requesting Service of the possibility of paying for installation or a line extension and shall offer to provide them with a free written estimate of the cost, which shall be provided within fifteen (15) working days of such a request. Grantee may offer the Persons requesting Service the opportunity to "prepay" some or all of the necessary line extensions according to its regular business policies. Grantee shall at all times implement such line extension policy in a nondiscriminatory manner throughout the City.

(c) Any residential unit located within one hundred twenty-five (125) feet from the nearest point of access on the Street from which the Cable System is designed to serve the site shall be connected to the Cable System at no charge other than the standard installation charge. Grantee shall, upon request by any potential Subscriber residing in City beyond the one hundred twenty-five (125) foot limit, extend service to such Subscriber provided that the Subscriber shall pay the net additional Drop costs, unless the Grantee agrees to waive said costs. To the extent consistent with Applicable Laws, Grantee agrees that it shall impose installation costs for non-standard installations in a uniform and nondiscriminatory manner throughout the City.

6.7 Nonvoice Return Capability. Grantee is required to use cable and associated electronics having the technical capacity for nonvoice return communications

6.8 Free Cable Service to Public Buildings.

(a) The parties acknowledge that as of the Effective Date of this Franchise, Grantee continues to provide, free of charge, basic Cable Service (including the PEG Channels) to certain schools, libraries and public institutions within the Franchise Area as set forth in Exhibit A (“Complimentary Services”). In the event Grantee elects, to the extent permitted by Applicable Law, to invoice the City for the marginal cost of the Complimentary Services, the Grantee agrees that it will do so only after providing City with one hundred twenty (120) Days’ prior written notice.

(b) The City shall have right to discontinue receipt of all or a portion of the Complimentary Service provided by Grantee in the event Grantee elects to impose a charge to the City for the Complimentary Service as set forth in the preceding paragraph. Within ninety (90) days of receiving the aforementioned notice, the City will notify the Grantee whether, with respect to each identified Complimentary Service location, the Grantee is relieved, or temporarily relieved, of its obligations or is required to comply, subject either to the Grantee taking an offset to the Franchise Fee payments payable under Section 16.1 as may be permitted by the Section 621 Order or to the Grantee and the City agreeing to a separately negotiated charge payable by the City to the Grantee.

(c) Additional Subscriber network Drops and/or outlets will be installed at designated institutions by Grantee at the cost of Grantee’s time and material, or such other price as may be required to comply with Applicable Law. Alternatively, said institution may add outlets at its own expense as long as such installation meets Grantee’s standards. Grantee will complete construction of the additional Drop and outlet within three (3) months from the date of City’s designation of additional institution(s) unless weather or other conditions beyond the control of Grantee requires more time. The City may substitute locations listed on Exhibit A attached hereto as long as the number of locations to receive Complimentary Service remains the same as Exhibit A.

(d) The City or the building occupant shall have the right to extend Cable Service throughout the building to additional outlets without any fees imposed by Grantee for the provision of Complimentary Service to such additional outlets. If ancillary equipment, such as a Converter, is required to receive the signal at additional

outlets, Grantee will provide up to three (3) devices at no charge and will provide additional devices at Grantee's lowest residential rate charged within the Twin Cities Region.

(e) Notwithstanding anything to the contrary set forth in this section, Grantee shall not be required to provide Complimentary Service to such buildings unless it is technically feasible. Outlets and maintenance of said Complimentary Service shall be provided free of fees and charges.

SECTION 7 PUBLIC, EDUCATIONAL AND GOVERNMENTAL ACCESS

7.1 Number of PEG Access Channels.

(a) Grantee will make available three (3) PEG Access Channels in addition to Channels required by the State of Minnesota, such as Regional Channel 6, throughout the entire term of this Franchise and any extensions of the Franchise term.

(b) Grantee shall provide the PEG Access Channels on the Basic Cable Service tier, or such other most subscribed tier of Cable Service (within the Franchise Area) as may be offered by Grantee.

(c) For purposes of this Franchise, a high definition ("HD") format or signal refers to a PEG signal delivered by Grantee to Subscribers in a resolution that is either:

(i) the same as received by Grantee from City or the entity from which Grantee received the PEG signal, or

(ii) the highest resolution used for the delivery of the primary signals of local broadcast stations, if lower than the level described in subparagraph (c)(i) above.

7.2 HD PEG Carriage Requirements.

(a) No later than September 1, 2023, Grantee shall provide all three (3) PEG Access Channels in HD format and shall also simulcast all three (3) PEG Access Channels in standard definition ("SD") until SD is no longer offered by Grantee. The parties agree that PEG funding may be used to support streaming of PEG programming, provided the City does not permit PEG funding to be used for operational expenses except as permitted by Applicable Law.

(b) The City acknowledges that receipt of an HD format PEG Access Channel may require Subscribers to buy or lease special equipment or pay additional HD charges applicable to all HD services.

(c) Grantee agrees that it shall be responsible for costs associated with the provision of encoders or other equipment necessary to receive HD/SD signals at the

Grantees' headend, and to convert PEG HD signals to SD consistent with the historic practice between the parties related to the government PEG Access Channel.

7.3 Control of PEG Access Channels. The control and administration of the PEG Access Channels shall rest with the City and the City may delegate, from time to time over the term of this Franchise, such control and administration to various entities as determined in City's sole discretion.

7.4 Transmission of PEG Access Channels. PEG Access Channels may be used for transmission of non-video signals in compliance with Applicable Laws. This may include downstream transmission of data using a protocol such as TCP/IP or current industry standards. Should Grantee develop the capability to provide bi-directional data transmission, spectrum capacity shall be sufficient to allow Subscribers to transmit data to PEG facilities.

7.5 PEG Access Channel Locations.

(a) PEG Access Channels shall be carried on the Basic Cable Service tier to the extent required by Applicable Law and as set forth in Section 7.2 herein. Nothing herein precludes the Grantee from charging for equipment needed for Basic Cable Service. Grantee shall make every reasonable effort to coordinate the cablecasting of PEG access programming on the Cable System on the same Channel designations as such programming is currently cablecast within the City. In no event shall any Access Channel reallocations be made prior to ninety (90) Days written notice to the City by Grantee, except for circumstances beyond Grantee's reasonable control. The Access Channels will be located within reasonable proximity to other commercial video or broadcast Channels, excluding pay-per-view programming offered by Grantee in the City.

(b) Grantee agrees not to encrypt the Access Channels differently than other commercial Channels available on the Cable System.

(c) In conjunction with any occurrence of any Access Channel(s) relocation, Grantee shall provide a minimum of One Thousand Five Hundred Dollars (\$1,500) Thousand Five-Hundred Dollars (\$1,500) of reimbursement for costs incurred by City to promote the new Channel locations.

7.6 Navigation to PEG Access Channels and Electronic Programming Guide. Grantee agrees that if it utilizes any navigation interfaces, the PEG Access Channels shall be treated in a non-discriminatory fashion consistent with Applicable Laws so that Subscribers will have ready access to Access Channels. Grantee will maintain the existing ability of the City to place PEG Access Channel programming information on the interactive Channel guide via the electronic programming guide ("EPG") vendor ("EPG provider") that Grantee utilizes to provide the guide service. PEG programming provided by the City shall appear on the EPG for each Channel carried in the City. Grantee will be responsible for providing the designations and instructions necessary for the PEG Access Channels to appear on the EPG. Each programming stream will not be individually listed for narrowcast Channels unless technically feasible. All costs and operational requirements of the EPG provider shall be the responsibility of the City.

City acknowledges that the EPG may not be technically possible for all PEG programming, and that Grantee is not responsible for operations of the EPG provider.

7.7 Ownership of PEG Access Channels. Grantee does not relinquish its ownership of or ultimate right of control over a Channel by designating it for PEG use. A PEG access user – whether an individual, educational, or governmental user – acquires no property or other interest by virtue of the use of a Channel position so designated. Grantee shall not exercise editorial control over any public, educational, or governmental use of a Channel position, except Grantee may refuse to transmit any public access program or portion of a public access program that contains obscenity, indecency, or nudity in violation of Applicable Law.

7.8 PEG Monitoring. Grantee shall provide the capability, without charge, to the City and to the City of Edina (location of the Commission’s master control facility), to monitor and verify the audio and visual quality of PEG Access Channels received by Subscribers as well as the existing connections and equipment at the City and the City of Edina. This will include equipment comparable to that deployed to residential cable Subscribers that will allow the City and the City of Edina to verify the accuracy of EPG listings for the PEG Access Channels consistent with what is currently provided. Grantee shall also maintain one (1) feed to the City and one (1) additional feed to the City of Edina to provide the ability to monitor Subscriber services and address Subscriber concerns which feed shall include all cable boxes and platforms (i.e., Xfinity X1).

7.9 Noncommercial Use of PEG. Permitted noncommercial uses of the Access Channels shall include by way of example and not limitation: (1) the identification of financial supporters similar to what is provided on public broadcasting stations; or (2) the solicitation of financial support for the provision of PEG programming by the City or third party users for charitable, educational or governmental purposes; or (3) programming offered by accredited, non-profit, educational institutions which may, for example, offer telecourses over a Access Channel.

7.10 PEG Transport. Grantee will maintain all existing fiber paths in place as of the Effective Date to facilitate PEG origination/return capacity in the City. Such fiber returns paths are listed in Exhibit B attached hereto and will be provided by Grantee without additional charge, with no recurring, monthly costs or offsets, except that Grantee may invoice the Commission for any maintenance costs consistent with Applicable Law and the Section 621 Order. Grantee shall not be responsible for fiber “replacement” but will handle any damage and all maintenance on the existing fiber. Grantee anticipates, but cannot guarantee, that that this will result in minimal fiber expenditures by the City over the Franchise term.

7.11 Interconnection. To the extent technically feasible, Grantee will allow necessary interconnection with any newly constructed City and school fiber for noncommercial programming to be promoted and administered by the City as allowed under Applicable Laws and at no additional cost to the City or schools. This may be accomplished through a patch panel or other similar facility and each party will be responsible for the fiber on their respective sides of the demarcation point. Grantee reserves its right to review on a case-by-case basis the technical feasibility of the proposed interconnection. Based on this review, Grantee may condition the interconnection on the reasonable reimbursement of Grantee’s incremental costs,

with no markup for profit, to recoup Grantee's construction costs only. In no event will Grantee impose any type of recurring fee for said interconnection.

7.12 Ancillary Equipment. Any ancillary equipment operated by Grantee for the benefit of PEG Access Channels on Grantee's fiber paths or Cable System, whether referred to switchers, routers, or other equipment, will be maintained by Grantee, free of charge and at no cost to the City, Commission or schools for the life of the Franchise. Grantee is responsible for any ancillary equipment on its side of the demarcation point and the City, Commission or school is responsible for all other production/playback equipment.

7.13 Future PEG Transport. At such time that the City determines:

(a) that the City desires the capacity to allow Subscribers in the City to receive PEG programming (video or character generated) which may originate from schools, City facilities, other government facilities or other designated facilities (other than those indicated in Exhibit B); or

(b) that the City desires to establish or change a location from which PEG programming is originated; or

(c) that the City desires to upgrade the Connection to Grantee from an existing signal point of origination,

the City will give Grantee written notice detailing the point of origination and the capability sought by the City. Grantee agrees to submit a cost estimate to implement the City's plan within a reasonable period of time but not later than September 1st in the year proceeding the request for any costs exceeding Twenty-five Thousand and No/100 Dollars (\$25,000). The cost estimate will be on a time and materials basis with no additional markup. After an agreement to reimburse Grantee for Grantee's out of pocket time and material costs, Grantee will implement any necessary Cable System changes within a reasonable period of time. Nothing herein prevents the City, or a private contractor retained by the City, from constructing said return fiber.

7.14 PEG Access Channel Carriage.

(a) Any and all costs associated with any modification of the PEG Access Channels or signals after the PEG Access Channels/signals leave the City's designated playback facilities, or any designated playback center authorized by the City shall be borne entirely by Grantee. Grantee shall not cause any programming to override PEG programming on any PEG Access Channel, except by oral or written permission from the City, with the exception of emergency alert signals.

(b) The City may request and Grantee shall provide an additional PEG Access Channel when the cumulative time on all the existing PEG Access Channels combined meets the following standard: whenever one of the PEG Access Channels in use during eighty percent (80%) of the weekdays, Monday through Friday, for eighty percent (80%) of the time during a consecutive three (3) hour period for six (6) weeks running, and there is a demand for use of an additional Channel for the same purpose, the Grantee has six (6) months in which to provide a new, PEG Access Channel for the same purpose;

provided that, the provision of the additional Channel or Channels does not require the Cable System to install Converters.

(c) Only to the extent mandated by Applicable Law, the VHF spectrum shall be used for one (1) of the public, educational, or governmental specially designated PEG Access Channels.

(d) The City or its designee shall be responsible for developing, implementing, interpreting, and enforcing rules for PEG Access Channel use.

(e) The Grantee shall monitor the PEG Access Channels for technical quality to ensure that they meet FCC technical standards including those applicable to the carriage of PEG Access Channels, provided however, that the Grantee is not responsible for the production quality of PEG programming productions. The City, or its designee, shall be responsible for the production and quality of all PEG access programming. Grantee shall carry all components of the standard definition of PEG Access Channel including, but not limited to, closed captioning, stereo audio and other elements associated with the programming.

7.15 Access Channel Support.

(a) No later than September 1, 2023, Grantee shall collect and remit to the City a minimum of two percent (2%) of Grantee's Gross Revenues in support of PEG ("PEG Fee") to be used by the City as permitted under Applicable Law.

(b) The PEG Fee is not part of the Franchise Fee and instead falls within one (1) or more of the exceptions in 47 U.S.C. § 542, unless the PEG Fee may be categorized, itemized, and passed through to Subscribers as permissible, in accordance with 47 U.S.C. §542 or other Applicable Laws.

(c) Grantee shall pay the PEG Fee to the City quarterly, on the same schedule as the payment of Franchise Fees as set forth in Section 16.1 of this Franchise. Grantee agrees that it will not offset or reduce its payment of past, present, or future Franchise Fees required as a result of its obligation to remit the PEG Fee.

(d) Any PEG Fee amounts owing pursuant to this Franchise which remain unpaid more than twenty-five (25) Days after the date the payment is due shall be delinquent and shall thereafter accrue interest at twelve percent (12%) per annum or the prime lending rate published by the Wall Street Journal on the Day the payment was due plus two percent (2%), whichever is greater.

7.16 PEG Technical Quality and Support.

(a) Grantee shall not be required to carry a PEG Access Channel in a higher quality format than that of the Channel signal delivered to Grantee, but Grantee shall not implement a change in the method of delivery of PEG Access Channels that results in a material degradation of signal quality or impairment of viewer reception of PEG Access Channels, provided that this requirement shall not prohibit Grantee from implementing

new technologies also utilized for commercial Channels carried on its Cable System. Grantee shall meet FCC signal quality standards when offering PEG Access Channels on its Cable System and shall continue to comply with closed captioning pass-through requirements. There shall be no significant deterioration in a PEG Access Channel signal from the point of origination upstream to the point of reception (hub or headend) or downstream to the Subscriber on the Cable System.

(b) Within twenty-four (24) hours of a written request from City to the Grantee identifying a technical problem with a PEG Access Channel and requesting assistance, Grantee will provide technical assistance or diagnostic services to determine whether or not a problem with a PEG signal is the result of matters for which Grantee is responsible and if so, Grantee will take prompt corrective action. If the problem persists and there is a dispute about the cause, then the parties shall meet with engineering representation from Grantee and the City in order to determine the course of action to remedy the problem.

7.17 Access Channel Promotion. If a PEG Access Channel is relocated, Grantee shall notify the Commission, City and Subscribers of the relocation in a manner consistent with Grantee's other normal Channel relocation notices.

7.18 Change in Technology. In the event Grantee makes any change in the Cable System and related equipment and facilities or in its signal delivery technology, which requires the City to obtain new equipment in order to be compatible with such change for purposes of transport and delivery of the PEG Access Channels, Grantee shall, at its own expense and free of charge to City or its designated entities, purchase such equipment as may be necessary to facilitate the cablecasting of the PEG Access Channels in accordance with the requirements of the Franchise.

7.19 Relocation of Grantee's Headend. In the event Grantee relocates its headend, Grantee will be responsible for replacing or restoring the existing dedicated fiber connections at Grantee's cost so that all the functions and capacity remain available, operate reliably and satisfy all applicable technical standards and related obligations of the Franchise free of charge to the City or its designated entities.

7.20 Regional Channel Six. Grantee shall make available Regional Channel Six as long as it is required to do so by the State of Minnesota.

7.21 Government Access Channel Functionality. Grantee and City agree that City will continue to have the following capability on the government Access Channel:

- (a) City can insert live Council meetings from City Hall;
- (b) City can replay government access programming from City Hall;
- (c) City can transmit character generated programming; and
- (d) City can schedule to replay City-provided programming in pre-arranged time slots on the government PEG Access Channel.

7.22 **Compliance with Minnesota Statutes Chapter 238.** In addition to the requirements contained in this Section 7 of this Franchise, Grantee and City shall comply with the PEG requirements mandated by Minn. Stat. § 238.084.

SECTION 8 REGULATORY PROVISIONS.

8.1 **Intent.** The City shall have the right to administer and regulate activities under the Franchise up to the full extent permitted by Applicable Law.

8.2 **Delegation of Authority to Regulate.** The City reserves the right to delegate its regulatory authority wholly or in part to agents of the City, including, but not limited to, an agency which may be formed to regulate several franchises in the region in a manner consistent with Applicable Laws. This may include but shall not be limited to the Commission or other entity as City may determine in its sole discretion. Any existing delegation in place at the time of the grant of this Franchise shall remain intact unless expressly modified by City.

8.3 Areas of Administrative Authority.

(a) In addition to any other regulatory authority granted to the City by law or franchise, the City shall have administrative authority in the following areas:

- (i) Administering and enforcing the provisions of this Franchise, including the adoption of administrative rules and regulations to carry out this responsibility; and
- (ii) Coordinating the operation of PEG Access Channels; and
- (iii) Formulating and recommending long-range cable communications policy for the Franchise Area; and
- (iv) Disbursing and utilizing Franchise revenues paid to the City; and
- (v) Administering the regulation of rates, to the extent permitted by Applicable Law; and
- (vi) All other regulatory authority permitted under Applicable Law.

(b) The City or its designee shall have continuing regulatory jurisdiction and supervision over the System and the Grantee's operations under the Franchise to the extent allowed by Applicable Law.

8.4 Regulation of Rates and Charges.

(a) **Right to Regulate.** The City reserves the right to regulate rates or charges for any Cable Service within the limits of Applicable Law, to enforce rate regulations prescribed by the FCC, and to establish procedures for said regulation or enforcement.

(b) **Notice of Change in Rates and Charges.** Throughout the term of this Franchise, Grantee shall give the City and all Subscribers within the City at least thirty (30) Days' notice of any intended modifications or additions to Subscriber rates or charges. Nothing in this subsection shall be construed to prohibit the reduction or waiving of rates or charges in conjunction with promotional campaigns for the purpose of attracting Subscribers or users.

(c) **Rate Discrimination Prohibited.** Within any category of Subscribers, Grantee shall not discriminate among Subscribers with regard to rates and charges made for any service based on considerations of race, color, creed, sex, marital or economic status, national origin, sexual preference, or (except as allowed by Applicable Law) neighborhood of residence, except as otherwise provided herein; and for purposes of setting rates and charges, no categorization of Subscribers shall be made by Grantee on the basis of those considerations. Nevertheless, Grantee shall be permitted to establish (1) discounted rates and charges for providing Cable Service to low-income, disabled, or low-income elderly Subscribers, (2) promotional rates, and (3) bulk rate and package discount pricing.

SECTION 9 BOND.

9.1 **Performance Bond.** Upon the Effective Date of this Franchise and at all times thereafter Grantee shall maintain with City a bond in the sum of One Hundred Thousand and No/100 Dollars (\$100,000.00) in such form and with such sureties as shall be acceptable to City, conditioned upon the faithful performance by Grantee of this Franchise and the acceptance hereof given by City and upon the further condition that in the event Grantee shall fail to comply with any law, ordinance or regulation, there shall be recoverable jointly and severally from the principal and surety of the bond, any damages or losses suffered by City as a result, including the full amount of any compensation, indemnification or cost of removal of any property of Grantee, including a reasonable allowance for attorneys' fees and costs (with interest at two percent (2%) in excess of the then prime rate), up to the full amount of the bond, and which bond shall further guarantee payment by Grantee of all claims and liens against City, or any public property, and taxes due to City, which arise by reason of the construction, operation, maintenance or use of the Cable System.

9.2 **Rights.** The rights reserved by City with respect to the bond are in addition to all other rights the City may have under this Franchise or any other law.

9.3 **Reduction of Bond Amount.** City may, in its sole discretion, reduce the amount of the bond.

SECTION 10 SECURITY FUND

10.1 **Security Fund.** If there is an uncured breach by Grantee of a material provision of this Franchise or a pattern of repeated violations of any provision(s) of this Franchise, then Grantee shall, upon written request, establish and provide to the City, as security for the faithful

performance by Grantee of all of the provisions of this Franchise, a letter of credit from a financial institution satisfactory to the City in the amount of Twenty-five Thousand and No/100 Dollars (\$25,000.00). In no event shall Grantee fail to post a Twenty-five Thousand and No/100 Dollar (\$25,000.00) letter of credit within thirty (30) days receipt of a notice of franchise violation pursuant to this Section 10.1. Failure to post said letter of credit shall constitute a separate material violation of this Franchise unless the breach is cured within such thirty (30) Day period or longer period allowed under the Franchise. The letter of credit shall serve as a common security fund for the faithful performance by Grantee of all the provisions of this Franchise and compliance with all orders, permits and directions of the City and the payment by Grantee of any claim, liens, costs, expenses, and taxes due the City which arise by reason of the construction, operation or maintenance of the Cable System. Interest on this deposit shall be paid to Grantee by the bank on an annual basis. The security may be terminated by the Grantee upon the resolution of the alleged noncompliance. The obligation to establish the security fund required by this paragraph is unconditional. The fund must be established in those circumstances where Grantee disputes the allegation that it is not in compliance and maintained for the duration of the dispute. If Grantee fails to establish the security fund as required, the City may take whatever action is appropriate to require the establishment of that fund and may recover its costs, reasonable attorneys' fees, and an additional penalty of Five Thousand and No/100 Dollars (\$5,000) in that action.

10.2 Withdrawal of Funds. The security fund shall permit the City to withdraw funds upon demand (sight draft). Grantee shall not use the security fund for other purposes and shall not assign, pledge, or otherwise use this security fund as security for any purpose.

10.3 Restoration of Funds. Within ten (10) Days after notice to it that any amount has been withdrawn by the City from the security fund pursuant to Section 10.4 of this Franchise, Grantee shall deposit a sum of money sufficient to restore such security fund to the required amount.

10.4 Liquidated Damages. In addition to recovery of any monies owed by Grantee to City or damages to City as a result of any acts or omissions by Grantee pursuant to the Franchise, City in its sole discretion may charge to and collect from the security fund the following liquidated damages:

(a) For failure to provide data, documents, reports, or information or to cooperate with City during an application process or System review, the liquidated damage shall be Two Hundred Fifty and No/100 Dollars (\$250.00) per Day for each Day, or part thereof, such failure occurs or continues.

(b) For failure to comply with any of the provisions of this Franchise for which a penalty is not otherwise specifically provided pursuant to this Paragraph 10.4, the liquidated damage shall be Two Hundred Fifty and No/100 Dollars (\$250.00) per Day for each Day, or part thereof, such failure occurs or continues.

(c) Forty-five (45) Days following notice from City of a failure of Grantee to comply with construction, operation or maintenance standards, the liquidated damage

shall be Five Hundred and No/100 Dollars (\$500.00) per Day for each Day, or part thereof, such failure occurs or continues.

(d) For failure to provide the services Grantee has proposed, including but not limited to the implementation and the utilization of the Access Channels the liquidated damage shall be Two Hundred Fifty and No/100 Dollars (\$250.00) per Day for each Day, or part thereof, such failure occurs or continues.

10.5 Each Violation a Separate Violation. Each violation of any provision of this Franchise shall be considered a separate violation for which separate liquidated damages can be imposed.

10.6 Maximum Draw Per Violation. Any liquidated damages for any given violation shall be imposed upon Grantee for a maximum of Twenty-five Thousand and No/100 Dollars (\$25,000). If after that amount of draw from the security fund Grantee has not cured or commenced to cure the alleged breach to the satisfaction of the City, the City may pursue all other remedies.

10.7 Withdrawal of Funds to Pay Taxes. If Grantee fails to pay to the City any taxes due and unpaid; or fails to repay to the City, any damages, costs or expenses which the City shall be compelled to pay by reason of any act or default of the Grantee in connection with this Franchise; or fails, after thirty (30) Days' notice of such failure by the City to comply with any provision of the Franchise which the City reasonably determines can be remedied by an expenditure of the security, the City may then withdraw such funds from the security fund. Payments are not Franchise Fees as defined in Section 16 of this Franchise.

10.8 Procedure for Draw on Security Fund. Whenever the City finds that Grantee has allegedly violated one (1) or more terms, conditions or provisions of this Franchise, a written notice shall be given to Grantee. The written notice shall describe in reasonable detail the alleged violation so as to afford Grantee an opportunity to remedy the violation. Grantee shall have thirty (30) Days subsequent to receipt of the notice in which to correct the violation before the City may require Grantee to make payment of damages, and further to enforce payment of damages through the security fund. Grantee may, within ten (10) Days of receipt of notice, notify the City that there is a dispute as to whether a violation or failure has, in fact, occurred. Such notice by Grantee shall specify with particularity the matters disputed by Grantee and shall stay the running of the above-described time.

(a) City shall hear Grantee's dispute at the next regularly scheduled or specially scheduled Council meeting. Grantee shall have the right to speak and introduce evidence. The City shall determine if Grantee has committed a violation and shall make written findings of fact relative to its determination. If a violation is found, Grantee may petition for reconsideration.

(b) If after hearing the dispute, the claim is upheld by the City, then Grantee shall have thirty (30) Days within which to remedy the violation before the City may require payment of all liquidated damages due it.

10.9 Time for Correction of Violation. The time for Grantee to correct any alleged violation may be extended by the City if the necessary action to collect the alleged violation is of such a nature or character as to require more than thirty (30) Days within which to perform provided Grantee commences corrective action within fifteen (15) Days and thereafter uses reasonable diligence, as determined by the City, to correct the violation.

10.10 Grantee's Right to Pay Prior to Security Fund Draw. Grantee shall have the opportunity to make prompt payment of any assessed liquidated damages and if Grantee fails to promptly remit payment to the City, the City may resort to a draw from the security fund in accordance with the terms of this Franchise.

10.11 Failure to so Replenish Security Fund. If any security fund is not so replaced, City may draw on said security fund for the whole amount thereof and hold the proceeds, without interest, and use the proceeds to pay costs incurred by City in performing and paying for any or all of the obligations, duties and responsibilities of Grantee under this Franchise that are not performed or paid for by Grantee pursuant hereto, including attorneys' fees incurred by the City in so performing and paying. The failure to so replace any security fund may also, at the option of City, be deemed a default by Grantee under this Franchise. The drawing on the security fund by City and use of the money so obtained for payment or performance of the obligations, duties and responsibilities of Grantee which are in default, shall not be a waiver or release of such default.

10.12 Collection of Funds Not Exclusive Remedy. The collection by City of any damages or monies from the security fund shall not affect any other right or remedy available to City, nor shall any act, or failure to act, by City pursuant to the security fund, be deemed a waiver of any right of City pursuant to this Franchise or otherwise. Notwithstanding this section, however, should the City elect to impose liquidated damages, that remedy shall remain the City's exclusive remedy up to Twenty-five Thousand and No/100 Dollars set forth in Section 10.6.

SECTION 11 DEFAULT

11.1 Basis for Default. City shall give written notice of default to Grantee if City, in its sole discretion, determines that Grantee has:

- (a) Violated any material provision of this Franchise or the acceptance hereto or any rule, order, regulation or determination of the City, state or federal government, not in conflict with this Franchise; or
- (b) Attempted to evade any material provision of this Franchise or the acceptance hereof; or
- (c) Practiced any fraud or deceit upon City or Subscribers resulting in material harm; or
- (d) Made a material misrepresentation of fact in the application for or negotiation of this Franchise.

11.2 Default Procedure. If Grantee fails to cure such default within thirty (30) Days after the giving of such notice (or if such default is of such a character as to require more than thirty (30) Days within which to cure the same, and Grantee fails to commence to cure the same within said thirty (30) Day period and thereafter fails to use reasonable diligence, in City's sole opinion, to cure such default as soon as possible), then, and in any event, such default shall be a substantial breach and City may elect to terminate the Franchise. The City may place the issue of revocation and termination of this Franchise before the governing body of City at a regular meeting. If City decides there is cause or reason to terminate, the following procedure shall be followed:

(a) City shall provide Grantee with a written notice of the reason or cause for proposed termination and shall allow Grantee a minimum of thirty (30) Days subsequent to receipt of the notice in which to correct the default.

(b) Grantee shall be provided with an opportunity to be heard at a public hearing prior to any decision to terminate this Franchise.

(c) If, after notice is given and an opportunity to cure, at Grantee's option, a public hearing is held, and the City determines there was a violation, breach, failure, refusal or neglect, the City may declare by resolution the Franchise revoked and of no further force and effect unless there is compliance within such period as the City may fix, such period may not be less than thirty (30) Days provided no opportunity for compliance need be granted for fraud or misrepresentation.

11.3 Mediation. If the Grantee and City are unable to resolve a dispute through informal negotiations during the period of thirty (30) Days following the submission of the claim giving rise to the dispute by one (1) party to the other, then unless that claim has been waived as provided in the Franchise, such claim may be subject to mediation if jointly agreed upon by both parties. Unless the Grantee and City mutually agree otherwise, such mediation shall be in accordance with the rules of the American Arbitration Association currently in effect at the time of the mediation. A party seeking mediation shall file a request for mediation with the other party to the Franchise and with the American Arbitration Association. The request may be made simultaneously with the filing of a complaint, but, in such event, mediation shall proceed in advance of legal proceedings only if the other party agrees to participate in mediation. Mutually agreed upon mediation shall stay other enforcement remedies of the parties for a period of ninety (90) Days from the date of filing, unless stayed for a longer period by agreement of the Grantee and City. The Grantee and City shall each pay one-half of the mediator's fee and any filing fees. The mediation shall be held in the City unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as a settlement agreement in any court having jurisdiction thereof. Nothing herein shall serve to modify or on any way delay the franchise enforcement process set forth in Section 10 of this Franchise.

11.4 Failure to Enforce. Grantee shall not be relieved of any of its obligations to comply promptly with any provision of the Franchise by reason of any failure of the City to enforce prompt compliance, and City's failure to enforce shall not constitute a waiver of rights or acquiescence in Grantee's conduct.

11.5 Compliance with the Laws.

(a) If any federal or state law or regulation shall require or permit City or Grantee to perform any service or act or shall prohibit City or Grantee from performing any service or act which may be in conflict with the terms of this Franchise, then as soon as possible following knowledge thereof, either party shall notify the other of the point in conflict believed to exist between such law or regulation. Grantee and City shall conform to state laws and rules regarding cable communications not later than one (1) year after they become effective, unless otherwise stated, and shall conform to federal laws and regulations regarding cable as they become effective.

(b) If any term, condition or provision of this Franchise or the application thereof to any Person or circumstance shall, to any extent, be held to be invalid or unenforceable, the remainder hereof and the application of such term, condition or provision to Persons or circumstances other than those as to whom it shall be held invalid or unenforceable shall not be affected thereby, and this Franchise and all the terms, provisions and conditions hereof shall, in all other respects, continue to be effective and complied with provided the loss of the invalid or unenforceable clause does not substantially alter the agreement between the parties. In the event such law, rule or regulation is subsequently repealed, rescinded, amended, or otherwise changed so that the provision which had been held invalid or modified is no longer in conflict with the law, rules, and regulations then in effect, said provision shall thereupon return to full force and effect and shall thereafter be binding on Grantee and City.

SECTION 12 FORECLOSURE AND RECEIVERSHIP

12.1 **Foreclosure.** Upon the foreclosure or other judicial sale of the Cable System, Grantee shall notify the City of such fact and such notification shall be treated as a notification that a change in control of Grantee has taken place, and the provisions of this Franchise governing the consent to transfer or change in ownership shall apply without regard to how such transfer or change in ownership occurred.

12.2 **Receivership.** The City shall have the right to cancel this Franchise subject to any applicable provisions of state law, including the Bankruptcy Act, one hundred twenty (120) Days after the appointment of a receiver or trustee to take over and conduct the business of Grantee, whether in receivership, reorganization, bankruptcy, or other action or proceeding, unless such receivership or trusteeship shall have been vacated prior to the expiration of said one hundred twenty (120) Days, or unless:

(a) Within one hundred twenty (120) Days after his election or appointment, such receiver or trustee shall have fully complied with all the provisions of this Franchise and remedied all defaults thereunder; and

(b) Such receiver or trustee, within said one hundred twenty (120) Days, shall have executed an agreement, duly approved by the Court having jurisdiction in the

premises, whereby such receiver or trustee assumes and agrees to be bound by each and every provision of this Franchise.

SECTION 13 REPORTING REQUIREMENTS

13.1 Quarterly Reports. Within forty-five (45) calendar days after the end of each calendar quarter, Grantee shall submit to the City along with its Franchise Fee payment a report showing the basis for computation of the Franchise Fee and PEG Fee payments, signed by an authorized representative of Grantee, in form and substance substantially equivalent to Exhibit C attached hereto. This report shall separately indicate Grantee's Gross Revenues within the City including, but not limited to such items as listed in the definition of "Gross Revenues" at Section 1.23 of this Franchise.

13.2 Monitoring and Compliance Reports. Upon request, but no more than once a year, Grantee shall provide a written report of any and all FCC technical performance tests for the residential network required in FCC Rules and Regulations as now or hereinafter constituted. In addition, Grantee shall provide City with copies of reports of the semi-annual test and compliance procedures established by this Franchise no later than thirty (30) Days after the completion of each series of tests.

13.3 Other Reports. Upon request of the City and in no event later than thirty (30) Days from the date of receipt of such request, Grantee shall, free of charge, prepare and furnish to the City, at the times and in the form prescribed, such additional reports with respect to its operation, affairs, transactions, or property, as may be reasonably necessary to ensure compliance with the terms of this Franchise. Grantee and City may in good faith agree upon taking into consideration Grantee's need for the continuing confidentiality as prescribed herein. Neither City nor Grantee shall unreasonably demand or withhold information requested pursuant with the terms of this Franchise.

13.4 Confidential and Trade Secret Information. Grantee acknowledges that information submitted by Grantee to the City may be subject to the Minnesota Government Data Practices Act ("MGDPA") pursuant to Minn. Stat. Ch. 13. The City shall follow all Applicable Laws and procedures for protecting any confidential and trade secret information of Grantee that may be provided to City. Grantee acknowledges that the City shall at all times comply with the MGDPA related to the release of information and nothing herein shall be read to modify the City's obligations under the MGDPA.

13.5 Communications with Regulatory Agencies.

(a) Upon written request, Grantee shall submit to City copies of any pleading, applications, notifications, communications, and documents of any kind, submitted by Grantee or its Affiliates to any federal, state, or local courts, regulatory agencies and other government bodies if such documents directly relate to the operations of Grantee's Cable System within the Franchise Area. Grantee shall submit such documents to City no later than thirty (30) Days after receipt of City's request. Grantee shall not claim confidential, privileged, or proprietary rights to such documents unless under federal,

state, or local law such documents have been determined to be confidential by a court of competent jurisdiction, or a federal or state agency. With respect to all other reports, documents and notifications provided to any federal, state, or local regulatory agency as a routine matter in the due course of operating Grantee's Cable System within the Franchise Area, Grantee shall make such documents available to City upon City's written request.

(b) In addition, Grantee and its Affiliates shall within ten (10) Days of any communication to or from any judicial or regulatory agency regarding any alleged or actual violation of this Franchise, City regulation or other requirement relating to the System, use its best efforts to provide the City a copy of the communication, whether specifically requested by the City to do so or not.

SECTION 14 CUSTOMER SERVICE POLICIES

14.1 Response to Customers and Cooperation with City. Grantee shall promptly respond to all requests for service, repair, installation, and information from Subscribers. Grantee acknowledges the City's interest in the prompt resolution of all cable complaints and shall work in close cooperation with the City to resolve complaints. Grantee will continue to maintain an "escalated complaint process" to address unresolved complaints from Subscribers. A team of specifically identified employees of Grantee shall be available to the City and the Commission via email and telephone for reporting issues. These specifically identified employees of Grantee will have the ability to take actions to resolve Subscriber complaints relating to billing, property or service restoration, technical appointments, or any other Subscriber matters when necessary. Grantee will follow-up with the City or the Commission in writing by email (and by phone when necessary) with a summary of the results of the complaint(s).

14.2 Definition of "Complaint." For the purposes of Section 14.1 and 14.4 only, the word "complaint" shall mean any communication to the Commission or the City by a Subscriber, and thereafter reported to the Grantee, expressing dissatisfaction with any service, performance, or lack thereof, by Grantee under the obligations of this Franchise.

14.3 Customer Service Agreement and Written Information. Grantee shall provide to Subscribers a comprehensive service agreement and information in writing for use in establishing Subscriber service. Written information shall, at a minimum, contain the following information:

- (a) Services to be provided and rates for such services.
- (b) Billing procedures.
- (c) Service termination procedure.
- (d) Change in service notifications.
- (e) Liability specifications.

- (f) Converter/Subscriber terminal equipment policy.
- (g) Breach of Franchise specification.
- (h) How complaints are handled including Grantee's procedure for investigation and resolution of Subscriber complaints.
- (i) The name, address, and phone number of the Person identified by the City as responsible for handling cable questions and complaints for the City. This information shall be prominently displayed, and Grantee shall submit the information to the City for review and approval as to its content and placement on Subscriber billing statements. A copy of the written information shall be provided to each Subscriber at the time of initial connection and any subsequent reconnection.

14.4 Reporting Complaints.

(a) The requirements of this Section 14.4 shall be subject to federal law regarding Subscriber privacy. Grantee shall maintain all Subscriber data available for City inspection. Subscriber data shall include the date, name, address, telephone number of Subscriber complaints as well as the subject of the complaint, date and type of action taken to resolve the complaint, any additional action taken by Grantee or the Subscriber. The data shall be maintained in a way that allows for simplified access of the data by the City.

(b) Subject to federal law and upon reasonable request by the City, Grantee shall, within a reasonable amount of time, provide City with such Subscriber data for its review.

14.5 Customer Service Standards.

(a) The City hereby adopts the customer service standards set forth in Part 76, §76.309 of the FCC's rules and regulations, as amended.

(b) Grantee shall, upon request, which request shall include the reason for the request (such as complaints received or other reasonable evidence of concern), provide City with information which shall describe in detail Grantee's compliance with each and every term and provision of this Section 14.5.

(c) Grantee shall comply in all respects with the customer service requirements established by the FCC and those set forth herein. To the extent that this Franchise imposes requirements greater than those established by the FCC, Grantee reserves whatever rights it may have to recover the costs associated with compliance in any manner consistent with Applicable Law.

14.6 Local Office. Grantee shall maintain a convenient local customer service and bill payment location for matters such as receiving Subscriber payments, handling billing questions, equipment replacement and customer service information.

14.7 Cable System office hours and telephone availability. Grantee shall comply with the standards and requirements for customer service set forth in Section 14.5 – 14.21 during the term of this Franchise.

(a) Grantee will maintain a local, toll-free or collect call telephone access line which will be available to its Subscribers twenty-four (24) hours a Day, seven (7) Days a week.

(i) Trained Grantee representatives will be available to respond to customer telephone inquiries during Normal Business Hours.

(ii) After Normal Business Hours, the access line may be answered by a service or an automated response system, including an answering machine. Inquiries received after Normal Business Hours must be responded to by a trained Grantee representative on the next business Day.

(b) Under Normal Operating Conditions, telephone answer time by a customer representative, including wait time, shall not exceed thirty (30) seconds when the connection is made. If the call needs to be transferred, transfer time shall not exceed thirty (30) seconds. These standards shall be met no less than ninety percent (90%) of the time under Normal Operating Conditions, measured on a quarterly basis.

(c) Grantee shall not be required to acquire equipment or perform surveys to measure compliance with the telephone answering standards above unless an historical record of complaints indicates a clear failure to comply.

(d) Under Normal Operating Conditions, the customer will receive a busy signal less than three percent (3%) of the time.

(e) Customer service center and bill payment locations will be open at least during Normal Business Hours and will be conveniently located.

(f) The Grantee shall utilize such equipment and software and keep such records as are necessary or required to enable the City and Commission to determine whether the Grantee is complying with all telephone answering standards required by applicable customer service regulations and laws, as amended from time to time. The Grantee shall provide the Commission with a quarterly report documenting Grantee's compliance with this Section 14.7 as is the current practice

14.8 Installations, Outages and Service Calls. Under Normal Operating Conditions, each of the following standards will be met no less than ninety-five percent (95%) of the time measured on a quarterly basis:

(a) Standard Installations will be performed within seven (7) business days after an order has been placed. "Standard" Installations are those that are located up to one hundred twenty-five (125) feet from the existing distribution system as more specifically set forth in Section 6.6(c).

(b) Excluding conditions beyond the control of Grantee, Grantee will begin working on “Service Interruptions” promptly and in no event later than twenty-four (24) hours after the interruption becomes known. Grantee must begin actions to correct other Service problems the next business Day after notification of the Service problem.

(c) The “appointment window” alternatives for Installations, Service calls, and other Installation activities will be either a specific time or, at maximum, a four (4) hour time block during Normal Business Hours. (Grantee may schedule Service calls and other Installation activities outside of Normal Business Hours for the express convenience of the customer.)

(d) Grantee may not cancel an appointment with a customer after the close of business on the business Day prior to the scheduled appointment.

(e) If Grantee’s representative is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, the customer will be contacted. The appointment will be rescheduled, as necessary, at a time which is convenient for the customer.

14.9 Communications between Grantee and Subscribers.

(a) Refunds. Refund checks will be issued promptly, but no later than either:

(i) The customer’s next billing cycle following resolution of the request or thirty (30) Days, whichever is earlier, or

(ii) The return of the equipment supplied by Grantee if Cable Service is terminated.

(b) Credits. Credits for Cable Service will be issued no later than the customer’s next billing cycle following the determination that a credit is warranted.

14.10 Billing:

(a) Consistent with 47 C.F.R. § 76.1619, bills will be clear, concise and understandable. Bills must be fully itemized, with itemizations including, but not limited to, Basic Cable Service and premium Cable Service charges and equipment charges. Bills will also clearly delineate all activity during the billing period, including optional charges, rebates and credits.

(b) In case of a billing dispute, Grantee must respond to a written complaint from a Subscriber within thirty (30) Days.

14.11 Subscriber Information.

(a) Grantee will provide written information on each of the following areas at the time of Installation of Service, at least annually to all Subscribers, and at any time upon request:

- (i) Products and Services offered;
- (ii) Prices and options for programming services and conditions of subscription to programming and other services;
- (iii) Installation and Service maintenance policies;
- (iv) Instructions on how to use the Cable Service;
- (v) Channel positions of programming carried on the System; and
- (vi) Billing and complaint procedures, including the address and telephone number of the City's cable office.

(b) Subscribers shall be advised of the procedures for resolution of complaints about the quality of the television signal delivered by Grantee, including the address of the responsible officer of the City. Subscribers will be notified of any changes in rates, programming services or Channel positions as soon as possible in writing. Notice must be given to Subscribers a minimum of thirty (30) Days in advance of such changes if the change is within the control of Grantee. In addition, Grantee shall notify Subscribers thirty (30) Days in advance of any significant changes in the information required by this Section 14.11.

14.12 Notice or Rate Programming Change. In addition to the requirement of this Section 14.12 regarding advance notification to Subscribers of any changes in rates, programming services or Channel positions, Grantee shall give thirty (30) Days written notice to both Subscribers and the City before implementing any rate or Service change. Such notice shall state the precise amount of any rate change and briefly explain in readily understandable fashion the cause of the rate change (e.g., inflation, change in external costs or the addition/deletion of Channels). When the change involves the addition or deletion of Channels, each Channel added or deleted must be separately identified. For purposes of the carriage of digital broadcast signals, Grantee need only identify for Subscribers, the television signal added and not whether that signal may be multiplexed during certain dayparts.

14.13 Subscriber Contracts. Grantee shall, upon written request, provide the City with any standard form residential Subscriber contract utilized by Grantee. If no such written contract exists, Grantee shall file with the City a document completely and concisely stating the length and terms of the Subscriber contract offered to customers. The length and terms of any standard form Subscriber contract(s) shall be available for public inspection during Normal Business Hours. A list of Grantee's current Subscriber rates and charges for Cable Service shall be maintained on file with City and shall be available for public inspection.

14.14 Refund Policy. If a Subscriber's Cable Service is interrupted or discontinued, without cause, for twenty-four (24) or more consecutive hours, Grantee shall, upon request by the Subscriber, credit such Subscriber pro rata for such interruption. For this purpose, every month will be assumed to have thirty (30) Days.

14.15 **Late Fees.** Grantee shall comply with all Applicable Laws with respect to any assessment, charge, cost, fee or sum, however characterized, that Grantee imposes upon a Subscriber for late payment of a bill. The City reserves the right to enforce Grantee's compliance with all Applicable Laws to the maximum extent legally permissible.

14.16 **Disputes.** All Subscribers and members of the general public may direct complaints, regarding Grantee's Service or performance to the chief administrative officer of the City or the chief administrative officer's designee, which may be a board or a commission of the City.

14.17 **Subscriber Bills.** Subscriber bills shall be designed in such a way as to present the information contained therein clearly and comprehensibly to Subscribers, and in a way that (A) is not misleading and (B) does not omit material information. Grantee may, in its sole discretion, consolidate costs on Subscriber bills as may otherwise be permitted by Section 622(c) of the Cable Act (47 U.S.C. §542(c)).

14.18 **Failure to Resolve Complaints.** Grantee shall resolve a complaint within thirty (30) Days in a manner deemed reasonable by the City under the terms of this Franchise.

14.19 **Notification of Complaint Procedure.** Grantee shall have printed clearly and prominently on each Subscriber bill and in the customer service agreement provided for in Section 14.3, the twenty-four (24) hour Grantee phone number for Subscriber complaints. Additionally, Grantee shall provide information to customers concerning the procedures to follow when they are unsatisfied with measures taken by Grantee to remedy their complaint. This information will include the phone number of the City office or Person designated to handle complaints. Additionally, Grantee shall state that complaints should be made to Grantee prior to contacting the City.

14.20 **Subscriber Privacy.**

(a) To the extent required by Minn. Stat. §238.084 Subd. 1(s) Grantee shall comply with the following:

(i) No signals including signals of a Class IV Channel may be transmitted from a Subscriber terminal for purposes of monitoring individual viewing patterns or practices without the express written permission of the Subscriber. The request for permission must be contained in a separate document with a prominent statement that the Subscriber is authorizing the permission in full knowledge of its provisions. Such written permission shall be for a limited period of time not to exceed one (1) year which may be renewed at the option of the Subscriber. No penalty shall be invoked for a Subscriber's failure to provide or renew such permission. The permission shall be revocable at any time by the Subscriber without penalty of any kind whatsoever.

(ii) No information or data obtained by monitoring transmission of a signal from a Subscriber terminal, including but not limited to lists of the names and addresses of Subscribers or any lists that identify the viewing habits of Subscribers shall be sold or otherwise made available to any party other than to

Grantee or its agents for Grantee's business use, and also to the Subscriber subject of that information, unless Grantee has received specific written permission from the Subscriber to make such data available. The request for permission must be contained in a separate document with a prominent statement that the Subscriber is authorizing the permission in full knowledge of its provisions. Such written permission shall be for a limited period of time not to exceed one (1) year which may be renewed at the option of the Subscriber. No penalty shall be invoked for a Subscriber's failure to provide or renew such permission. The permission shall be revocable at any time by the Subscriber without penalty of any kind whatsoever.

(iii) Written permission from the Subscriber shall not be required for the conducting of system wide or individually addressed electronic sweeps for the purpose of verifying System integrity or monitoring for the purpose of billing. Confidentiality of such information shall be subject to the provision set forth in subparagraph (ii) of this section.

14.21 **Grantee Identification.** Grantee shall provide all customer service technicians and all other Grantee employees entering private property with appropriate picture identification so that Grantee employees may be easily identified by the property owners and Subscribers.

SECTION 15 SUBSCRIBER PRACTICES

15.1 **Subscriber Rates.** There shall be no charge for disconnection of any installation or outlet. If any Subscriber fails to pay a properly due monthly Subscriber fee, or any other properly due fee or charge, Grantee may disconnect the Subscriber's service outlet, provided, however, that such disconnection shall not be affected until after the later of: (i) forty-five (45) Days after the original due date of said delinquent fee or charge; or (ii) ten (10) Days after delivery to Subscriber of written notice of the intent to disconnect. If a Subscriber pays before expiration of the later of (i) or (ii), Grantee shall not disconnect. After disconnection, upon payment in full of the delinquent fee or charge and the payment of a reconnection charge, Grantee shall promptly reinstate the Subscriber's Cable Service.

15.2 **Refunds to Subscribers shall be made or determined in the following manner:**

(a) If Grantee fails, upon request by a Subscriber, to provide any service then being offered, Grantee shall promptly refund all deposits or advance charges paid for the service in question by said Subscriber. This provision does not alter Grantee's responsibility to Subscribers under any separate contractual agreement or relieve Grantee of any other liability.

(b) If any Subscriber terminates any monthly service because of failure of Grantee to render the service in accordance with this Franchise, Grantee shall refund to such Subscriber the proportionate share of the charges paid by the Subscriber for the services not received. This provision does not relieve Grantee of liability established in other provisions of this Franchise.

(c) If any Subscriber terminates any monthly service prior to the end of a prepaid period, a proportionate amount of any prepaid Subscriber service fee, using the number of days as a basis, shall be refunded to the Subscriber by Grantee.

SECTION 16 COMPENSATION AND FINANCIAL PROVISIONS.

16.1 Franchise Fees.

(a) During the term of the Franchise, Grantee shall pay to the City a Franchise Fee of five percent (5%) of Gross Revenues. If any such law, regulation, or valid rule alters the five percent (5%) Franchise Fee ceiling enacted by the Cable Act, then the City shall have the authority to (but shall not be required to) increase the Franchise Fee, accordingly, provided such increase is for purposes not inconsistent with Applicable Law.

(b) In the event Grantee bundles or combines Cable Services (which are subject to the Franchise Fee) with non-Cable Services (which are not subject to the Franchise Fee) so that Subscribers pay a single fee for more than one (1) class of service resulting in a discount on Cable Services, Grantee agrees that for the purpose of calculation of the Franchise Fee, it shall allocate to Cable Service revenue no less than a pro rata share of the revenue received for the bundled or combined services. The pro rata share shall be computed on the basis of the published charge for each service in the bundled or combined classes of services when purchased separately.

(c) Franchise Fees shall be paid quarterly not later than forty-five (45) Days following the end of a given quarter. In accordance with Section 16 of this Franchise, Grantee shall file with the City a Franchise Fee payment worksheet, attached as Exhibit C, signed by an authorized representative of Grantee, which identifies Gross Revenues earned by Grantee during the period for which payment is made. No acceptance of any payment shall be construed as an accord that the amount paid is, in fact, the correct amount, nor shall such acceptance of payment be construed as a release of any claim which the City may have for further or additional sums payable under the provisions of this section.

(d) Neither current nor previously paid Franchise Fees shall be subtracted from the Gross Revenue amount upon which Franchise Fees are calculated and due for any period, unless otherwise required by Applicable Law.

(e) Any Franchise Fees owing pursuant to this Franchise which remain unpaid more than forty-five (45) Days after the dates specified herein shall be delinquent and shall thereafter accrue interest at twelve percent (12%) per annum or two percent (2%) above prime lending rate as quoted by the Wall Street Journal, whichever is greater.

16.2 Auditing and Financial Records. Throughout the term of this Franchise, the Grantee agrees that the City, upon reasonable prior written notice of twenty (20) Days to the Grantee, may review such of the Grantee's books and records regarding the operation of the Cable System and the provision of Cable Service in the Franchise Area which are reasonably

necessary to monitor and enforce Grantee's compliance with the provisions of this Franchise. Grantee shall provide such requested information as soon as possible and in no event more than thirty (30) Days unless Grantee explains that it is not feasible to meet this timeline and provides a written explanation for the delay and an estimated reasonable date for when such information will be provided. All such documents pertaining to financial matters that may be the subject of an inspection by the City shall be retained by the Grantee for a minimum period of six (6) years, pursuant to Minn. Stat. § 541.05. The Grantee shall not deny the City access to any of the Grantee's records on the basis that the Grantee's records are under the control of any parent corporation, Affiliated Entity or a third party. The City may request in writing copies of any such records or books that are reasonably necessary, and the Grantee shall provide such copies within thirty (30) Days of the receipt of such request. One (1) copy of all reports and records required under this or any other section shall be furnished to the City at the sole expense of the Grantee. If the requested books and records are too voluminous, or for security reasons cannot be copied or removed, then the Grantee may request, in writing within ten (10) Days of receipt of such request, that the City inspect them at the Grantee's local offices or at one of Grantee's offices more convenient to City or its duly authorized agent. If any books or records of the Grantee are not kept in such office and not made available in copies to the City upon written request as set forth above, and if the City determines that an examination of such records is necessary for the enforcement of this Franchise, then all reasonable travel expenses incurred in making such examination shall be paid by the Grantee.

16.3 Review of Record Keeping Methodology. Grantee agrees to meet with representative of the City upon request to review its methodology of record-keeping, financial reporting, computing Franchise Fee obligations, and other procedures the understanding of which the City deems necessary for understanding the meaning of reports and records.

16.4 Audit of Records. The City or its authorized agent may at any time and at the City's own expense conduct an independent audit of the revenues of Grantee in order to verify the accuracy of Franchise Fees or PEG Fees paid to the City under this Franchise. Grantee and each parent company of Grantee shall cooperate fully in the conduct of such audit. In the event it is determined through such audit that Grantee has underpaid Franchise Fees in an amount of five percent (5%) or more than was due the City, then Grantee shall reimburse the City for the entire cost of the audit within thirty (30) days of the completion and acceptance of the audit by the City.

16.5 Records to be reviewed. The City agrees to request access to only those books and records, in exercising its rights under this section, which it deems reasonably necessary for the enforcement and administration of the Franchise.

16.6 Indemnification by Grantee. Grantee shall, at its sole expense, fully indemnify, defend and hold harmless the City, and in their capacity as such, the officers and employees thereof, from and against any and all claims, suits, actions, liability and judgments for damage or otherwise except those arising wholly from negligence on the part of the City or its employees; for actual or alleged injury to persons or property, including loss of use of property due to an occurrence, whether or not such property is physically damaged or destroyed, in any way arising out of or through or alleged to arise out of or through the acts or omissions of Grantee or its officers, agents, employees, or contractors or to which Grantee's or its officers, agents,

employees or contractors acts or omissions in any way contribute, and whether or not such acts or omissions were authorized or contemplated by this Franchise or Applicable Law; arising out of or alleged to arise out of any claim for damages for Grantee's invasion of the right of privacy, defamation of any Person, firm or corporation, or the violation of infringement of any copyright, trademark, trade name, service mark or patent, or of any other right of any Person, firm or corporation; arising out of or alleged to arise out of Grantee's failure to comply with the provisions of any Applicable Law. Nothing herein shall be deemed to prevent the City, its officers, or its employees from participating in the defense of any litigation by their own counsel at such parties' expense. Such participation shall not under any circumstances relieve Grantee from its duty of defense against liability or of paying any judgment entered against the City, its officers, or its employees.

16.7 Grantee Insurance. Upon the Effective Date, Grantee shall, at its sole expense take out and maintain during the term of this Franchise public liability insurance with a company licensed to do business in the State of Minnesota with a rating by A.M. Best & Co. of not less than "A-" that shall protect the Grantee, City and its officials, officers, directors, employees and agents from claims which may arise from operations under this Franchise, whether such operations be by the Grantee, its officials, officers, directors, employees and agents or any subcontractors of Grantee. This liability insurance shall include, but shall not be limited to, protection against claims arising from bodily and personal injury and damage to property, resulting from Grantee's vehicles, products, and operations. The amount of insurance for single limit coverage applying to bodily and personal injury and property damage shall not be less than Three Million and No/100 Dollars (\$3,000,000.00). The liability policy shall include:

- (a) The policy shall provide coverage on an "occurrence" basis.
- (b) The policy shall cover personal injury as well as bodily injury.
- (c) The policy shall cover blanket contractual liability subject to the standard universal exclusions of contractual liability included in the carrier's standard endorsement as to bodily injuries, personal injuries and property damage.
- (d) Broad form property damage liability shall be afforded.
- (e) City shall be named as an additional insured on the policy.
- (f) An endorsement shall be provided which states that the coverage is primary insurance with respect to claims arising from Grantee's operations under this Franchise and that no other insurance maintained by the City will be called upon to contribute to a loss under this coverage.
- (g) Standard form of cross-liability shall be afforded.
- (h) An endorsement stating that the policy shall not be canceled without thirty (30) Days' notice of such cancellation given to City
- (i) City reserves the right to adjust the insurance limit coverage requirements of this Franchise no more than once every three (3) years. Any such adjustment by City

will be no greater than the increase in the State of Minnesota Consumer Price Index (all consumers) for such three (3) year period.

(j) Upon the Effective Date, Grantee shall submit to City a certificate documenting the required insurance, as well as any necessary properly executed endorsements. The certificate and documents evidencing insurance shall be in a form acceptable to City and shall provide satisfactory evidence that Grantee has complied with all insurance requirements. Renewal certificates shall be provided to City prior to the expiration date of any of the required policies. City will not be obligated, however, to review such endorsements or certificates or other evidence of insurance, or to advise Grantee of any deficiencies in such documents and receipt thereof shall not relieve Grantee from, nor be deemed a waiver of, City's right to enforce the terms of Grantee's obligations hereunder. City reserves the right to examine any policy provided for under this paragraph or to require further documentation reasonably necessary to form an opinion regarding the adequacy of Grantee's insurance coverage.

SECTION 17 MISCELLANEOUS PROVISIONS.

17.1 **Posting and Publication.** The Summary of Ordinance for Publication ("Summary") attached hereto as Exhibit D shall be published at least once in the official newspaper of the City. Grantee shall assume the cost of posting and publication of the Summary as such posting and publication is required by law and such is payable upon Grantee's filing of acceptance of this Franchise.

17.2 **Guarantee of Performance.** Grantee agrees that it enters into this Franchise voluntarily in order to secure and in consideration of the grant from the City of a ten (10) year Franchise. Performance pursuant to the terms and conditions of this Franchise is guaranteed by Grantee.

17.3 **Entire Agreement.** This Franchise contains the entire agreement between the parties, supersedes all prior agreements or proposals except as specifically set forth herein, and cannot be changed orally but only by an instrument in writing executed by the parties.

17.4 **Consent.** Wherever the consent or approval of either Grantee or the City is specifically required in this agreement, such consent or approval shall not be unreasonably withheld.

17.5 **Prior Franchise Terminated.** The cable television franchise as originally granted by Ordinance No. 2012-1051 is hereby terminated.

17.6 **Franchise Acceptance.** No later than forty-five (45) Days following City Council approval of this Franchise, Grantee shall accept and return to the City an executed Franchise along with performance bonds, security funds, and evidence of insurance, all as provided in this Franchise. In the event Grantee fails to accept this Franchise, or fails to provide the required documents, this Franchise shall be null and void. The Grantee agrees that despite the fact that its written acceptance may occur after the Effective Date, the obligations of this Franchise shall become effective on February 1, 2023.

requirements of this Franchise, the City Code and other Applicable Laws governing the work performed by them.

17.11 **Governing Law.** This Franchise is made pursuant to Minnesota Statutes Chapter 238 and the City Code and is intended to comply with all requirements set forth therein. This Franchise shall be deemed to be executed in the State of Minnesota, and shall be governed in all respects, including validity, interpretation and effect, and construed in accordance with, the laws of the State of Minnesota, as applicable to contracts entered into and performed entirely within the state.

17.12 **Nonenforcement by City.** Grantee shall not be relieved of its obligation to comply with any of the provisions of this Franchise by reason of any failure of the City or to enforce prompt compliance.

17.13 **Captions.** The paragraph captions and headings in this Franchise are for convenience and reference purposes only and shall not affect in any way the meaning of interpretation of this Franchise.

17.14 **Calculation of Time.** Where the performance or doing of any act, duty, matter, payment or thing is required hereunder and the period of time or duration for the performance is prescribed and fixed herein, the time shall be computed so as to exclude the first and include the last Day of the prescribed or fixed period or duration of time. When the last Day of the period falls on Saturday, Sunday, or a legal holiday, that Day shall be omitted from the computation and the next business Day shall be the last Day of the period.

17.15 **No Waiver.** All rights and remedies given to the City by this Franchise or retained by the City herein shall be in addition to and cumulative with any and all other rights and remedies, existing or implied, now or hereafter available to the City, at law or in equity, and such rights and remedies shall not be exclusive, but each and every right and remedy specifically given by this Franchise or otherwise existing or given may be exercised from time to time and as often and in such order as may be deemed expedient by the City and the exercise of one or more rights or remedies shall not be deemed a waiver of the right to exercise at the same time or thereafter any other right or remedy.

17.16 **Grantee Acknowledgment of Validity of Franchise.** Grantee acknowledges that it has had an opportunity to review the terms and conditions of this Franchise and that under current law Grantee believes that said terms and conditions are not unreasonable or arbitrary, and that Grantee believes the City has the power to make the terms and conditions contained in this Franchise.

17.17 **Survival of Terms.** Upon the termination or forfeiture of the Franchise, Grantee shall no longer have the right to occupy the Streets for the purpose of providing Cable Service. However, Grantee's obligations to the City (other than the obligation to provide service to Subscribers) shall survive according to their terms.

17.18 Competitive Equity

(a) The City reserves the right to grant additional franchises or similar authorizations to provide Cable Services or Video Programming services via Cable Systems or other Wireline MVPDs. The City intends to treat Wireline MVPDs in a nondiscriminatory manner to the extent permissible under Applicable Law. If, following the Effective Date of this Franchise, the City grants such an additional franchise or authorization to a Wireline MVPD and Grantee believes the City has done so on terms materially more favorable than the obligations under this Franchise, then the provisions of this Section 17.18 will apply.

(b) As part of this Franchise, the City and Grantee have mutually agreed upon the following terms as a condition of granting the Franchise, which terms may place the Grantee at a significant competitive disadvantage if not required of a Wireline MVPD: the obligation to pay to the City a Franchise Fee, Gross Revenues as provided for and defined in this Franchise, and the obligation to comply with the requirements in this Franchise regarding PEG funding, PEG Channels, security instruments, audits, remedies, and customer service obligations (hereinafter "Material Obligations"). The City and Grantee further agree that this provision shall not require a word for word identical franchise or authorization for competitive equity so long as the regulatory and financial burdens on each entity are materially equivalent.

(c) Within one (1) year of the adoption of a Wireline MVPD franchise or similar authorization, Grantee must notify the City in writing of the Material Obligations in this Franchise that Grantee believes exceed the Material Obligations of the wireline competitor's franchise or similar authorization. The City and Grantee agree that they will use best efforts in good faith to negotiate Grantee's proposed Franchise modifications, and that such negotiation will proceed and conclude within a ninety (90) Day time period, unless that time period is reduced or extended by mutual agreement of the parties. If the City and Grantee reach agreement on the Franchise modifications pursuant to such negotiations, then the City shall amend this Franchise to include the modifications. If the City and Grantee fail to reach agreement in such negotiations, Grantee may, at its option, elect to replace this Franchise by opting into the franchise or other similar lawful authorization that the City grants to another Wireline MVPD (with the understanding that Grantee may use its current system design and technology infrastructure to meet any requirements of the new franchise), so as to ensure that the regulatory and financial burdens on each entity are equivalent. If Grantee so elects and following the ninety (90) Day negotiation time period set forth in this paragraph 17.18 (c), the City shall immediately commence proceedings to replace this Franchise with the franchise issued to the other Wireline MVPD. Notwithstanding anything contained in this section to the contrary, the City shall not be obligated to amend or replace this Franchise unless the new entrant makes Cable Services or similar downstream Video programming service available for purchase by Subscribers or customers under its franchise agreement with or similar authorization from the City.

(d) In the event the City disputes that the Material Obligations are different, Grantee may bring an action in federal or state court for a determination as to whether the

Material Obligations are different and as to what franchise amendments would be necessary to remedy the disparity. Alternatively, Grantee may notify the City that it elects to immediately commence the renewal process under 47 U.S.C. § 546 and to have the remaining term of this Franchise shortened to not more than thirty (30) months.

(e) Nothing in this Section 17.18 is intended to alter the rights or obligations of either party under Applicable Law, and it shall only apply to the extent permitted under Applicable Law and FCC orders. In no event will the City be required to refund or to offset against future amounts due the value of benefits already received.

(f) To the extent the City has legal authority to mandate a Cable Service franchise or similar authorization to a wireless provider of Cable Service, the competitive equity rights provided by this section shall apply with respect to Material Obligations imposed in such franchise or other similar agreement. In the event of a dispute regarding the City's legal authority, Grantee shall have the burden to demonstrate that such authority exists or does not exist.

17.19 FCC Preemption.

(a) At any time after this Franchise is approved by the City Council, the Grantee may, if Grantee is legally permitted by Applicable Law, provide the City with a written list of “in-kind cable-related contributions” (as that term is defined by the FCC in the Section 621 Order) that the Franchise requires Grantee to provide (including but not limited to the Complimentary Service requirements in Section 6.8) and the incremental cost(s) associated with the provision of the in-kind cable-related contributions. Within one hundred and twenty (120) days of receiving the aforementioned list, the City will notify the Grantee whether, with respect to each identified in-kind cable-related contribution, the Grantee is relieved, or temporarily relieved, of its obligations or is required to comply, subject either to the Grantee taking an offset to the Franchise Fee payments payable under Section 16.1 as may be permitted by the Section 621 Order or to the Grantee and the City agreeing to a separately negotiated charge payable by the City to the Grantee.

(b) In the event the Section 621 Order is stayed or overturned in whole or in part by action of the FCC, the City and the Grantee will meet promptly to discuss what impact such action has on the provision of the in-kind cable-related contributions to which this section applies. It is the intent of the parties that the City shall be treated by the Grantee in a reasonably comparable manner as other jurisdictions within the Twin Cities Region with respect to any offsets or charges imposed by Grantee for the provision of Complimentary Service. Nothing herein waives the City's right to enforce Grantee's compliance with all lawful obligations contained in this Franchise.

17.20 Treatment of Negotiated Provisions. For the term of this Franchise any costs incurred by Grantee pursuant to Sections 7.2(c), 7.5(c), 7.8, 7.10, 7.11, 7.12, 7.13, 7.16(b), 7.17, 7.18, 7.19, 13.1, 13.2, and 13.3, shall be treated by Grantee as Grantee's business expense and not a Franchise Fee under Sections 1.23 and 16.1 of this Franchise or as a PEG Fee under Section 7.15 of this Franchise. Grantee reserves any rights it may have to recover

from Subscribers, as a separate line item from the PEG Fee in Section 7.15 of this Franchise, any PEG capital costs set forth in Section 7.2(a) and (c), 7.8, 7.10, 7.11, 7.12, 7.14 and 7.16 as may be permitted by Applicable Law as of the Effective Date.

Passed and adopted this ____ day of _____ 2023.

ATTEST

CITY OF HOPKINS, MINNESOTA

By: _____
Its: City Clerk

By: _____
Its: Mayor

ACCEPTED: This Franchise is accepted, and Comcast of Minnesota, Inc. agrees to be bound by its terms and conditions.

COMCAST OF MINNESOTA, INC.

By: _____

Its: _____

EXHIBIT A
COMPLIMENTARY SERVICE LOCATIONS

BUILDING	ADDRESS	CITY
Hopkins Center	33 14th Ave N	Hopkins
Hopkins City Hall	1010 1st St S Apt Hall	Hopkins
Eisenhower Elem School	1001 Highway 7 Apt A	Hopkins
Alice Smith Elementary	801 Minnetonka Mills Rd	Hopkins
Fire Dept, Hopkins	101 17th Ave S	Hopkins
Hopkins Center For the Arts	1111 Mainstreet	Hopkins
Hopkins Garage	11100 Excelsior Blvd	Hopkins
Hopkins Pavilion	11000 Excelsior Blvd Ste A	Hopkins
Police Dept, Hopkins	1010 1st St S Apt Cops	Hopkins
Public Housing, Hopkins	22 5th Ave S Ste Cmcl	Hopkins
Hopkins Public School	1001 Highway 7	Hopkins

* For as long as the building remains publicly owned and operated. If the building is leased or operated by a commercial tenant, Grantee's voluntary courtesy service offer will expire.

EXHIBIT B
EXISTING PEG TRANSPORT LOCATIONS

<u>BUILDING</u>	<u>STREET ADDRESS</u>
Hopkins City Hall	1010 1st Street South

EXHIBIT C
FRANCHISE FEE PAYMENT WORKSHEET

*****CONFIDENTIAL*****



System Name: Comcast of Minnesota, Inc.
 Email: Prasant_Nadella@cable.comcast.com
 Phone: 610-665-2579

Vendor ID:	XXXXXX
Contract Name:	X
Statement Period:	Jan - Mar, 2020
Payment Amount:	\$X
Statement Number:	XXXXXX
CUID:	XXXXXX
System ID:	XXXX-XXXX-XXXX

This statement represents your payment for the period listed above.

Revenue Category	Amount
Expanded Basic Video Service	\$
Limited Basic Video Service	\$
Digital Video Service	\$
Pay	\$
PPV / VOD	\$
Digital Video Equipment	\$
Video Installation / Activation	\$
Franchise Fees	\$
Guide	\$
Other	\$
Late Fees	\$
Write-offs / Recoveries	\$
Ad Sales	\$
Home Shopping Commissions	\$
Total	\$
Franchise Fee %	%
Franchise Fee	\$
PEG Fee 2%	

Nothing in this Franchise Fee Payment Worksheet shall serve to modify the definition of "Gross Revenues" set forth in this Franchise.

EXHIBIT D
SUMMARY OF ORDINANCE FOR PUBLICATION

AN ORDINANCE GRANTING A FRANCHISE TO COMCAST OF MINNESOTA, INC. TO CONSTRUCT, OPERATE AND MAINTAIN A CABLE SYSTEM IN THE CITY OF HOPKINS, MINNESOTA SETTING FORTH CONDITIONS ACCOMPANYING THE GRANT OF THE FRANCHISE; PROVIDING FOR REGULATION AND USE OF THE SYSTEM AND THE PUBLIC RIGHTS-OF-WAY; AND PRESCRIBING PENALTIES FOR THE VIOLATION OF THE PROVISIONS HEREIN.

On _____, 2023, the City of Hopkins, Minnesota (“City”) adopted an ordinance granting a Cable Television Franchise to Comcast of Minnesota, Inc. (“Comcast”). The Franchise serves two (2) purposes. First, it is intended to provide for and specify the means to attain the best possible cable service for the public by providing requirements for cable with respect to technical standards, customer service obligations, and related matters. Second, it grants a non-exclusive cable television franchise to Comcast, to operate, construct and maintain a cable system within the City and contains specific requirements for Comcast to do so.

The Franchise includes the following: 1) a Franchise Fee of 5% of Comcast’s annual gross revenues; 2) a Franchise term of ten (10) years; 3) incorporation of the City Code regarding right-of-way protections; 4) a list of schools and public buildings entitled to receive complimentary cable service; 5) dedicated channel capacity for public, education and government (“PEG”) access programming; 6) a PEG Fee of 2% of Comcast’s annual gross revenues to support local access programming as permitted under applicable law; 7) strong customer service standards regarding Comcast’s cable services; and 8) a performance bond and letter of credit to enforce Comcast’s compliance with the Franchise.

It is hereby determined that publication of this title and summary will clearly inform the public of the intent and effect of Ordinance No. _____. A copy of the entire ordinance shall be posted at the Hopkins City Hall.

It is hereby directed that only the above title and summary of Ordinance No. _____ be published, conforming to Minn. Stat. § 331A.01, with the following:

NOTICE

Persons interested in reviewing a complete copy of the Ordinance may do so at the Hopkins City Hall at 1010 1st Street South, Hopkins, MN 55343 during the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

	<u>Yes</u>	<u>No</u>
Mayor _____	_____	_____
Councilmember _____	_____	_____
Councilmember _____	_____	_____
Councilmember _____	_____	_____
Councilmember _____	_____	_____
Councilmember _____	_____	_____
Councilmember _____	_____	_____

Passed by the Hopkins City Council this ____ day of _____, 2023.

ATTEST: _____, Mayor

**RESOLUTION NO. 2023-1
RECOMMENDATION OF THE SOUTHWEST SUBURBAN CABLE COMMISSION REGARDING
THE ADOPTION OF A CABLE FRANCHISE TO COMCAST OF MINNESOTA, INC.**

Recitals:

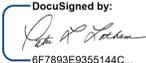
1. The Southwest Suburban Cable Commission ("Commission") administers and enforces cable franchises pursuant to a joint powers agreement.
2. The Commission consists of the cities of Eden Prairie, Edina, Hopkins, Minnetonka and Richfield, Minnesota ("Member Cities").
3. Comcast of Minnesota, Inc. ("Comcast") currently operates a cable system in each of the Member Cities under cable television franchises with an effective date of August 1, 2012 ("Existing Franchises").
4. In 2019 Comcast contacted each of the Member Cities seeking renewal of the Existing Franchises.
5. The Commission's legal counsel, the law firm of Moss & Barnett, a Professional Association, assisted the Commission in conducting the franchise renewal process.
6. Extensive informal franchise renewal negotiations between Comcast and the Commission have been completed and a proposed Renewal Cable Television Franchise Ordinance ("Renewal Franchise") has been finalized.
7. The Commission finds that the Renewal Franchise will benefit the Member Cities and will protect the rights and interests of residents and cable subscribers in each of the Member Cities.

NOW THEREFORE, the Southwest Suburban Cable Commission hereby resolves as follows:

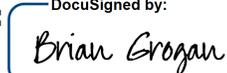
1. The attached May 18, 2023 Renewal Franchise will protect the Member Cities and its residents and cable subscribers regarding the provision of cable services by Comcast.
2. The Commission recommends that each Member City take action to adopt the Renewal Franchise.

PASSED AND ADOPTED this 24th day of May, 2023.

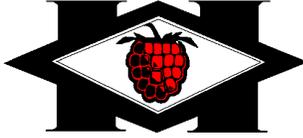
SOUTHWEST SUBURBAN CABLE COMMISSION

DocuSigned by:

6F7893E9355144C...

By: _____
Patty Latham, Chair

ATTEST: DocuSigned by:

DE6235253EF64C3...

By: _____
Brian T. Grogan, Attorney for the Commission



CITY OF HOPKINS

City Council Report 2023-053

To: Honorable Mayor and Council Members
Mike Mornson, City Manager

From: Kurt Howard, Planner

Date: June 6, 2023

Subject: 13 Harrison Avenue South Attached Garage Variance

RECOMMENDED ACTION

MOTION TO Adopt Resolution 2023-020, denying the variance request for the property located at 13 Harrison Avenue South.

OVERVIEW

Adam Price of Price Custom Homes, on behalf of property owners Brianna and John Frederick, requests variances from the attached garage additional setback standard and the allowed garage door location standard to construct a single unit home. The subject property is located at 13 Harrison Avenue South which is zoned N3-B, Small Lot Traditional Neighborhood. The Hopkins Development Code requires attached garages in this zone to be set back a minimum of 30 feet behind the main building's front façade and for garage doors to be located on the rear, side, or side street façade in the N3-B zone. The applicant requests variances from these standards to locate the garage 10.5 feet in front of the main building's front façade and to locate the garage door on the front façade. Based on the findings detailed below, staff finds the applicant has not demonstrated a practical difficulty with meeting the City zoning requirements as required by Minnesota State Statute 462.357, Subdivision 6. As a result, staff recommends the City deny the applicant's request.

PRIMARY ISSUES TO CONSIDER

- Background
- Legal Authority
- Variance Review
- Alternatives

SUPPORTING INFORMATION

- Site Plan, Architectural Elevations, and Narrative
- Public Comment
- Planning and Zoning Commission Resolution 2023-03
- Proposed Resolution 2023-020
- Map of Properties in N3-B Zones With and Without an Adjacent Improved Alley

BACKGROUND

The subject property was purchased by the applicant in March of 2022 and a building permit application for the construction of a single unit home was submitted on March 22, 2023. Staff's review of the plans determined that they deviate from the standards of the code in that the garage is proposed to project in front of the main building's front façade by 10.5 feet and is required to be set back behind the front façade by 30 feet. The garage door is also proposed to be located on the front façade but is only allowed to be located on the rear, side, or street side façade.

The applicant has applied for variances from these two standards. The applicant provides a basis for the variance request in the attached narrative, which cites the recent adoption of the City's updated zoning code, the similarity of the design of the neighboring home to the proposed home, and argues that the attached garage standards in N3-B zones are intended for home that are served by an improved alley and the subject property is not served by an improved alley.

The City's updated zoning code was adopted by the Hopkins City Council on July 19, 2022 and became effective on July 28, 2022, approximately eight months prior to the submission of the building permit application. A residence was recently constructed on the adjoining lot, addressed as 15 Harrison Ave S, which is similar in design to the proposed home. However, the building permit for the neighboring home was applied for and issued prior to the effective date of the zoning code update.

Variances must be decided on the five variance review criteria detailed below. All five criteria must be met in order for a variance to be granted. One of the five criteria takes into account the impact of the variance request on the essential character of the surrounding area. The attached map of properties in N3-B zones with and without an adjacent improved alley shows that the vast majority of properties in N3-B zones are in fact served by an improved alley. Staff's analysis of the issue finds that the absence of an improved alley at the subject property does present design challenges associated with the garage. To help address these challenges, a zoning code text amendment is being proposed to offer commensurate relief to properties located in N3-B zones that are not served by an improved alley, while still encouraging development to be human-scaled and pedestrian oriented.

PLANNING & ZONING COMMISSION ACTION

The Planning & Zoning Commission reviewed this item (Planning Application 2023-03) during their May 23, 2023 meeting. During the meeting, the Commission heard presentations from both staff and the applicant. There were no comments during the public hearing. However, prior to the meeting staff received one public comment (attached) which cites concerns with the requested variances' potential impacts to neighborhood character and pedestrian scale.

The Commission's discussion recognized that the absence of an improved driveway does present challenges associated with designing a garage under the circumstances and also considered the tradeoffs between green space and the additional driveway surface that would be required to connect to a garage that's setback 30 feet behind the front of the house. The Commission concluded that despite the associated design

challenges, the request ultimately falls short of meeting the criteria for granting a variance. The Commission voted to adopt Planning & Zoning Commission Resolution 2023-03 recommending the City Council deny the variances requested, with six members voting for the resolution and one member abstaining.

LEGAL AUTHORITY

City review of variance applications is a Quasi-Judicial action. Generally, if the application meets the review standards, the variance should be approved. The standards for reviewing variances are detailed in Minnesota State Statute 462.357, Subdivision 6. In Summary, variances may be granted when the applicant establishes there are "practical difficulties" in complying with the zoning regulations. A practical difficulty is defined by the five questions listed below. Economic considerations alone do not constitute a practical difficulty. In addition, under the statute, the City may choose to add conditions of approval that are directly related to and bear a rough proportionality to the impact created by the variance.

VARIANCE REVIEW

Staff has reviewed the variance requests against the standards detailed in Minnesota State Statute 462.357, Subdivision 6 and finds they do not demonstrate a practical difficulty. As a result, staff recommends the City deny the applicants request. The standards for reviewing a variance application and staffs findings for each are provided below.

1. Is the variance request in harmony with purposes and intent of the ordinance?

Finding: The requested variances are not in harmony with the purpose and intent of the zoning ordinance. The purpose and intent of the additional setback for attached garages and the allowed garage door location standard is to promote the use of the area directly behind the front façade of any building for people and not the parking of vehicles. Granting the variance would be counter to these purposes.

2. Is the variance request consistent with the Comprehensive Plan?

Finding: The requested variances are not consistent with the Comprehensive Plan. A stated goal of the Cultivate Hopkins 2040 Comprehensive Plan is to encourage all public and private developments to be well-designed, durable, human-scaled, and pedestrian-oriented. One policy associated with this goal is to reduce parking between buildings and the street as much as possible. Granting the variance to allow vehicle storage between the building and the street would emphasize the automotive uses of the property and detract from the human-scaled, pedestrian-oriented uses of the property.

3. Does the proposal put the property to use in a reasonable manner?

Finding: The proposal does put the property to use in a reasonable manner. Single unit household living is an allowed principal use in the N3-B zone and the scale of the development fits within the density range prescribed by the comprehensive plan.

4. Are there unique circumstances to the property not created by the landowner?

Finding: There are not unique circumstances to the property that were not created by the landowner. Under this standard, the applicant must demonstrate the issues that

prevent them from developing the subject property were caused by circumstances unique to the property that were not caused by them. The lot is a regular shape with no constraints on development in terms of topography or wetlands. The lot meets the minimum lot area and lot width standards for the N3-B zone which could feasibly accommodate development of a single unit household under the requirements of the zoning code.

5. Will the variance, if granted, alter the essential character of the locality?

Finding: Granting the variance would alter the essential character of the surrounding area. The vast majority of the homes in the surrounding area have garages that are set back behind the main building's front façade in ways that would meet the current requirements of the code. Only one other recently constructed home has a garage designed in a similar manner to the proposed home, suggesting that granting the variance would continue a trend that alters the existing character of the locality.

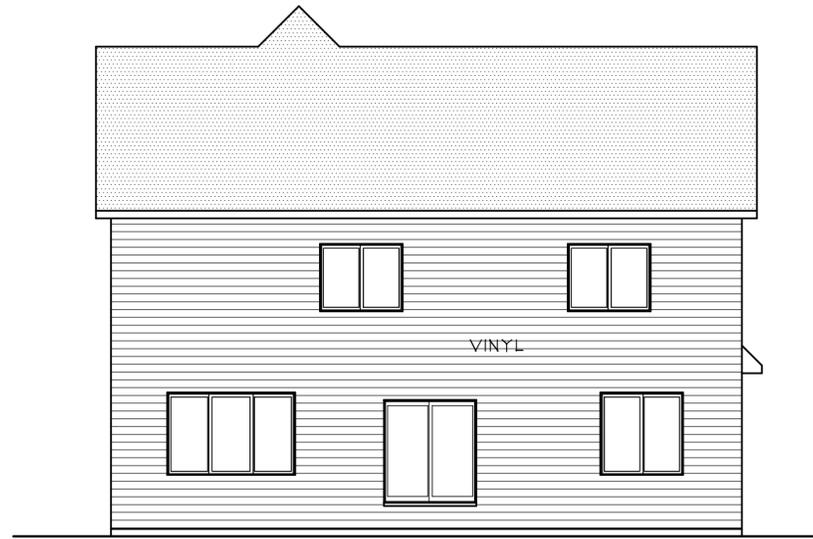
ALTERNATIVES

1. Approve the requested variances. By approving of the application, the proposed home would be allowed to be constructed with the attached garage 10.5 feet in front of the main building's front façade. Should the City Council consider this option, it must also identify specific findings that support this alternative and should direct staff to prepare an approval resolution to be brought back at the City Council's next meeting.
2. Deny the requested variances as recommended by the Planning & Zoning Commission and staff. By denying this application, the design of the proposed home would need to be revised to meet the standards of the code. As noted above, staff is preparing a zoning text amendment that would make building an attached garage more practical for N3-B properties not abutting an improved alley.
3. Continue for further information. This item should be continued if the City Council finds that further information is needed.

SQUARE FOOTAGE CALCULATIONS		
AREA	FINISHED	UNFINISHED
LOWER LEVEL	1254	146
MAIN FLOOR	1409	N/A
UPPER FLOOR	1459	N/A
TOTAL	4122	146
GRAND TOTAL SQ. FT.	4268	
GARAGE 503 SQ FT		
PORCH 100 SQ FT		

BUYER NOTICE:

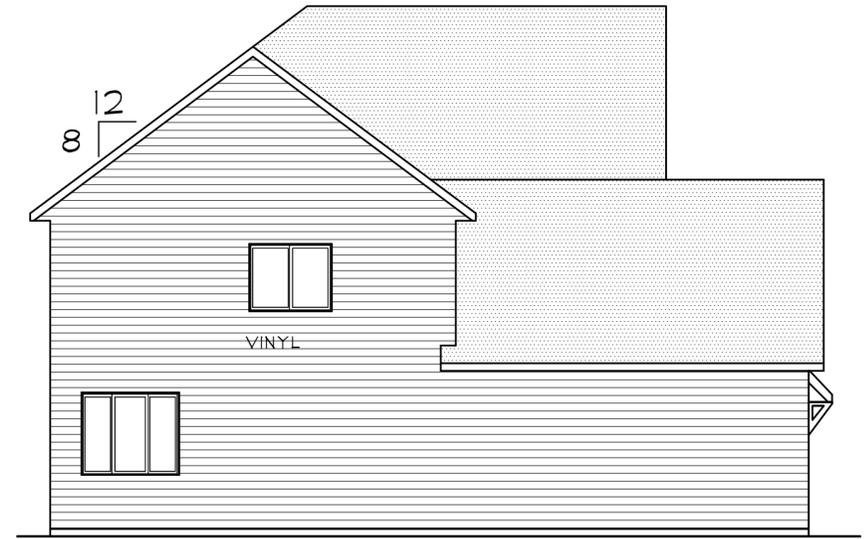
DUE TO THE VARIOUS SITE CONDITIONS OF INDIVIDUAL LOTS, THE GRADE LINES REFLECTED BY THIS PRINT ARE FOR ILLUSTRATIVE PURPOSES ONLY. AND DO NOT REFLECT ACTUAL FINISH GRADE OR ELEVATIONS.



REAR ELEVATION

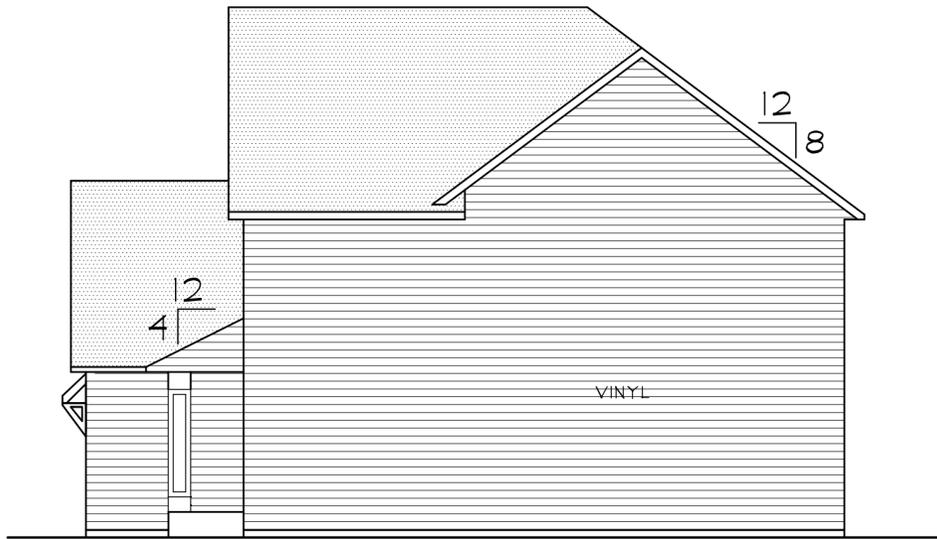
SCALE: 1/8" = 1'-0"

PROVIDE PROPER DRAINAGE AWAY FROM BUILDING.



LEFT ELEVATION

SCALE: 1/8" = 1'-0"



RIGHT ELEVATION

SCALE: 1/8" = 1'-0"

EVERY PERSON PERFORMING WORK FOR WHICH THE CODE IS APPLICABLE SHALL COMPLY WITH THE CODE.

NO OCCUPANCY OR USE ALLOWED UNTIL FINAL INSPECTION AND APPROVAL.

ICE DAM PROTECTION

1 LAYER OF 40# COATED ROOFING OR COATED GLASS G BASE SHEET SHALL BE APPLIED FROM THE EAVES TO A LINE 24" INSIDE THE EXTERIOR WALL LINE WITH ALL LAPS CEMENTED TOGETHER

HOUSE NUMBERS:

THE APPROVED ADDRESS SHALL BE DISPLAYED, PLAINLY VISIBLE & LEGIBLE FROM THE STREET FRONTING THE PROPERTY. 4" HIGH NUMBERS WILL BE USED, SUBJECT TO CITY REQUIREMENTS.

STORM WATER RUN-OFF SHALL BE CHANNLED INTO SWALE, PONDING AREA OR OTHER SUITABLE FACILITY. NO RUN-OFF SHALL BE DIRECTED ONTO ADJACENT PROPERTIES.

PROPERTY LINES MUST BE STAKED IN ORDER TO VERIFY SETBACKS TO LOT LINES-IF NOT STAKED SURVEY MUST BE PROVIDED.

CLEAN STREET DAILY OF ANY MATERIAL TRACKED ONTO IT FROM THIS SITE.

FLASHING NOTE:

ALL OPENINGS TO EXTERIOR MUST BE CAULKED & FLASHED. FLASHING IS REQUIRED WHERE ALL ROOF AND VERTICAL SURFACES MEET, OR WHERE SIDING MATERIAL CHANGES.

ATTIC VENTILATION

PROVIDE ATTIC VENTILATION, NET FREE AREA TO BE EQUAL TO 1/150TH OF ATTIC AREA OR 1/300TH OF ATTIC AREA PROVIDED AT LEAST 50% IS IN UPPER PORTION OF ROOF WITH BALANCE IN SOFFIT

4/12, 8/12, 12/12 ROOF PITCHES AS NOTED

12" RAKE & 18" OVERHANG UNLESS NOTED OTHERWISE



FRONT ELEVATION

SCALE: 1/4" = 1'-0"

MUST POST ADDRESS ON CONSTRUCTION SITE VISIBLE FROM ROAD.

REVISION DETAILS
2-28-23

ALL MEASUREMENTS AND LOCATIONS OF ALL OBJECTS HAVE BEEN PLACED AS ACCURATELY AS POSSIBLE. SOME ADJUSTMENTS MAY BE NECESSARY IN THE ACTUAL CONSTRUCTION DUE TO STRUCTURAL FRAMING AND OTHER FIELD CONSIDERATIONS.

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RESIDENCE FOR:

BRANNA & JOHN FREDERICK
13 HARRISON AVE SOUTH
HOPKINS, MN 55343
LOT BLOCK DEVELOPMENT

PROJECT TITLE

PINEWOOD

PRICE CUSTOM HOMES

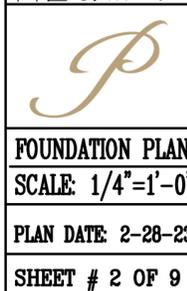
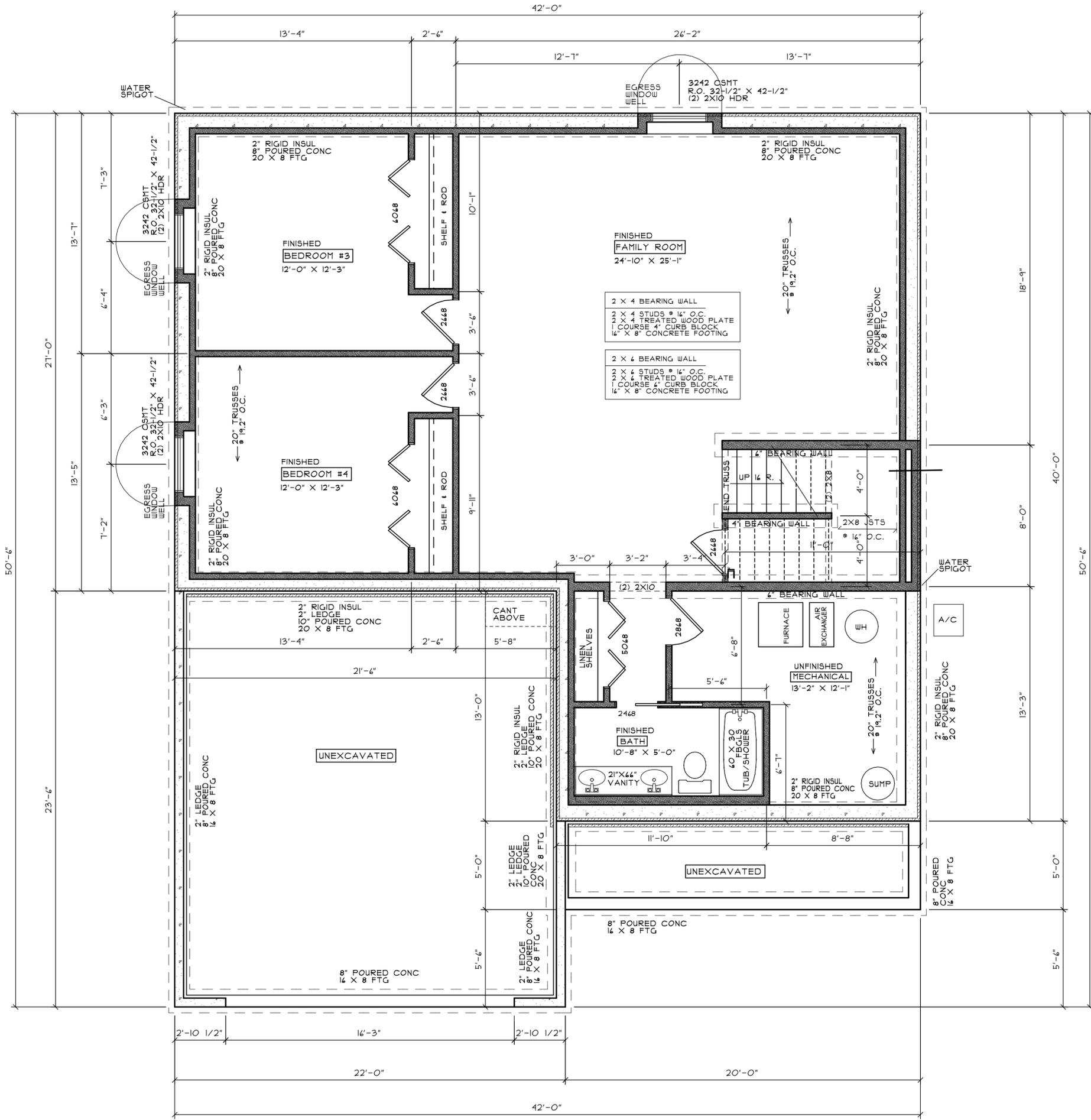
1110 INDUSTRIAL CIRCLE NW
SUITE E
ELK RIVER, MN 55330
763-276-7197 OFFICE



ELEVATIONS
SCALE AS SHOWN

PLAN DATE: 2-28-23

SHEET # 1 OF 9



PRICE CUSTOM HOMES
 1110 INDUSTRIAL CIRCLE NW
 SUITE E
 ELK RIVER, MN 55330
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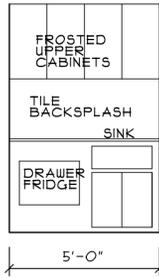
PROJECT TITLE
 PINEWOOD

RESIDENCE FOR:
 BRIANNA & JOHN FREDERICK
 13 HARRISON AVE SOUTH
 HOPKINS, MN 55343
 LOT BLOCK
 DEVELOPMENT

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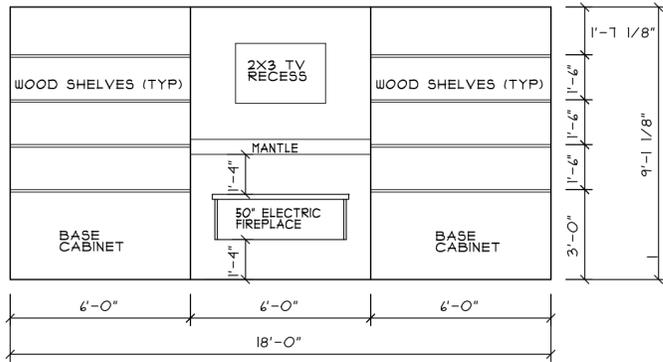
REVISIONS AND
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REVISION DETAILS
 2-28-23

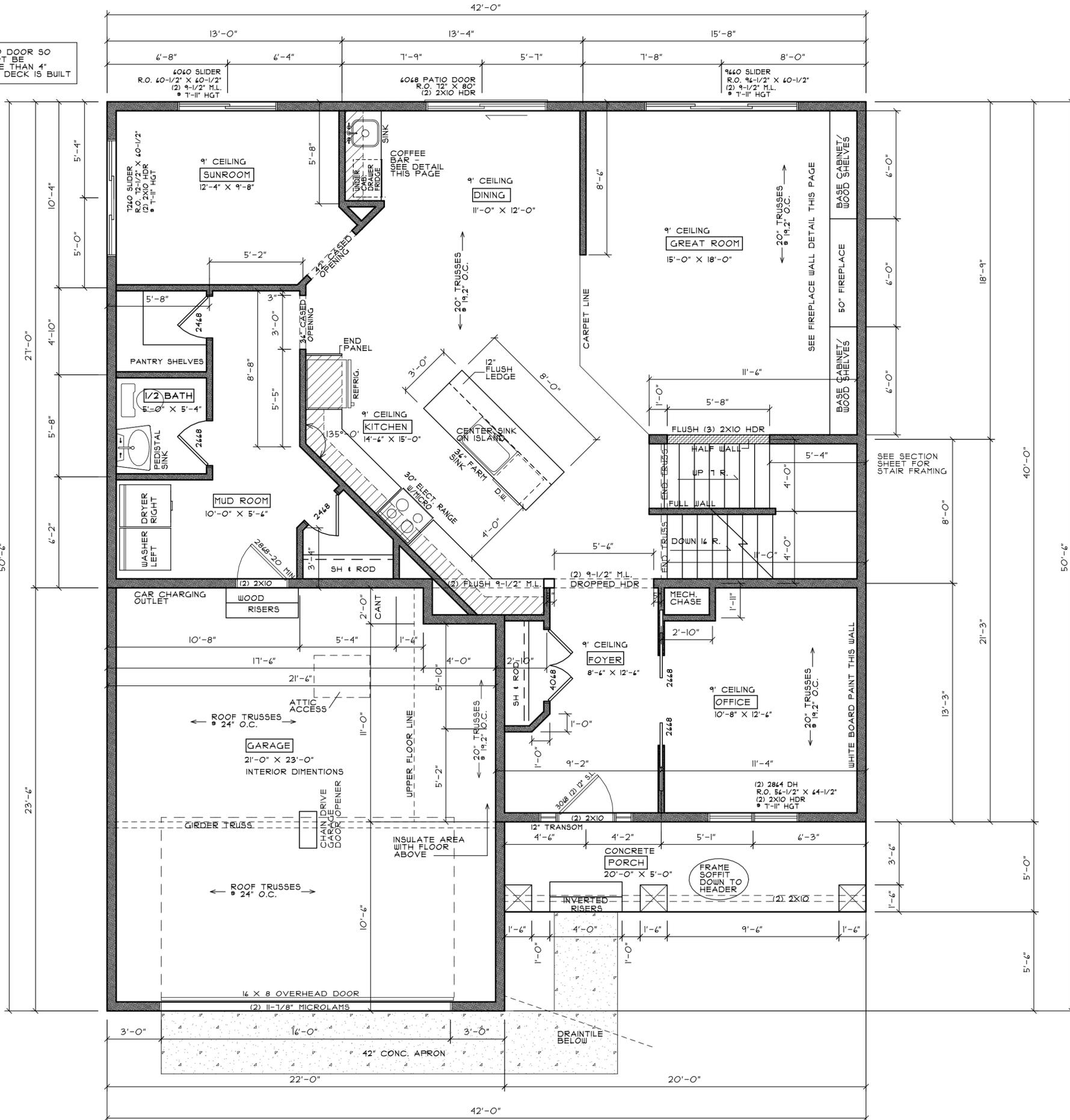


COFFEE BAR
SCALE: 1/4" = 1'-0"

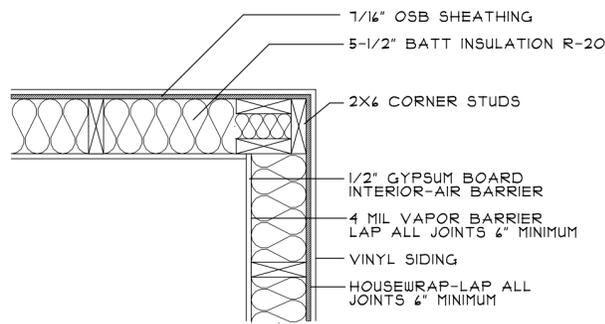
BLOCK PATIO DOOR SO
DOOR CANNOT BE
OPENED MORE THAN 4"
UNTIL FUTURE DECK IS BUILT



FIREPLACE WALL
SCALE: 1/4" = 1'-0"

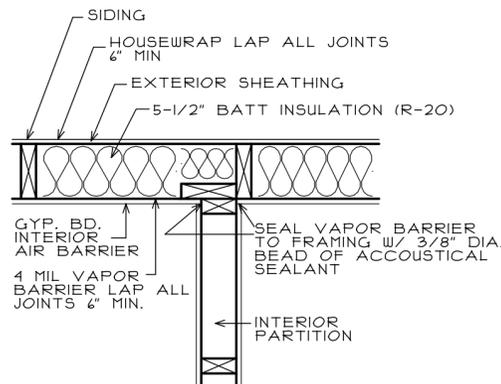


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<p>MAIN FLOOR PLAN SCALE: 1/4" = 1'-0" PLAN DATE: 2-28-23 SHEET # 3 OF 9</p>				



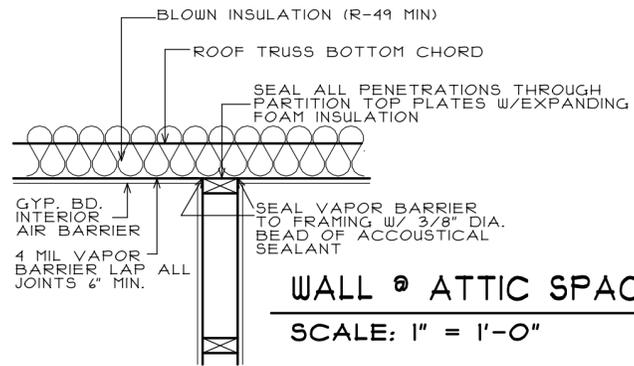
OUTSIDE CORNER DETAIL

SCALE: 1" = 1'-0"



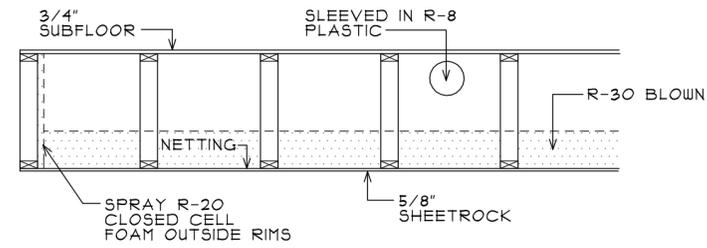
WALL INTERSECTION DETAIL

SCALE: 1" = 1'-0"



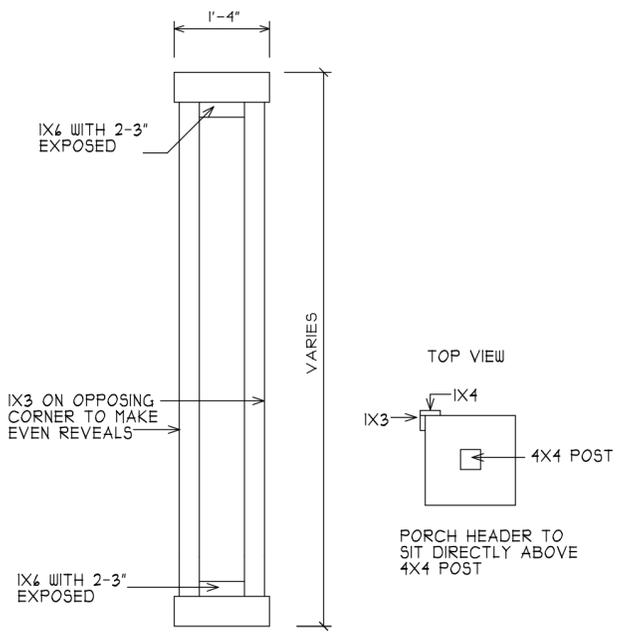
WALL @ ATTIC SPACE

SCALE: 1" = 1'-0"



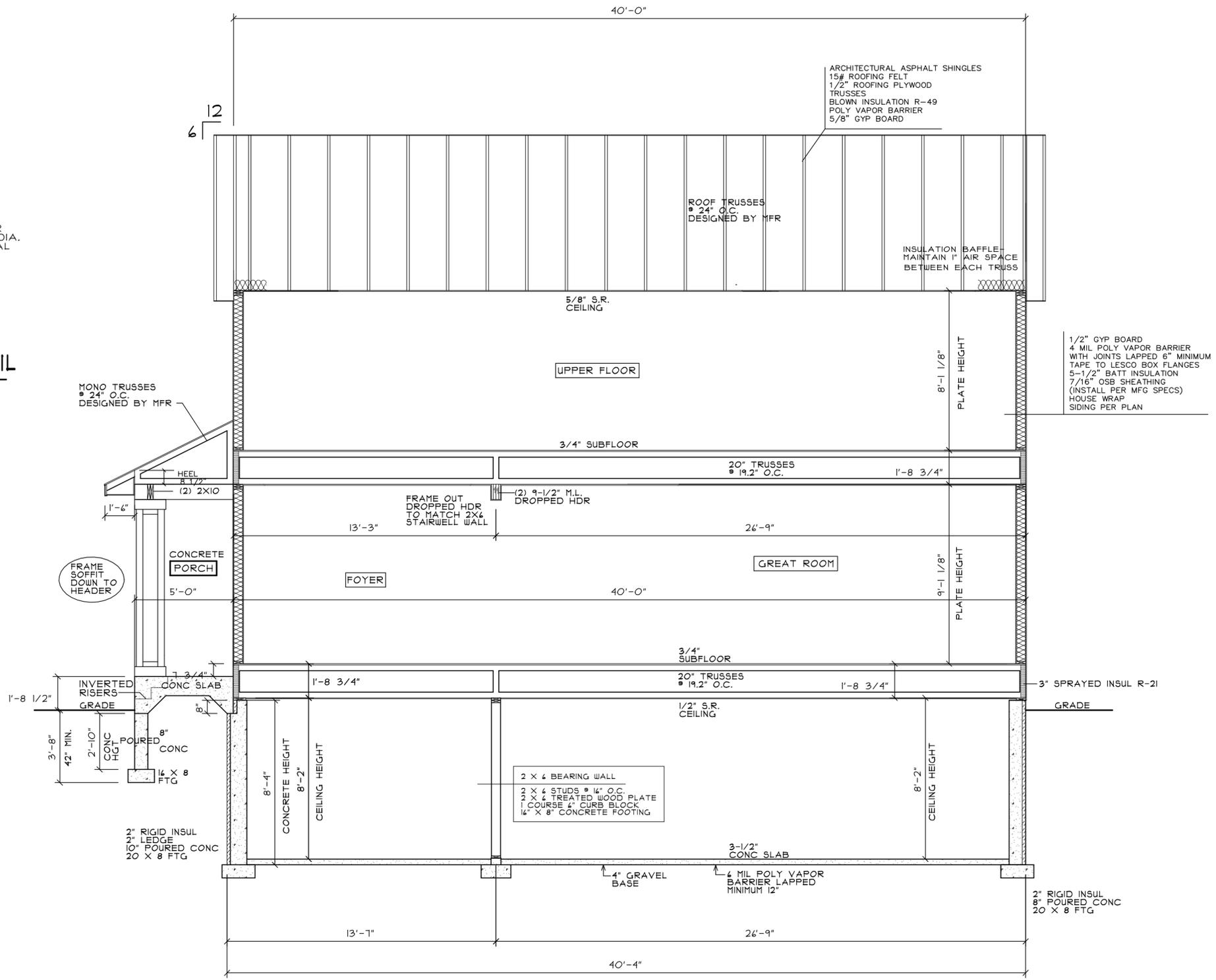
ROOM ABOVE GARAGE INSULATION DETAIL

SCALE: 1/2" = 1'-0"



16" X 16" LP COLUMN

SCALE: 1/2" = 1'-0"



SECTION THROUGH FOYER

SCALE: 1/4" = 1'-0"

NOTE: FIRE BLOCKING VERTICALLY AT CEILINGS AND FLOORS, HORIZONTALLY AT INTERVALS NOT EXCEEDING 10 FEET. CONCEALED SPACES AT SOFFITS, DROP CEILINGS AND BETWEEN STAIR STRINGERS.

REVISION DETAILS
2-28-23

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RESIDENCE FOR:
BRIANNA & JOHN FREDERICK
13 HARRISON AVE SOUTH
HOPKINS, MN 55343
LOT BLOCK DEVELOPMENT

PROJECT TITLE
PINEWOOD

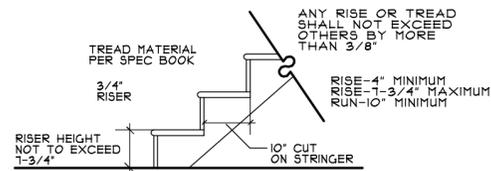
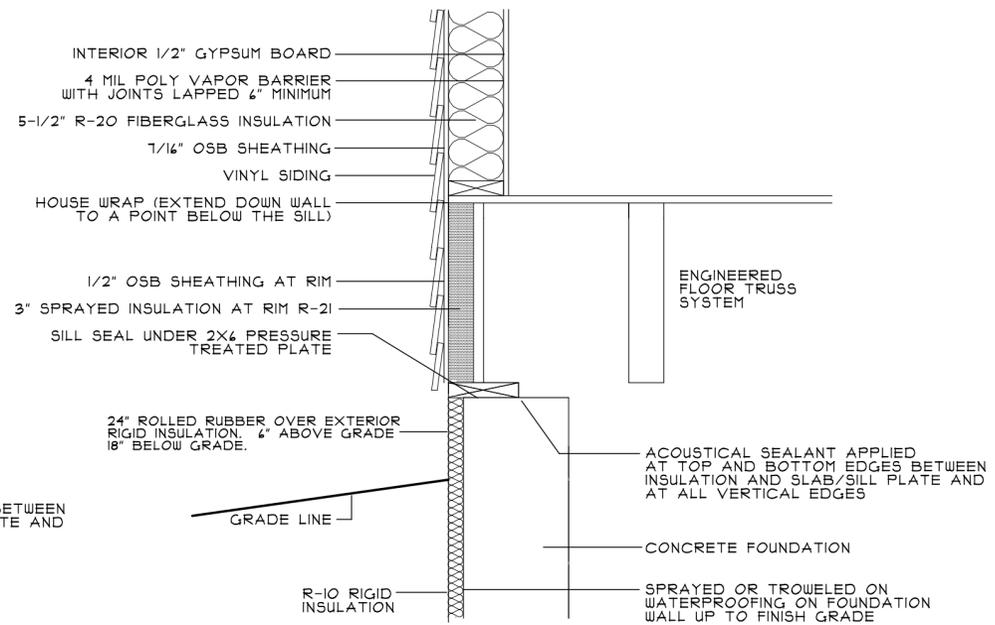
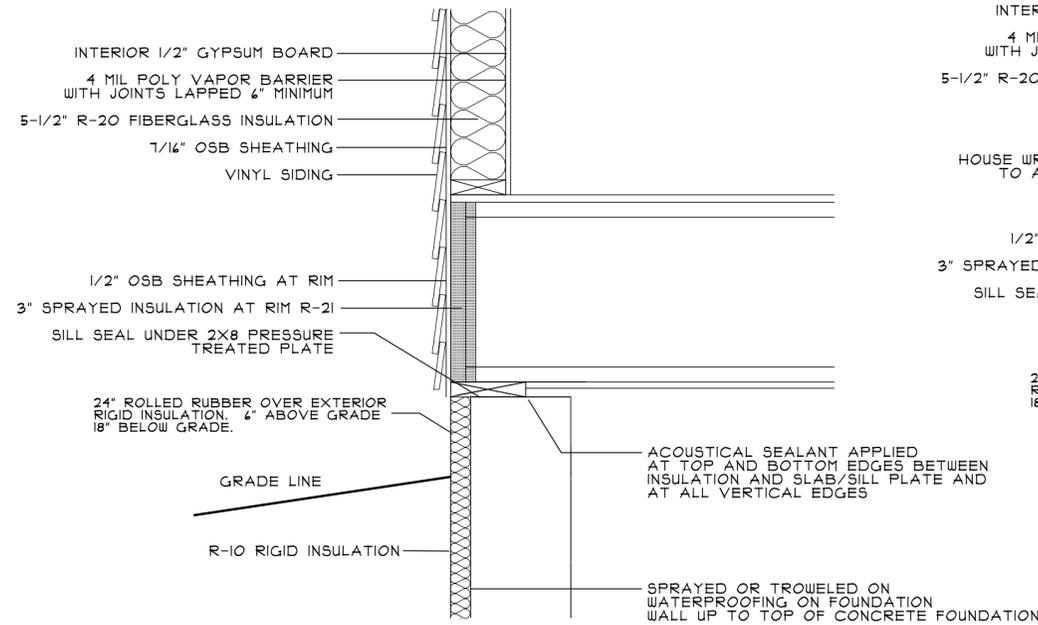
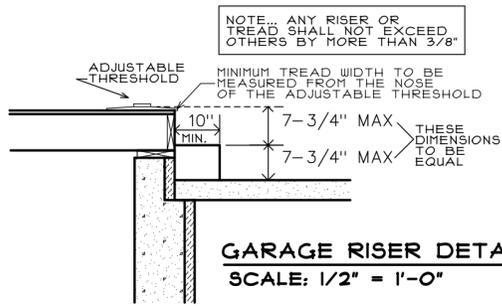
PRICE CUSTOM HOMES
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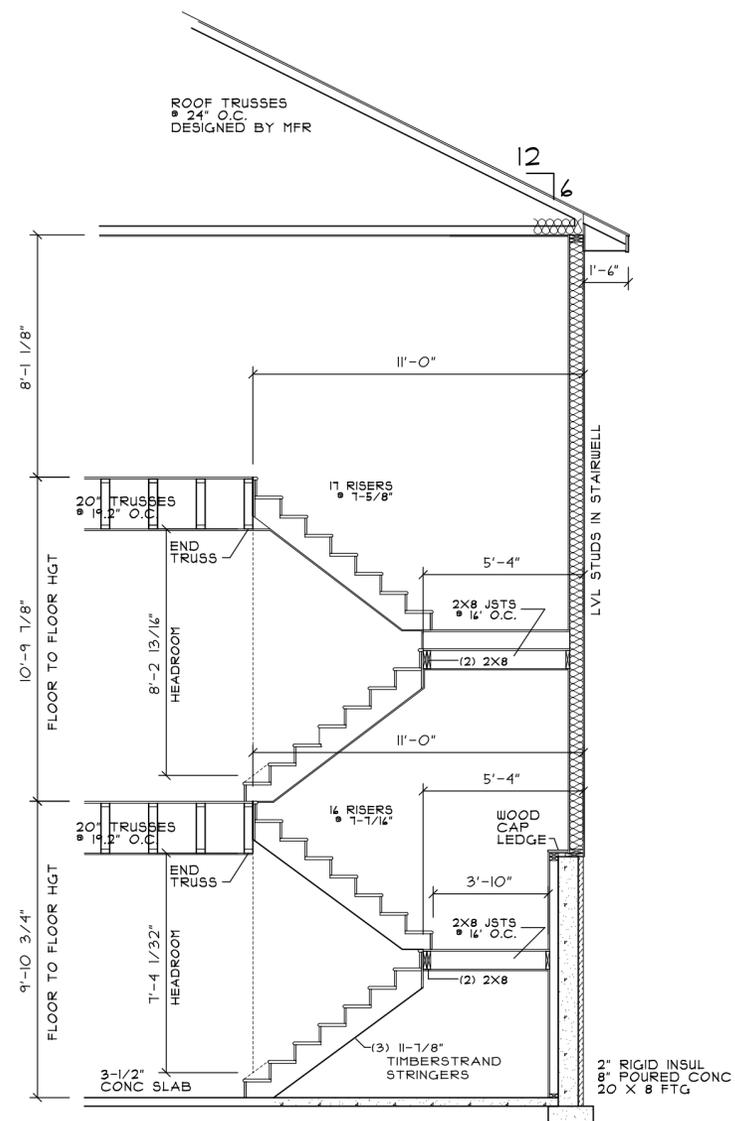
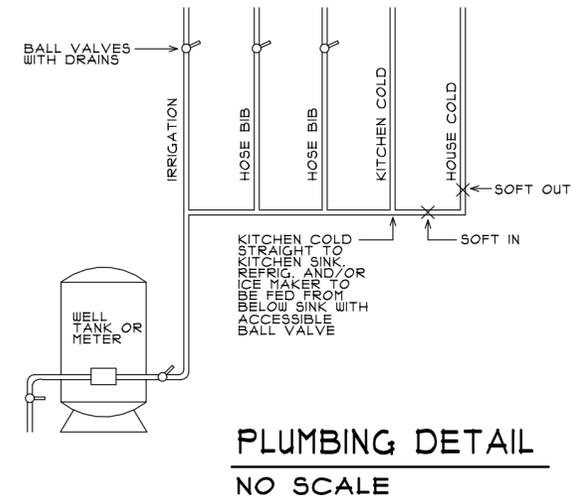
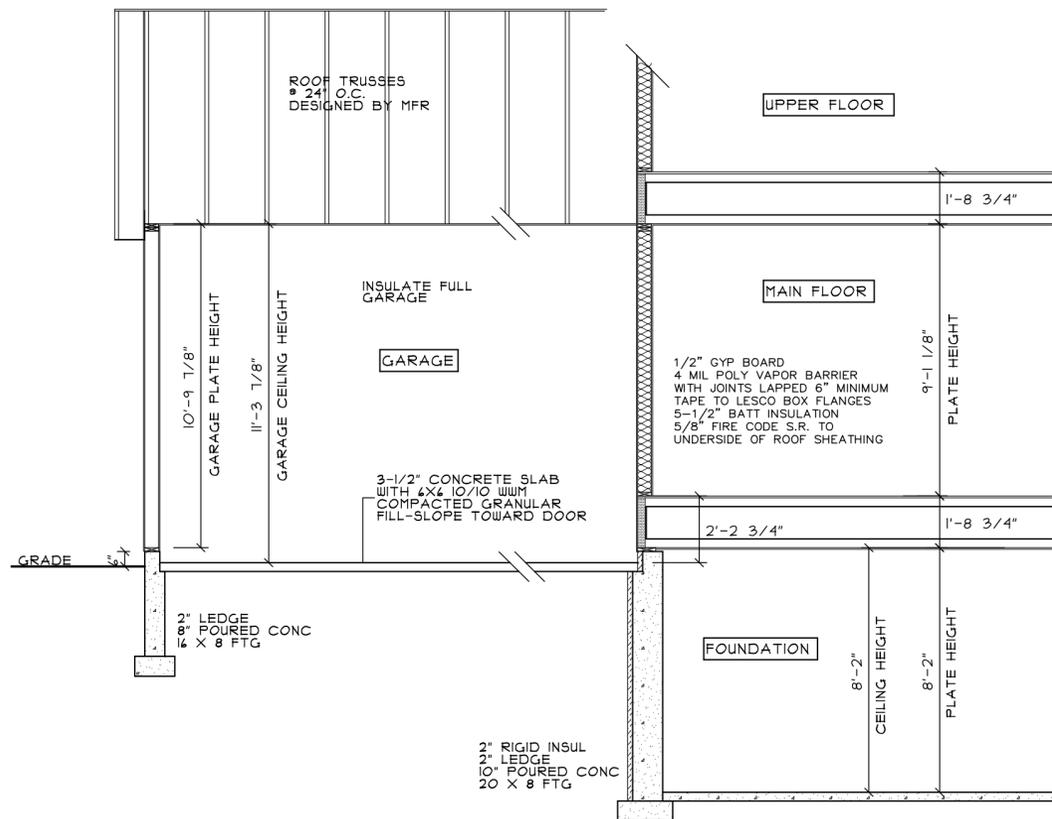
SECTIONS/DETAILS
SCALE AS SHOWN

PLAN DATE: 2-28-23

SHEET # 5 OF 9

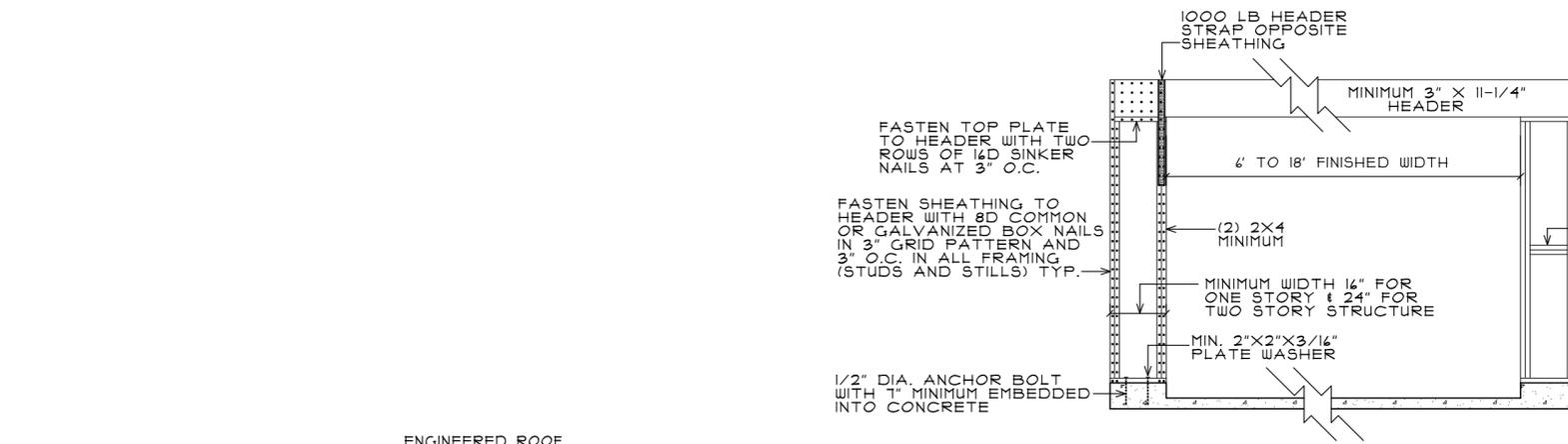


RIM AT FOUNDATION DETAIL
SCALE: 1" = 1'-0"



5/8" TYPE "X" GYP/BD REQUIRED ON INSIDE OF ANY ENCLOSED SPACE UNDER STAIRS.

REVISION DETAILS	2-28-23
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RESIDENCE FOR:	BRIANNA & JOHN FREDERICK 13 HARRISON AVE SOUTH HOPKINS, MN 55343 LOT BLOCK DEVELOPMENT
PROJECT TITLE	PINEWOOD
PRICE CUSTOM HOMES	1110 INDUSTRIAL CIRCLE NW SUITE E ELK RIVER, MN 55330 763-276-7197 OFFICE
SECTIONS/DETAILS	SCALE AS SHOWN
PLAN DATE:	2-128-23
SHEET #	6 OF 9



BRACED WALL PANEL AT GARAGE DOORS

NO SCALE

IF PANEL SPLICE IS NEEDED IT SHALL OCCUR WITHIN 24" OF MID-HEIGHT. BLOCKING IS REQUIRED. IF 2X4 BLOCKING IS USED IT MUST BE NAILED TOGETHER WITH (3) 16D SINKERS.

HEADERS GO PAST CRIPPLE STUDS TO OUTSIDE CORNERS

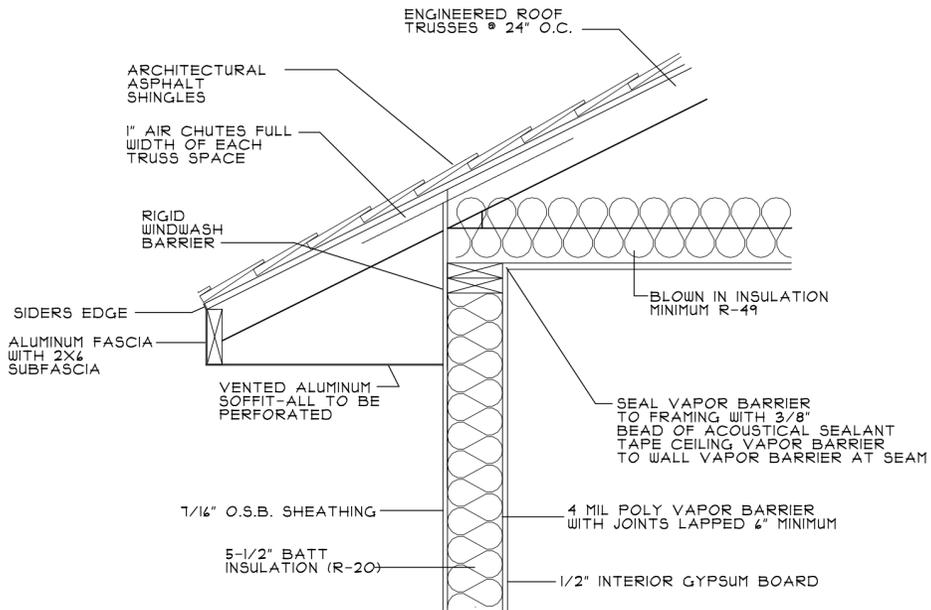
SHEATHING MUST BE CONTINUOUS VERTICAL AND HORIZONTAL FOR ENTIRE LENGTH AND WITH OF SHEET

IF VERTICAL SPLICE MUST BE MADE IT SHALL BE AT MID-HEIGHT ON DOUBLE BLOCKS PER DRAWING

ANCHOR BOLTS OR STRAPS MUST PENETRATE MINIMUM 2 BLOCK HEIGHTS OR BE IN SOLID FILLED CORES CONTAINING #4 REBRODS EXTENDING TWO BLOCKS AND VISIBLE AT FOUNDATION INSPECTION

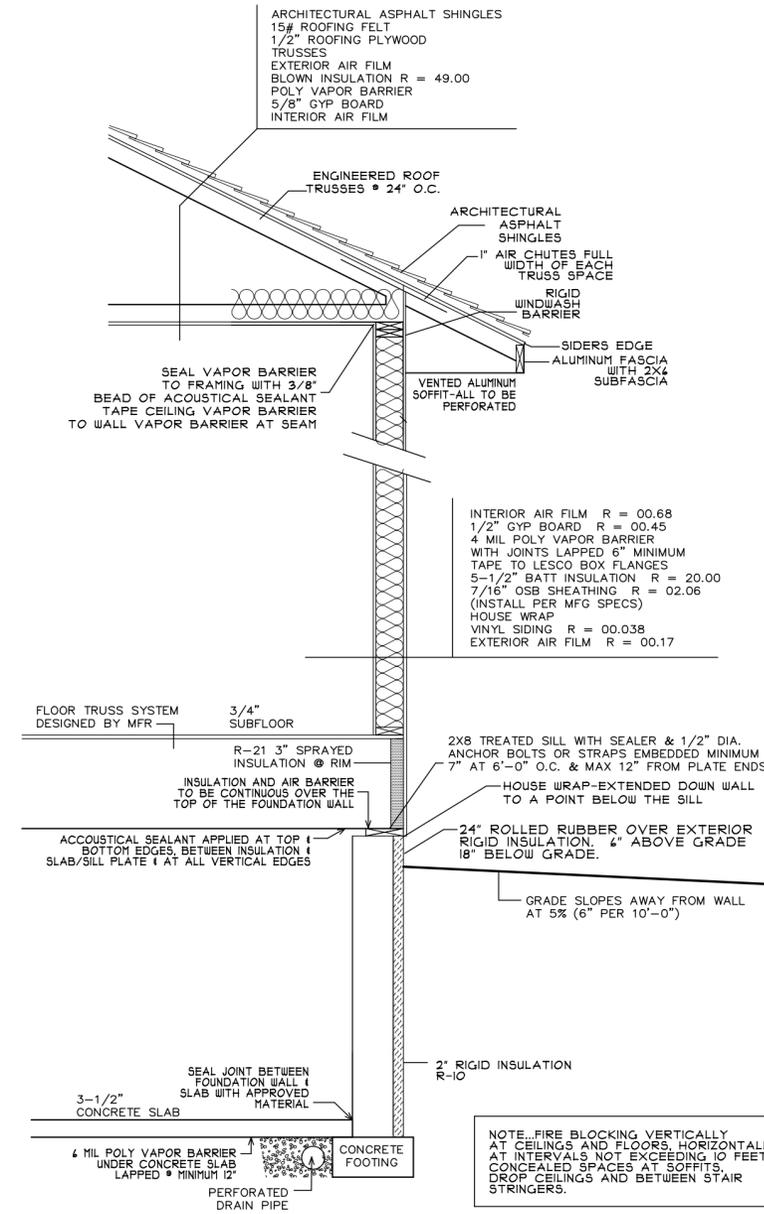
SHEATH ONE SIDE 3/4" OR TWO SIDES 1/2" STRUCTURAL WOOD SHEATHING

DEPENDING UPON WIDTH OF WALL, ADDITIONAL CEILING BRACING MAY BE NEEDED



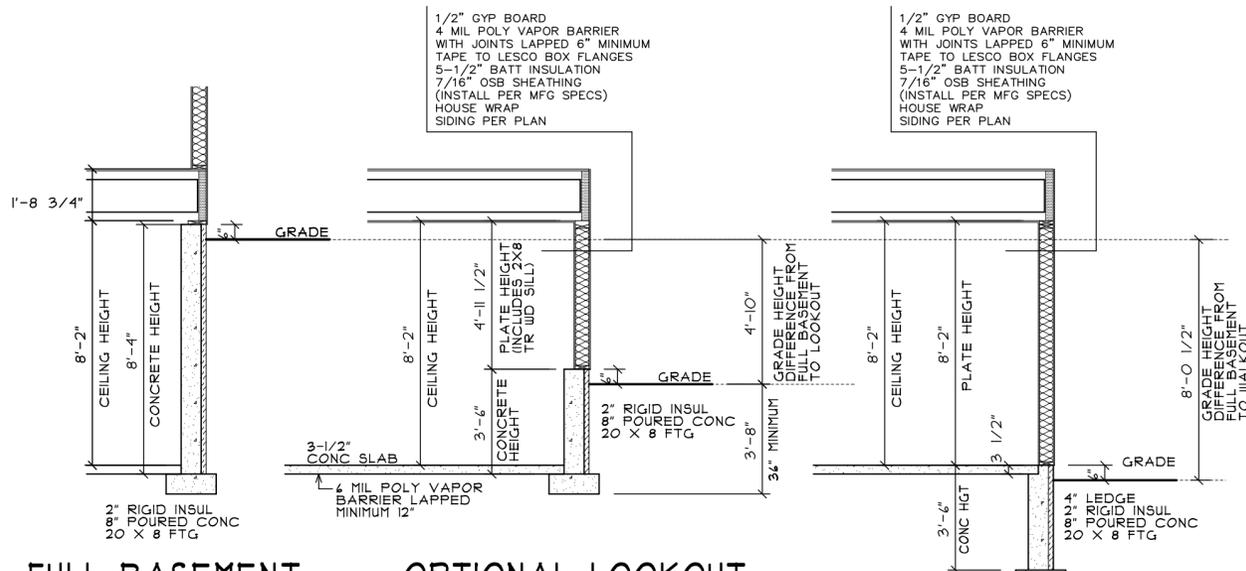
TRUSS DETAIL

SCALE: 1" = 1'-0"



TYPICAL WALL SECTION

NO SCALE



FULL BASEMENT

SCALE: 1/4" = 1'-0"

OPTIONAL LOOKOUT

SCALE: 1/4" = 1'-0"

OPTIONAL WALKOUT

SCALE: 1/4" = 1'-0"

REVISION DETAILS
2-28-23

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RESIDENCE FOR:

BRIANNA & JOHN FREDERICK
13 HARRISON AVE SOUTH
HOPKINS, MN 55343
LOT BLOCK DEVELOPMENT

PROJECT TITLE

PINEWOOD

PRICE CUSTOM HOMES

1100 INDUSTRIAL CIRCLE NW
SUITE E
ELK RIVER, MN 55330
763-276-7197 OFFICE



SECTIONS/DETAILS

SCALE AS SHOWN

PLAN DATE: 2-128-23

SHEET # 7 OF 9

RADON MITIGATION SYSTEM

I. SUBFLOOR PREPARATION

CLAY JOBS

ALL INTERIOR BASEMENT FLOOR SPACE TO BE BACKFILLED WITH AGGREGATE APPROXIMATELY 8" DEEP. THE AGGREGATE SHALL CONSIST OF MATERIAL THAT WILL PASS THROUGH A 2 INCH SIEVE AND BE RETAINED BY A 1/4 INCH SIEVE.

SAND SUPPLIED BY EXCAVATOR
SAND INSTALLED BY EXCAVATOR
RADON SEALED SUMP BASKET AND COVER/DRAINTILE INSTALLED BY EXCAVATOR

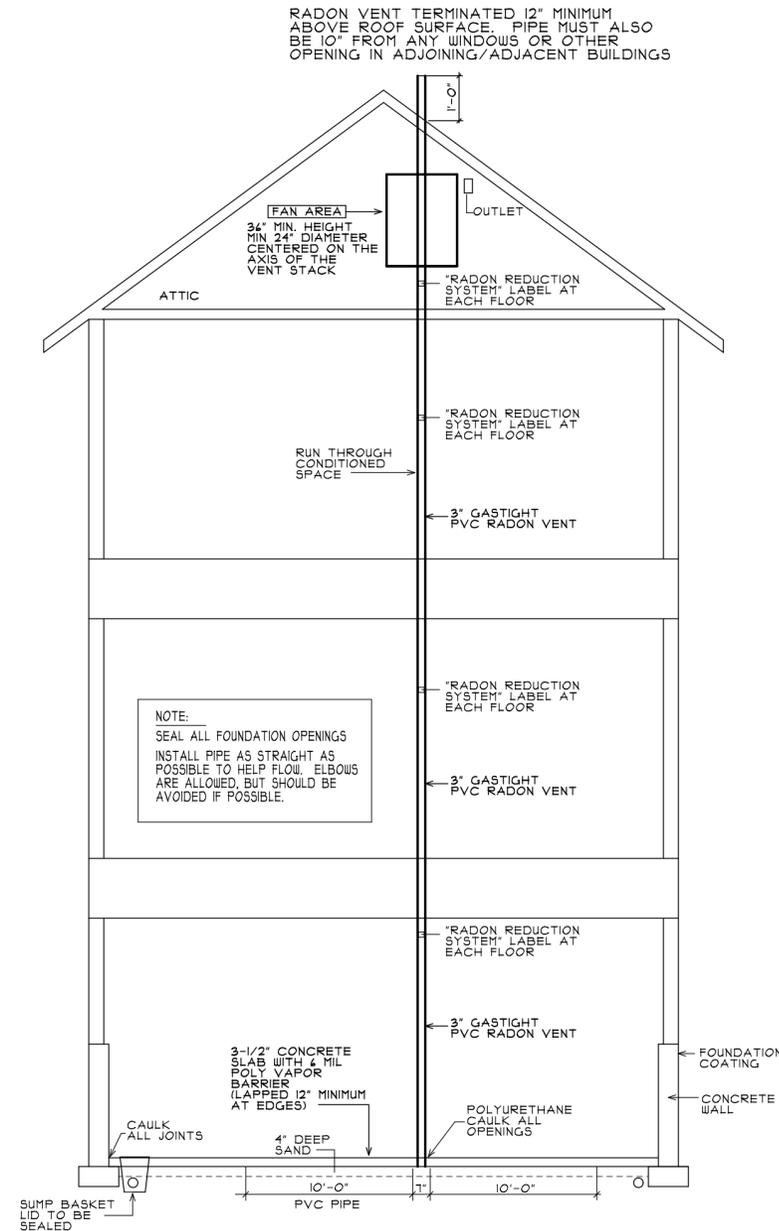
RADON MITIGATION-ALTERNATIVE PASSIVE SYSTEM

SAND JOBS

A FOUNDATION DRAIN PIPE SYSTEM INSTALLED UNDER CONCRETE FLOOR SLAB AREAS, CONSISTING OF A CONTINUOUS LOOP OF MINIMUM 4" PERFORATED PIPE SHALL BE LAID IN THE SUB-GRADE WITH THE TOP OF THE PIPE LOCATED APPROXIMATELY 1 INCH BELOW THE CONCRETE SLAB. THE LOOP OF PERFORATED PIPE MUST BE BURIED 4 INCHES DEEP IN A GAS-PERMEABLE LAYER OF CLEAN SAND FILL.

SAND SUPPLIED BY WATERPROOFING CONTRACTOR
SAND INSTALLED BY WATERPROOFING CONTRACTOR
RADON SEALED SUMP BASKET AND COVER/DRAINTILE SUPPLIED BY WATERPROOFING CONTRACTOR
RADON SEALED SUMP BASKET AND COVER/DRAINTILE INSTALLED BY WATERPROOFING CONTRACTOR

2. SOIL GAS RETARDER (6 MIL POLY) THE SOIL IN BASEMENT FLOOR AREAS SHALL BE COVERED WITH A CONTINUOUS LAYER OF MINIMUM 6 MIL POLYETHYLENE SOIL-GAS-RETARDER. THE GROUND COVER SHALL BE LAPPED A MINIMUM OF 12 INCHES AT JOINTS AND SHALL EXTEND TO ALL FOUNDATION WALLS ENCLOSING THE CRAWL SPACE AREA.
6 MIL POLY SUPPLIED AND INSTALLED BY CONCRETE SUBCONTRACTOR.
3. FLOOR OPENINGS-OPENINGS AROUND BATHTUBS, SHOWERS, WATER CLOSETS, PIPES, WIRES, OR OTHER OBJECTS THAT PENETRADE CONCRETE SLABS OR OTHER FLOOR ASSEMBLIES SHALL BE FILLED WITH A POLYURETHANE CAULK.
4. CONCRETE JOINTS-ALL CONCRETE JOINTS, ISOLATION JOINTS, CONSTRUCTION JOINTS, AND ANY OTHER JOINTS IN CONCRETE SLABS OR BETWEEN SLABS AND FOUNDATION WALLS SHALL BE SEALED WITH A CAULK OR SEALANT. GAPS OR JOINTS SHALL BE CLEARED OF LOOSE MATERIAL AND FILLED WITH POLYURETHANE CAULK.
5. CONDENSATION DRAINS-SHALL BE TRAPPED OR ROUTED THROUGH NON-PERFORATED PIPE TO DAYLIGHT.
6. SUMPS-SUMP PITS SERVING AS THE TERMINATION POINT FOR SUB-SLAB OR INTERIOR DRAIN TILE LOOPS SHALL BE COVERED WITH A GASKETED OR OTHERWISE SEALED LID. SUMPS USED AS THE SUCTION POINT IN A SUB-SLAB DEPRESSURIZATION SYSTEM SHALL HAVE A LID DESIGNED TO ACCOMMODATE THE VENT PIPE. SUMPS USED AS A FLOOR DRAIN SHALL HAVE A LID EQUIPPED WITH A TRAPPED INLET.
7. VENT PIPE-A PLUMBING TEE CONNECTION SHALL BE INSERTED HORIZONTALLY BENEATH THE POLY WITH ONE 10 FOOT SECTION OF A PERFORATED PIPE CONNECTED TO EACH SIDE OF THE "T" FITTING AND THEN CONNECTED TO A 3 OR 4 INCH DIAMETER FITTING WITH A VERTICAL VENT PIPE INSTALLED THROUGH THE SHEETING. THE VENT PIPE SHALL BE OF SOLID PIPING MATERIAL AND SHALL BE EXTENDED UP THROUGH THE BUILDING FLOORS, TERMINATED AT LEAST 10 FEET AWAY FROM ANY WINDOW OR OTHER OPENING INTO THE CONDITIONED SPACES OF THE BUILDING THAT IS LESS THAN 2 FEET BELOW THE EXHAUST POINT, AND 10 FEET FROM ANY WINDOW OR OTHER OPENING.
8. VENT PIPE DRAINAGE-ALL COMPONENTS OF THE RADON VENT PIPE SYSTEM SHALL BE INSTALLED TO PROVIDE POSITIVE DRAINAGE TO THE GROUND BENEATH THE SLAB OR POLY.
9. VENT PIPE ACCESSIBILITY-RADON VENT PIPES SHALL PROVIDE ENOUGH SPACE AROUND THE PIPE FOR FUTURE INSTALLATION OF A FAN SYSTEM. THE SPACE PROVIDED FOR INSTALLATION OF A FUTURE FAN SHALL BE A MINIMUM OF 24 INCHES IN DIAMETER, CENTERED ON THE AXIS OF THE VENT STACK, AND SHALL EXTEND FOR A MINIMUM VERTICAL DISTANCE OF 3 FEET.
10. VENT PIPE IDENTIFICATION-ALL RADON VENT PIPES SHALL BE IDENTIFIED WITH AT LEAST ONE LABEL ON EACH FLOOR AND IN ACCESSIBLE ATTICS. THE LABEL SHALL READ: "RADON REDUCTION SYSTEM".
11. POWER SOURCE-TO PROVIDE FOR FUTURE INSTALLATION OF AN ACTIVE SUB-MEMBRANE, AN ELECTRICAL CIRCUIT TERMINATED IN AN APPROVED BOX SHALL BE INSTALLED DURING CONSTRUCTION IN THE ATTIC LOCATION OF VENT PIPE FANS.



PASSIVE RADON SYSTEM

ALL MEASUREMENTS AND LOCATIONS OF ALL OBJECTS HAVE BEEN PLACED AS ACCURATELY AS POSSIBLE. SOME ADJUSTMENTS MAY BE NECESSARY IN THE ACTUAL CONSTRUCTION DUE TO STRUCTURAL FRAMING AND OTHER FIELD CONSIDERATIONS.

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RESIDENCE FOR:
BRIANNA & JOHN FREDERICK
13 HARRISON AVE SOUTH
HOPKINS, MN 55343
LOT BLOCK DEVELOPMENT

PROJECT TITLE
PINEWOOD

PRICE CUSTOM HOMES
1110 INDUSTRIAL CIRCLE NW
SUITE E
ELK RIVER, MN 55330
763-276-7197 OFFICE



**RADON MITIGATION
NO SCALE**

PLAN DATE: 2-28-23

SHEET # 8 OF 9

GENERAL PLAN NOTES

ALL INTERIOR WALLS 3-1/2" UNLESS NOTED OTHERWISE. ALL INTERIOR PLUMBING WALLS 5-1/2" UNLESS NOTED OTHERWISE. ALL ANGLED WALLS ARE 45 DEGREES UNLESS NOTED OTHERWISE.

TOWEL BARS MOUNTED AT 54" AND TOILET PAPER HOLDERS MOUNTED AT 24"

SAFETY GLAZING GLASS TO BE USED ON ALL GLASS IN TUB AND SHOWER AREA.

ATTIC ACCESS REQUIRED MINIMUM 22" X 30" IN AN ACCESSIBLE LOCATION.

SMOKE DETECTORS INTERCONNECTED, HARD WIRED, WITH BATTERY BACKUP EACH LEVEL AND EACH BEDROOM.

SUMP BASKET COVER TO BE SECURED.

GARAGE/HOUSE SEPARATION WALL TO BE ONE HOUR FIRE RESISTIVE CONSTRUCTION ON GARAGE SIDE OF WALL WITH JOINTS TAPED.

LEGIBLE SET OF MANUFACTURERS ENGINEERED TRUSS DETAILS TO BE POSTED ON JOB SITE.

BUILDING NOT TO BE OCCUPIED UNTIL CERTIFICATE OF OCCUPANCY HAS BEEN ISSUED.

CONTINUOUS AIR BARRIER TO BE PROVIDED AT ALL ELECTRICAL, MECHANICAL, AND PLUMBING PENETRATIONS.

5/8" TYPE "X" GYP/BD REQUIRED ON INSIDE OF ANY ENCLOSED SPACE UNDER STAIRS.

EVERY PERSON PERFORMING WORK FOR WHICH THE CODE IS APPLICABLE SHALL COMPLY WITH THE CODE.

CARBON MONOXIDE DETECTORS ARE REQUIRED WITHIN 10 FEET OF EACH ROOM LAWFULLY USED FOR SLEEPING PURPOSES.

EXHAUST FANS MUST BE VENTED TO OUTSIDE AIR.

INSULATE DUCT IN UNHEATED AREAS.

STAIR & RAILING NOTES

EVERY STAIRWAY SHALL HAVE A HEADROOM CLEARANCE OF NOT LESS THAN 6'-8".

CARPENTER TO PROVIDE BLOCKING FOR NEWEL POSTS.

TOP OF HANDRAILS TO BE MOUNTED AT 34" ABOVE FRONT EDGE OF TREAD NOSING-CONTINUOUS FULL LENGTH OF STAIRS. TURN ENDS INTO NEWEL POST OR WALL.

RAILINGS ARE AT MINIMUM 36" HEIGHT WITH MAXIMUM LESS THAN 4" BETWEEN INTERMEDIATE RAILS.

STAIRS 4" MINIMUM RISE AND 1-3/4" MAXIMUM RISE. STAIR TREADS MINIMUM 10" RUN ON ALL STAIRS. ANY RISER OR TREAD SHALL NOT EXCEED OTHERS BY 3/8".

EXTERIOR STAIR SHALL BE PROVIDED WITH AN ARTIFICIAL LIGHT SOURCE IN THE IMMEDIATE VICINITY OF THE TOP LANDING OF THE STAIRWAY.

WINDOW & DOOR NOTES

EGRESS...ONE WINDOW IN LOWER LEVEL AND ONE WINDOW IN EACH BEDROOM MUST HAVE 5.7 SQ. FT. OF NET OPENABLE AREA WITH A MINIMUM OF 20" IN WIDTH AND 24" IN HEIGHT. MAXIMUM SILL HEIGHT ABOVE FLOOR IS 44".

BLOCK ALL EXTERIOR PATIO DOORS WITH NO DECK ATTACHED SO DOOR CANNOT BE OPENED MORE THAN 4".

GARAGE/HOUSE SEPARATION DOOR TO BE 20 MINUTE FIRE RATED, LATCHING & GASKETED.

ALL VEHICLE ACCESS DOORS MUST BE RATED TO WITHSTAND 90 MPH WIND LOADS. APPROVED ASSEMBLIES MUST BE MARKED OR LABELED AS COMPLIANT WITH ANSI/D5MA108.

DOUBLE STUD EACH SIDE OF DOOR OPENING FOR TRIM

FOUNDATION NOTES

FOUNDATION ANCHORAGE
PROVIDE MINIMUM 1/2" BOLTS WITH AT LEAST 2 PER PIECE AND PLACED BETWEEN 3-1/2" TO 12" FROM ENDS OF EACH BOARD. SPACED A MAXIMUM OF 4" O.C. BOLTS SHALL HAVE MINIMUM 1" EMBEDMENT IN CONCRETE AND BE CAPPED WITH NUTS AND WASHERS. LATERALLY SUPPORTED FOUNDATION WALL REQUIREMENT-2" WASHER, .125" THICK, AND COUNTER SUNK .25"

FOUNDATION WATERPROOFING MEMBRANE.
CONCRETE AND MASONRY FOUNDATION WALLS THAT RETAIN EARTH AND ENCLOSE INTERIOR SPACES SHALL BE WATERPROOFED WITH AN APPROVED MATERIAL FROM TOP OF FOOTING TO FINISHED GRADE. JOINTS SHALL BE LAPPED AND SEALED.

VAPOR RETARDER REQUIRED BETWEEN CONCRETE FLOOR SLAB AND SUB-GRADE. GARAGE IS EXCLUDED.

APPROVED FOUNDATION DRAINAGE SYSTEM REQUIRED (R405.1)

DRAFTSTOPPING REQUIRED. CONCEALED AREA NOT TO EXCEED 1000 SQ. FT.

ALL WATER FROM FOUNDATION DRAINS OR SUMPS MUST BE PUMPED OR DRAINED DIRECTLY TO THE EXTERIOR THROUGH RIGID PLASTIC OR STEEL PIPING. NO SUMP WATER IS ALLOWED TO BE PUMPED INTO FLOOR DRAINS, SINKS, OR ANY OTHER ACCESS TO SANITARY SEWER.

SUB-SLAB DEPRESSURIZATION SYSTEM REQUIRED (RADON REDUCTION SYSTEM) PER MNRC 1322.2103 SECTION 103.6

PROVIDE CONNECTION LOCATION POINT FOR ELECTRICAL SERVICE TO CONCRETE-ENCASED ELECTRODE. CONCRETE ENCASED ELECTRODE MAY BE REQUIRED.

PROVIDE CLEARANCE TO COMBUSTIBLES PER MECHANICAL CODE FOR ALL VENTS/CHIMNEYS CONVEYING COMBUSTION PRODUCTS.

PROVIDE OUTSIDE COMBUSTION AIR TO FURNACE AREA OR THE RETURN AIR DUCT.

PROVIDE CORE FILL AND VERTICAL REINFORCEMENT A MINIMUM OF SIX FEET ON CENTER PER MN BLDG CODE 1303-1900

PROVIDE 4" WOOD/EARTH SEPARATION

FROST FOOTING MINIMUM 42" DEPTH.

ROUGH OPENING SCHEDULE

ITEM	ROUGH OPENING
ALL WINDOWS-ADD 1/2" TO HEIGHT AND 1/2" TO WIDTH	
6068 PATIO DOOR	12-1/2" X 80-1/2"
8080 PATIO DOOR	96-1/2" X 96-1/2"
2868 EXTERIOR GARAGE DOOR	34-1/2" X 82"
3068 EXTERIOR FRONT DOOR	38-1/2" X 82"
3068 FRONT DOOR WITH 1 S.L.	50-1/2" X 82"
3068 FRONT DOOR WITH 2 S.L.	62-1/2" X 82"
3068 FRONT DOOR 1 S.L. & TRANSOM	50-1/2" X 94"
3068 FRONT DOOR 2 S.L. & TRANSOM	62-1/2" X 94"
2068 PREHUNG INTERIOR	81" X 26"
2468 PREHUNG INTERIOR	81" X 30"
2668 PREHUNG INTERIOR	81" X 32"
2868 PREHUNG INTERIOR	81" X 34"
3068 PREHUNG INTERIOR	81" X 38"
2068 BIFOLD	80-1/2" X 25-1/4"
2668 BIFOLD	80-1/2" X 31-1/4"
3068 BIFOLD	80-1/2" X 37-1/4"
4068 BIFOLD	80-1/2" X 49-1/4"
5068 BIFOLD	80-1/2" X 61-1/4"
6068 BIFOLD	80-1/2" X 73-1/4"

DOUBLE STUD EACH SIDE OF DOOR OPENING FOR TRIM

ELEVATION NOTES

1 LAYER OF 40# COATED ROOFING OR COATED GLASS G BASE SHEET SHALL BE APPLIED FROM THE EAVES TO A LINE 24" INSIDE THE EXTERIOR WALL LINE WITH ALL LAPS CEMENTED TOGETHER.

MUST POST ADDRESS ON SITE VISIBLE FROM ROAD.

STORM WATER RUN-OFF SHALL BE CHanneled INTO SWALE, PONDING AREA OR OTHER SUITABLE FACILITY. NO RUN-OFF SHALL BE DIRECTED ONTO ADJACENT PROPERTIES.

CLEAN STREET DAILY OF ANY MATERIAL TRACKED ONTO IT FROM THIS SITE.

DUE TO VARIOUS SITE CONDITIONS OF INDIVIDUAL LOTS, THE GRADE LINES REFLECTED BY THIS PRINT ARE FOR ILLUSTRATIVE PURPOSES ONLY. EVERY EFFORT HAS BEEN MADE TO REFLECT ACTUAL GRADES, AND THESE GRADES MUST BE VERIFIED BY SURVEY & ACTUAL SITE.

PROVIDE ATTIC VENTILATION, NET FREE AREA TO BE EQUAL TO 1/150TH OF ATTIC AREA OR 1/300TH OF ATTIC AREA PROVIDED AT LEAST 50% IS IN UPPER PORTION OF ROOF WITH BALANCE IN SOFFIT.

ALL OPENINGS TO EXTERIOR MUST BE CAULKED & FLASHED. FLASHING IS REQUIRED WHERE ROOF AND VERTICAL SURFACES MEET OR WHERE SIDING MATERIAL CHANGES.

PROVIDE PROPER DRAINAGE AWAY FROM BUILDING.

FRAMING NOTES

ALL HEADERS AND POSTS DESIGNED AND SIZED BY SUPPLIER

ALL HEADERS TO BE (2) 2X10'S UNLESS NOTED OTHERWISE

ALL DIMENSION LUMBER HEADERS TO HAVE MINIMUM ONE TRIMMER AT EACH END UP TO 5'-0" SPAN. HEADERS GREATER THAN 5'-0" TO HAVE MINIMUM TWO TRIMMERS AT EACH END UNLESS OTHERWISE NOTED.

ALL CONNECTIONS TO BE MADE WITH ADEQUATE SIMPSON, USP OR EQUAL JOIST HANGERS, CLIPS, POST CAPS, AND POST BASES. CONNECT MULTI-MEMBER LSL AND LVL'S TOGETHER PER MANUFACTURER REQUIREMENTS.

ALL POINT LOAD STUD SUPPORTS (JACK STUDS) TO BE CARRIED THRU EACH FLOOR TO SOLIDLY BEAR ON THE FOUNDATION. PROVIDE SOLID BLOCKING IN FLOOR SYSTEM BELOW AT ALL POINT LOAD SUPPORTS.

WHERE CERTISTUD APPLIED TO FOUNDATION, HOLD FRAMING OUT FLUSH WITH CERTISTUD.

ALL WOOD IN CONTACT WITH CONCRETE TO BE PRESSURE TREATED.

CAULK ALL EXTERIOR WALL PLATES.

EXTERIOR DECKS, POSTS, ETC. TO BE GREEN TREATED OR EQUIVALENT.

WOOD IN DIRECT CONTACT WITH EARTH OR WITHIN 4" OF GRADE MUST BE TREATED OR DECAY RESISTANT.

PROVIDE BLOCKING FOR ALL UPPER & LOWER CABINETS.

FIRESTOP SOFFITS AT CEILING.

FIRESTOP FLUESPACES AT FLOOR & CEILING.

PROVIDE WINDWASH 18" FROM BOTTOM OF TRUSS CHORD & UP.

TIMBERSTRAND STUDS SHOWER WALLS

TIMBERSTRAND STUDS CABINET WALLS

UPPER & LOWER CABINET BLOCKING BY FRAMER

PLAN REVISIONS

2-15-23 RFI # 0870 (KRIS)

ORIGINAL PLAN ORDER, PINEWOOD 4 W/INITIAL RED LINES

2-28-23 RFI # 0883 (JOE)

ADJUST SHADOW BOARD SIZE ON ELEVATION, SHOULD BE 4"
REMOVE VENT ON ELEVATION
GABLE WINDOW GRID TO MATCH OTHERS, FRAMER TO BLACKOUT
PAINTABLE GARAGE ELEVATION BRACKETS
ADD HOUSE NUMBER
LP COLUMNS, LABEL LP ON 12" BEAM
RE-ARRANGE BASEMENT BATHROOM, 66" VANITY
LARGER LINEN IN CLOSET TO BASEMENT BATH
CHAIN DRIVE GARAGE DOOR OPENER
WOOD RISERS IN GARAGE
UPDATE FIREPLACE WALL DETAIL AS SHOWN
REMOVE POT FILLER LABEL
ELECTRIC RANGE
LARGER CASED OPENING TO SUNROOM
FLIP PATIO DOOR SLIDE
HALF WALLS ON STAIRS WHERE SHOWN
RE-ADD MECH. CHASE TO OFFICE
FLIP MASTER BATH SKIRTED, MOVE DOOR NOTE FROM OTHER BATH TO MASTER BATH
3'-0" DOOR TO FLEX ROOM
3 ROWS WIRE IN LINEN CLOSET
POCKET DOOR FROM MASTER BATH TO CLOSET
ATTIC ACCESS IN LOFT

REMOVED PRELIMINARY STAMP

ALL MEASUREMENTS AND LOCATIONS OF ALL OBJECTS HAVE BEEN PLACED AS ACCURATELY AS POSSIBLE. SOME ADJUSTMENTS MAY BE NECESSARY IN THE ACTUAL CONSTRUCTION DUE TO STRUCTURAL FRAMING AND OTHER FIELD CONSIDERATIONS.

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RESIDENCE FOR:

BRIANNA & JOHN FREDERICK
13 HARRISON AVE SOUTH
HOPKINS, MN 55343
LOT BLOCK DEVELOPMENT

PROJECT TITLE

PINEWOOD

PRICE CUSTOM HOMES

1110 INDUSTRIAL CIRCLE NW
SUITE E
ELK RIVER, MN 55330
763-276-1191 OFFICE



NOTES
SCALE AS SHOWN

PLAN DATE: 2-28-23

SHEET # 9 OF 9



To Who it May Concern:

Property Address : 13 Harrison Ave S, Hopkins, MN 55343

Lot 2 Block 1 East Hopkins Add.

The Variance is to be able to have a front load garage same as the neighbors, A new ordinance went into effect during the purchase of the property that the buyers or sellers did not know about. The requirement for a side or rear facing garage was intended for homes with a back alley. This lot does not have a back alley. The plan proposed is similar to the neighbors style.

Thank You,

A handwritten signature in black ink, appearing to read 'A. Price', is written in a cursive style.

Adam Price
Owner

Ryan Krzos

From: Eric Anondson <xeoth@icloud.com>
Sent: Friday, May 19, 2023 11:36 AM
To: Ryan Krzos
Subject: [EXTERNAL] Regarding 13 Harrison

Hello,

My name is Eric Anondson and I live at 53 Jackson Ave. I wanted to share my thoughts about the proposal for 13 Harrison.

One great feature of this neighborhood is that the scale of homes are with front yards as yards, not parking spaces. It has been concerning to me that the east side of Harrison in recent years has added new houses with garage-face homes instead of matching the existing scale of houses with parking and garages in back. This is clearly because new construction has moved away from building detached garages, like the N3-B zone guides for. The east side of Harrison is filled with existing homes, with no alley access, on narrower lots than 13 Harrison. Those majority of houses are just not modern homes with attached garages.

I appreciate that this style of house is the popular standard for house construction built in new developments in green field neighborhoods of the metro area. However, I believe front yards as parking spaces detracts from the pedestrian scale of the N3-B neighborhoods. I believe that the more recent new construction has already done this to the neighborhood as more of these yards are wide driveway car storage (because the garages quickly become storage units) instead of yards of gardens and lawn.

Plus, the short, wide driveway in the front means wider curb cuts, reducing the amount of on-street parking available for the neighborhood's use because you cannot park in front of a driveway. Obviously since there is no alley it means a new house must have a driveway. But requiring the parking to be further from the street allows a narrowed curb cut that doesn't shrink public on-street parking.

To offer an example of a hazard, the wide front yard wide driveway of 15 Harrison has an unfortunate steep slope (likely for stormwater) that has an incline that makes the double-wide front yard driveway good for little but storing vehicles. While kids playing in driveways is common, as a play space the driveway is sloped steep enough to role toys right into the street. Because Excelsior Blvd has a break in the median at Harrison it means there is a high amount of drivers turning off Excelsior Blvd to get through to neighborhoods further south. And because Excelsior was reconstructed like a wide highway drivers are commonly turning to Harrison at excessive speeds with little to slow them down but the turning. Multiplying the number of wide front yard parking, directly next to the high speed corner, will detract from the property, and make future residents feel unsafe to be in their front yard since it will be good for little but storing cars.

I appreciate the front yard parking on sloped driveways is a common choice, but it is also one the N3-B zone guided to avoid. Front yard parking is not one that improves the pedestrian experience of the immediate neighborhood, and it is unfortunate at 15 Harrison couldn't be improved to not have front yard parking with the sloped wide driveway. The risk of that steepened driveway design was a risky choice.

I was pleased the N3-B zoning established this neighborhood of narrow lots to set in the code that parking is set back from the street. For decades, the east side of Harrison has had homes that conformed, even though it meant detached garages. Morningside in Edina's redevelopment confirms that narrow lots can have modern houses with parking to the rear. The builder just needs to find a different plan from their shelf.

If the zoning for N3-B is to be changed for properties without alley access, I recommend that lots at the corner of the street with access to build parking from the side street be excluded from building front yard parking with garages in the front. Those properties are not burdened and should build parking to the side.

Also, because of the very common tradition of using driveways as play spaces, such front yard parking in N3-B properties without alley access should not be permitted to have a slope that easily sends child toys rolling fast into the street. A shallower slope that still allows water runoff.

Lastly, do not permit N3-B to be changed for front yard parking to have wide curb cuts that diminish on-street parking unreasonably. There is no burden that requires a double-wide curb cut. A curb cut that is single-car wide is sufficient.

Eric Anondson
53 Jackson Ave South

**CITY OF HOPKINS
HENNEPIN COUNTY, MINNESOTA**

PLANNING & ZONING COMMISSION RESOLUTION 2023-03

**RESOLUTION RECOMMENDING THE CITY COUNCIL DENY THE VARIANCE
REQUEST FOR THE PROPERTY LOCATED AT 13 HARRISON AVENUE SOUTH**

WHEREAS, the City of Hopkins (the “City”) is a municipal corporation, organized and existing under the laws of the State of Minnesota; and

WHEREAS, Adam Price of Price Custom Homes (the “Applicant”), applied for variances on behalf of Brianna Frederick, the fee owner of 13 Harrison Avenue South (PID 19-117-21-34-0153) legally described below:

Lot 2, Block 1, East Hopkins Addition, Hennepin County, Minnesota (the “Property”);
and

WHEREAS, the Property is zoned N3-B, Small Lot Traditional Neighborhood; and

WHEREAS, the City has adopted a zoning ordinance and other official controls for reasons that include, but are not limited to, protecting the character of properties and areas within the community, promoting the proper use of land and structures, fixing reasonable standards to which buildings, structures and land must conform for the benefit of all, and prohibiting the use of buildings, structures and lands in a manner which is incompatible with the intended use or development of lands within the specified zones; and

WHEREAS, City Code Part III, Chapter 102, Article II, Section 102-260 (d) (10) requires attached garages to be set back a minimum of 30 feet from the main principal building’s front facade; and

WHEREAS, City Code Part III, Chapter 102, Article II, Section 102-260 (d) (11) only allows garage doors to be located on the rear, side, and street side facades requires; and

WHEREAS, pursuant to the aforementioned code provisions, the Applicant has made a request to the City for variances from the attached garage setback and garage door location requirements to construct a single unit home; and

WHEREAS, pursuant to Minnesota Statutes, section 462.357, subd. 6(2), “[v]ariations shall only be permitted when they are in harmony with the general purposes and intent of the ordinance and when the variations are consistent with the comprehensive plan. Variations may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance. “Practical difficulties,” as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance; the plight

of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties.”; and

WHEREAS, on May 23, 2023, pursuant to the procedural requirements contained in Article III, Section 102-13130 of the City Code, the Hopkins Planning and Zoning Commission (the “Commission”) held a public hearing on the Applicant’s requested variance and all persons present were given an opportunity to be heard. The Commission also took into consideration the written comments and analysis of City staff; and

WHEREAS, based on a review of the Applicant’s request and their submissions, the written staff report, and after careful consideration of all other written and oral comments concerning the requested variance, the Commission makes the following findings of fact with respect to the aforementioned criteria provided in Minnesota Statutes, section 462.357, subd. 6(2):

1. Is variance in harmony with purposes and intent of the ordinance?

Finding: The requested variances are not in harmony with the purpose and intent of the zoning ordinance. The purpose and intent of the additional setback for attached garages and the allowed garage door location standard is to deemphasize automotive use of the traditional house building type in favor of emphasizing habitable living space. Granting the variance would allow the garage to project 10.5 feet beyond the main principal building’s front façade rather than be set back the minimum of 30 feet required by the zoning ordinance.

2. Is the variance consistent with the comprehensive plan?

Finding: The requested variances are not consistent with the comprehensive plan. A stated goal of the Cultivate Hopkins 2040 Comprehensive Plan is to encourage all public and private developments to be well-designed, durable, human-scaled, and pedestrian-oriented. One policy associated with this goal is to reduce parking between buildings and the street as much as possible. Granting the variance would emphasize the automotive uses of the property between the building and the street and undermine the human-scaled, pedestrian-oriented uses of the property.

3. Does proposal put property to use in a reasonable manner?

Finding: The proposal does put the property to use in a reasonable manner. Single unit household living is an allowed principal use in the N3-B zone and the scale of the development fits within the density range prescribed by the comprehensive plan.

4. Are there unique circumstances to the property not created by the landowner?

Finding: There are not unique circumstances to the property that were not created by

the landowner. Under this standard, the applicant must demonstrate the issues that prevent him from developing the subject property were caused by circumstances unique to the property that were not caused by them. The lot is a regular shape with no constraints on development in the form of topography or wetlands. The lot meets the minimum lot area and lot width standards for the N3-B zone and could be used to accommodate development of a single unit household under the requirements of the zoning code.

5. Will the variance, if granted, alter the essential character of the locality?

Finding: Granting the variance would alter the essential character of the surrounding area. The vast majority of the homes in the surrounding area have garages that are set back from the main principal building's front façade in ways that would meet the requirements of the code.

NOW, THEREFORE, BE IT RESOLVED by the Planning and Zoning Commission of the City of Hopkins that the recitals set forth in this Resolution are incorporated into and made part of this Resolution, and more specifically, constitute the express findings of the Commission.

NOW, THEREFORE, BE IT FURTHER RESOLVED by the Planning and Zoning Commission of the City of Hopkins that based on the findings of fact contained herein, the Commission hereby recommends that the City Council of the City of Hopkins deny the Applicant's requested variance.

Adopted this 23rd day of May, 2023.



Nathan White, Chair

**CITY OF HOPKINS
HENNEPIN COUNTY, MINNESOTA**

RESOLUTION 2023-020

**RESOLUTION DENYING THE VARIANCE REQUEST FOR THE PROPERTY
LOCATED AT 13 HARRISON AVENUE SOUTH**

WHEREAS, the City of Hopkins (the “City”) is a municipal corporation, organized and existing under the laws of the State of Minnesota; and

WHEREAS, Adam Price of Price Custom Homes (the “Applicant”), applied for variances on behalf of Brianna Frederick, the fee owner of 13 Harrison Avenue South (PID 19-117-21-34-0153) legally described below:

Lot 2, Block 1, East Hopkins Addition, Hennepin County, Minnesota (the “Property”);
and

WHEREAS, the Property is zoned N3-B, Small Lot Traditional Neighborhood; and

WHEREAS, the City has adopted a zoning ordinance and other official controls for reasons that include, but are not limited to, protecting the character of properties and areas within the community, promoting the proper use of land and structures, fixing reasonable standards to which buildings, structures and land must conform for the benefit of all, and prohibiting the use of buildings, structures and lands in a manner which is incompatible with the intended use or development of lands within the specified zones; and

WHEREAS, City Code Part III, Chapter 102, Article II, Section 102-260 (d) (10) requires attached garages in N3-B zones to be set back a minimum of 30 feet from the main principal building’s front facade; and

WHEREAS, City Code Part III, Chapter 102, Article II, Section 102-260 (d) (11) only allows garage doors in the N3-B zone to be located on the rear, side, and street side facades; and

WHEREAS, pursuant to the aforementioned code provisions, the Applicant has made a request to the City for variances from the attached garage setback and garage door location requirements to construct a single unit home; and

WHEREAS, pursuant to Minnesota Statutes, section 462.357, subd. 6(2), “[v]ariations shall only be permitted when they are in harmony with the general purposes and intent of the ordinance and when the variations are consistent with the comprehensive plan. Variations may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance. “Practical difficulties,” as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance; the plight

of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties.”; and

WHEREAS, on May 23, 2023, pursuant to the procedural requirements contained in Article III, Section 102-13130 of the City Code, the Hopkins Planning and Zoning Commission (the “Commission”) held a public hearing on the Applicant’s requested variances and all persons present were given an opportunity to be heard. The Commission also took into consideration the written comments and analysis of City staff; and

WHEREAS, following its public hearing, the Commission adopted Planning & Zoning Commission Resolution 2020-03, which recommends that the City Council deny the Applicant’s request for a variance and makes specific findings regarding said request; and

WHEREAS, based on a review of the Applicant’s request and their submissions, the written staff report, and after careful consideration of all other written and verbal comments concerning the requested variance, the City Council of the City of Hopkins makes the following findings of fact with respect to the aforementioned criteria provided in Minnesota Statutes, section 462.357, subd. 6(2):

1. Is the variance request in harmony with purposes and intent of the ordinance?

Finding: The requested variances are not in harmony with the purpose and intent of the zoning ordinance. The purpose and intent of the additional setback for attached garages and the allowed garage door location standard is to promote the use of the area directly behind the front façade of any building for people and not the parking of vehicles. Granting the variance would be counter to these purposes.

2. Is the variance request consistent with the comprehensive plan?

Finding: The requested variances are not consistent with the Comprehensive Plan. A stated goal of the Cultivate Hopkins 2040 Comprehensive Plan is to encourage all public and private developments to be well-designed, durable, human-scaled, and pedestrian-oriented. One policy associated with this goal is to reduce parking between buildings and the street as much as possible. Granting the variance to allow vehicle storage between the building and the street would emphasize the automotive uses of the property and detract from the human-scaled, pedestrian-oriented uses of the property.

3. Does proposal put property to use in a reasonable manner?

Finding: The proposal does put the property to use in a reasonable manner. Single unit household living is an allowed principal use in the N3-B zone and the scale of the development fits within the density range prescribed by the comprehensive plan.

4. Are there unique circumstances to the property not created by the landowner?

Finding: There are not unique circumstances to the property that were not created by the landowner. Under this standard, the applicant must demonstrate the issues that prevent them from developing the subject property were caused by circumstances unique to the property that were not caused by them. The lot is a regular shape with no constraints on development in terms of topography or wetlands. The lot meets the minimum lot area and lot width standards for the N3-B zone which could feasibly accommodate development of a single unit household under the requirements of the zoning code.

5. Will the variance, if granted, alter the essential character of the locality?

Finding: Granting the variance would alter the essential character of the surrounding area. The vast majority of the homes in the surrounding area have garages that are set back behind the main building's front façade in ways that would meet the current requirements of the code. Only one other recently constructed home has a garage designed in a similar manner to the proposed home, suggesting that granting the variance would continue a trend that alters the existing character of the locality.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hopkins that the recitals set forth in this Resolution are incorporated into and made part of this Resolution, and more specifically, constitute the express findings of the City Council.

NOW, THEREFORE, BE IT FURTHER RESOLVED by the City Council of the City of Hopkins that based on the findings of fact contained herein, the City Council hereby denies the Applicant's requested variances for the property located at 13 Harrison Avenue South.

Adopted by the City Council of the City of Hopkins this 6th day of June, 2023.

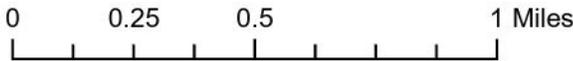
By: _____
Brian Hunke, Mayor Pro Tempore

ATTEST:

Amy Domeier, City Clerk



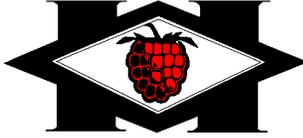
-  N3-B Properties Without An Adjacent Alley
-  N3-B Properties With An Adjacent Alley



City of Hopkins

4/18/2023





CITY OF HOPKINS

City Council Report 2023-062

To: Honorable Mayor and Council Members
Mike Mornson, City Manager

From: Kurt Howard, Planner

Date: June 6, 2023

Subject: First Reading: Ordinance 2023-1191 Amending Chapter 102 of the Hopkins City Code Regarding Attached Garages in N3-B Zones

RECOMMENDED ACTION

MOTION TO Adopt for First Reading, Ordinance 2023-1191 Amending Chapter 102 of the Hopkins City Code Regarding Attached Garages in N3-B Zones

OVERVIEW

The City's updated Zoning Code established new provisions related to setbacks for attached garages relative to the main building's front façade in neighborhood zones and the allowed locations for garage doors in order to encourage development that is human-scaled and pedestrian-oriented. The code requires attached garages in N3-B, Small Lot Traditional Neighborhood zones be set back 30 feet behind the main building's front façade and only allows garage doors to be located on the rear, side, or side street façade. These standards reflect that most, but not all, properties in N3-B zones are served by improved alleys, which presents design challenges for garages on properties in the N3-B zone that are not served by an improved alley.

The proposed ordinance would grant an exception to the attached garage setback and garage door location standards to properties in the N3-B zone that are not served by an improved alley, allowing garages under such circumstances to be designed according to the standards that apply to N3-A, Mid Lot Traditional Neighborhood zones. More specifically, the code requires attached garages in the N3-A zone to be set back 10 feet behind the main building's front façade and allows garage doors to be located on any façade as long as the garage door constitutes no more than 30% of the front façade width. This proposed ordinance is intended to offer relief to properties located in N3-B zones that are not served by an improved alley while still encouraging development to be human-scaled and pedestrian oriented. The Planning and Zoning Commission reviewed the proposed ordinance at their May 23, 2023 meeting and voted unanimously to recommend that the City Council approve the proposed ordinance.

SUPPORTING INFORMATION

- Proposed Ordinance 2023-1191 Amending Chapter 102 of the City Code Regarding Attached Garage Setbacks in N3-B Zones
- Planning and Zoning Commission Resolution 2023-04
- Map of Properties in N3-B Zones With and Without an Adjacent Improved Alley

**CITY OF HOPKINS
HENNEPIN COUNTY, MINNESOTA**

ORIDNANCE 2023-1191

**AN ORDINANCE AMENDING CHAPTER 102 OF THE HOPKINS CITY CODE
REGARDING ATTACHED GARAGES IN N3-B ZONES**

THE CITY COUNCIL OF THE CITY OF HOPKINS HEREBY ORDAINS AS FOLLOWS:

SECTION 1. Hopkins City Code, Part III, Chapter 102, Article 2, Section 102-260 (d), is hereby amended by adding the double-underlined language as follows:

		N3-A	N3-B	
102-260 (d) Parking & Accessory Structure. See Figure 260-B				
9	Driveway Access	Off alley; if no alley, one off side street; if no side street, front street		
10	Attached Garage: Additional Setback	10 ft. min. from main principal building's front facade	30 ft. min. from main principal building's front façade ^[1]	[1] <u>The standards for the N3-A zone apply to properties in the N3-B zone that are not served by an improved alley.</u>
11	Allowed Garage Door Location	Any facade; 30% max of front facade width	Rear, side, side street façade ^[1]	

SECTION 2. In accordance with Section 3.03 of the City Charter and Minn. Stat. § 412.191, subd. 4, due to the significant length of this Ordinance, City staff shall have the following summary printed in the official City newspaper in lieu of the complete ordinance:

On June 20, 2023, the Hopkins City Council adopted Ordinance 2023-1191 an Ordinance Amending Chapter 102 of the Hopkins City Code to allow attached garages constructed on properties in the N3-B zone that are not served by an improved alley to be constructed according to design standards that apply to attached garages in the N3-A zone.

A printed copy of the ordinance is available for inspection during regular business hours at Hopkins City Hall and is available online at the City’s web site located at www.hopkinsmn.com.

SECTION 3. The effective date of this ordinance shall be June 29, 2023.

First Reading:	June 6, 2023
Second Reading:	June 20, 2023
Date of Publication:	June 29, 2023
Date Ordinance Takes Effect:	June 29, 2023

By: _____
Patrick Hanlon, Mayor

ATTEST:

Amy Domeier, City Clerk

**CITY OF HOPKINS
HENNEPIN COUNTY, MINNESOTA**

PLANNING & ZONING COMMISSION RESOLUTION 2023-04

**RESOLUTION RECOMMENDING THE CITY COUNCIL APPROVE AN ORDINANCE
AMENDING CHAPTER 102 OF THE CITY CODE REGARDING ATTACHED
GARAGES IN N3-B ZONES**

WHEREAS, the City of Hopkins's updated Zoning Code adopted established provisions related to setbacks and garage door location for attached garages; and

WHEREAS, the proposed ordinance is intended to offer relief to properties located in N3-B, Small Lot Traditional Neighborhood zones that are not served by an improved alley while still encouraging development to be human-scaled and pedestrian oriented; and

WHEREAS, the Hopkins Zoning and Planning Commission, pursuant to published notice, held a public hearing on and reviewed the proposed ordinance on May 23, 2023; all persons present were given an opportunity to be heard; and

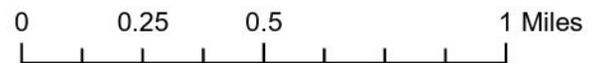
WHEREAS, the written comments and analysis of City Staff were considered.

NOW THEREFORE BE IT RESOLVED, that the Planning & Zoning Commission of the City of Hopkins hereby recommends the City Council of the City of Hopkins approve an ordinance amending Chapter 102 of the City Code Regarding Attached Garages in N3-B Zones.

Adopted this 23rd day of May, 2023.



Nathan White, Chair



City of Hopkins

4/18/2023

