HOPKINS CITY COUNCIL
AGENDA
Tuesday, December 17, 2019
7:00 pm

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

Schedule City Council Meeting, 7 p.m. – HRA Special Meeting immediately following City Council Meeting
Work Session after close of HRA Special Meeting

I. CALL TO ORDER/PLEDGE OF ALLEGIANCE

II. ADOPT AGENDA

III. PRESENTATIONS

IV. CONSENT AGENDA

1. Minutes of the November 26, 2019 City Council Special Meeting Proceedings
2. Minutes of the November 26, 2019 City Council Special Work Session Proceedings
3. Minutes of the December 3, 2019 City Council Regular Meeting Proceedings
4. Minutes of the December 3, 2019 City Council Work Session following Regular Meeting Proceedings
5. Adopt Resolution 2019-100, Approving Execution of a Metropolitan Council Water Efficiency Grant Agreement; Stadler
6. Adopt Resolution 2019-099, Changing the Benefit Amount for the Hopkins Fire Department Relief Association; Specken
7. Second Reading of Ordinance 2019-1144 Rezoning the Beacon (Vista 44) Apartment Building Site; Lindahl
8. Renewal of General Liability and Property Insurance and Authorize Not Waiving the Statutory Tort Liability on the League of Minnesota Cities Insurance Trust Policy; Bishop
9. Approve Facility Solar Project Agreements; Stadler

V. PUBLIC HEARING

VI. OLD BUSINESS

1. 2020 Budget Meeting, 2020 Tax Levy and General and Special Revenue Fund Budgets; Bishop

VII. NEW BUSINESS

1. Approve Resolution 2019-097 Approving the Mediated Settlement and the Addendum to the Mediated Settlement Agreement and Release between the City of Hopkins, the Housing and Redevelopment Authority in and for the City of Hopkins, Doran 810 LLC and Doran 810 Apartments, LLC and (B) Approve Resolution 2019-098 Approving the Amended and Restated Development Agreement between the City of Hopkins, the Housing and Redevelopment Authority in and for the City of Hopkins, Doran 810 LLC and Doran 810 Apartments, LLC; Elverum

VIII. ANNOUNCEMENTS

1. Next Regular City Council Meeting: Tuesday, January 7 at 7:00 p.m.
2. City Hall will be closed December 24, 25 and January 1.

IX. ADJOURN

OPEN AGENDA – PUBLIC COMMENTS/CONCERNS

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

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

HOPKINS CITY COUNCIL
SPECIAL CITY COUNCIL MEETING PROCEEDINGS
NOVEMBER 26, 2019

CALL TO ORDER

Pursuant to due call and notice thereof a special meeting of the Hopkins City Council was held on Tuesday, November 26, 2019 at 5:31 p.m. in the Council Chambers at Hopkins City Hall, 1010-1st Street South, Hopkins.

Mayor Gadd called the meeting to order followed by the Pledge of Allegiance with Council Members Brausen, Kuznia, Halverson and Hunke attending. Staff present included City Manager Mornson, Finance Director Bishop, City Clerk Domeier and Assistant City Manager Lenz.

NEW BUSINESS

II.1. Oath of Office – Council Member Special Election

City Clerk Domeier issued the Oath of Office to Rick Brausen. Mayor Gadd explained the reason for the special election.

II.2. Resolution Declaring a Vacancy on the City Council

City Clerk Domeier discussed the staff report regarding the City Council vacancy.

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

> **Motion** to Approve Resolution 2019-092 Declaring a Vacancy on the Hopkins City Council.
>
> **Ayes: Brausen, Kuznia, Gadd, Halverson, Hunke.**
> **Nays: None. Motion carried.**

II.3. Resolution Appointing City Council Member

Mayor Gadd commented on the recommendation to appoint Brian Hunke.

Motion by Kuznia. **Second** by Halverson.

> **Motion** to Adopt Resolution 2019-094 Resolution Appointing City Council Member.
>
> **Ayes: Brausen, Kuznia, Gadd, Halverson, Hunke.**
> **Nays: None. Motion carried.**

II.4. Oath of Office – Council Member Appointment

City Clerk Domeier issued the Oath of Office to Brian Hunke. Mayor Gadd discussed the reason for the vacancy.

II.5. Continued 2020 General Fund Budget & Tax Levy

Finance Director Bishop gave an overview of the 2020 General Fund Budget and Tax Levy and the recommendations by staff and City Council to reduce the levy. Mr. Bishop discussed the taxation process and gave an overview of the City's budget and how it impacts taxes. Mr. Bishop discussed the General Fund expenditures, the preliminary

levy and the reductions made by staff and Council to get to the 9.71% increase to the proposed levy, which calculates out to an $88 increase to the median valued home or 5.1%. The next steps in the budget process include a public meeting on December 3 followed by Council approval at the December 3 or 17 City Council meeting. Council Member Brausen and Mayor Gadd commented on the importance to communicate the budget to the public in a clear manner so everyone understands the process. Council Member Brausen commented that the Council needs to explore different ways to communicate the budget publically throughout the year. Council Member Hunke asked about the debt levy and the City's portion of the Southwest Light Rail Transit (SWLRT). Mr. Bishop explained the contract with the SWLRT project office. Council Member Brausen commented that the staff and Council would continue to look for ways to make improvements to the budget.

UPDATES

City Clerk Domeier updated the Council on codifying the City Code to edit the language and format the code to be compliant with State Statutes. The code would be formatted with changes to the chapter system and be available in different languages. The City Attorney has reviewed the code changes. Copies of the current and proposed changes are available for review, the first reading is scheduled on the January 7, 2020 City Council agenda and City Council should direct any questions to City Clerk Domeier.

City Manager Mornson updated the City Council on December 17 City Council agenda items.

The Special Work Session meeting regarding the proposed Beacon Interfaith Housing apartment building (Vista 44) is in the Raspberry Room at 6:30 p.m.

OPEN AGENDA – PUBLIC COMMENTS AND CONCERNS

A resident came forward to address the Council regarding The Moline parking ramp and the potential impacts to the budget. City Manager Mornson commented that the City Attorney is negotiating the settlement and legal fees are covered by the Minnesota League of Cities trust fund.

ADJOURNMENT

There being no further business to come before the City Council and upon a motion by Brausen, second by Hunke, the meeting was unanimously adjourned at 5:59 p.m.

Respectfully Submitted,
Debbie Vold

ATTEST:

_____ _____

Jason Gadd, Mayor Amy Domeier, City Clerk

HOPKINS CITY COUNCIL
SPECIAL WORK SESSION PROCEEDINGS
NOVEMBER 26, 2019

CALL TO ORDER

Pursuant to due call and notice thereof a special work session of the Hopkins City Council was held on Tuesday, November 26, 2019 at 6:30 p.m. in the Raspberry Room at Hopkins City Hall, 1010-1st Street South, Hopkins.

Mayor Gadd called the meeting to order with Council Members Brausen, Kuznia, Halverson and Hunke attending. Staff present included City Manager Mornson, Director of Planning and Development Elverum, Assistant City Manager Lenz, City Planner Lindahl and Community Development Coordinator Youngquist.

BEACON INTERFAITH HOUSING APARTMENT BUILDING (VISTA 44)

Mayor Gadd commented that the meeting was a continuing discussion of the proposed Beacon Interfaith housing project and that the City Council was doing its due diligence since the applicant was requesting the City to modify the zoning code. The focus of the meeting is between the City Council, City staff and Beacon representatives. Public comment would be welcomed at the December 3 City Council meeting.

In addition to City staff, representatives present for the item were Chris Dettling, Beacon Interfaith Housing Collaborative Director of Housing Development and Bart Nelson of Urban Works Architecture. City Planner Lindahl gave an overview of the staff report discussing the Beacon multiple family apartment building rezoning and site plan. Mr. Lindahl gave an overview of the site location and the applications explaining that the key decision is regarding the proposed rezoning from R-5, High Density Multiple Family to Mixed Use with a Planned Unit Development. Mr. Lindahl discussed the approval process for the project and reviewed the additional information requested by Council. Staff provided additional information on the definitions and classifications for affordable housing at the November 12 City Council Work Session. The Council also asked for more information on site design options, how their project fits into Hopkins' existing supply of legally binding affordable housing and what additional resources this project can bring to the community. Mr. Lindahl discussed the alternative site plan as presented by Beacon. The alternative plan shifts the building to the west increasing the setback, allowing vehicle access to one curb cut along 13th Avenue South and reduces the onsite parking by four spots.

Mr. Dettling discussed data on the current housing stock available in Hopkins commenting on the need for affordable family housing. Mr. Dettling discussed the proposed site explaining that the property is a vacant underutilized lot that once it is developed would contribute to the property tax rolls in addition to permit and utility fees. Mr. Dettling commented that Beacon representatives have appreciated the staff time and Council conversations regarding their application.

Mr. Nelson discussed the general layout of the development of residential buildings and the site plans for the Vista 44 building. The increase of the alternate site plan setback along 12th Avenue South was in response to community feedback. Mr. Nelson gave an overview of building options that were looked at for the site commenting that site elevations were a factor in the planning process. Mr. Nelson gave an overview of the

alternative site plan commenting on the impacts to parking and the play area. Mr. Dettling commented that Beacon is willing to work with the changes to the site plan.

Mayor Gadd asked about zoning options and financing of the project. Mr. Dettling commented that the R-5 zoning code guidelines are outdated and that the Mixed Use zoning fits better with the forward looking direction of the City, fits well with the new Comprehensive Plan and reduces the number of requested variances. Mr. Dettling commented that Beacon anticipates the property contributing $50,000/year in taxes and the development significantly increases property values of the site.

Council Member Brausen discussed the importance for Council to understand and review the conversations about the project and needs of the community. Council Member Brausen asked staff to present the affordable housing presentation at the December 3 City Council meeting.

Mayor Gadd asked about the alternative site parking. The net change is a reduction in 4 parking spots. Mr. Dettling commented that Beacon is not concerned about the loss of parking spots.

Council Member Kuznia asked about the parking ramp grade. Mr. Nelson commented that it would have around a 12% grade, which they have in other developments.

Council Member Hunke expressed concern regarding congestion in the alternate site parking lot since it has no turn around when full.

Council Member Brausen discussed the setback, street parking density, street sight lines and difficulty for Public Works to plow on congested streets.

There was discussion regarding the placement procedure and exit strategy. Mr. Dettling commented that Beacon uses the Coordinated Entry System administered by Hennepin County to provide housing services for families experiencing homelessness. Mr. Dettling commented that Beacon has had conversations with the Hopkins School District regarding students experiencing homelessness and the importance of onsite support services to help families succeed. Beacon would update the Council on length of stay data.

Council Member Halverson asked about the definition of family and age qualifications. Mr. Dettling commented that Beacon’s outreach is to families with children or housing for couples in the 1 and 2 bedroom units. Mr. Dettling commented that he would get additional information regarding fair housing from the Beacon housing operations department.

There was Council discussion regarding the original site plan vs. the alternate site plan. Council indicated a preference for the original site plan. The City Council and the community would have an opportunity to review the site plan again at a future meeting. There was discussion about community concerns of sight lines and parking. Council

Member Hunke asked about use of the church parking lot. Mr. Dettling commented that the church is not willing to permanently designate parking spots at this time but may be open to a discussion in the future.

City Manager Mornson commented that the meeting was to clarify the approval of the rezoning and the Council would have additional opportunities to review the site plan.

Mayor Gadd thanked the Beacon representatives for the opportunity for further discussion and to the interested residents in attendance. The Beacon Interfaith Housing apartment building is scheduled on the December 3 City Council agenda.

Mr. Lindahl gave an update on the 2040 Comprehensive Plan process and next steps to update the zoning code.

ADJOURNMENT

There being no further business to come before the City Council and upon a motion by Kuznia, second by Brausen, the meeting was unanimously adjourned at 7:41 p.m.

Respectfully Submitted,
Debbie Vold

ATTEST:

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Jason Gadd, Mayor Amy Domeier, City Clerk

HOPKINS CITY COUNCIL
REGULAR MEETING PROCEEDINGS
DECEMBER 3, 2019

CALL TO ORDER/PLEDGE OF ALLEGIANCE

Pursuant to due call and notice thereof a regular meeting of the Hopkins City Council was held on Tuesday, December 3, 2019 at 7:02 p.m. in the Council Chambers at City Hall, 1010 First Street South, Hopkins.

Mayor Gadd called the meeting to order followed by the Pledge of Allegiance with Council Members Brausen, Kuznia, Halverson and Hunke attending. Staff present included City Manager Mornson, Finance Director Bishop, City Clerk Domeier, Director of Planning and Development Elverum, Police Chief Johnson, Assistant City Manager Lenz, City Planner Lindahl, City Attorney Riggs, Fire Chief Specken, Public Works Director Stadler and Community Development Coordinator Youngquist.

PRESENTATIONS

III.1. 2019 Hopkins Community Image Awards

Director of Planning and Development Elverum recognized the 2019 Hopkins Community Image Award winners and thanked the staff and judges. Mayor Gadd presented the awards to the winners and thanked them for their commitment to improving Hopkins and reinvestment in the community.

Commercial/Industrial/Office winners:

- Hopkins Professional Building, 29-9th Avenue North
- Hopkins Carpet One & Hopkins Center Drug, 907-913 Hopkins Center

Residential winner:

- Michael & Kimberly Falk, 245-9th Avenue North

III.2. Recognition of Dale Specken – Fire Chief of the Year Award

City Manager Mornson recognized Chief Specken as Fire Chief of the Year award winner. City Manager Mornson commented on the importance of recognizing the accomplishments of staff and improvement projects in the City of Hopkins. Fire Chief Specken thanked the City Council, City staff, members of the Hopkins Fire Department and his family for their support of the fire department throughout his fire service career. On behalf of the City Council, Mayor Gadd congratulated Fire Chief Specken.

CONSENT AGENDA

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

Motion to Approve the Consent Agenda.

1. Minutes of the November 18, 2019 City Council Regular Meeting Proceedings
2. Minutes of the November 18, 2019 City Council Work Session following Regular Meeting Proceedings
3. Ratify Checks Issued in November 2019
4. Adopt Resolution 2019-05 – Approving Execution of a Hennepin County Healthy Tree Canopy Grant Agreement

Mayor Gadd commented on Consent Agenda item 4, thanking Public Works Department staff, Superintendent Parks & Streets Strachota and Public Works Director Stadler on acquiring a grant to lessen the City's tree impact from the emerald ash borer.

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

OLD BUSINESS

VI.1. Beacon Interfaith Housing Apartment Building (Vista44) Rezoning & Planned Unit Development (PUD) and Site Plan Review

Mayor Gadd commented that the Beacon project has been discussed at previous City Council meetings and Work Sessions. The Council has heard and appreciates all the community feedback from the many viewpoints.

City Planner Lindahl gave an overview of the staff report discussing the Beacon multiple family apartment building rezoning and site plan. Mr. Lindahl discussed the rezoning application commenting that the approval process requires a 4/5 City Council vote. Mr. Lindahl discussed the site plan and gave an overview of the minor changes. Mr. Lindahl gave an overview of the project history and commented that the additional public comments received are noted in the City Council Packet. Mr. Lindahl reviewed the questions that the Council wanted to further review and discuss.

Director of Planning and Development Elverum gave a presentation on affordable housing in Hopkins. Ms. Elverum gave an overview of the 438 units of legally binding affordable housing and how it is distributed throughout the community. Ms. Elverum discussed the Metropolitan Council's overall housing score and goals of additional affordable housing units for Hopkins. Ms. Elverum commented on market value increases and the factors putting pressure on the affordable housing market. Staff and Council have heard the comments regarding the need for senior housing in Hopkins and are interested in continuing the conversation. Ms. Elverum commented that the City does not have control of the property of the proposed Beacon project. The Council thanked staff for presenting the information to the community on affordable housing.

Representatives present for the item were Kevin Walker, Beacon Interfaith Housing Collaborative Vice President of Housing and Shelter and Chris Dettling, Beacon Interfaith Housing Collaborative Director of Housing Development. Mr. Walker discussed the Vista 44 land use application commenting that the proposed development meets a need in Hopkins and is an important community asset. Beacon is committed to being good neighbors and landlords and the application reflects best practices and responsive design. Beacon is requesting that the City Council approve the application.

Council Member Brausen asked about the Coordinated Entry process, background checks and tenant services. Mr. Walker gave an overview of the Coordinated Entry process administered by Hennepin County and application criteria. Beacon is looking for other funding sources in order to set aside units to be responsive to the needs of

Hopkins families. Mr. Walker discussed the criteria for occupancy commenting that Level 3 sex offenders would not be accepted. The Beacon property would be a supportive housing specialist but services are not mandated as condition of occupancy. Council Member Halverson asked about staffing. Mr. Walker commented that staff including case managers would be available on a daily basis and staff would be parking onsite. Mayor Gadd asked about an exit strategy for the residents. Mr. Walker commented that the property would be considered permanent supportive housing and discussed possible reasons why families move on to other housing options. Council Member Brausen asked about the leases and drug free addendum. Mr. Walker discussed applicant criteria and reasons for eviction.

Mayor Gadd reviewed the procedure for public comment.

William Anderson, 102 Wayside Road W, spoke about concerns of the City's financial debt and how the property could affect Hopkins taxpayers. Mr. Anderson commented on the high percentage of affordable and rental housing in Hopkins, concerns of drug and alcohol use, parking and setting new standards with the variance.

Michael Beasley, 128-7th Avenue South, spoke in support of Vista 44 asking the Council to approve the application.

Jane Erickson, 38-15th Avenue North, spoke about concerns of the City's debt, need for more affordable senior housing and that the Beacon project does not fit the area.

Greg Sicheneder, 4809 Woodhill Road, Minnetonka, as a member of Saint Gabriel's Catholic Church supports Vista 44 and the mission of the church to provide supportive family housing.

Cheryl Youakim, 129-7th Avenue North, spoke in favor of Vista 44 and the importance of stable family housing. Ms. Youakim asked that the City Council approve the application.

Charlie Flynn, 374 Althea Lane, supports Vista 44 commenting that the land use zoning change was recommended by city staff and the Planning and Zoning Commission. Mr. Flynn commented that Beacon staff has been responsive to requests and concerns and is asking the Council to approve the application.

Scott Searl, Shepherd of the Hills Lutheran Church, 500 Blake Road S, Edina, commented that the faith community supports Vista 44.

John Nelson, Gethsemane Lutheran Church, 715 Minnetonka Mills Road, in addition to members from the faith community support Vista 44.

Jay Rudi, 600 Hopkins Crossroad, Minnetonka
Oby Ballinger, Edina Morningside Church, 4201 Morningside Road, Edina
Rev. Cindy Hillger, St. Martins by the Lake Episcopal, Minnetonka

Tarrah Palm, ResourceWest, 1011 1st Street South, spoke in support of Vista 44.

Mark Muenchow, 1117-1st Street South, discussed concerns and spoke in opposition to the project.

Allan Johnson, 32-11th Avenue South, spoke in support of stable family housing and the Vista 44 project.

Betty Fenton, 426 Hollyhock Lane, spoke about concerns of the City budget, debt, levy and that projects need to contribute to the tax base.

Don Roesner, 618 W Park Valley Drive, commented that the project is not asking for City funding.

Pam Knolls, 241-9th Avenue North, discussed concerns about the project and spoke in opposition of Vista 44.

Greg Zoidis, 201 Homedale Road, spoke in support Vista 44, asking the City Council to support the project.

Jim Shirley, 32-11th Avenue South #201, spoke in opposition of Vista 44 discussing concerns regarding the project setback and changes in zoning.

Gary McGlennon, 32-11th Avenue South, #111, spoke in opposition of Vista discussing parking concerns, building size and neighborhood opposition.

Tom Quinn, 310-12th Avenue North, discussed concerns of the tax burden.

Judy Worrell, 148 Interlachen Road, discussed the projects impact on resources and finances to the community and school system commenting a plan is needed to address future ramifications and needs of the project.

John Stepanek, 238-15th Avenue North, spoke about the need for affordable housing for seniors and concerns of tax impacts on residents.

Mayor Gadd commented that the zoning request to Mixed Use is in line with the 2040 Comprehensive Plan. Council Member Brausen asked how the Hopkins School District would handle the different needs. Mr. Walker commented that the services Beacon provides would compliment the services already provided by the Hopkins School District. Mayor Gadd commented that the support services would reduce impacts on students. Mr. Walker discussed the benefits of the supportive housing concept. Mr. Lindahl commented that City departments have had an opportunity to weigh in on the potential impacts to the City. Council Member Kuznia asked about the drug use policy and exit strategy. Mr. Walker commented that the drug free addendum and applicant criteria are important for the health and safety of the residents. Mr. Walker discussed

the outcomes of the housing support program. Council Member Hunke discussed the community concern about street lighting and commented that the rezoning would be consistent with the 2040 Comprehensive Plan. Mr. Stadler discussed the street light requirements.

Motion by Hunke. **Second** by Kuznia.

> **Motion** to Adopt Resolution 2019-089 approving the first reading of Ordinance 2019-1144 rezoning the subject from R-5 High Density Multiple Family to Mixed Use with a planned unit development, subject to conditions.

Council Member Kuznia discussed the difficult decision but hopes the community would support the project. Council Member Kuznia commented that the City cannot control whom the church sells the property to and that the property would be on the tax rolls.

Council Member Brausen discussed his struggles with the decision understanding the community concerns for the site. Council Member Brausen commented on his support of the Beacon organization and that the organization is not asking for a financial contribution from the City.

Mayor Gadd discussed the affordable housing statistics and commented on the need for supportive family housing.

> **Ayes: Kuznia, Gadd, Halverson, Hunke.**
> **Nays: Brausen. Motion carried.**

Motion by Halverson. **Second** by Hunke.

> **Motion** to Adopt Resolution 2019-090 approving the PUD site plan for the Beacon Multiple Family Apt Building subject to conditions.
>
> **Ayes: Kuznia, Gadd, Halverson, Hunke.**
> **Nays: Brausen. Motion carried.**

Mayor Gadd thanked the community for their feedback. The second reading is scheduled on the December 17 City Council agenda.

NEW BUSINESS

VII.1. 2020 Budget Meeting, 2020 Tax Levy and General and Special Revenue Fund Budgets

Finance Director Bishop gave an overview of the 2020 General Fund Budget and Tax Levy and the recommendations by staff and City Council to reduce the levy. Mr. Bishop discussed the taxation process and gave an overview of the City's budget and how it impacts taxes on a median value home. Mr. Bishop discussed the General Fund revenues and expenditures and the Arts Center and Pavilion levy. Mr. Bishop discussed

the proposed 2020 preliminary levy and the reductions made by staff and Council to get to the 9.71% increase to the proposed levy which calculates out to an $88 increase to the median valued home or 5.1%.

Council Member Halverson asked about grant dollars. Mr. Bishop discussed project funding. Mayor Gadd discussed the Arts Center budget and the staff and Council's efforts to reduce the deficit and eliminate the outstanding debt. Mr. Bishop discussed the plan to pay off the debt and Assistant City Manager Lenz discussed the Arts Center's budget improvements and revenue sources. Mayor Gadd commented on the Art Center's financial impacts and benefits on the City and the Mainstreet businesses. Mayor Gadd appreciates the effort of staff regarding the Arts Center budget. Council Member Brausen commented on the benefits of the Arts Center and the need for more discussion on ways to improve the debt and create more revenue streams.

Mayor Gadd reviewed the procedure for public comment.

Don Roesner, 618 W Park Valley Drive, spoke on concerns of market values, Arts Center debt and tax impacts to residents. Mr. Roesner discussed a concern that Hennepin County, Hopkins School District and City of Hopkins Truth in Taxation public hearing meetings are scheduled on the same night.

William Anderson, 102 Wayside Road W, spoke on budgeting accountability and fiscal responsibility and taxpayer concerns of home values, City debt and looking at ways to decrease taxes.

Bryan Bjornson, 741-11th Avenue South #3, spoke about proposed tax increase and concern that Hennepin County, Hopkins School District and City of Hopkins Truth in Taxation public hearing meetings are scheduled on the same night.

Gerard Balon, 245-18th Avenue North, opposed the proposed tax levy increase and commented that is financially harder for residents to stay in their homes.

Maggie Sedoff, 122 Oakwood Road, spoke about concerns of the tax increase and debt levy. Hopkins Residents for Fiscal Responsibility are looking at opportunities to reduce the City's debt obligation and make changes in the budget process going forward. Council Member Brausen asked for clarification of what she meant by benchmarking with other cities. Ms. Sedoff commented on tax increases of cities of a similar size.

James Warden, 620-10th Avenue South, commented that the budget proposal is better but unsustainable. Mr. Warden commented on budget forecasts, accountability, transparency and need for resident involvement in the budget process.

Betty Fenton, 426 Hollyhock Lane, spoke about concerns of the City debt and fiscal responsibility.

Jerry Dykhoff, 220-17th Avenue North, spoke about concerns of the levy and debt increase and that Hennepin County, Hopkins School District and City of Hopkins Truth in Taxation public hearing meetings are scheduled on the same night.

Tom Quinn, 310-12th Avenue North, spoke about concerns of the budget increase.

Bob Worrell, 148 Interlachen Road, commented that City leadership and City Council should look at ways to reduce the City budget.

William Anderson, 102 Wayside Road W, commented that the City needs examine reasons for adding debt.

Judy Worrell, 148 Interlachen Road, commented that City Council needs to realign city spending, be transparent and listen to feedback and direction from residents in order to address the fiscal situation. Ms. Worrell asked that Council change the street reconstruction public hearing process and broadcast all City Council meetings.

Don Wille, representing his mother who lives at 256-21st Avenue North, spoke about the need to make budget cuts.

Mayor Gadd commented that the City Council will take public comments into consideration and will look at more opportunities to engage residents in the budget process. Mayor Gadd commented that the City listens to resident feedback from street project open houses and would address televising of Work Sessions with staff. Council Member Brausen commented on the importance of everyone's right to be heard, scheduling of tax hearings, moving of public comments to the beginning of City Council meetings and the budget process. Council Member Hunke appreciated the resident's interest in the budget process. Mr. Bishop discussed the City's use of debt to fund long-term capital improvement projects.

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

> **Motion** to continue the budget discussion at the December 17 City Council meeting.
>
> **Ayes: Brausen, Kuznia, Gadd, Halverson, Hunke.**
> **Nays: none. Motion carried.**

ANNOUNCEMENTS

- Next Regular City Council Meeting: Tuesday, December 17 at 7:00 p.m.

ADJOURNMENT

There being no further business to come before the City Council and upon a motion by Halverson, second by Hunke, the meeting was unanimously adjourned at 11:50 p.m.

HOPKINS CITY COUNCIL
REGULAR MEETING PROCEEDINGS
DECEMBER 3, 2019

OPEN AGENDA – PUBLIC COMMENTS AND CONCERNS
The City Council did not receive any comments or concerns.

Respectfully Submitted,
Debbie Vold

ATTEST:

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Jason Gadd, Mayor Amy Domeier, City Clerk

MINUTES OF THE CITY COUNCIL WORK SESSION PROCEEDINGS
AT CONCLUSION OF THE REGULAR CITY COUNCIL MEETING
Tuesday, December 3, 2019

CALL TO ORDER

Pursuant to due call and notice thereof a work session of the Hopkins City Council was held on Tuesday, December 3, 2019 at 11:57 p.m. in the City Council Chambers at Hopkins City Hall, 1010 First Street South, Hopkins.

Mayor Gadd called the meeting to order with Council Members Brausen, Kuznia, Halverson and Hunke attending. Staff present included City Manager Mornson, Finance Director Bishop and Assistant City Manager Lenz.

There was Council discussion how to communicate, educate and have meaningful engagement sessions with residents about the budget process. A discussion of how to improve resident engagement in the budget process would be scheduled on a future Work Session agenda. There was discussion about having regular budget discussions at City Council meetings and the possibility of televising Work Sessions. The 2020 budget will be presented and discussed at the December 17 City Council meeting.

ADJOURNMENT

There being no further business to come before the City Council and upon a motion by Brausen, seconded by Hunke, the meeting was unanimously adjourned at 12:18 a.m.

Respectfully Submitted,
Debbie Vold

ATTEST:

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Jason Gadd, Mayor Amy Domeier, City Clerk

December 17, 2019

City of Hopkins

Council Report 2019-125

ADOPT RESOLUTION 2019-100, APPROVING EXECUTION OF A METROPOLITAN COUNCIL WATER EFFICIENCY GRANT AGREEMENT

Proposed Action

Staff recommends the following motion: Move that City Council adopt Resolution 2019-100, approving execution of a Water Efficiency grant agreement between the City of Hopkins and the Metropolitan Council.

Overview

The City applied for and was awarded a $19,000 grant with 25% matching funds required. The grant funds will be used to provide a rebate to Hopkins residents that purchase qualifying water-saving washing machines or toilets or upgrade irrigation systems. Staff recommends adopting the resolution to approve this grant agreement.

Supporting Information

- Grant program specifics
- Resolution 2019-100
- Communications plan
- Metropolitan Council Clean Water Fund (Water Efficiency) Grant Agreement

Steven J. Stadler, Public Works Director

Financial Impact: matching funds NTE $6,333	Budgeted: Y/N
Source: Water Fund	
Related Documents (CIP, ERP, etc.):	Notes:

Analysis of Issues

- Grant program specifics
    - Rebates are available for:

- Energy Star-certified washing machines: 75 percent rebate, not to exceed $500
- EPA WaterSense-certified low-flow toilets: 75 percent rebate, not to exceed $150
- EPA WaterSense-certified irrigation controller replacement: 75 percent rebate, not to exceed $400
- EPA WaterSense-certified sprinkler body replacements: 75 percent rebate, not to exceed $400 per system
- EPA WaterSense-certified irrigation system audits: 75 percent rebate, not to exceed $200.

    - Residents request a rebate as follows:

To request a rebate, property owners must submit the name of purchaser, an invoice showing the purchase of a qualified item and the address where the item has been installed via mail to Hopkins Public Works, c/o Water Efficiency Rebates, 11100 Excelsior Boulevard, Hopkins, MN 55343, or via email to watereefficiencyrebates@hopkinsmn.com.
Homeowners are encouraged to get pre-approved before making a purchase to ensure rebate eligibility. Documents showing a qualified purchase must be submitted within 60 days.

    - Grant expiration date: June 30,2022

    - The total program amount,$25,333, would cover rebates for:

- 30 Energy Star-certified washing machines
- 30 EPA WaterSense-certified low-flow toilets
- 6 EPA WaterSense-certified irrigation controller replacement
- 6 EPA WaterSense-certified sprinkler body replacements
- 6 EPA WaterSense-certified irrigation system audits.

CITY OF HOPKINS
Hennepin County, Minnesota

RESOLUTION NO. 2019-100

RESOLUTION APPROVING EXECUTION OF CLEAN WATER FUND GRANT AGREEMENT NO. SG-13457, WATER EFFICIENCY GRANT, BETWEEN THE CITY OF HOPKINS AND THE METROPOLITAN COUNCIL

WHEREAS, the Metropolitan Council has established a water efficiency grant program to provide funding assistance for homeowner purchases of qualifying appliances or irrigation system upgrades; and

WHEREAS, the City of Hopkins has applied for a grant and has been awarded a grant of $19,000 to assist Hopkins residents in purchasing water and energy efficient washing machines and toilets or irrigation system upgrades:

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

I. That the Clean Water Fund Grant Agreement No. SG-13457 is hereby approved for execution.

II. That the City of Hopkins will provide 25% matching funds, not to exceed $6,333.

III. That the Public Works Director is authorized and directed to execute said grant agreement and serve as official liaison with the Metropolitan Council or its authorized representative.

Adopted by the Hopkins City Council on this 17th day of December, 2019.

BY _____
Jason Gadd, Mayor

ATTEST:

_____
Amy Domieier, City Clerk

City of Hopkins – Water Efficiency Grant Program

Communications Plan

Social Media

- **Washing Machine**
  - Has your washing machine spun its last load of laundry? The City of Hopkins is offering rebates to Hopkins residents and property owners who upgrade to an Energy Star-certified washing machine. Learn more about the Water Efficiency Rebate program on our website at www.hopkinsmn.com/water-efficiency-rebates. *(post with photo of new washing machine)*
  - Kids=Lots of dirty laundry. Energy Star-certified clothes washers use 25 percent less energy and approximately 33 percent less water than standard models! Upgrade to a new Energy Star-certified washing machine and receive a 75 percent rebate from the City of Hopkins (not to exceed $500). Find more information about the City's Water Efficiency Rebate program on our website at www.hopkinsmn.com/water-efficiency-rebates. *(post with photo of happy kids wearing dirty clothes)*

- **Toilet**
  - Did you know that some older toilets can use up to SIX gallons of water with every flush? Replacing an older model toilet with a new high efficiency toilet can greatly decrease your household's water usage. Even better: Hopkins residents and property owners can now request a 75 percent rebate of a new EPA WaterSense-certified toilet (not to exceed $500). Learn more on our website at www.hopkinsmn.com/water-efficiency-rebates. *(post with photo of toilet)*
  - Fun fact: Toilets are the main source of water use in the home, accounting for nearly 30 percent of an average home's indoor water consumption. Replacing that old, leaky toilet with a new WaterSense-certified toilet can save nearly 13,000 gallons of water every year! Learn how you can request a Water Efficiency Rebate for 75 percent of the cost of a new WaterSense-certified toilet on our website at www.hopkinsmn.com/water-efficiency-rebates. *(post with photo of "Look for WaterSense" logo)*

- **Irrigation System**
  - Watering your lawn in the summer can be costly! Save money AND water by upgrading to a WaterSense-certified irrigation system with a rebate from the City of Hopkins. Learn more about the Water Efficiency Rebate program on our website at www.hopkinsmn.com/water-efficiency-rebates. *(post with photo of green lawn/sprinklers)*

- We know those sprinklers aren't just for watering the lawn! The City of Hopkins is now offering rebates for WaterSense-certified irrigation system upgrades for when you need to save a little money on your water bill. Learn more about the Water Efficiency Rebate program on our website at www.hopkinsmn.com/water-efficiency-rebates. *(post with photo of kids running through sprinkler)*

Hopkins Connections Weekly Email Newsletter

(see example of newsletter at https://www.hopkinsmn.com/list.aspx?PRVMSG=229)

Water Efficiency Rebates Available for Hopkins and Property Owners

The City of Hopkins is now offering Water Efficiency Rebates to Hopkins property owners to purchase and install products that reduce water use. Rebates are available for EPA WaterSense-certified low-flow toilets, Energy Star-rated washing machines, WaterSense-certified irrigation controllers and sprinkler body replacements, and WaterSense Partner-certified irrigation system audits. Limit one rebate per property owner. Learn more about the program and how to request a rebate on our website **here**.

Hopkins Highlights Monthly Print Newsletter

(see example of newsletter at https://www.hopkinsmn.com/295/Hopkins-Highlights)

Save Water, Request a Rebate!

The City of Hopkins is now offering Water Efficiency Rebates to Hopkins property owners to lower the cost of the purchase and installation of products that reduce water use (limit one rebate per property owner).

Rebates are available for:

- Energy Star-certified washing machines: 75 percent rebate, not to exceed $500
- EPA WaterSense-certified low-flow toilets: 75 percent rebate, not to exceed $150
- EPA WaterSense-certified irrigation controller replacement: 75 percent rebate, not to exceed $400
- EPA WaterSense-certified sprinkler body replacements: 75 percent rebate, not to exceed $400 per system
- EPA WaterSense-certified irrigation system audits: 75 percent rebate, not to exceed $200.

To request a rebate, property owners must submit the name of purchaser, an invoice showing the purchase of a qualified item and the address where the item has been installed via mail to Hopkins Public Works, c/o Water Efficiency Rebates, 11100 Excelsior Boulevard, Hopkins, MN 55343, or via email to waterefficiencyrebates@hopkinsmn.com.

Homeowners are encouraged to get pre-approved before making a purchase to ensure rebate eligibility. Documents showing a qualified purchase must be submitted within 60 days.

More information about the program is available on our website at www.hopkinsmn.com/water-efficiency-rebates.

Website

(New page would link from Water & Sewer webpage: www.hopkinsmn.com/415/Water-Sewer)

Water Efficiency Rebates

The City of Hopkins is now offering Water Efficiency Rebates to Hopkins property owners to lower the cost of the purchase and installation of products that reduce water use (limit one rebate per property owner).

Qualifying Items & Rebates

Water Efficiency Rebates are available for:

- Energy Star-certified washing machines: 75 percent rebate, not to exceed $500
- EPA WaterSense-certified low-flow toilets: 75 percent rebate, not to exceed $150
- EPA WaterSense-certified irrigation controller replacement: 75 percent rebate, not to exceed $400
- EPA WaterSense-certified sprinkler body replacements: 75 percent rebate, not to exceed $400 per system
- EPA WaterSense-certified irrigation system audits: 75 percent rebate, not to exceed $200.

Request a Rebate

To request a rebate, Hopkins property owners must submit:

- Name of purchaser
- Invoice showing the purchase of a qualified item
- Address where the qualified item has been installed.

Homeowners are encouraged to get pre-approved before making a purchase to ensure rebate eligibility. Documents showing a qualified purchase must be submitted within 60 days.

Requests should be submitted by mail to:

Hopkins Public Works
c/o Water Efficiency Rebates
11100 Excelsior Boulevard
Hopkins, MN 55343

Or by email to:

waterefficiencyrebates@hopkinsmn.com.

About the Program

The City of Hopkins Water Efficiency Rebate program is made possible by grants from the Metropolitan Council.

The grant covers rebates for:

- 30 Energy Star-certified washing machines

- 30 EPA WaterSense-certified low-flow toilets
- 6 EPA WaterSense-certified irrigation controller replacement
- 6 EPA WaterSense-certified sprinkler body replacements
- 6 EPA WaterSense-certified irrigation system audits.

Rebates are available until the funds have run out or the program expires on June 30, 2022.

Learn more about the Metropolitan Council's Water Efficiency Grant Program on the Metropolitan Council website.

Contact Us
Hopkins Public Works
c/o Water Efficiency Rebates
11100 Excelsior Boulevard
Hopkins, MN 55343

Phone: 952-548-6351

waterefficiencyrebates@hopkinsmn.com

METROPOLITAN COUNCIL
CLEAN WATER FUND GRANT AGREEMENT NO. SG-13457

This Clean Water Fund Grant Agreement ("Grant Agreement") is entered into between the Metropolitan Council, a public corporation and political subdivision of the State of Minnesota ("Council") and the City of Hopkins, a municipal corporation ("Grantee").

RECITALS

1. Minnesota Session Laws 2019, 1st Special Session, chapter 2, article 2, section 9, appropriated to the Council funds from the Legacy Amendment's Clean Water Fund ("Clean Water Fund") for State fiscal years 2020 and 2021, to establish a water demand reduction grant program that encourages implementation of water demand reduction measures in municipalities in the seven-county metropolitan area.

2. The Council is authorized by Minnesota Statutes sections 473.129, subdivision 4 to apply for and use grants from the State for any Metropolitan Council purpose and may dispose of the money in accordance with the terms of the appropriation.

3. The Grantee is authorized to receive grants from the Clean Water Fund to protect, enhance and restore water quality in lakes, rivers and streams, to protect groundwater from degradation and protect drinking water sources by encouraging implementation of water demand reduction measures by municipalities in the seven-county metropolitan area to ensure reliability and protection of drinking water supplies.

4. On July 10, 2019, the Council authorized the granting of portions of the appropriation to the Grantees participating in the grant program.

5. The Grantee represents that it is duly qualified and agrees to perform all services described in this Grant Agreement to the reasonable satisfaction of the Council.

GRANT AGREEMENT

1. Term of Grant Agreement.

1.1. Effective Date. The effective date of this Grant Agreement is the date this agreement is fully executed.

1.2. Grant Activity Period. The first day of the month following the Effective Date through and including the expiration date.

1.3. Expiration Date. Upon satisfactory fulfillment of obligations, but in no event later than June 30, 2022.

1.4. Survival of Terms. The following clauses survive the expiration, termination or cancellation of this Grant Agreement; 9. Liability and Insurance; 10. Audits; 11. Government Data Practices; 13. Data Availability; 14. Governing Law, Jurisdiction and Venues; 16. Data Disclosure; 18. Future Eligibility.

2. Duties, Representations and Warranties of Grantee and Use of Grant Funds.

2.1. The Grantee agrees to conduct, administer and complete in a satisfactory manner and in accordance with the terms and conditions of this Grant Agreement the program ("Grantee Program") which is described in Grantee's application to Council for assistance under the Council's Clean Water Fund grant program. Grantee's application is incorporated into this Grant Agreement as **Exhibit A**. Grantee agrees to perform the Grantee Program in accordance with the timeline in **Exhibit B** of this Grant Agreement and to undertake the financial responsibilities described in **Exhibit B**. The Grantee has the responsibility and obligation to complete the Grantee Program as described in **Exhibit B**. The Council makes no representation or warranties with respect to the success and effectiveness of the Grantee Program. The Council acknowledges that Grantee Program work may be limited to soliciting participation by its residents and businesses in the Grantee Program and requires additional work by the Grantee only to the extent that residents and businesses choose to participate in the Grantee Program, as described in **Exhibit B.**

The Grant Funds must be entirely passed through and can only be used for authorized rebates or grants for qualifying activities.

2.2. Grantee Representations and Warranties. The Grantee represents and warrants to Council, as follows:

A. It has the legal authority to enter into this Grant Agreement and to conduct and administer the Grantee Program and use the Grant Funds for the purpose or purposes described in this Agreement

B. It has taken all actions necessary for its execution of the Agreement and has provided to Council a copy of the resolution by its governing body authorizing Grantee to enter into this Agreement.

C. It has the legal authority to undertake the Clean Water Fund Grant Program, including the Grantee's financial responsibilities in **Exhibit B**

D. As specified in Exhibit A only Grantee's authorized representative may provide certifications required in this Grant Agreement and submit pay claims for reimbursement of Grantee Program costs.

E. It will comply with all the terms of this Agreement.

F. It will comply with all requirements of Clean Water Funding legislation and appropriations, except for requirements that this Grant Agreement explicitly states will be handled by the Council.

G. It has made no material false statement or misstatement of fact in connection with the Grant Funds, and all of the information it has submitted or will submit to the Council relating to the Grant Funds or the disbursement of any of the Grant Funds is and will be true and correct. It agrees that all representations contained in its application for the Clean Water Fund Grant are material representations of fact upon which the Council relied in awarding this Grant and are incorporated into this Agreement by reference.

H. It is not in violation of any provisions of its charter or of the laws of the State of Minnesota, and there are no material actions, suits, or proceedings pending, or to its knowledge threatened, before any judicial body or governmental authority against or affecting it and is not in default with respect to any order, writ, injunction, decree, or demand of any court or any governmental authority which would impair its ability to enter into this Grant Agreement, or to perform any of the acts required of it in the Agreement.

I. Compliance with the requirements of this Grant Agreement is not prevented by, is a breach of, or will result in a breach of, any term, condition, or provision of any agreement to which it is bound.

J. The Grantee Program will not violate any applicable zoning or use statute, ordinance, building code, rule or regulation, or any covenant or agreement of record relating thereto.

K. The Grantee Program will be conducted in full compliance with all applicable laws, statutes, rules, ordinances, and regulations issued by any federal, state, or other political subdivisions having jurisdiction over the Grantee Program.

L. It will comply with the financial responsibility requirements contained in **Exhibit B.**

M. It will furnish satisfactory evidence regarding these representations if requested by the Council.

3. Time.

Grantee must comply with all time requirements described in this Grant Agreement. In the performance of this Grant Agreement, time is of the essence.

4. Eligible Costs.

Eligible costs are those costs incurred by parties within the jurisdiction of the Grantee for 75% of rebate or grant payments as defined in **Exhibit B**. The Council will not reimburse Grantee for non-eligible costs. Any cost not defined as an eligible cost or not included in the Grant Grantee Program or approved in writing by the Council is a non-eligible cost.

5. Consideration and Payment.

5.1 Consideration. The Council will reimburse Grantee for eligible costs performed by the Grantee during the Grant Period as specified in this agreement. The Council bears no responsibility for any cost overruns that may be incurred by the Grantee or sub-recipients of any tier. The initial Grant amount to Grantee under this Grant Agreement is $19,000.00. The Grantee may be eligible to receive additional Grant amounts or an adjustment in Grant amount in accordance with the procedure in the Grant Amendment Form attached and incorporated as **Exhibit C**. Upon signature by both Grantee and Council on **Exhibit C** this Grant is amended by the amount in **Exhibit C**.

5.2. **Advance.** The Council will make no advance of the Grant Amount to Grantee.

5.3. **Payment.** To receive payment, the Grantee must submit a Reimbursement Request/Progress Report on forms provided by the Council, including electronically scanned receipts to verify the cost of eligible devices reported for each reporting period. Reimbursement Request/Progress Reports must be submitted quarterly, even if there are no eligible costs to report. The Grantee must describe its compliance with its the financial requirements, work completed including specific addresses where work was done, and provide sufficient documentation of grant eligible expenditures and any other information the Council reasonably requests. The Council will promptly pay the Grantee after the Grantee presents to the Council a Reimbursement Request/Progress Report and scanned copies of all receipts verifying the cost for all eligible devices reported and the Council's Authorized Representative accepts the invoiced services.

6. Conditions of Payment.

6.1. For each approved device for which Grantee requests payment, Grantee must certify the following to the Council: (1) the device has been purchased ; (2) Grantee received receipts for the device; (3) the purchase was not performed in violation of federal, Council, or local law, or regulation.

6.2. Conditions Precedent to Any Reimbursement Request. The obligation of the Council to make reimbursement payments is subject to the following conditions precedent:

A. The Council's receipt of a Reimbursement Request/Progress Report for the funds requested, and electronic copies of receipts verifying the cost for all eligible devices for that reporting period

B. If requested by the Council (in form and substance acceptable to the Council), evidence that (i) the Grantee has legal authority to and has taken all actions necessary to enter into this Agreement and (ii) this Agreement is binding and enforceable against the Grantee.

C. There is no Event of Default under this Grant Agreement or event which would constitute an Event of Default but for the requirement that notice be given or that a period of grace or time elapse.

D. The Grantee has supplied to the Council all other items that the Council may reasonably require to assure good fiscal oversight of state's funding through the Clean Water Fund.

7. Authorized Representative.

The Council's Authorized Representative is:

Name:	Brian Davis or successor
Title:	Senior Engineer
Mailing Address:	390 North Robert Street St. Paul, MN 55101
Phone:	651-602-1519
E-Mail Address:	brian.davis@metc.state.mn.us

The Council's Authorized Representative has the responsibility to monitor the Grantee's performance and the authority to accept the services provided under this grant contract. If the services are satisfactory, the Council's Authorized Representative will certify acceptance on each invoice submitted for payment.

The Grantee's Authorized Representative is:

Name:	Steve Stadler
Title:	Public Works Director
Mailing Address:	11100 Excelsior Blvd Hopkins, MN 55343
Phone:	952-548-6350
E-Mail Address:	sstadler@hopkinsmn.com

If the Grantee's Authorized Representative changes at any time during this Grant Agreement, the Grantee must immediately notify the Council and within 30 days provide a new City resolution (if such resolution is necessary) specifying the new Representative.

8. Assignment, Amendments, Waiver, and Grant contract Complete.

8.1 Assignment. The Grantee may neither assign nor transfer any rights or obligations under this Grant Agreement without the prior written consent of the Council and a fully executed Assignment Agreement.

8.2 Amendments. Any amendment to this Grant Agreement must be in writing and will not be effective until it has been executed and approved by the appropriate parties.

8.3 Waiver. If the Council fails to enforce any provision of this Grant Agreement, that failure does not waive the provision or its right to enforce it.

8.4 Grant Contract Complete. This Grant Agreement contains all negotiations and agreements between the Council and the Grantee. No other understanding regarding this Grant Agreement, whether written or oral, may be used to bind either party.

9. Liability and Insurance.

9.1 Liability. The Grantee and the Council agree that they will be responsible for their own acts and the results thereof to the extent authorized by law, and they shall not be responsible for the acts of the other party and the results thereof. The liability of the Council is governed by the Minn. Stat. Chapter 466 and other applicable laws. The liability of the Grantee is governed by the provisions contained in Chapter 466 and other applicable laws.

9.2 Relationship of the Parties. Nothing contained in this Grant Agreement is intended or should be construed in any manner as creating or establishing the relationship of co-partners or a joint venture between the Grantee and the Council, nor shall the Grantee be considered or deemed to be an agent, representative, or employee of the Council in the performance of this Grant Agreement, or the Grantee Program.

The Grantee represents that it has already or will secure or cause to be secured all personnel required for the performance of this Grant Agreement and the Grantee Program. All personnel of the Grantee or other persons while engaging in the performance of this Grant Agreement the Grantee Program shall not have any contractual relationship with the Council related to the work of the Grantee Program and shall not be considered employees of the Council. In addition, all claims that may arise on behalf of said personnel or other persons out of employment or alleged employment including, but not limited to, claims under the Workers' Compensation Act of the State of Minnesota, claims of discrimination against the Grantee, its officers, agents, contractors, or employees shall in no way be the responsibility of the Council. Such personnel or other persons shall not require nor be entitled to any compensation, rights or benefits of any kind whatsoever from the Council, including but not limited to, tenure rights, medical and hospital care, sick and vacation leave, disability benefits, severance pay and retirement benefits.

10. Audits.

Under Minn. Stat. § 16C.05, subd. 5, the Grantee's books, records, documents, and accounting procedures and practices relevant to this grant contract are subject to examination by the Council and/or the State Auditor or Legislative Auditor, as appropriate, for a minimum of six years from the termination date of this Grant Agreement.

11. Government Data Practices.

The Grantee and Council must comply with the Minnesota Government Data Practices Act, Minn. Stat. Chapter 13, as it applies to all data provided by the Council under this grant contract, and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the Grantee under this Grant Agreement. The civil remedies of Minn. Stat. § 13.08 apply to the release of the data referred to in this clause by either the Grantee or the Council. If the Grantee receives a request to release the data referred to in this Clause, the Grantee must immediately notify the Council.

12. Workers' Compensation.

The Grantee certifies that it is in compliance with Minn. Stat. § 176.181, subd. 2, pertaining to workers' compensation insurance coverage. The Grantee's employees and agents will not be considered Council employees. Any claims that may arise under the Minnesota Workers Compensation Act on behalf of these employees and any claims made by any third party as a consequence of any act or omission on the part of these employees are in no way the Council's obligation or responsibility.

13. Data Availability.

To the extent and as requested by the Council, Grantee agrees to comply with Minn. Stat. § 114D.50, subd. 5 requirements for data collected by the Grantee Programs funded with money from the Clean Water Fund that have value for planning and management of natural resources, emergency preparedness and infrastructure investments, including but not limited to the requirement that to the extent practicable, summary data and results of Grantee Programs funded with money from the Clean Water Fund should be readily accessible on the internet and identified as a Clean Water Fund Grantee Program. The Council will put overall summary information on the internet and will encourage the Grantee put its city information on the web. Grantee understands and agrees that Council may list its name and summary information on the internet or in any other Grantor reporting.

Data collected by the Grantee Programs, if any, funded with money from the Clean Water Fund that have value for planning and management of natural resources, emergency preparedness, and infrastructure investments must conform to the enterprise information architecture developed by the Office of MN.IT Services. Spatial data must conform to geographic information system guidelines and standards outlined in that architecture and adopted by the Minnesota Geographic Data Clearinghouse at the Minnesota Geospatial Information Office. A description of these data that adheres to the Office of MN.IT Services geographic metadata standards must be submitted to the Minnesota Geospatial Information Office to be made available online through the clearinghouse and the data must be accessible and free to the public unless made private under chapter 13. To the extent practicable, summary data and results of the Grantee Program funded with money from the clean water fund should be readily accessible on the Internet and identified as a Clean Water Fund Grantee Program.

14. Governing Law, Jurisdiction, and Venue.

Minnesota law, without regard to its choice-of-law provisions, governs this Grant Agreement. Venue for all legal proceedings out of this grant contract, or its breach, must be in the appropriate state or federal court of competent jurisdiction in Ramsey County, Minnesota.

15. Termination.

The Council may cancel this Grant Agreement at any time, with or without cause, upon 30 days' written notice to the Grantee. Upon termination, the Grantee will be entitled to payment for services prequalified and satisfactorily performed before the termination notice.

16. Data Disclosure.

Under Minn. Stat. § 270C.65, subd. 3, and other applicable law, the Grantee consents to disclosure of its federal employer tax identification number, and/or Minnesota tax identification number, already provided to the Council, to federal and state tax agencies and Council personnel involved in the payment of Council obligations. Grantee will require compliance with this Section 16 by Grantee's subrecipient of Grant funds and shall submit evidence of such compliance to Council as requested.

17. Notices.

In addition to any notice required under applicable law to be given in another manner, any notices required hereunder must be in writing and must be personally served or sent by email or United States mail, to the business address of the party to whom it is directed. The business address is the address specified below or such different address as may be specified, by either party by written notice to the other:

To the Grantee at:

Name:	Steve Stadler
Title:	Public Works Director
Mailing Address:	11100 Excelsior Blvd Hopkins, MN 55343
Phone:	952-548-6350
E-Mail Address:	sstadler@hopkinsmn.com

To the Council's Authorized Representative at:

Name:	Brian Davis or successor
Title:	Senior Engineer
Mailing Address:	390 North Robert Street St. Paul, MN 55101
Phone:	651-602-1519
E-Mail Address:	brian.davis@metc.state.mn.us

18. Miscellaneous.

18.1 Report to Legislature. As provided in Minn. Stat. § 3.195, the Council must submit a report on the expenditure and use of money appropriated under the Clean Water Fund to the legislature by January 15 of each year. The report must detail the outcomes in terms of additional use of Clean Water Fund resources, user satisfaction surveys, and other appropriate outcomes. The grantee agrees to provide to the Council by January 1 of each year a report on any user satisfaction surveys it has related to this Grantee Program, and other appropriate outcomes of the Grantee Program as prescribed in Section 18.3 of this Agreement.

18.2 Supplement. The funds granted under this agreement are to supplement and shall not substitute for traditional sources of funding. Grantee certifies to the Council that there was and is no

traditional Grantee sources of funding for the City to help fund one-fourth of the subject water efficiency rebate or grant work.

18.3 Measurable Outcomes. If requested by the Council, Grantee agrees to demonstrate compliance with the following: A Grantee Program or program receiving funding from the Clean Water Fund must meet or exceed the constitutional requirement to protect, enhance, and restore water quality in lakes, rivers and streams and to protect groundwater and drinking water from degradation. A Grantee Program or program receiving funding from the Clean Water Fund must include measurable outcomes, as defined in section 3.303, subdivision 10, and a plan for measuring and evaluating the results. A Grantee Program or program must be consistent with current science and incorporate state-of-the-art technology. All information for funded Grantee Program work, including the proposed measurable outcomes, must be made available for publication on the web site required under Minn. Stat. § 3.303, subdivision 10, as soon as practicable and forwarded to the Council and the Legislative Coordinating Commission under the provisions of Minn. Stat. § 3.303, subd. 10. The Grantee must compile and submit all information for funded Grantee Programs or programs, including the proposed measurable outcomes and all other items required under section 3.303, subdivision 10, to the Council and, if requested by the Council, the Legislative Coordinating Commission as soon as practicable or by January 15 of the applicable fiscal year, whichever comes first.

18.4 Minn. Stat. § 16B.98. Grants funded by the Clean Water Fund must be implemented according to section 16B.98 and must account for all expenditures.

18.5 Benefit to Minnesota Waters. Money from the Clean Water Fund may only be spent on Grantee Programs that benefit Minnesota waters.

18.6 Website. If the Grantee has information on its website about the water efficiency grant program under Minn. Stat. § 114D.50, the Grantee will when practicable in accordance with Minn. Stat. § 114D.50, subd. 4 (f) prominently display on the Grantee's website home page the Legacy logo accompanied by the phrase "Click here for more information." When a person clicks on the Legacy logo image, the website must direct the person to a web page that includes both the contact information that a person may use to obtain additional information, as well as a link to the Council's and Legislative Coordinating Commission Website required under section 3.303, subdivision 10.

18.7 Future Eligibility. Future eligibility for money from the Clean Water Fund is contingent upon the Grantee satisfying all application requirements related to Council's fulfillment of Minn. Stat. § 114D.50 as well as any additional requirements contained in 2019, 1st Special Session, chapter 2, article 2, section 9.

18.8 Prevailing Wages. The Grantee agrees to comply with all of the applicable provisions contained in chapter 177 of the Minnesota Statutes, and specifically those provisions contained in Minn. Stat. §§ 177.41 through 177.435, as they may be amended, modified or replaced from time to time with respect to the Grantee Program. By agreeing to this provision, the Grantee is not acknowledging or agreeing that the cited provisions apply to the Grantee Program.

18.9 Disability Access. Where appropriate, Grantee of clean water funds, in consultation with the Council on Disability and other appropriate governor-appointed disability councils, boards, committees, and commissions, should make progress toward providing greater access to programs, print publications, and digital media for people with disabilities related to the programs the recipient funds using appropriations made in this agreement.

18.10. General Provisions.

(i) Grants. The Grantee shall implement this Grant Agreement according to Minnesota Statutes, section 16B.98, and shall account for all expenditures of funds.

(ii) Lawsuit. This Grant shall be canceled to the extent that a court determines that the appropriation illegally substitutes for a traditional source of funding.

(iii) Termination Due to Lack of Funds. Grantee recognizes that Council's obligation to reimburse Grantee for eligible Grantee Program costs is dependent upon Council's receipt of funds from the State of Minnesota appropriated to Council under 2019 Session Laws, 1st Special Session, Chapter 2, Article 2, Section 9. Should the State of Minnesota terminate such appropriation or should such funds become unavailable to Council for any reason, Council shall, upon written notice to Grantee of termination or unavailability of such funds, have no further obligations for reimbursement or otherwise under this Grant Agreement. In the event of such written notice, Grantee has no further obligation to complete the Grantee Program as required by this Grant Agreement.

19. Default and Remedies.

19.1 Defaults. The Grantee's failure to fully comply with all of the provisions contained in this Grant Agreement shall be an event of default hereunder ("Event of Default").

19.2. Remedies. Upon an event of default, the Council may exercise any one or more of the following remedies:

a. Refrain from disbursing the Grant.

b. Demand that all or any portion of the Grant already disbursed be repaid to it, and upon such demand the Grantee shall repay such amount to the Council.

c. Enforce any additional remedies the Council may have at law or in equity.

IN WITNESS WHEREOF, the parties have caused this agreement to be executed by their duly authorized representatives.

METROPOLITAN COUNCIL

By: _____
Regional Administrator, successor, or delegate

Date: _____

GRANTEE:

The Grantee certifies that the appropriate person(s) have executed the grant contract on behalf of the Grantee as required by applicable articles, bylaws, resolutions, or ordinances.

By: _____

_____

Printed Name and Title

Date: _____

EXHIBIT A

(Application from community)

Metropolitan Council Water Efficiency Grant Application Form

Applicant Information:

Municipality: City of Hopkins

Municipal Utility: City of Hopkins

Mailing Address: 11100 Excelsior Blvd, Hopkins, MN 55343

Primary Contact Information: Municipality primary authorized representative (all correspondence regarding the Water Efficiency Grant Program should be addressed to individual named below):

NAME: Steve Stadler

TITLE: Public Works Director

STREET: 11100 Excelsior Blvd

CITY, ZIP: Hopkins 55343

PHONE: 952-548-6350

EMAIL: sstadler@hopkinsmn.com

Secondary Contact Information: Municipality secondary authorized representative:

NAME: Sean Moilanen

TITLE: Utilities Foreman

STREET: 11100 Excelsior Blvd

CITY, ZIP: Hopkins 55343

PHONE: 952-548-6353

EMAIL: smoilanen@hopkinsmn.com

Municipal Total Per Capita Water Use (2018): 98.6 (gallons per person-day)

Municipal Residential Per Capita Water Use (2018): 78.5 (gallons per person-day)

Municipal Ratio of Peak Month to Winter Month Water Use (2018): 1.67

Municipality's estimated annual water savings from proposed program: 2,000,000 (gallons)

Municipal Utility Grant or Rebate Program Design:

Requested Grant Amount (must equal 75% of total program budget): $48,000

Required Utility Matching Amount (must equal 25% of total program budget): $16,000

Will your program be a grant program or rebate program? Rebate

Estimated Number of Items:

Item	Estimated Number
Toilets	75
Irrigation Controllers	15
Clothes Washing Machines	75
Irrigation Spray Sprinkler Bodies	15
Irrigation System Audits	6

Project Work Plan and Schedule:*

Task Description	Responsible Person	Start Date	Completion Date
Create rebate program, obtain City Council/Mayor approval, sign agreement with Met Council	Public Works Director		
Promote program on City social media outlets (Facebook, Twitter and Nextdoor), in City e-newsletter, website content, and hardcopy newsletter.	Hopkins Communications Coordinator		
Program administration including: responding to phone call and email inquiries, receiving rebate requests and issuing rebate checks	Public Works Administrative Staff		
Quarterly reporting to Met Council	Public Works Administrative Staff		

*** Municipal utility may create own project plan and schedule form**

Communications to Property Owners:

How will your program be advertised (check all that apply):

Newsletter ☑

Print Media ☑

Email ☑

Twitter ☑

Website ☑

Radio ☐

Television ☐

Facebook ☑

Nextdoor ☑

Other Social Media ☐

Please attach examples of proposed newsletter, print media, or email communications

Critical Points to Remember:

- The applying municipality must be a water supplier
- New construction and new developments are not eligible
- Funds are for rebates or grants only; consulting and city staff time are ineligible
- Combined Council and municipality funds cannot pay for 100% of an eligible activity's cost
- A portion of each eligible activity's cost must be paid by the property owner
- Grant recipients must display the Clean Water, Land and Legacy Amendment logo and the Metropolitan Council logo on program-related web pages and paper communications

EXHIBIT B

Clean Water Fund Grant Program Overview & Goal, Structure, and Qualified Activities (should anything herein be contradicted by the Agreement language, the Agreement terms prevail).

Overview

The Metropolitan Council (Council) will implement a water efficiency grant program effective September 30, 2019 to June 30, 2022. Grants will be awarded on a competitive basis to municipalities that manage municipal water systems. The Council will provide 75% of the program cost; the municipality must provide the remaining 25%. Municipalities will use the combined Council and municipality funds to run their own grant or rebate programs.

Grants will be made available in amounts with a minimum of $2,000 and a maximum of $50,000. Grantees will be required to provide estimated water savings achieved through this program for Clean Water, Land & Legacy Amendment reporting purposes.

Legislative Directive - Minnesota 2019 Session Law

$375,000 the first year and $375,000 the second year are for the water demand reduction grant program to encourage municipalities in the metropolitan area to implement measures to reduce water demand to ensure the reliability and protection of drinking water supplies. Fiscal year 2020 appropriations are available until June 30, 2021, and fiscal year 2021 appropriations are available until June 30, 2022.

Grant Program Goal

The goal of the water efficiency grant program is to support technical and behavioral changes that improve municipal water use efficiency in the seven-county metropolitan area.

Critical Points to Remember

- The applying municipality must be a water supplier
- New construction and new developments are not eligible
- Funds are for rebates or grants only; consulting and city staff time are ineligible
- Combined Council and municipality funds cannot pay for 100% of an eligible activity's cost
- A portion of each eligible activity's cost must be paid by the property owner
- Grant recipients must display the Clean Water, Land and Legacy Amendment logo and the Metropolitan Council logo on program-related web pages and paper communications

Grant Program Structure: Administration and Funding

The Water Efficiency Grant Program will be administered by Metropolitan Council Environmental Services (MCES) and will be funded with $750,000 appropriated by the 2019 Minnesota Legislature. Grant applications will be reviewed and ranked by the MCES Water Supply Planning Unit staff.

Grants are only for water efficiency programs offering rebates or grants to property owners who are customers of the municipal water supply system and who replace specified water using devices with approved devices that use substantially less water.

Grants will be awarded to municipalities in amounts ranging from $2,000 to $50,000 for providing rebates or grants to property owners. Municipalities will be responsible for the design and operation of their rebate or grant program and its details. Grant payments to the municipality will be for 75% of approved program amounts. The municipality must provide the remaining 25% of the program cost. Municipality rebates or grants are eligible for reimbursement on device replacements conducted September 30, 2019 through June 30, 2022.

Here is an example showing the grant funding design:

Metropolitan Council Grant Amount	**$15,000**
Municipality Match	$5,000
Municipality Grant/Rebate Program Total	$20,000

Eligibility

Per legislative language, the grant program is limited to municipalities in the seven-county metropolitan area.

Municipalities eligible per above must apply to participate and, if approved, sign a standard Council Grant Agreement, before any eligible rebates or grants can be submitted for reimbursement. Agreements shall require that municipalities:

- Entirely pass through grants received (as is being done by MCES)
- Verify purchase of devices to receive grants
- Retain records and cooperate with any audits
- Conduct all communications with property owners and ensure all written communications to property owners include both the Clean Water, Land and Legacy Amendment and the Metropolitan Council's logo
- Provide quantitative information for state reporting purposes

Eligible water efficiency devices consist of the following:

- Toilet replacement with a US EPA WaterSense labeled toilet
- Irrigation controller replacement with a US EPA WaterSense labeled controller
- Clothes washing machine replacement with an US DOE Energy Star labeled clothes washing machine
- Irrigation spray sprinkler body replacement with a US EPA WaterSense labeled spray sprinkler body
- Irrigation system audit by an Irrigation Professional certified by a US EPA WaterSense program

Expenses eligible for reimbursement are the out-of-pocket cost of the device and its installation only, not to include any owner labor costs. In addition, new construction and new developments are ineligible, as this program is intended as a current infrastructure replacement program.

Application Process

- Applicants must be municipal water suppliers
- Municipalities will submit MCES supplied application form by September 30, 2019. Required information includes:
    - the municipality's rebate or grant program design and work plan
    - proposed examples of communications to property owners
    - requested total grant amount
    - estimated annual amount of water saved by the applying municipality
- Application form is available at: https://metrocouncil.org/Wastewater-Water/Funding-Finance/Available-Funding-Grants.aspx
- Submit competed application to: brian.davis@metc.state.mn.us
- Metropolitan Council will notify municipalities of grant awards and provide grant agreements by December 2, 2019.

Proposal Selection Criteria

In the event that funds requested exceed funds available, the following criteria will be used to determine the amount granted to a given municipality:

- Municipalities that are supplied 100% with groundwater
- Municipalities with identified water supply issues in Master Water Supply Plan Community Profiles or Local Water Supply Plans
- Municipalities' ratio of peak monthly water use to winter monthly water use
- Municipalities' average residential per capita water use
- The order in which applications are received and until grant funds are completely committed

Funding Process and Reporting Requirements

- Utilizing forms provided by MCES, the following information must be reported on a quarterly basis:
    - Number, type and amount of rebates or grants provided to property owners, along with each property address
    - Estimated annual gallons of water saved per device installation
    - Municipality matching funds disbursed
    - Number of unmet funding requests from property owners, if any
- Upon review and confirmation of the above information, MCES will process a grant payment in the amount of 75% of approved total rebates or grants for the reporting period.
- MCES will provide confirmation of grant balances available upon request and reserves the right to amend grant agreements, in collaboration with grantee municipality, if quarterly reporting indicates rebate or grant programs will not fully utilize grant awards within the grant period.

Qualified Activities

- Toilet replacement with a US EPA WaterSense labeled toilet:

  http://www.epa.gov/WaterSense/product_search.html
- Irrigation controller replacement with a US EPA WaterSense labeled controller:

  https://www.epa.gov/watersense/product-search
- Clothes washing machine replacement with an US DOE Energy Star labeled clothes washing machine: https://www.energystar.gov/productfinder/product/certified-clothes-washers/results
- Irrigation spray sprinkler body replacement with a US EPA WaterSense labeled spray sprinkler body

  https://www.epa.gov/watersense/product-search
- Irrigation system audit by an Irrigation Professionals certified by a US EPA WaterSense program

https://www.epa.gov/watersense/find-pro

Reporting Example

Community	Property Street Address	Property Type	Device Replaced	Cost per Device	# of Devices	Rebate or Grant per Device	Est. Annual Water (Gal) Saved Per Device	Total Rebate or Grant	Municipality Contribution	Eligible Grant Amount
Anytown	652 Silvis St	Residential	Clothes Washer	$624.60	1	$150.00	3,000	$150.00	$37.50	$112.50
Anytown	1952 Ingram Way	Residential	Irrigation Controller	$199.99	1	$100.00	8,800	$100.00	$25.00	$75.00
Anytown	630 Gibbons Ave	Residential	Clothes Washer	$599.90	1	$150.00	3,000	$150.00	$37.50	$112.50
Anytown	4424 Barriger Blvd	Residential	Toilet	$168.00	1	$50.00	4,000	$50.00	$12.50	$37.50

EXHIBIT C Revision # [ ]

METROPOLITAN COUNCIL ENVIRONMENTAL SERVICES

2019 CLEAN WATER FUND WATER EFFICIENCY GRANT PROGRAM
GRANT AMENDMENT FORM

NOTICE TO GRANTEE: Submission of this form is required to modify your city's agreement with Metropolitan Council Environmental Services (MCES) 2019 Clean Water Fund Water Efficiency Grant program (Grantee Program).

After determination of your city's initial grant amount, completion and submission of this form is necessary when 1) you are requesting additional grant funds to meet unexpected rebate or grant demand, or 2) when your city has determined that the previously approved program's rebate or grant demand will not be met, requiring less grant funds than anticipated when the agreement was signed.

The process for modifying your agreement is as follows:

1. Your City's designated authorized representative submits 2 signed copies of Exhibit C to MCES, with an attachment itemizing requests for changes to prior granted amounts.
2. Upon receipt of signed Exhibit C, MCES Program Administrator obtains Council authorized signatures that modifies the agreement and returns a fully signed copy of Exhibit A indicating new grant amount to City's designated authorized representative.

Instructions: Indicate the date of your change request in #1 box. Indicate the number of this particular change request in #2 box (and in box at top of page – must match). Enter the current grant agreement amount (as MCES approved) in #3 box. If you wish to <u>increase</u> your municipality's grant amount, enter the amount you are requesting in #4 box. If you wish to <u>decrease</u> your grant amount due to less demand than anticipated, enter the amount in #5 box. Enter in #6 box the amount derived from adding #3 to #4 or derived from subtracting #5 from #3.

Grant Agreement # [ ]

1. Date of change request: [ ]
2. Change request number: [ ]
3. Current Grant Agreement Amount (as MCES approved): [ ]

4. Increase due to request for additional funding: ☐

5. Decrease due to less demand: ☐

6. Amended Grant Agreement Amount requested: ☐

CITY NAME: _____

I request the above changes (sign with title and date):

_____

MCES PROGRAM ADMINISTRATOR APPROVAL (signature and date):

_____

COUNCIL AUTHORIZED SIGNATURE AND DATE

_____

Questions may be directed to the MCES Authorized Representative:

Brian Davis
MCES Senior Engineer
390 Robert Street North
St. Paul, MN 55101-1805
Phone: (651) 602-1519
Email: brian.davis@metc.state.mn.us

December 17, 2019 Council Report 2019-124

Adopt Resolution 2019-099, Changing the Benefit Amount for the Hopkins Fire Department Relief Association

Proposed Action

Staff recommends adoption of the following motion: Adopt Resolution 2019-099 Changing the Benefit Amount for the Hopkins Fire Department Relief Association.

Overview

Each year the Relief Association evaluates its benefit increase based on investment gains and/or losses, contributions from the City, and Minnesota state aid money. Each year the Relief Association and their Financial Company Vector Wealth Management look at the fund and how the funds are trending. The Relief Association reduced the pay out in 2008 due to the down turn in the economy. In June of 2019 the contribution was raised from $6,900 to $7,300. It is the thought of both the Relief Association and the Fire Department Members to be conservative in raising the fund in case another financial crash.

The Hopkins Fire Department Relief Association is looking to raise the pension from $7,300.00 to $7,900.00. The relief association in consultation with the accounting firm has verified that the market and funds are conducive to raising the pension fund and still be protected if the market should fall. The pension fund will still be funded with this increase at 109%

Primary Issues to Consider

- Increase in pension?

The relief association has been working with both the state auditor and our financial advisor both agree the fund is doing well and the recommend an increase in the relief benefits. The increase will still leave the fund at 103% funded.

Supporting Information

- Resolution 2019-099

_____

Dale Specken
Fire Chief

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

CITY OF HOPKINS
HENNEPIN COUNTY, MINNESOTA

RESOLUTION 2019-099

CHANGING THE BENEFIT AMOUNT FOR THE HOPKINS FIRE DEPARTMENT RELIEF ASSOCIATION

WHEREAS, the City of Hopkins Fire Department Relief Association has requested the benefit amount be changed to $7,900.00 per year of service; and

WHEREAS, the City of Hopkins provides the Relief Association with a set amount of funding each year and has agreed to allow the Relief Association to determine the benefit amount as long as no additional city funds are requested; and

WHEREAS, according to State of Minnesota law the Relief Association can maintain the new benefit amount without additional city contributions.

NOW, THEREFORE, BE IT RESOLVED that the City of Hopkins Mayor and City Council that we hereby change the Hopkins Fire Department Relief Association benefit amount to $7,900.00 per year of service

Adopted by the City Council of the City of Hopkins this 17th day of December, 2019.

_____
Jason Gadd, Mayor

ATTEST:

_____
Amy Domeier, City Clerk

MEMO

To: Honorable Mayor and City Council

From: Jason Lindahl, City Planner

Date: December 17, 2019

Subject: Second reading of Ordinance 2019-1144 rezoning the Beacon (Vista 44) Apartment Building site

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Proposed Action

Move to adopt Resolution 2019-101 approving the second reading of Ordinance 2019-1144 rezoning the south 1 acre of the St. Joseph's Church Parking Lot (PID 24-117-22-34-0300) from R-5 High Density Multiple Family to Mixed Use with a Planned Unit Development (Vista 44).

Overview

The applicant, Beacon Interfaith Housing Collaborative (Vista 44 Housing Limited Partnership), requests rezoning and planned unit development (PUD) approvals to allow construction of a 4-story, 50-unit multifamily apartment building. The subject property is owned by the Parish of St. Gabriel the Archangel of Hopkins, Minnesota and located on the south 1 acre (green space) of St. Joseph's Church parking lot. The site is currently guided HDR - High Density Residential by the 2030 Comprehensive Plan and zoned R-5, High Density Multiple Family.

The City Council adopted a motion to approve the first reading of this item on December 3, 2019. Prior to that action, the Planning & Zoning Commission held a public hearing to review this item and recommended the City Council approve it on October 22, 2019. After the Planning & Zoning Commission review, City Council first reviewed this item on November 4 and ultimately decided to table it to allow more time for review and discussion. The City Council then reviewed this item at a work session on November 26 before directing staff to bring it back to the December 3 regular City Council meeting for action.

Should the City Council approve the second reading of this ordinance, it will rezone the subject property from R-5 High, Density Multiple Family to Mixed Use with a Planned Unit Development (PUD). The version of the ordinance before the City Council for the second reading is the same as approved during the first reading.

Attachments

- Resolution 2019-101
- Ordinance 2019-1144

CITY OF HOPKINS
Hennepin County, Minnesota

RESOLUTION 2019-101

A RESOLUTION APPROVING THE SECOND READING OF ORDINANCE 2019-1144 REZONING CERTAIN REAL PROPERTY FROM R-5 HIGH DENSITY MULTIPLE FAMILY TO MIXEDUSE – PLANNED UNIT DEVELOPMENT SUBJECT TO CONDITIONS

WHEREAS, the applicant, Beacon Interfaith Housing Collaborative, on behalf of the Parish of St. Gabriel the Archangel of Hopkins, Minnesota, initiated an application ("Application") requesting to rezone the real property legally described on Exhibit A attached hereto (the "Property") from R-5 High Density Multiple Family to Mixed Use – Planned Unit Development to allow for the development of a 4-story, 50-unit multiple family apartment building; and

WHEREAS, in connection with the Application, the applicant also submitted a separate application for a site plan for the planned unit development and an administrative subdivision application; and

WHEREAS, the procedural history of the Application is as follows:

1. That the Application was initiated by the applicant on September 20, 2019.

2. That the Hopkins Planning and Zoning Commission, pursuant to published and mailed notice, held a public hearing on the Application and reviewed such Application on October 22, 2019 in accordance with state and local laws: all persons present were given an opportunity to be heard.

3. That comments and analysis of all persons present, including City staff, were considered by the Hopkins Planning and Zoning Commission who, via Planning and Zoning Resolution 2019-12, recommended approval of said Application following the aforementioned public hearing; and

4. That the Hopkins City Council reviewed this item on November 4, 2019, took public comment and adopted a motion to continue it to allow time for further review and discuss; and

5. That the Hopkins City Council had further review and discussion of this item during their November 26, 2019 work session and directed staff to bring this item back to the City Council during the December 3, 2019 regular meeting; and

6. That the Hopkins City Council reviewed this item on December 3, 2019 took public comment and adopted a motion to approve Resolution 2019-089 approving the first reading of Ordinance 2019-1144 rezoning the subject property.

WHEREAS, City staff has also recommended approval of the Application based on the findings outlined in City Council Report 2019-112 presented to the City Council on November 4, November 26 and December 3, 2019, which is hereby fully incorporated into this Resolution as additional findings of the City Council.

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

1. All recitals set forth in this Resolution are incorporated into and made part of this Resolution, and more specifically, constitute the express findings of the City Council.

2. Based on the findings contained herein which include the staff report referenced above, the Application to rezone the Property to Mixed Use – Planned Unit Development to allow for the proposed development is hereby approved, subject to the following conditions:

    a. Execution by the applicant of a Planned Unit Development (PUD) Agreement that meets all requirements of the City Attorney.

    b. Approval of the associated site plan application for the 4-story, 50-unit multiple family apartment complex and adherence to all related conditions.

    c. Approval of the associated subdivision application separating the Property from its current parcel and adherence to all related conditions.

    d. Approval of the aforementioned multi-family development by the Nine Mile Creek Watershed Disctrict and any other entity with jurisdiction over this matter and adherence to all related conditions.

3. Upon each of the aforementioned conditions being met, City staff shall update the City's official zoning map to reflect the rezoning of the Property memorialized herein.

Adopted by the City Council of the City of Hopkins this 17th day of December, 2019.

_____
Jason Gadd, Mayor

ATTEST:

_____
Amy Domeier, City Clerk

EXHIBIT A

Legal Description of the Property

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

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

CITY OF HOPKINS
Hennepin County, Minnesota

ORDINANCE NO. 2019-1144

AN ORDINANCE REZONING CERTAIN REAL PROPERTY FROM R-5 HIGH DENSITY MULTIPLE FAMILY TO MIXED USE – PLANNED UNIT DEVELOPMENT

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

1. That the present zoning classification of R-5, High Density Multiple Family, upon the following described premises is hereby repealed, and in lieu thereof, said premises are hereby zoned Mixed Use with a Planned Unit Development (PUD).

2. The legal description of the properties to be rezoned is as follows:

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

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

First Reading:	December 3, 2019
Second Reading:	December 17, 2019
Date of Publication:	December 26, 2019
Date Ordinance Takes Effect:	December 26, 2019

_____
ATTEST: Jason Gadd, Mayor

_____
Amy Domeier, City Clerk

December 17, 2019 **Council Report 2019-126**

City of Hopkins

RENEWAL OF GENERAL LIABILITY AND PROPERTY INSURANCE AND AUTHORIZE NOT WAIVING OF THE STATUTORY TORT LIABILITY ON THE LEAGUE OF MINNESOTA CITIES INSURANCE TRUST POLICY

Proposed Action

Staff recommends adoption of the following: Move to approve renewal of the LMCIT Insurance Policy and to not waive the statutory tort liability limits to the extent of the coverage purchased.

Adoption of this motion will result in staff moving forward with the proposed LMCIT insurance coverage including not waiving the statutory tort liability limits. The staff recommendation to not waive the statutory tort liability limits is based on liability exposure to the city in the form of higher premiums.

Overview

The LMCIT has indicated that insurance rates may increase slightly in the property/casualty program with liability rates increasing from 1% to 5% and property rates increasing from 2% to 4%. Auto physical damage and scheduled mobile equipment should remain flat. The overall rate changes may not necessarily correspond with a specific City's insurance premiums. Actual premiums are also affected by changes in city expenditures, property values, payrolls, experience rating and other exposure measures. Property/Casualty insurance premiums in were $247,138 in 2019. The 2020 budgeted amount was increased by 2.8% to 257,573. We anticipate that insurance premiums overall for Hopkins will be within the budgeted amounts for 2020.

Finance continues to recommend the deductible amount of $20,000/$40,000 with $1,000 per occurrence after reaching the maximum of $40,000. The current amount available in the insurance risk fund to cover deductible costs is $291,936. In addition we will be sharing in a $2.5 Million LMCIT dividend this year. LMCIT has consistently paid out dividends since 1987, totaling approximately $332 million. The dividend will add to our insurance reserves for potential claims and deductibles.

Primary Issues to Consider

- Deductible amount
- Tort liability exposure

Staff Recommendation

Finance recommends renewal of the LMCIT Insurance Policy and to not waive the monetary limits on the tort liability established by Minnesota Statutes 466.04, to the extent of the limits of the liability coverage obtained from LMCIT.

Supporting Information

- Election of waiver of tort limits for liability
- LMCIT Liability Coverage Guide

Nick Bishop, CPA
Finance Director

Financial Impact: $ 257,573 Budgeted: Y/N Y Source: All Funds
Related Documents (CIP, ERP, etc.): Notes:

LEAGUE of MINNESOTA CITIES

LIABILITY COVERAGE – WAIVER FORM

Members who obtain liability coverage through the League of Minnesota Cities Insurance Trust (LMCIT) must complete and return this form to LMCIT before the member's effective date of coverage. Return completed form to your underwriter or email to pstech@lmc.org.

The decision to waive or not waive the statutory tort limits must be made annually by the member's governing body, in consultation with its attorney if necessary.

Members who obtain liability coverage from LMCIT must decide whether to waive the statutory tort liability limits to the extent of the coverage purchased. The decision has the following effects:

- *If the member does not waive the statutory tort limits*, an individual claimant could recover no more than $500,000 on any claim to which the statutory tort limits apply. The total all claimants could recover for a single occurrence to which the statutory tort limits apply would be limited to $1,500,000. These statutory tort limits would apply regardless of whether the member purchases the optional LMCIT excess liability coverage.

- *If the member waives the statutory tort limits and does not purchase excess liability coverage*, a single claimant could recover up to $2,000,000 for a single occurrence (under the waive option, the tort cap liability limits are only waived to the extent of the member's liability coverage limits, and the LMCIT per occurrence limit is $2,000,000). The total all claimants could recover for a single occurrence to which the statutory tort limits apply would also be limited to $2,000,000, regardless of the number of claimants.

- *If the member waives the statutory tort limits and purchases excess liability coverage*, a single claimant could potentially recover an amount up to the limit of the coverage purchased. The total all claimants could recover for a single occurrence to which the statutory tort limits apply would also be limited to the amount of coverage purchased, regardless of the number of claimants.

Claims to which the statutory municipal tort limits do not apply are not affected by this decision.

LMCIT Member Name:
City of Hopkins

Check one:

☑ The member **DOES NOT WAIVE** the monetary limits on municipal tort liability established by Minn. Stat. § 466.04.

☐ The member **WAIVES** the monetary limits on municipal tort liability established by Minn. Stat. § 466.04, to the extent of the limits of the liability coverage obtained from LMCIT.

Date of member's governing body meeting: December 17, 2019

Signature: _____ Position: Finance Director

INFORMATION MEMO

LMCIT Liability Coverage Guide

Learn about liability (casualty) coverage offered by the League of Minnesota Cities Insurance Trust (LMCIT or Trust), including unique coverage situations for land use litigation, airports, sewer backups, special events, joint powers entities and more. Understand coverage limits and incentive programs. Includes information on filing a liability claim.

RELEVANT LINKS:

See also LMC information memos, *LMCIT Property, Crime, Bond, and Petrofund Coverage Guide*; *LMCIT Workers' Compensation Coverage Guide; LMCIT Auto Coverage Guide*. See also LMC website, LMCIT Eligibility Requirements.

For more information contact the LMCIT Underwriting Department 651.281.1220 800.925.1122.

I. About the League of Minnesota Cities Insurance Trust

The Trust's fundamental purpose is to mitigate hazards and to cover the workers' compensation, property, liability, and auto risks of Minnesota's cities and other city-related entities—not to show a profit for stakeholders. The organization was created by cities, for cities, and makes serving cities a priority. Trust funds not needed for claims, expenses, or reserves are returned to members as a dividend.

This coverage guide provides a summary of liability coverage available through the Trust. Members should examine the coverage document for actual wording. In all cases, the coverage document outlines coverage, exclusions and limitations.

II. Liability coverage

LMC information memo, *Comparing Coverage Quotes*.

The Trust's liability coverage is designed to meet members' coverage needs as simply as possible. The Trust uses its own unique coverage document to provide liability coverage to members. It uses a single coverage document, rather than issuing separate policies to cover things like municipal liability, errors and omissions, and police liability.

For more information on liability see Handbook, *Insurance and Loss Control*. Handbook, *Liability*.

The industry term "general liability" or a "commercial general liability" (CGL) policy refers to coverage issued to organizations to protect them from liability claims for bodily injury, property damage, and advertising and personal injury. The Trust's liability coverage is technically not a CGL, but it encompasses coverage for risks typically covered by a CGL. The Trust's liability coverage is tailored specifically for cities and related entities in Minnesota and is much broader than a regular CGL policy.

RELEVANT LINKS:

A. Covered parties

Generally, the following are covered parties under the Trust's municipal liability coverage.

- City and its officers, employees, and volunteers.
- Relief associations.
- Some joint planning boards.
- Additional covered parties, on a limited basis, for organizations from which a member leases a premise or equipment. This is only granted if the member is contractually obligated to have the lessor named as an additional insured and only applies to bodily injury, property damage, or personal injury for claims that are made by the lessor due to the member's acts during the terms of the lease agreement.
- Independent contractors acting in the administrative capacity of medical director or medical advisor to the city ambulance service; or serving as a member of or representing the city as a member of a committee, subcommittee, board, or commission.

If a member is required to add another party as an additional insured or additional covered party, The Trust can add the party on the member's municipal liability coverage by endorsement. Also, joint powers entities and the following city boards, commissions, and agencies are not covered parties unless they are specifically named or added by endorsement.

See Section III.I, *Joint powers entities* and Section III.Q, *Separate city boards and commissions.*

- Gas, electrical, or steam utilities commissions.
- Port authorities, housing and redevelopment authorities (HRA), economic development authorities (EDA), municipal redevelopment authorities, or similar agencies.
- Municipal power or gas agencies.
- Welfare or public relief agencies
- School boards.
- Independent contractors.

B. Liability claims

The Trust's liability coverage provides protection for claims someone else makes against the member, an officer or employee, or another covered party. The coverage only protects these persons for actions arising from the course and scope of his or her duties.

The coverage applies to damages and defense costs. Damages is specifically defined in the coverage document and certain items are specifically included and others are specifically excluded by the definition.

RELEVANT LINKS:

The Trust's municipal liability coverage is claims-made. To be covered, the claim must be reported within the coverage period. For certain types of claims, the coverage document specifies when the claim is deemed to be made.

Coverage only applies if the occurrence giving rise to the claim occurred after the applicable retroactive date, which is specified in the declarations. It is generally the date when the member first joined the Trust or added the specific coverage in question. The coverage document further spells out how the occurrence date is determined for specific types of claims. Most members have been with the Trust long enough that the retroactive date is rarely an issue.

C. Liability exclusions

Since the Trust's liability coverage is broad, it's easier to first look at what's not covered. Following are some of the standard exclusions. Members should contact their agent or underwriter if coverage is needed in any of these areas. The Trust may be able to find a way to provide coverage, or at least help find coverage elsewhere.

1. Liability not covered

See Section III.M, *Open meeting law and bankruptcy lawsuits.*

- Damages arising out of a member's bankruptcy, except some defense cost reimbursement coverage is available for city officials under the Trust's defense cost reimbursement coverage.
- Criminal proceedings.
- Most non-sudden pollution.
- Nuclear hazards.
- War.
- Amounts owed under contract.
- Condemnation, except some regulatory takings.
- Damage the member does to its own property.
- Fixing the member's own work.
- Not paying employees for the work they did.
- Recalling defective products.

2. Risks that must be specifically underwritten

See Section III.A, *Airports*; Section III.C, *Dams and downstream liability*; Section III.G, *Fireworks*; Section III.I, *Joint powers entities*; and Section III.Q, *Separate city boards and commissions.*

- Airports.
- Dikes or Class I or Class II dams.
- Fireworks the member sponsors.
- Joint powers entities.
- Separate boards, commissions, and agencies.

RELEVANT LINKS:

3. Risks for which specialty coverage is needed

- Aircrafts (a drone is not considered an "aircraft" if it's not designed for the transport of persons or property).
- Architects.
- Big boats.
- Doctors, most nurses, dentists, pharmacists, and psychologists.
- Liquor sales.
- Motorized amusement rides, such as carnival rides.
- Motor vehicle demolition derbies, racing, pulling contests, or stunt driving.
- Prisons.
- Railroads.
- Rodeos.
- Specialty type operations such as hospitals, clinics, nursing homes and licensed child care programs.
- Stunting activities or events that involve a significant risk of serious injury to the participant, performer, or others, such as high-wire acts, base or bungee jumping, skydiving, circus type acts, and acts involving dangerous animals.

See Section III.K, *Liquor liability*.
See Section III.T, *Special events*.
See Section III.T, *Special events*.
See Section III.T, *Special events*.

D. Coverage limits

The Trust gives members options for structuring their liability coverage. Members can also choose either to waive or not to waive the monetary tort caps the statutes provide. It can also select from among several liability coverage limits.

1. LMCIT primary liability limits

Minn. Stat. § 466.04.

The statutory municipal tort liability is limited to a maximum of $500,000 per claimant and $1.5 million per occurrence. These limits apply whether the claim is against the member, against an individual officer or employee, or against both. The Trust's liability coverage provides a standard limit of $2 million per occurrence because there are some types of liability claims that aren't subject to the statutory tort caps and it's common to see contracts require more than the statutory limit. A more common figure is $2 million. The Trust's higher limit meets this requirement, but if even higher limits are required, there is the option to carry the Trust's excess liability coverage or in some cases the Trust can issue an endorsement to increase the member's coverage limit only for claims relating to a particular contract.

See Section II.D.3.a, *Statutory limits may not apply*.
See Section II.D.3, *Purchasing higher liability limits*.

In addition to the coverage limit of $2 million per occurrence, there are annual aggregate limits, or limits on the total amount of coverage for the year regardless of the number of claims.

RELEVANT LINKS:

A $3 million annual aggregate applies for the following:

- Products.
- Failure to supply utilities (water, electricity, gas, steam service, and phone and internet or other electronic data transmission services).
- Data security breaches (a $250,000 sublimit, which is part of and not in addition to the $3 million aggregate, applies for Payment Card Industry fines, penalties, and assessments; and data security breach regulatory fines and penalties resulting from a data security breach claim).
- Electromagnetic fields.
- Limited contamination (sudden and accidental release of pollutants; herbicide and pesticide applications; sewer ruptures, overflows, and backups; lead and asbestos claims; mold claims; organic pathogen claims; hostile fire claims; and excavation and dredging claims, which are also subject to an annual $250,000 sublimit).
- Sexual abuse and molestation claims.

See Section III.B, *Data security breach and computer-related risks*.

See Section III.J, *Land use and special risk litigation*.

A $1 million annual aggregate applies to land use and special risk litigation. This coverage is provided on a sliding scale percentage basis.

See Section III.D, *Employees' activities in outside organizations*.

A $100,000 annual aggregate applies for employees' activities in outside organizations.

2. Statutory liability limits

Minn. Stat. § 466.04.

The statutory municipal tort cap is limited to a maximum of $500,000 per claimant and $1.5 million per occurrence. These limits apply whether the claim is against the member, against the individual officer or employee, or against both. The Trust's liability coverage provides a standard limit of $2 million per occurrence.

See *Summary of LMCIT Liability Coverage Options* and the effects of choosing the various coverage structure options.

At the member's coverage renewal each year, it must decide whether to waive or not waive the statutory limits. There is no right or wrong answer, and it's a discretionary decision each governing body must make.

a. Waiving the statutory limit

Members who waive the statutory limits are waiving the protection of the statutory limits, up to the amount of coverage the member has. A claimant could recover up to the Trust's standard limit of $2 million, rather than the statutory limit of $500,000 per claimant. Because the waiver increases the exposure, the premium is higher for coverage under the waiver option.

RELEVANT LINKS:

A member may choose to pay more in premium for the waiver option because the statutory liability limit only applies in cases where the member is in fact liable and the injured party's actual proven damages are greater than the statutory limit. Some cities may want more assets available to compensate their citizens for injuries caused by the member's negligence.

See Section II.D.3, *Purchasing higher liability limits*.

In those cases where the member waives the statutory limit, but also purchases the Trust's excess liability coverage, a claimant could potentially recover more. If, for example, the member has $1 million of excess coverage and chooses to waive the statutory tort caps, the claimant or claimants could recover up to $3 million in damages in a single occurrence.

The cost of the excess liability coverage is higher if the member waives the statutory tort caps. The cost difference is proportionally greater than the cost difference at the primary level because for a member that carries excess coverage, waiving the statutory tort caps increases both the per claimant exposure and the per occurrence exposure.

b. Not waiving the statutory limit

For members who choose not to waive the statutory limits, the member's liability is limited by the statute to no more than $500,000 per claimant and $1.5 million per occurrence. The Trust's higher coverage limits would only apply to those types of claims that aren't covered by the statutory limit.

See Section II.D.3.a, *Statutory limits may not apply*.

3. Purchasing higher liability limits

The Trust makes available the option of carrying higher coverage limits than the basic limit of $2 million per occurrence. The Trust's excess liability coverage is available in $1 million increments up to a maximum of $5 million. There are several reasons why cities may consider carrying the excess liability coverage.

a. Statutory limits may not apply

Minn. Stat. § 3.736.

The statutory tort caps do not or may not apply for the following types of claims:

42 U.S. Code § 1983.

- Claims under federal civil rights laws, including Section 1983, the Americans with Disabilities Act.
- Claims for tort liability the member has assumed by contract, which occurs when a member agrees in contract to defend and indemnify a private party.
- Claims for actions in another state, which may occur in border cities that have mutual aid agreements with adjoining states or when a member official attends a national conference.

RELEVANT LINKS:

42 U.S. Code § 1983.

- Claims based on liquor sales, which mostly affects cities with municipal liquor stores, but it could also relate to beer sales at a fire relief association fundraiser, for example.
- Claims based on a "taking" theory, which are suits challenging land use regulations frequently include an "inverse condemnation" claim, alleging the regulation amounts to a "taking" of the property.

b. Annual limits apply for specific risks

See Section II.D, *Coverage limits*.

Besides the Trust's overall coverage limit of $2 million per occurrence, there are annual aggregate limits for certain risks. If the member has a loss or claim in one of these areas, there might not be enough limits remaining to cover the member's full exposure if there is another similar loss during the year.

There are, however, a couple important restrictions on how the excess coverage applies to risks that are subject to aggregate limits. The excess coverage does not apply to the following:

- Failure to supply utilities.
- Mold.
- Lead and asbestos.
- Excavation and dredging.
- Sudden and accidental release of pollutants below ground or within or on the surface of any body of water.
- Auto no-fault claims.
- Uninsured/underinsured motorist claims.
- Workers' compensation, disability, or unemployment claims.
- Claims under medical payments coverage.
- Claims arising from the activities of outside organizations.
- No-fault sewer backup.
- Liquor liability, unless the member has specifically requested it.

c. Contracts may require higher coverage limits

LMC information memo, *Making and Managing City Contracts*, Section IV.B.6, *Umbrella/excess insurance*.

A contract might include a requirement the member carry more than $2 million per occurrence in coverage limits. Carrying excess coverage is a way to meet these requirements. Members can also request an endorsement to increase the member's coverage limit only for claims relating to that contract.

d. Multiple political subdivisions

LMC information memo, *Making and Managing City Contracts*.

There may be more than one political subdivision covered under the member's coverage, like an HRA, EDA, or port authority; or the member has agreed by contract to defend and indemnify or name another entity as a covered party.

RELEVANT LINKS:

See Section III.I, *Joint powers entities* and Section III.Q, *Separate city boards and commissions.*

In this case, a claimant may be able to recover amounts from both the member and the other entity. Excess coverage is one way to provide enough coverage limits. Another solution is for the HRA, EDA, or port authority to carry separate liability coverage in its own name.

III. Coverage details on specific liability exposures

The Trust's liability coverage is broad, but there are some situations where the member needs to take additional action or be aware of special coverage terms.

A. Airports

The Trust can provide airport liability coverage to members of the property/casualty program. Coverage is available for airports that are operated by a city, by a joint powers entity that includes at least one city, or by a special purpose district. Coverage is available for most municipal airports. Larger airports that have scheduled service are not eligible.

1. Coverage limits

The airport liability coverage is very broad and carries a per occurrence limit of $2 million and an annual aggregate limit of $3 million. It is subject to the same deductibles that apply to a member's municipal liability coverage. Higher limits can be provided through the Trust's optional excess liability coverage, although it is not available as an option for airport risks only.

See Section II.D.3, *Purchasing higher liability limits*.

2. Coverage terms

Cities or joint powers entities that choose the Trust's airport coverage option are provided coverage under the city's existing Trust liability coverage document. It is provided under an endorsement that modifies the airport exclusion in the basic municipal liability coverage document.

Since the airport liability exposure is wrapped under the basic Trust liability coverage document, the coverage for liability related to airport operations is extremely broad. It is specifically designed to address several important airport exposures, including:

- Damage to an aircraft that's in the city's care, custody, and control; or what is commonly referred to as hangar keeper's liability.
- Products liability coverage for city fueling operations.
- Claims relating to things like noise and vibration.
- Exposures related to errors and omissions such as employment liability and liability for damages other than bodily injury, personal injury or property damage.

RELEVANT LINKS:

Following are a few specific airport-related exclusions:

- Any aircraft exhibitions, racing, stunting, aerobatics, skydiving or similar activities the city sponsors or participates in.
- Liability relating to any fixed-based operator activities such as aircraft service, maintenance, or repair which the city performs (there is an exception related to fueling operations by the city).
- Liability relating to any aircraft products the city sells.
- Liability for damage to an aircraft that's in the city's care, custody, and control while the aircraft is in flight.
- Liability arising from operation of an aircraft by the city is generally excluded, although there is an exception for situations where the city might operate someone else's aircraft simply for moving it on the airport premises. If a city employee flies an airplane on city business, separate liability coverage is needed.

See Section III.H, *Independent contractors.*

Because an independent contractor is not a covered party under the city's coverage, neither is the airport. If the city contracts with an independent contractor for airport management or other services, the contractor needs their own liability coverage.

Transportation Security Administration.

If city police are providing backup security service, as required by the Transportation Security Administration, the Trust can cover this exposure by endorsement. Without that endorsement, the city's liability coverage won't respond to claims arising from this activity.

3. Premium costs

The Trust doesn't make a specific charge for endorsing airport operations; rather, premiums are accounted for indirectly through the Trust's standard liability rating system for all city operations.

4. Evaluating coverage under another carrier

The Trust's primary goal in offering airport liability coverage is to improve cities' protection for the risks associated with operating an airport. In reviewing some conventional airport liability insurance policies, they can be very hard to read, with complicated language and multiple endorsements. Additionally, airport liability policy wording is not standardized. There can be variations in how definitions or coverage grants are worded and sometimes there can be problematic coverage gaps.

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Cities should talk to their city attorney when evaluating an airport liability insurance policy. The Trust can review defense and indemnification provisions at no additional charge to help protect the city's interests.

RELEVANT LINKS:

LMC information memo, *Coverage for Cyber and Computer-Related Risks*.

B. Data security breach and computer-related risks

The Trust's municipal liability coverage responds to claims resulting from data security breaches or other computer-related risks. The standard limit is $2 million per occurrence, but there is a $3 million annual aggregate (total amount of coverage for the year, regardless of the number of claims) for third-party liability claims arising out of data security breaches. A $250,000 annual sublimit (part of and not in addition to the $3 million data security breach aggregate) also applies for PCI fines, penalties, and assessment; and data security breach regulatory fines and penalties resulting from a data security breach claim.

C. Dams and downstream liability

Minn. R. 6115.0340.

The Trust's liability coverage contains an exclusion for damages arising out of the failure or bursting of any dike, levee, or similar structure, as well as any Class I or Class II dam as classified by the commissioner of the Department of Natural Resources pursuant to Minnesota Rules. Damages arising out of the failure of a wastewater lagoon embankment is not subject to this exclusion.

Upon request, the Trust can review the downstream liability exposure for structures that are excluded from coverage and may be able to remove the exclusion depending on the specific circumstances.

D. Employees' activities in outside organizations

See Section III.Q, *Separate city boards and commissions.*

Members need to decide whether an employee's participation in an outside organization is considered part of their duties as an employee. This section only affects organizations where an individual is a member of an outside organization, not organizations where the member is a member of something like a joint powers entity or HRA.

1. Coverage limits and terms

City officers and employees often participate in outside organizations that are related in some way to their city duties. Examples include finance officers, fire instructors, or associations of wastewater operators.

If the employee's activities in those organizations lead to a liability claim against the individual, the organization may or may not have insurance or assets to defend and indemnify the employee for the liability claim. If the organization is unable or unwilling to defend the individual, they will likely look to the city for protection.

RELEVANT LINKS:

The Trust's liability coverage includes provisions addressing when and how the coverage will respond to claims against city officers or employees arising from their individual activities as officers or members of outside organizations. The definition of an outside organization includes:

- A formally organized membership organization.
- A professional organization.
- Any for profit or nonprofit corporation.

The first step in determining whether the Trust coverage applies is for the city council to determine whether an employee's activities in an organization are within the scope of his or her city duties. The council's decision is final for purposes of coverage, and this determination can be made at any time either in advance or after a claim has already occurred.

See Section II.D, *Coverage limits* and Section II.D.3, *Purchasing higher liability limits*.

When the city council makes this determination, coverage for claims arising from that employee's activities in that organization are subject to a $100,000 annual aggregate limit. If the city purchases the Trust's excess liability coverage, it cannot be applied to these types of claims.

When the city decides that participation in an organization will be within the scope of an employee's duties as a city employee, it also has implications for other areas besides liability. Here are a couple considerations to keep in mind:

LMC information memos, LMCIT *Workers' Compensation Coverage Guide* and *Fair Labor Standards Act (FLSA): Determining Exempt vs. Non-Exempt Status*.

- If the employee is injured, they would be covered by the Trust's workers' compensation coverage if the city is a member of the Trust's workers' compensation program.
- For employees who are not exempt from the Fair Labor Standards Act, time spent on organization activities would likely have to be considered work time for purposes of calculating overtime and other measures.

2. Determining employees' status

The Trust recommends cities find out which organizations city employees are involved in that might arguably be considered city-related. Identify the purpose and activities of each organization. For coverage purposes, the city can make the determination of whether participating in an organization is within the employee's duties at any time either in advance or after a claim has already occurred.

If the city determines participation is not part of the employee's city duties, it should let the employee know that if they choose to participate in the organization, they are doing so on their own. It is good practice to provide that information to the employee in writing.

Employees' Activities in Outside Organizations, LMC Model Letter Form.

RELEVANT LINKS:

In cases where the city concludes an employee should be encouraged or even required to participate in an organization, the city will want to find out whether the organization has liability coverage to protect its members and officers for claims arising from those activities. If the organization doesn't have coverage, the city has several options:

See Section II.D, *Coverage limits.*

Minn. Stat. § 466.07.

- The city can decide it's comfortable assuming the risk will not be greater than the Trust's liability coverage limit of $100,000. If participation in an organization is determined to be within the scope of an employee's duties, state law requires the city to defend and indemnify the employee for tort claims arising from that activity. If the cost exceeds the $100,000 coverage limit, the rest will be the city's responsibility.
- The city can decide that participating in the organization will not be considered part of the employee's city duties. In that case, the city should ensure the employee understands that if they choose to participate, they are doing so on their own.
- The city may want to encourage the organization to obtain liability coverage. In some cases, depending on the organization's purpose and structure, The Trust may be able to provide coverage.

If the city treats the employee's time spent participating in an outside organization's activities as paid work time, it will almost certainly be interpreted to mean the city considers it part of the employee's duties. That in turn would trigger both the Trust coverage and the city's own duty to defend and indemnify, notwithstanding the city's stated intent to the contrary.

For more information see HR Reference Manual, ch. 7, *Personnel Policies.*

If the city wants to allow use of paid work time to participate in an organization the city does not consider part of the employee's city duties, consider formally structuring it as a type of paid leave. The city could adopt a formal policy.

Minn. Stat. § 317A.257.

Federal Volunteer Protection Act, Public Law 105-19.

In evaluating the risks involved when city employees are participating in outside organizations, it's important to know state law provides some protection from liability claims for unpaid officers or members of a nonprofit corporation. The Federal Volunteer Protection Act also provides some liability protection for volunteers performing services for nonprofit or governmental organizations.

E. Employment practices

Equal Employment Opportunity Commission.

MN Department of Human Rights.

Trust coverage applies for employment practices claims even though there is no specific coverage part for it. Most employment-related claims filed, including administrative charges made to the Equal Employment Opportunity Commission (EEOC), the Minnesota Department of Human Rights (MDHR), or a local human rights commission, are deemed claims for damages.

RELEVANT LINKS:

F. Firefighters

The Trust covers claims arising out of fire departments or firefighter operations. Fire relief associations and their members, officers, and employees are also covered parties under the Trust's liability coverage. They do not need to be scheduled or endorsed onto the city's liability coverage.

See Section III.I, *Joint powers entities*.

There is an exclusion, however, for claims arising out of joint powers entity activities. It is therefore important that coverage is specifically arranged for joint powers fire departments or districts.

G. Fireworks

The Trust coverage contains an exclusion for any liability arising out of the city's ownership, sponsorship, or operation of fireworks displays. This exclusion applies both if city employees or volunteers are setting off fireworks and if the city itself sponsors or contracts for a fireworks display.

LMC information memo, *Fire Department Management and Liability Issues*.

This exclusion does not apply to a firework display that is sponsored and operated by someone else. Where the city's only role is in regulating, licensing, or providing public safety services, the city's liability coverage will cover liability the city incurs because of those activities.

To determine whether the Trust can provide coverage for fireworks, complete the *City Fireworks Sponsorship Questionnaire Form*.

If the city is involved in fireworks as an operator or as a sponsor, the city won't have liability coverage for any damages arising out of the display unless the city secures coverage. In some circumstances, the Trust can delete the exclusion and provide liability coverage for a fireworks display.

Minn. Stat. § 624.22.

State Fire Marshall.

Whether the city contracts with someone else or operates on its own, every display must be supervised by an operator who has been certified by the State Fire Marshal. State law also requires any display meet safety guidelines developed by the State Fire Marshal.

Minn. R. 7511.3308.

If the city contracts with someone else to operate the display, which is the preferred loss control approach, they must apply for a display permit, and before granting the permit the city fire chief must ensure the applicant is properly certified and the display will meet the applicable safety requirements and guidelines.

The city should also ensure the contractor has adequate insurance limits and lists the city as an additional insured under the contractor's insurance. By doing the latter, the Trust can delete the fireworks exclusion from the city's coverage for a small cost. The city's liability coverage would then apply as excess over the contractor's coverage. This would give the city additional protection in case of a very large claim.

RELEVANT LINKS:

State Fire Marshall.

To determine whether the Trust can provide coverage for a fireworks display, complete the *City Fireworks Sponsorship Questionnaire Form*.

Unfortunately, it's not always possible for cities to hire a private contractor to handle the fireworks display. Sometimes the only feasible option is for the city to put on the display itself, using city staff and volunteers. In this situation, the Trust can by endorsement provide the needed liability coverage, provided the city has adequately trained staff, a safe location for the display, and meets the State Fire Marshal's requirements for operator certification and fireworks display safety.

H. Independent contractors

Independent contractors are not covered parties under a member's liability coverage. The only exceptions are independent contractors acting in the administrative capacity of medical director or medical advisor to the city ambulance service and independent contractors serving as a member of, or representing the city as a member of, a committee, subcommittee, board, or commission.

LMC information memo, *Making and Managing City Contracts*, Section IV.B.1, *Commercial general liability insurance*.

Members need to be concerned about a contractor's liability coverage. Members should ensure every contractor has liability insurance, which is typically in the form of a CGL policy and attempt to get the member named as an additional insured on the contractor's policy.

LMCIT Contract Review Service.

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If certain types of law enforcement contracts and some other types of non-professional service contracts are arranged in a manner that adequately reduces the member's liability exposure, members can potentially reduce their municipal liability coverage premium. Because of this, members should carefully review all contracts and requests for additional insureds with legal counsel and through the Trust's Contract Review Service.

I. Joint powers entities

A joint powers entity is not a covered party on a city's liability coverage unless special arrangements have been made. Cities must ensure any joint powers entity in which they participate has liability coverage. If not, the city can be left with a coverage gap if it is sued because of something the joint powers board did or if a personal injury or property damage arises from the activities of the joint powers entity. The Trust makes available two ways in which coverage can be provided for a joint powers entity and its members.

1. Definition

Minn. Stat. § 471.59.

A joint powers entity is an operating entity created by two or more governmental units entering into an agreement as provided by statute for the joint exercise of governmental powers. The agreement is deemed to create a joint powers entity if it establishes a board with the effective power to do any of the following, regardless of what the specific consent of the constituent governmental units may also require:

RELEVANT LINKS:

LMCIT Contract Review Service.

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- To receive and expend funds.
- To enter contracts.
- To hire employees.
- To purchase or otherwise acquire and hold real or personal property.
- To sue or be sued.

In evaluating whether a joint powers agreement creates a joint powers entity, it is important to review what the agreement does, not just what it is called. For example, most mutual aid agreements simply say that each city agrees to provide specified assistance to the other under specified circumstances. This situation does not usually involve a joint managing board with the kinds of powers to enter into contracts, hire employees, and so on. Thus, it would not be considered a joint powers entity for coverage purposes.

In situations that involve a pure mutual aid agreement or other type of agreement that does not create a joint powers entity, the city does not need to take any special action to have coverage for liability claims arising out of activities under these kinds of agreements. The city's liability coverage will cover claims arising from activities pursuant to that agreement.

2. Obtaining coverage

There are two ways in which the Trust can provide coverage for a joint powers entity and its members.

- The usual practice is for the Trust to issue a separate liability coverage document to the joint powers entity. Covered parties include the entity itself; its officers and employees; the political subdivisions who are members of the joint powers entity; and the officers and employees of those political subdivisions. The idea is to get all the liability coverage for the entity's activities in one place, so that everyone who might be sued because of the entity's activities is covered in the same place.
- The second less common option is to add the coverage for the joint entity to one of the individual city's coverages. This might make sense, for example, if the relationship between the member cities is such that one city controls the joint entity's activities and decision making. If the member prefers, the Trust can provide the coverage this way, by naming the joint powers entity as a covered party on one of the constituent city's agreement. However, it's important to understand that if only one city is assuming the coverage for the joint powers entity, any claims related to the joint powers' activities will affect the one city's experience, deductibles, and premium.

It would not make sense to add the joint entity to *both* member cities' coverages. That would result in duplicate coverage and create the potential for the kind of conflicts among defendants that members of a joint powers entity should try to avoid.

RELEVANT LINKS:

In those cases when governmental entities in other states are acting on behalf of a joint powers entity who is a Trust member, the out-of-state entity will be considered a covered party by the Trust only if allowed by pooling or insurance laws of the other state.

3. Coverage limits

Minn. Stat. § 471.59.

Minnesota statute defines liability for joint powers entities. It states that a governmental unit is liable for the acts or omissions of another governmental unit in a joint venture or joint enterprise only if it has so agreed in writing and that any governmental units operating together under the Joint Powers Act are a single governmental unit.

Minn. Stat. § 466.04.

This means that the risk of liability for the activities of a joint powers entity is no greater than the risk of liability for a single political subdivision acting alone. It is covered by the tort caps, just like a city. A city, however, will still be separately liable for its own independent acts or omissions that are not related to the actions of the joint powers entity.

See Section II.D, *Coverage limits* and Section II.D.3, *Purchasing higher liability limits.*

There is still, though, a risk of liability to the joint powers entity above the tort caps because some types of claims are not governed by the statutory liability limits, such as a federal civil rights claim. For this reason, the Trust's liability coverage provides a higher limit of $2 million per occurrence for both a joint powers entity and an individual city. There could still be liability risk above this limit, which is why it's important for one city or cities cooperating as a joint powers entity to consider carrying the Trust's excess liability coverage.

4. Overlooked joint powers entities

If a joint powers entity is inadvertently overlooked for purposes of liability coverage, the Trust makes available a limited amount of retroactive coverage issued to any joint powers entity of which the city is a member, and which does not already have coverage in its own name. This coverage carries the same retroactive date and the same inception date as the city's own coverage. It will then protect the joint powers entity, its member political subdivisions, and their respective officers and employees for claims arising from the joint entity's activities, including claims that have already been made at the time the coverage is issued.

There are two important limitations on the retroactive coverage.

- It includes a $200,000 annual aggregate limit, including defense costs.
- The premium for the retroactive coverage is higher than the Trust's standard rates for many joint powers exposures.

See Section II.D, *Coverage limits.*

RELEVANT LINKS:

See LMCIT's land use services and resources to learn more about risk management programs available to members.

J. Land use and special risk litigation

Litigation relating to a member's land use regulation decisions, development and redevelopment activities, franchising, city enterprise operations, or debt obligations can be very expensive. For a member that's hit with this kind of litigation, the legal costs can be a significant financial burden. For this reason, the Trust has created a specialized approach to cover these types of litigation.

Compared to conventional liability insurance, a key difference of the Trust coverage is that litigation relating to these types of special litigation risks is covered regardless of whether the litigation includes a claim for damages.

1. Coverage terms

The Trust provides coverage for five broad classes of land use and special risk litigation.

- *Land use regulation.* Any litigation relating to the city's regulation of the use of land or real property or the application or interpretation of a land use, zoning, subdivision, or similar ordinance or regulation.
- *Development.* Any litigation relating to the city's participation in or financing of any housing, development, or redevelopment project.
- *Franchising.* Any litigation relating to the granting, refusal, interpretation, or enforcement of any franchise, ordinance, permit, license, or other mechanism through which the city authorizes or regulates parties other than the city, regarding the provision of telecommunications, electricity, gas, heat, sewage treatment or refuse collection within the city.
- *Enterprise operations.* Any litigation relating to a city's authority to engage in enterprise operations. "Enterprise operation" means any arrangement under which the city offers goods or services for a fee, such as utilities, telecommunications services, or similar things.
- *City debt obligations.* Any litigation relating to bonds, notes, financing certificates, lease-purchase agreements, or other similar debt instruments or financial obligations proposed, guaranteed, approved, issued, or entered by the city.

Under the land use and special risk litigation coverage, the following types of litigation are excluded:

- *Physical takings*. Litigation that seeks only compensation or other relief for an actual or alleged physical occupation, invasion, or use of property by the city.
- *Special assessments*. Litigation that seeks only reduction or invalidation of a special assessment.

RELEVANT LINKS:

- *Negligent inspection*. Litigation that seeks only compensation for damages based on the city's actual or alleged negligent inspection or enforcement of the state building code or the state plumbing, electrical, fire, or similar state codes.
- *Contractual obligations*. Litigation that seeks only amounts owed pursuant to the explicit terms of any contractual obligation, including but not limited to any city debt obligations.
- *Ordinary land use enforcement*. Litigation which was initiated by the city to enforce a land use regulation, and which does not involve a challenge to the constitutionality or interpretation of the regulation.
- *Criminal prosecution*. Criminal prosecutions by the city.
- *Other covered parties*. Litigation brought by the Trust or the city against any other covered party.
- *City bankruptcy*. Litigation that arises from or is related to the actual, pending, or threatened bankruptcy of the city.
- *Pollution*. Litigation that makes only a pollution claim.
- *Unaffected property*. Litigation brought by a Trust member against a regulatory entity when that member's own property is not affected.

The land use and special risk litigation coverage applies to the following types of litigation costs:

- Costs for legal counsel selected jointly by the city and the Trust to represent the city.
- Necessary legal fees for counsel to represent the city which the city incurs prior to reporting the litigation to the Trust (fees are covered at 50 percent).
- Necessary litigation expenses other than legal fees.
- Most damages the city is required to pay.
- Supplementary payments, including up to $200,000 of statutory attorney's fees.

Most money damages that might be awarded against the city are covered as well. This specifically includes two types of damages that are frequently excluded under conventional liability insurance policies:

- Awards of attorney's fees in federal civil rights or state human rights actions.
- "Temporary taking" damages; inverse condemnation damages awarded for the claimant's loss of use of property prior to the time that a land use regulation has been ruled by a court to be unconstitutional as a "taking" of property.

RELEVANT LINKS:

The following types of monetary damages that might be awarded against the city are not covered:

- Exemplary or punitive damages or attorney's fees awarded against a city officer or employee, unless they were acting within their duties and not guilty of malfeasance, willful neglect of duty, or bad faith.
- Fines or penalties.
- The cost of complying with an injunction or similar order.
- Repayment of any taxes, assessments, fees, or other charges that the city wrongfully collected, or any interest on that repayment.
- Amounts paid for the permanent acquisition of property or property rights, or for the right to permanently enforce a land use regulation or restriction.
- Amounts owed pursuant to the explicit terms of any contractual obligation, including but not limited to city debt obligations.
- With respect to any litigation relating to city debt obligations, any profit, advantage or remuneration to which the covered party was not legally entitled.

2. Coverage limits, co-pays and deductibles

See Section II.D, *Coverage limits*.

Coverage for land use litigation costs is based on a sliding scale (for litigation between members, the coverage pays only one-half of the percentages described below, subject to a $500,000 maximum):

- 85 percent of first $250,000
- 60 percent of amounts above $250,000
- 50 percent of necessary legal fees members incur prior to reporting litigation to the Trust
- $1 million annual aggregate limit

If the member's liability coverage is written with a deductible, the deductible is applied to the percentage of the costs that would otherwise be paid by the Trust. The member's co-pay amount, or the percentages of litigation costs and damages for which the member is responsible, does not count toward satisfying the member's deductible. In calculating whether the aggregate limit has been met, co-payments are not included, but deductible obligations are.

3. Litigation procedures

Coverage for land use and special risk litigation is triggered when the litigation is first filed or served on the city. Litigation counsel is selected by agreement between the city and the Trust. Decisions on settlement and strategy are also made by agreement, in consultation with the attorney the city and Trust have agreed to retain.

RELEVANT LINKS:

a. When to report litigation

Coverage is triggered when the litigation is first filed or served on the city. Cities should report the litigation to the Trust immediately upon filing or being served with the summons and complaint that formally commences the litigation.

If the city is the plaintiff, the matter should be reported to the Trust before the litigation is commenced, or as soon as the city becomes aware its ordinance's constitutionality or interpretation is being challenged. Litigation must be reported to the Trust no later than one year after the litigation commences for coverage to apply.

Even if there is the likelihood of litigation, the Trust encourages cities to report it. While general legal advice from the city attorney is not normally considered part of the litigation costs, it is possible the city could incur some litigation-related costs in anticipation of the litigation. If the city incurs litigation costs before reporting the actual or anticipated litigation, those costs will be reimbursed at 50 percent.

b. Selection of counsel

Litigation counsel is selected by agreement between the member and the Trust. If in some unusual circumstance an agreement cannot be met, the Trust will give the member a list of five qualified attorneys who are experienced in that type of litigation. The member then selects any of the five.

Except in very unusual circumstances, the member's own attorney will not be appointed to represent the member in the covered litigation. The Trust takes this approach because the attorney has often been intimately involved in providing legal advice about how to handle the situation. If the attorney was selected to represent the member in the litigation, the attorney could become involved in having to defend his or her own recommendations, and to some degree the member might lose the benefit of an independent, detached evaluation of the strengths and weaknesses of the case.

c. Litigation management and strategy

Decisions on settlement and strategy are made by agreement between the member and the Trust, in consultation with the attorney the member and the Trust have agreed to retain. Neither the Trust nor the member has the authority to agree to a settlement without the other's consent.

RELEVANT LINKS:

This collaborative decision-making process reflects the nature of this type of litigation. Unlike the tort claims that conventional insurance policies are designed to cover, the issues in this kind of litigation are often not just a matter of whether and how much money the city owes. The real issues at stake may be questions like whether a permit is issued, or a franchise granted – things which involve local policy issues, and which may require legislative or other official action by the city council.

At the same time, it's important to keep in mind the funds used to pay the Trust's share of the costs are really the joint property of all Trust members. Other members are entitled to know that their funds aren't being wasted on frivolous disputes or in pointlessly prolonging litigation in which the city has little chance of prevailing. Involving both the city and the Trust in the decision-making process is a means of trying to balance those potentially competing interests. The cost-sharing provisions are incorporated in the coverage for much the same reason.

K. Liquor liability

LMC information memo, *Liquor Licensing and Regulation*.

When alcohol is sold, there should be liquor liability coverage in place. The greatest possibility for liability is sale of alcohol to an obviously intoxicated person. Illegal sales can also include after-hours sales, sales to minors, and furnishing alcohol to minors. Even if the sale of alcohol is not involved, Minnesota law still provides liability for persons who illegally furnish alcoholic beverages. There is also potential liability for negligence if a city or group did not provide adequate maintenance, supervision, or security when alcohol is use.

1. LMCIT coverage for city-related liquor liability

Contact your LMCIT underwriter for an application to obtain a quote for liquor liability coverage. 651.281.1200 800.925.1122.

The Trust's liability coverage contains an exclusion for liquor liability, but optional coverage can be provided. The coverage is available for off-sale municipal liquor stores, on-sale municipal liquor stores, and special event liquor or beer sales by an organization that is an instrumentality of a member city, including cities that do not operate a municipal liquor store.

a. Eligibility

Find a pre-approved vendor in *Alcohol Awareness Training*.

Members are required to demonstrate annual server training has been completed as a condition of coverage. The training must be obtained by a training vendor pre-approved by the Trust.

b. Coverage limits and deductibles

See Section II.D.3, Purchasing higher liability limits.

Cities can choose limits of either $500,000 per occurrence / $500,000 annual aggregate or $1 million per occurrence / $1 million annual aggregate. Higher limits can also be provided through the Trust's excess liability coverage.

RELEVANT LINKS:

For cities that carry the Trust's excess liability coverage, the excess coverage does not automatically apply to liquor liability. The excess coverage can on request be endorsed to apply to liquor liability for an additional charge.

c. Coverage terms

The Trust's liquor liability coverage provides coverage for the liquor liability exposure. Coverage is on an occurrence basis. The city and the city's officers, employees, and volunteers are covered parties.

Each premise at which liquor sales are conducted must be specifically scheduled for coverage to apply. Similarly, the coverage will not apply to any liquor, beer, or wine sales at city-sponsored special events unless that event has been specifically scheduled. This includes both sales by an organization such as a fire relief association under a temporary license or sales by the municipal liquor store at a temporary off-premises location.

Rates are based on the gross receipts of the municipal liquor store or licensee. There is a simple 10 percent debit that applies if the city has had a liquor liability claim within the past 5 years.

If the renewal date of the city's municipal liability coverage is different from the inception date of the liquor liability coverage, the initial liquor liability coverage can be issued for a short term to coordinate the renewal dates.

d. Selecting limits

There's no infallible rule for deciding how much coverage is adequate for a municipal liquor store. No matter what coverage limit is chosen, it's possible to imagine a situation in which it won't be enough. Ultimately the city council needs to exercise its own judgment in deciding how much coverage to carry. The Trust recommends that any city with a municipal liquor store carry limits of at least $500,000, but cities should strongly consider higher limits of $1 million or more.

While the Trust can't give the city a definite answer for how much is enough, cities should note that if it has a municipal liquor store, it must meet the same statutory financial responsibility requirements as a private liquor licensee. In general, the statute requires liquor sellers to have the following liquor liability insurance limits. The Trust's liquor liability coverage meets these requirements.

Minn. Stat. § 340A.603.

RELEVANT LINKS:

Minn. Stat. § 340A.409.

- $50,000 of coverage because of bodily injury to any one person in any one occurrence;
- $100,000 because of bodily injury to two or more persons in any one occurrence;
- $10,000 because of injury to or destruction of property of others in any one occurrence;
- $50,000 for loss of means of support of any one person in any one occurrence;
- $100,000 for loss of means of support of two or more persons in any one occurrence;
- $50,000 for other pecuniary loss of any one person in any one occurrence; and
- $100,000 for other pecuniary loss of two or more persons in any one occurrence.

If the insurance policy includes an annual aggregate policy limit, that annual limit must be at least $300,000. The statutes do allow a liquor seller to post a surety bond with the same limits or to self-insure by depositing at least $100,000 with the state treasurer, but these options are seldom used.

The limits noted above are the minimum limits the city must have, but they are not the limits on how much the city can be sued or held liable for. If the city's liability on a liquor liability claim exceeds its coverage, the city is responsible for the excess.

2. Coverage for other groups' or individuals' liquor liability

See Section III.T, *Special events.*

Members should consider transferring risk when beer and liquor sales take place at a special event where the city does not sponsor it, but the event is held on city property, and when the city contracts with an alcohol vendor.

a. Require liquor liability coverage for special events not sponsored by the city

Minn. Stat. § 340A.409.

Even though Minnesota statutes state liquor liability insurance requirements do not apply to licensees who establish by affidavit any one of the following, cities should still strongly consider requiring the vendor or individual to obtain coverage.

RELEVANT LINKS:

- They are on-sale 3.2 percent malt liquor licensees with sales of less than $25,000 in the preceding year.
- They are off-sale 3.2 percent malt liquor licensees with sales of less than $50,000 in the preceding year.
- They are on-sale wine licensees with sales of less than $25,000 in the preceding year.
- They are temporary wine licensees.
- They are wholesalers who donate to an organization for a wine tasting conducted under Minn. Stat. §§ 340A.418 or 340A.419.

Minn. Stat. § 340A.418 and Minn. Stat. § 340A.419.

When thinking about the insurance requirement for liquor or beer sales and whether to require it if an event is held on city property, the city will want to consider:

- As a matter of public policy, it is arguably desirable to have coverage available to make sure that an injured party is compensated if an illegal beer or wine sale caused the injury.
- It's not just the organization running the beer garden that can be sued. The individuals who tend the bar and sell the beer could also be sued as individuals.

Private individuals holding a special event on city property can obtain general liability and liquor liability coverage through the Tenant User Liability Insurance Program (TULIP).

In addition to making sure liability coverage is in effect, the city should make sure the liquor liability coverage applies to the city premises location. Most companies require a vendor to notify them if alcohol will be sold somewhere other than its normal place of operation. The city should also have general liability coverage itself and require groups that are using city facilities to have general liability coverage. If an organized group does not have liability coverage, there is a greater risk to the city of being the target of a negligent claim or lawsuit.

b. Transfer risk if the city contracts with an alcohol vendor

If the city contracts with an alcohol vendor, the liability should rest with the vendor and therefore the agreement should have a hold harmless and indemnification provision, which would ensure the vendor defend and pay for any claim against the city related to the sale of alcohol by the vendor.

If a community group serves the alcohol in a social host setting, cities may require a representative to sign a hold harmless and indemnification provision. In an organized group, such as a nonprofit corporation, a representative can bind the group for the indemnification. If it is not an organized group but a group such as a wedding reception or snowmobile club, a representative cannot bind the individuals in the group to a hold harmless provision if an individual was injured.

LMCIT Contract Review Service.

RELEVANT LINKS:

Chris Smith, LMCIT Risk Management Attorney: csmith@lmc.org or 651.281.1269.

Cities should talk to their city attorney when developing written agreements and contracts. The Trust will review defense and indemnification provisions at no additional charge to help protect the city's interests.

If the city hires an alcohol vendor or allows a vendor to sell alcohol on city premises, another protection would be to have the city named as an additional insured on the vendor's liquor liability insurance policy. The city should also consider being named as an additional insured on a general liability insurance policy of a group serving alcohol on city premises. This means the city would be covered automatically under the other party's policy and would not depend upon any interpretation of language in any agreement.

If the city requires this, it should ask for a copy of the certificate of insurance showing the city was named as an additional insured. There have been cases where a party agreed to do this but never contacted its insurance company.

Generally, cities do not require the additional insured status if their only contact with the alcohol sales is that they license the seller. The city's risk is remote in that type of situation.

L. Medical payments

See Section III.U, *Volunteers*.

Many cities carry premises medical coverage. Premises medical coverage provides a relatively small amount of coverage for medical expenses to anyone whom may be injured by a condition on city-owned property. This is no-fault coverage which means the injured person receives the benefit without having to show the injury resulted from the city's negligence. The coverage limits are $2,500 per person and $10,000 per occurrence. Essentially it is meant to cover medical costs that an individual might otherwise be responsible for under the deductible on his or her health coverage.

Some question whether there is a valid purpose for cities to pay these funds in situations when the city is not legally liable. Others argue the payments provide a simple and inexpensive way to possibly head off what might turn into a more expensive liability claim. The Trust therefore gives the city the option to delete this coverage if it's not wanted.

M. Open meeting law and bankruptcy lawsuits

Minn. Stat. § 13D.

Coverage for open meeting law (OML) and bankruptcy lawsuits is automatically issued to any member that has the Trust's liability coverage. It is called defense cost reimbursement coverage and provides defense protection to city officials that may be accused of violating the OML or to city officials involved in a city bankruptcy lawsuit.

RELEVANT LINKS:

The reason the Trust provides this coverage is because it recognizes that many OML violations are inadvertent and some may even occur on an attorney's advice, and that it's easy to make an accusation of an OML violation which can then force a city official to expend significant sums on defense regardless of the merits of the allegation.

Minn. Stat. § 13D.06.

Defense costs are often the most significant financial consequence of OML lawsuits. The statutory penalty of $300 might be relatively minor, but defense costs can easily run to thousands of dollars, and those costs are incurred whether the official is ultimately found to have violated the law. Sometimes, too, the threat of litigation could be used as a tactic to intimidate or coerce councilmembers in some cases. The Trust assumes that most councilmembers try in good faith to comply with the law, but sometimes even best faith efforts are not enough to head off an OML lawsuit.

See Section II.C.1, *Liability not covered*.

Regarding coverage for bankruptcy lawsuits, claims which arise from or relate to a city bankruptcy is excluded from the Trust's liability coverage. The goal of this is that in the unlikely event a city declared bankruptcy, the exclusion would avoid a situation where the city's creditors could turn the city's Trust liability coverage into an additional asset in the bankruptcy by using this kind of backdoor approach.

At the same time, though, the Trust wants to make sure individual city officials have some protection in these circumstances. Therefore, the defense cost reimbursement coverage provides defense costs to city officials for these types of claims. Coverage is excluded, though, for independent contractors' activities related to a city bankruptcy and that are representing the city as a member of a committee, board, or commission.

1. Covered parties

Any elected or appointed official or employee of the city is covered. Excluded from the coverage, unless specifically named in the coverage document, are officials or employees of a utilities commission, port authority, HRA, EDA, redevelopment authority, municipal power or gas agency, hospital or nursing home board, airport commission, or joint powers board.

2. Coverage limits and terms

The most the Trust will reimburse any one city official for defense costs commenced during the coverage term is $50,000, regardless of the number of suits or the number of actual alleged violations. It covers defense costs incurred by the city official in defending an OML lawsuit and a lawsuit against a city official that arises from the actual, pending, or threatened bankruptcy of the city.

RELEVANT LINKS:

There is also an aggregate limit of $250,000. This is the most the Trust will pay for defense costs for all the city's officials for lawsuits commenced within the coverage term.

The coverage protects a city official who is accused of attending not only an illegal meeting of the city council but the meeting of some other board or commission as well. For example, suppose a city official is accused of violating the OML at a meeting of a joint powers board the official serves on. The city's OML coverage would apply to that charge, but it would not pay for defending the other members of the board. Unless the joint powers board has OML coverage itself, the other members would only be covered if their own cities have OML defense coverage.

This coverage will not cover any legal costs the city might incur if the city itself were somehow made party to the OML or city bankruptcy litigation; unless, of course, it was part of a suit that included a covered claim for damages. It will also not reimburse to the official any fine or penalty for violating the OML or any award that orders the city official to pay for the opposing party's attorney's fees in an OML lawsuit.

The coverage is triggered when an OML or city bankruptcy lawsuit is served on the city official. If a lawsuit is filed during the term of the agreement, the city official needs to immediately notify the Trust of the litigation. The city official retains the ability to select a lawyer of his or her choosing.

The defense cost reimbursement coverage does not pay the legal costs on the city official's behalf. Instead, the Trust will reimburse the city official for defense costs to a maximum of $50,000 after the official has incurred those costs. The city official remains responsible for paying the defense attorney, as well as any costs beyond the $50,000 limit.

The city official retains control of the litigation and decides, among other things, what attorney to hire, whether to settle or compromise the litigation, and whether to appeal.

N. Police

The Trust's liability coverage contains no general exclusions for claims arising out of law enforcement activities, but there are three specific situations where coverage is excluded.

- There is an exclusion for damages arising out of detention facilities intended and regularly used for confinement of persons for periods longer than 30 days. Contact the Trust if involved in this type of operation.

RELEVANT LINKS:

See Section III.I, *Joint powers entities*.

See Section III.D, *Employees' activities in outside organizations* and LMC information memo, *Police Department Management and Liability Issues*, Section IV.B, *Off-duty employment (moonlighting)*.

- If the city is involved in a joint powers police or task force operation, it's important coverage is specifically addressed for that operation. The Trust's liability coverage contains an exclusion for claims arising out of the activities of a joint powers entity, but coverage can be provided.
- An officer acting outside of his or her capacity as a city employee is not a covered party for purposes of the Trust's liability coverage.

O. Pollution

There is a broad exclusion in the Trust's liability coverage for any pollution claims, but there are a few limited exceptions.

A pollution claim includes any claims for damages arising out of the actual, alleged, or threatened existence, discharge, dispersal, seepage, migration, release or escape of pollutants. Pollutants are defined as any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

See Section II.D.1, *LMCIT primary liability limits.*

The Trust's liability coverage includes an exception for "limited contamination liability claims." There is a $3 million annual aggregate for the following types of claims:

- Any claim for damages arising out of pesticide or herbicide application operations.
- Any claim for damages which resulted from a sudden occurrence which took place on or after the city's retroactive date and prior to the expiration date of the city's coverage, and which was caused by an actual, alleged, or threatened discharge, dispersal, release, or escape of pollutants; or arises from the accidental rupture, backup, or overflow of the city's sanitary sewer, storm sewer, or water supply systems.
- Any lead claim or asbestos claim, unless the actual, alleged, or threatened discharge, dispersal, release, escape, use, distribution, or handling of lead or asbestos took place at or from any landfill, dump, or other site or location presently or formerly used by or for the city or others for the handling, storage, disposal, processing or treatment of pollutants.
- Any excavation and dredging claim.
- Any mold claim.
- Any organic pathogen claim.
- Any claim for damages arising out of heat, smoke, or fumes from a hostile fire or controlled burn. A hostile fire is a fire which becomes uncontrollable or breaks out from where it was intended to be.

The term *sudden occurrence* means an accident or a related series of accidents where the release of pollutants may have resulted, and for which begin and end within 72 hours. In the case of a related series of accidents, the sudden occurrence is considered to have taken place when the first accident took place. The only exception is if the city's sanitary sewer backs up into a building. Each incident is considered a separate sudden occurrence.

P. Public official's liability

There is no general exclusion in the Trust's liability coverage for acts or errors and omission of public officials.

Q. Separate city boards and commissions

Statutes and some charters allow cities to create independent administrative boards to manage certain city operations. Utility commissions and hospital boards are common examples. Other statutes allow cities to create separate public corporations for certain purposes, such as a port authority, HRA, and EDA. The statutes generally give these boards and authorities full power to manage the activities for which they are responsible, including the authority to purchase the appropriate liability, property, and other coverages needed for those activities.

If the city has one or more of the following, it needs to ensure there is adequate coverage for the board's or commission's activities:

- Gas, electrical, or steam utilities commission.
- Port authority, HRA, EDA, municipal redevelopment authority, or similar agency.
- Municipal power or gas agency.
- Airport board or commission.
- Hospital, nursing home, or medical clinic board or commission.

Different types of boards and commissions pose different kinds of coverage issues. Here are some things to consider.

1. Port authority, HRA, or EDA

An HRA, EDA, and port authority are legally separate political subdivisions. These are not covered automatically under the city's liability coverage. This is true even if councilmembers are the board of the political subdivision. Unless the city has specifically indicated these entities are to be covered, a claim against one of these political subdivisions would not be covered nor would claims against the city which arise from the activities of these entities be covered.

RELEVANT LINKS:

The Trust offers two ways to provide coverage for the activities of an HRA, EDA, or port authority. One is having the EDA, HRA, or port authority named as an additional covered party on the city's coverage. The other is to have separate coverage issued to the EDA, HRA, or port authority.

a. Additional covered party on city's coverage

Minn. Stat. § 466.04.

Cities choosing this approach should keep in mind that since these entities are separate political subdivisions, theoretically a claimant could collect up to the $1.5 million statutory liability limit from both the city and the EDA, HRA, or port authority if both were involved in a single claim. Since the Trust's liability coverage limits are $2 million per occurrence, regardless of the number of defendants, there is some added protection but there is a possibility that the combined liability of the city and the entity could exceed the limit. One way to address this risk is to obtain the Trust's excess liability coverage.

See Section II.D.3, *Purchasing higher liability limits.*

b. Separate coverage

Under this option, the Trust will automatically name the city as a covered party on the entity's policy, and the city's coverage will be endorsed to make the city's coverage apply as excess over the entity's coverage.

This effectively makes the entity's coverage primary for both the city and the entity while at the same time making the city's coverage available as excess in case the combined liability exceeds the limits of the entity's coverage.

If an HRA, EDA, or port authority decides to purchase coverage from a private insurer, the city and the entity need to review a few questions to assure adequate coverage.

- What type of coverage is being provided to the city and the board?
- Is public officials' errors and omissions coverage included?
- Does it cover employment-related liability?
- Does it cover defense costs on litigation related to land use regulation or development which don't involve damage claims?
- Is the city named as an additional insured on the entity's board or commission policy?

The Trust's liability coverage is designed to provide as much coverage as possible under one covenant, and to effectively coordinate coverages to eliminate most of the potential gaps in coverage. If the city needs to address a coverage gap that's left by an HRA, EDA, or port authority's private insurance, contact the Trust.

RELEVANT LINKS:

2. Gas, electrical, or steam utility commission

Gas, electrical, or steam utility commissions or agencies are not covered automatically under the city's liability coverage. This is true even if the councilmembers also serve on the commission. In most cases the Trust can provide the needed coverage for these entities' activities either by adding the board or authority onto the city's policy or by issuing separate coverage to the board or authority.

a. Additional covered party on city's coverage

A utility commission is normally not a separate political subdivision or separate corporation. Thus, there normally is not the same problem with diluting limits that arises if a city HRA, EDA or port authority is added as a covered party under the city's Trust coverage.

b. Separate coverage

If separate Trust coverage is issued to a utility commission, that covenant responds to claims arising out of the utilities operations, regardless of whether the claim names the city, the commission, or any city or commission officers or employees as defendants.

If the utility commission chooses to purchase coverage separately from a private insurer, the city and the utility commission need to carefully review the arrangements to assure adequate coverage. The Trust does not automatically provide coverage to the city for these activities. If the utility commission purchases separate private insurance, the city can't assume the city's liability coverage will protect the city and fill any gaps that the utility commission's insurance leaves. Here are some important questions to consider about separate private insurance.

- What type of coverage is being provided?
- Is public officials' errors and omissions coverage included?
- Does it cover employment-related liability?
- Does it cover claims for failure to supply utilities?
- Does the carrier understand that cities and utility commissions aren't two separate legal entities?

If the private carrier won't agree to cover everyone who might be the target of a claim arising from the utility commission's activities, or if the utility commission's private insurance leaves other gaps, contact the Trust.

RELEVANT LINKS:

3. Airport board or commission

The city's liability coverage does not cover claims for bodily injury, property damage, or personal injury arising from airport operations. However, for most city airports, the city's liability coverage can be endorsed to cover this airport liability exposure. The cost is typically comparable to purchasing airport liability coverage from a private specialty insurer.

See Section III.A, *Airports.*

The city's liability coverage does cover other types of liability claims that might arise from airport operations including claims other than bodily injury, property damage, or personal injury. This is true whether the airport is managed by a separate board or directly by the council. If the city decides to cover these kinds of airport liability exposures through the Trust, members of the airport board or commission will be automatically covered. The airport board will be covered for claims related to errors and omissions and employment-related liability; these boards do not have to be specially listed as a covered party.

See Section III.I, *Joint powers entities.*

Airports are often created as a joint powers entity which the city runs in cooperation with one or more other cities and/or counties. The city's liability coverage will not automatically cover claims – either bodily injury, property damage, personal injury, or errors and omissions claims - arising from the operations of a joint powers airport. However, a joint powers board or entity with at least one city member is eligible to purchase liability coverage through the Trust, including the Trust's airport liability coverage.

If the city chooses to purchase airport liability coverage from a private specialty carrier, it's important to review that insurance coverage carefully.

4. Hospital, nursing home, or medical clinic board or commission

Specialty liability coverage is needed for city hospital, nursing home, or clinic operations, since the Trust does not provide or offer the professional malpractice coverages that hospitals, nursing homes, and clinics need. The city's liability coverage excludes coverage for bodily injury, property damage, or personal injury arising out of hospital, nursing home or clinic operations. The professional liability of physicians, nurses, pharmacists, and dentists is also excluded.

RELEVANT LINKS:

The city's liability coverage does, however, cover other types of liability claims that might arise from city hospital, nursing home, or clinic operations, including employment-related liability claims. Coverage applies even if the hospital, nursing home, or clinic is managed by a separate board or directly by the council. If there is a separate managing board, the members of that city board are automatically covered parties under the city's liability coverage. These boards do not need to be specifically named as covered parties.

5. Municipal power or gas agency

Minn. Stat. § 453.52.

The statutes provide that a municipal power agency or municipal gas agency is legally a separate political subdivision and municipal corporation created by agreement between or among two or more cities. Thus, these organizations have some characteristics both of political subdivisions and of joint powers entities.

Any city that participates in a municipal power or gas agency should make sure the agency has appropriate liability coverage. The city's Trust liability coverage does not cover claims arising from the activities of a municipal power or gas agency. As a special purpose political subdivision, a municipal power or gas agency is eligible to become a member of the Trust and obtain coverage.

R. Sewer backups

Liability coverage for sewer backups is a standard feature of the Trust's liability coverage. There are no specific exclusions for claims arising out of sewer backups for which the city is negligent in causing. The Trust offers no-fault sewer backup coverage as an extra cost option to those cities who want to provide coverage to property owners irrespective of whether the backup was caused by city negligence.

See Section III.R.2, *No-fault sewer backup coverage*.

1. Coverage limits and deductibles

Sanitary Sewer Incentive Program.

A mandatory deductible of $2,500 per occurrence applies to all liability claims for sanitary sewer backups caused by city negligence, unless the city participates in the Trust's sanitary sewer incentive program. Cities using a higher deductible on their liability coverage are not affected by this; cities using an aggregate limit are only impacted if the aggregate limit is reached and the maintenance deductible is less than $2,500; and cities using the Trust's no-fault sewer backup coverage automatically meet the criteria to avoid the mandatory minimum deductible.

RELEVANT LINKS:

Sanitary Sewer Incentive Program.

See *LMCIT Sanitary Sewer Backup Incentive Questionnaire*.

To qualify for the sanitary sewer backup incentive, cities must complete a sanitary sewer system questionnaire and return it to the Trust. If a city can confirm it meets the criteria, it will not be subject to the higher mandatory deductible. A city may certify they meet the criteria at any time. If qualification occurs midterm, the Trust will issue an endorsement removing the minimum deductible.

2. No-fault sewer backup coverage

As an option, no-fault sewer backup coverage is available for members that meet certain underwriting criteria. The optional coverage comes with an additional charge and will reimburse a property owner for cleanup costs and damages resulting from a city sewer backup or from a city water main break, irrespective of whether the backup was caused by city negligence.

The no-fault sewer backup coverage option is intended to:

- Reduce health hazards by encouraging property owners to cleanup backups as quickly as possible.
- Reduce the frequency and severity of sewer backup lawsuits (property owners may be less inclined to sue if they receive conciliatory treatment at the time of the backup).
- Give cities a way to address the sticky political problems that can arise when a property owner learns the city and the Trust won't reimburse for sewer backup damages because the city wasn't negligent and therefore not legally liable.

The legal basis for this coverage is that it helps reduce health hazards by encouraging prompt cleanups. This is clearly a public purpose and in the public interest. Additionally, the law and facts surrounding most sewer backup claims are rarely clear. There's virtually always a way that a claimant's attorney can make some type of argument for city liability. Having this coverage in place should help eliminate the need to spend public funds on litigation costs in many of these cases.

Many cities and their citizens may find this coverage option to be a helpful tool. However, it's also important to realize it's not a complete solution to sewer backup problems, and not every possible backup will be covered.

a. Coverage terms

The no-fault coverage will reimburse the property owner for sewer backup damages or water main breaks, regardless of whether the city was legally liable, if the following conditions are met:

RELEVANT LINKS:

- The sewer backup resulted from a condition in the city's sewer system.
- The sewer backup was not the result of an obstruction or other condition in sewer pipes or lines which are not part of the city's sewer system or which are not owned or maintained by the city.
- The water main break damage to property of others was not caused by city negligence.
- The sewer backup or water main break was not caused by or related to an excluded incident.
- The date of the occurrence giving rise to the claim for sewer backup or water main damages must be on or after the retroactive date shown on the city's endorsement.

LMC information memo, *National Flood Insurance Program.*

The no-fault coverage will not pay for any damages or expenses which are or would be covered under a National Flood Insurance Program (NFIP) flood insurance policy, whether such insurance is in effect; or for any costs which the property owner has been reimbursed or is eligible to be reimbursed by any homeowners' or other property insurance.

Following are other incidents that are specifically excluded under the no-fault coverage:

42 U.S.C. §§ 5121-5206.

- Any weather-related or other event which has been declared by the President of the United States to be a major disaster pursuant to the Stafford Act.
- Any interruption in the electric power supply to the city's sewer system or to any city sewer lift station which continues for more than 72 hours.
- Rainfall or precipitation which exceeds 2.0 inches in a 1-hour period; or 2.5 inches in a 3-hour period; or 3.0 inches in a 6-hour period; or 3.5 inches in a 12-hour period; or 4.0 inches in a 24-hour period; or 4.5 inches in a 72-hour period; or 5.5 inches in a 168-hour period.

b. Coverage limits

The basic limit for sewer backups is $10,000 per building per year, regardless of the number of occurrences or the number of claimants. The city also has options to purchase higher limits of $25,000 or $40,000 per building. A structure or group of structures that is served by a single connection to the city's sewer system is considered a single building.

See Section III.R, *Sewer backups.*

Only true no-fault claims are counted toward the limit. Claims for damages caused by city negligence, for which the city would be legally liable in any case and for which would be covered under the Trust's standard liability coverage, are not charged against that limit.

RELEVANT LINKS:

The basic limit for water main breaks is $10,000 to any claimant, with the option to purchase higher limits of $25,000 or $40,000 per building. The Trust will not pay more than $250,000 for water main break damage resulting from any single occurrence. All water main breaks which occur during any period of 72 consecutive hours is deemed to result from a single occurrence.

c. Premium costs

The no-fault sewer backup premium charge is based on the limit chosen and on a per sewer connection basis. It also includes an experience-rating component. Members that have incurred no losses under this coverage within a three-year rating period receive a 10 percent credit. Members that have incurred losses within the rating period at a per-connection frequency that is higher than the Trust program average receive a 10 percent debit.

LMC information memo, *Experience Rating in LMCIT's Liability and Workers' Compensation Premiums*.

d. Eligibility

To be eligible for the no-fault sewer backup coverage, the city must meet these underwriting criteria:

- The city must have a policy and practice of inspecting and cleaning its sewer lines on a reasonable schedule.
- If there are any existing problems in the city's system which have caused backups in the past or are likely to cause backups, the city must have and be implementing a plan to address those problems.
- The city must have a system and the ability to respond promptly to backups or other sewer problems at any time of the day or week.
- The city must have in place an appropriate program to minimize storm water inflow and infiltration.
- The city must have in place a system to maintain records of routine sewer cleaning and maintenance, and of any reported problems and responses.

For assistance in developing sewer policies, practices, and schedules, please see the *Sanitary Sewer Toolkit: A Guide for Maintenance Policies and Procedure*.

e. Applying for no-fault sewer backup coverage

Cities interested in applying for the no-fault sewer backup coverage should first contact the Trust. If the city qualifies for coverage, the Trust will send the city a formal quote. If the city decides to purchase the coverage, the city council must pass a formal resolution making the no-fault sewer backup protection part of the agreement between the city and the sewer customer. Once the Trust receives a copy of the resolution, coverage can be bound.

RELEVANT LINKS:

The Trust requires a resolution because the coverage is really a contract between the city and the sewer user. In other words, the basis for the no-fault payments to the property owner would be the contract between the city and the sewer user. The idea is that by paying their sewer bill, the sewer user is purchasing not just sewer services but also the right to be reimbursed for certain specified sewer backup costs and damages.

f. Discontinuing no-fault sewer backup coverage

If the city decides to discontinue coverage sometime in the future, make sure the city or its agent notifies the Trust. The council should also formally rescind the resolution that made the no-fault sewer backup protection part of the agreement between the city and the sewer customer. The city should also notify its sewer users that the coverage was discontinued.

S. Skate parks

The Trust's liability coverage applies to claims arising out of skate park operations. However, due to the various types of skate park configurations and the various exposures presented by them, coverage is only provided if certain loss control practices are in place. The coverage and premium charge will also vary based on the type of skate park facility, which is for coverage purposes identified as either a tier 1 or tier 2 skate park.

1. Tier 1 skate parks

Tier 1 skate parks have features 48 inches or less in height, pyramids 6 feet or less in height, and bowls 6 feet or less in depth. No additional premium is charged for this type of skate park.

The Trust requires the following loss control practices for tier 1 parks:

See LMC information memo, *Park and Recreation Loss Control Guide* for more loss control recommendations.

- Skaters must wear personal protective equipment such as a helmet, flexible wrist guards or gloves, elbow and knee pads, and proper shoes.
- Facility rules and safety guidelines must be posted in a conspicuous location.
- Periodic security inspections must be conducted by city personnel (law enforcement, park and recreation supervisor, etc.) to ensure skate park rules are being observed.
- Any skate park feature, including bowls or pyramids, that are 48 inches or higher must have a safety guardrail on the back or corner to help prevent falls.
- Skaters must be prohibited from bringing in their own ramps, handrails, or other structures that could be used to perform stunts.
- There must be documentation of a formal maintenance program for the skate park. The frequency of maintenance inspections will depend upon the hours of operation, facility use and park features.

RELEVANT LINKS:

- Maintenance and inspection documentation must show that the structural integrity of each feature and the skate park overall is inspected frequently.
- All skate park features must be in fixed positions (not portable).
- An accident report must be completed by a city employee upon report of any accident or injury occurring at the facility.
- Competitions must be restricted to only those sponsoring organizations that are able to provide separate insurance coverage and a contract holding the city harmless and indemnified.

2. Tier 2 skate parks

Tier 2 skate parks have features greater than 48 inches in height, pyramids greater than 6 feet in height, and bowls greater than 6 feet in depth.

Tier 2 skate parks that comply with the Trust's loss control practices are charged a premium of $500 to $1,000 per feature or structure with a minimum premium of $2,500 and a maximum premium of $7,500. A city that has not implemented the loss control guidelines for tier 2 skate parks are charged a premium of $1,000 to $2,000 per feature with a minimum premium of $5,000 and a maximum premium of $15,000.

To be eligible for the lower premium charge on tier 2 skate parks, the Trust requires all tier 1 practices as well as the following:

See LMC information memo, *Park and Recreation Loss Control Guide* for more loss control recommendations.

- Fencing and/or other appropriate security measures must be in place to control access to the park when it is not in operation.
- Adequate, on-site supervision of the park must be present during all park operating hours.
- Waivers of liability must be signed by park users if they are age 18 or older. For park users under age 18, waivers must be signed by the user's parent or legal guardian.
- An accident report must be completed by a city employee assigned to the skate park following any accident or injury occurring at the facility.

T. Special events

See Section III.K, *Liquor liability*, for more information about city-related liquor liability and individuals and groups that serve or sell alcohol on city property.

The Trust's liability coverage does not have a general exclusion for special events that are sponsored by the city, but there are exclusions that apply for specific types of events or activities. The two questions that are addressed in this section are what kinds of activities are and are not covered and which individuals and organizations are and are not covered.

RELEVANT LINKS:

See LMC information memo, *Park and Recreation Loss Control Guide*, Section VIII, for more specific loss control recommendations for special events.

There are a different set of questions to ask when the city allows a private party to hold an event on city property where there is no city involvement. The question becomes whether the city should require private groups to have insurance and whether insurance should only be required from certain groups depending on its criteria.

1. Events sponsored by the city

a. Coverage terms

The Trust's liability coverage applies to the city's activities connected with a special event unless that activity itself is excluded. The most important exclusions to be aware of are these:

- Motor vehicle races, stunts, demolition derbies, and so on.
- Motorized amusement rides, such as carnival type rides.
- Rodeos.
- Stunting activities or events that involve a significant risk of serious injury to the participant, performer, or others, such as high-wire acts, base or bungee jumping, skydiving, circus type acts, and acts involving dangerous animals.
- Liquor and beer sales, although the Trust may be able to provide coverage.
- Fireworks displays, although the Trust may be able to provide coverage.

See Section III.K, *Liquor liability* and Section III.G, *Fireworks*.

In some cases, the Trust can provide coverage for exposures related to fireworks displays and liquor and beer sales. For the other excluded activities, there are two basic ways to handle the liability exposure:

- Purchase specialty liability coverage from an insurer who specializes in that type of risk.
- Hire an independent contractor to conduct that operation.

See Section III.H, *Independent contractors.*

LMC information memo, *Making and Managing City Contracts*, Section IV.A, *Defense and indemnification*.

When hiring an independent contractor, the city should require that the contractor agree in the contract to hold the city harmless and indemnify the city for liability arising out of the activity.

The contract should also require the contractor to carry appropriate types and limits of liability coverage, and to name the city as an additional insured on that insurance policy. Using a contractor to run some of these riskier activities has another advantage besides solving the liability coverage question. It also means, hopefully, the city has experienced professionals involved who know how to run these operations safely.

RELEVANT LINKS:

LMCIT Contract Review Service.

Chris Smith, LMCIT Risk Management Attorney: csmith@lmc.org or 651.281.1269.

Cities should talk to their city attorney when developing written agreements and contracts. The Trust will review defense and indemnification provisions at no additional charge to help protect the city's interests.

b. Covered parties

For events that are run and sponsored by the city, the Trust covers not only the city itself but also the city's officers, employees, and individual volunteers and volunteer organizations acting on behalf of the city. There is also coverage for city boards, commission, and committees, but there are some exceptions.

See Section III.Q, *Separate city boards and commissions*.

See Section III.U, *Volunteers*.

If a volunteer organization like the Lion's Club were to provide volunteer assistance to the city in putting on a festival, the Trust's coverage would cover both the individuals and the organization for any claims arising out of their activities as city volunteers. This assumes, of course, that the claim isn't one of the types that are excluded (e.g., a claim arising out of running a demolition derby).

What can get confusing is determining whether an individual volunteer or volunteer organization is acting on behalf of the city. In many cases, the organization itself is really the entity that's in charge of the event. A common approach is to form a nonprofit festival corporation whose only function is to operate an annual festival. This kind of organization will obviously rely heavily on volunteers, but these volunteers would not be acting on behalf of the city. Rather, they would presumably be acting on behalf of the organization that is sponsoring, organizing, and operating the festival. Since these people are not acting on behalf of the city, the Trust's coverage would not provide them any protection.

In many cities, of course, those community-minded people who tend to get involved in city government are the same ones who tend to be willing to donate their time to a civic organization putting on a community festival. One problem is that it can get difficult to determine on whose behalf the individual is acting at any time.

One suggestion for dealing with this problem is for the city council simply to pass a resolution declaring the festival to be a city function and the organization putting it on to be city volunteers. The idea is that this is a way to bring the whole event under the city's liability coverage, but it's not that simple.

From the standpoint of Trust coverage, the real question is whether this is, in fact, a city event or merely in the name. Certainly, a resolution declaring the council's intent would be one element in making that determination, but simply saying it doesn't make it so. Other factors to look at include:

RELEVANT LINKS:

- How the decisions relating to the special event are made and by whom.
- How and in whose name contracts are let.
- How the funds are handled, if the money from the event is run through the city treasury and disbursed by city check with council approval, it looks more like a city operation. If another group has its own bank account in which it places and expends money, it doesn't really look like a city operation.

Even with an event organized and run by a private group, the city will often have some sort of role. For example:

- The group may conduct some activities in a city park or use city streets.
- City police may be involved in traffic or crowd control.
- The city recreation department might be responsible for organizing some recreational activities as part of a festival organized by a community group.

Where the city has this kind of involvement in a privately-sponsored event, the Trust coverage will apply to suits and claims against the city, the city's officers and employees, and the city's volunteers, if those claims arise out of acts on behalf of the city.

LMCIT's Tenant User Liability Insurance Program (TULIP) provides access to low-cost liability coverage for the city's "tenant users".

The Trust would not provide any protection for the organization or the individuals responsible for organizing a privately-sponsored event, even if those individuals or organizations were sued because of something the city did. If the Trust ended up covering some city liability which arose out of some negligent action of the private group, the Trust would likely try to recover those damages from that group and/or the responsible individuals.

c. Planning considerations

See LMC information memo, *Park and Recreation Loss Control Guide*, Section VIII, for more specific loss control recommendations for special events.

It can be very confusing to try and sort out who is and who is not responsible for an event after an injury has occurred or damage has been done. The time to address these questions is in advance. Here are some things to keep in mind when the event is in the planning stage.

(1) Think about who is running the show

If the event is truly a city-sponsored event, it should be run like a city event with the council ultimately in charge. On the other hand, if a private group is going to organize and run the event, make sure they understand how and where the city's liability coverage does and doesn't apply. If they use city facilities, encourage them to obtain liability insurance of their own and to name the city as an additional insured as a condition of using the city facilities.

RELEVANT LINKS:

(2) Think about hazardous activities

Liquor and beer sales, motor vehicle events, rodeos, rides, and fireworks are the major examples of hazardous activities. If any proposed activity seems to involve any kind of hazard, it's always best to speak with the Trust or the city's insurance agent about liability coverage in advance. Regardless of who is sponsoring the event, ask these key questions:

- Is there adequate liability coverage for the event?
- Does that liability coverage protect everyone who might get sued because of the event?

(3) Contact LMCIT

Joel Muller, Loss Control Field Services Manager jmuller@lmc.org 651-215-4079.

LMCIT Contract Review Service.

Chris Smith, LMCIT Risk Management Attorney: csmith@lmc.org or 651.281.1269.

The Trust will help the city and its insurance agent try to identify any potential coverage problems. The Trust's loss control staff can help review plans for the event and offer suggestions for ways to avoid or minimize risks. The Trust's attorneys can review draft contracts or permits and offer suggestions on wording indemnification and hold harmless agreements.

2. Events sponsored by private groups

See LMC information memo, *Park and Recreation Loss Control Guide*, Section VIII, for more specific loss control recommendations for special events.

Many cities allow groups to use its facilities for a variety of difference purposes such as weddings, meetings, and athletic events. There are a few questions to consider when determining whether the city should require private groups to have insurance for their event.

a. Insurance requirements

There are three different ways to handle insurance requirements for private groups using city facilities.

(1) Don't require anyone to have insurance

If the city doesn't require insurance coverage from private groups using its facilities, the city can still have rules and conditions to reduce risks. For example:

See Section III.K, *Liquor liability*.

- Prohibit riskier activities such as the sale of alcohol.
- Require renter to provide maintenance and security during their event.
- Have individuals sign waivers for particularly dangerous activities such as rock climbing.
- Have organizations sign indemnification agreements to shift the liability to them.

RELEVANT LINKS:

LMCIT Contract Review Service.

Chris Smith, LMCIT Risk Management Attorney: csmith@lmc.org or 651.281.1269.

Cities should talk to their city attorney when developing written agreements and contracts. The Trust will review defense and indemnification provisions free of charge to help protect the city's interests.

(2) Require all to have insurance

Private individuals holding a special event on city property can obtain general liability and/or liquor liability coverage through the Tenant User Liability Insurance Program (TULIP).

If all private groups are required to have insurance, the city should be named as an additional insured on the renter's coverage certificate. In addition, the agreement between the private group and the city should defend and indemnify the city for any third-party claims. This is the best way to transfer risks to the private groups and its insurance company.

(3) Require some to have insurance

LMCIT's Tenant User Liability Insurance Program (TULIP) provides access to low-cost liability coverage for the city's "tenant users".

When the cost to obtain insurance is too burdensome for the private group renting the city's facility, the city can have pre-established criteria as to the types of organizations or events where insurance will be required. It is important to establish the criteria ahead of time and to treat the organizations fairly and consistently based upon those criteria. If the city doesn't do that, there could be allegations of unequal or discriminatory treatment. Questions to ask when establishing criteria include:

See LMC information memo, *Park and Recreation Loss Control Guide*, Section VIII, for more specific loss control recommendations for special events.

- What type of organization is holding the event? For example, require insurance for public or for-profit organizations.
- What type of event is being held? For example, require insurance for riskier activities such as street fairs, casino shows, or karate meets.
- Is there an admission charge for the event?
- Will children be participating in the event?
- Is the event open or not open to the public?
- How many people are participating in the event? For example, require insurance if there are more than 50 people.
- When will the event be held? For example, require insurance for Friday and Saturday night events.
- What is the length of the event?
- What types of risks are involved? Are there any security issues?
- Are there any risks not covered by the city's liability insurance? For example, rodeos and motor vehicle races are not covered by the city's Trust coverage. Require insurance for these types of activities.
- Will there be alcohol at the event? For example, require liquor liability insurance if alcohol will be sold or require general liability insurance if alcohol will be given away.
- Are there any vehicles involved? Will parking be an issue?
- Will there be any valuable materials left on city property for an extended period?

RELEVANT LINKS:

See Section III.K, *Liquor liability*.

Private individuals holding a special event on city property can obtain general liability and/or liquor liability coverage through the Tenant User Liability Insurance Program (TULIP).

See LMC information memo, *Park and Recreation Loss Control Guide*, Section VIII, for more specific loss control recommendations for special events.

LMC information memo, *Park and Recreation Loss Control Guide*, Section VIII.C.1, Community center programs, use by outside groups, for model community center rental documents.

LMCIT Contract Review Service.

Chris Smith, LMCIT Risk Management Attorney: csmith@lmc.org or 651.281.1269.

3. Coverage limits

It is common for cities to require one set amount of general liability insurance for all special events, such as $1 million. Regarding liquor liability, the Trust recommends a minimum of $500,000, but $1 million is even better. The city can vary the amount required depending upon the type of organization, event, or the criteria established by the city.

Private groups can purchase insurance through their homeowner's insurance (although the policy may be limited and not all claims may be covered), a private insurance carrier, or the Tenant User Liability Insurance Program (TULIP). TULIP helps individuals and groups - called tenant users - protect themselves and their guests at events held at city-owned facilities. Trust member cities automatically are eligible to offer TULIP to tenant users, at no cost to the city.

TULIP provides private individuals and groups with access to low-cost liability coverage, including liquor liability coverage, of $1 million for special events held at city facilities. The coverage automatically lists the city as an additional insured.

4. Rental agreements for use of city facilities

It is important the city has an application procedure established so they know what type of event will be taking place. If the city has criteria for insurance requirements, they'll need to know whether the group meets the criteria. The city also may have restrictions against events that are excluded from the city's liability insurance coverage, such as rodeos. Having forms and procedures supports consistent and fair treatment of all groups that apply.

It is common in rental agreements to have indemnification agreements where the organization agrees to "hold the city harmless and defend and indemnify the city against any claims related to its use of the city's facilities." These can be used to reinforce the insurance requirements but also can be used when a city does not require insurance. It is important to note that formal organizations will be able to hold the city harmless for damage to the organization's property, but they do not have the ability to waive claims from individual members of their group.

The defense and indemnification provision mean the organization will handle any third-party claims. Organizations that have insurance and assets are going to be able to cover this indemnification agreement.

Cities should talk to their city attorney when developing written agreements and contracts. The Trust will review defense and indemnification provisions at no additional charge to help protect the city's interests.

RELEVANT LINKS:

Minn. Stat. § 466.

U. Volunteers

City volunteers are protected against tort liability in the same manner as the city's officers and paid employees. The tort liability act protects the city volunteer in two important ways:

- The statute limits the volunteer's maximum liability. The state tort caps are $500,000 per claimant and $1.5 million per occurrence.
- The statute requires the city to defend and indemnify volunteers against claims for damages when the volunteer was acting in the performance of his or her duties as a city volunteer.

The second provision provides an important protection for volunteers. It essentially means that when a person is performing duties as a city volunteer, the risk of tort liability rests with the city, not the volunteer. The only exception to this duty to defend and indemnify a volunteer is if the volunteer's actions constituted malfeasance, willful neglect of duty, or bad faith. The statutes don't require a city to protect an individual from consequences of his or her own intentional wrongdoing.

For members of the Trust, volunteers and volunteer organizations are covered parties under the city's liability coverage, if they are acting on behalf of the city and volunteering under the city's direction and control. Trust coverage responds to claims whether brought against the city, the volunteer, or both.

It's important to keep in mind that not every volunteer who performs a community service is a city volunteer. Individuals often volunteer for a project sponsored by a private organization or other governmental unit. One example is the Minnesota Department of Transportation's Adopt a Highway Program. These individuals perform a community service on their own, without city sponsorship or request.

Trust coverage also includes the cost to defend a claim against a volunteer, even if the claim accuses the volunteer of an action that would constitute malfeasance, willful neglect of duty, or bad faith. The Trust would not cover the damages awarded against the volunteer, however, if it is determined that the volunteer's action did constitute malfeasance, neglect of duty, or bad faith.

V. Work within railroad crossings

For guidance when contracting with railroads, contact Chris Smith, LMCIT Risk Management Attorney
651.281.1269
800.925.1122
csmith@lmc.org

For cities doing work within a railroad crossing, the best practice is for the city to contact the railroad and find out what it will require for the project well before the construction contract is let and before the city releases the bid specifications for the project. The city will then know what the railroad requires and can include the insurance requirements in the specifications and the contract.

RELEVANT LINKS:

Specific insurance requirements may differ depending on the railroad and the type and scope of the project. In most cases though, the railroad will be looking for the following:

1. City coverage

In most cases, the railroad will require the city to meet insurance requirements as a condition of allowing the city to work within the right-of-way. The city will also need to provide a certificate of insurance to the railroad, showing the required coverages are in place.

2. Limits

Railroads often require liability limits more than a city's liability coverage, but most railroads will agree to reduce the liability limits to match city coverages. If higher limits are required, contact the Trust and it can generally provide an endorsement that increases the city's liability coverage limits only for claims arising under this specific contract.

3. Additional insured

The railroad will usually require that it be named as an additional insured on the city's liability coverage.

4. Primary coverage

The railroad may require the city's coverage be "primary and non-contributory." The Trust's liability coverage is automatically primary for any party that has been added as an additional insured, so no endorsement is needed to meet this requirement.

5. Waiver of subrogation

LMCIT Underwriting Department
651.281.1220
800.925.1122

The railroad may require a "waiver of subrogation" endorsement on the city's liability coverage. The city's underwriter can endorse the city's coverage to waive subrogation for an additional insured.

6. Railroad contractual liability

ISO endorsement CG 24 17.

The railroad's insurance requirements may include a requirement that the railroad exclusion (ISO endorsement CG 24 17) be deleted. Standard CGL policies exclude coverage for construction or demolition operations within 50 feet of a railroad. Unlike standard CGL policies, the Trust's liability coverage does not exclude work near railroad rights-of-way, so no special endorsement is needed for railroad projects. Since Trust coverage is unusual in this respect and to avoid any confusion, the Trust will note on the certificate of insurance that it does not have this exclusion.

RELEVANT LINKS:

Workers' Compensation Reinsurance Association.

7. Workers' compensation

The railroad will often require the city to have workers' compensation coverage and may require the city to endorse that coverage to waive subrogation against the railroad. The Workers' Compensation Reinsurance Association (WCRA) requires the Trust to get its prior approval on a case-by-case basis before issuing a waiver of subrogation endorsement.

8. Railroad protective insurance

The railroad may require purchase of a "railroad protective" insurance policy. As the name suggests, "railroad protective" insurance is a liability policy that is purchased by the city or by the contractor to protect the railroad from liability claims arising from the project. The railroad protective policy provides coverage for general liability, injuries to railroad employees, and damage to the railroad's rolling stock and other real and personal property. Some railroads have standard arrangements in place under which the city or contractor can simply purchase the railroad protective insurance. If so, it can be an attractive option for the city or contractor because the railroad will have already been pre-approved on the coverage form and the cost is typically modest.

9. Contractor insurance

The railroad may require the contractor performing the work to have liability insurance that meets the railroad's specifications. Even if the railroad doesn't require this, it's in the city's interest to require the contractor to have the appropriate insurance. This should be reflected in the project bid specifications and contract.

IV. Filing a liability claim

LMCIT claim forms, information sheets, and other resources.

Submit a claim online.

Email: claims@lmc.org

Fax: 651.281.1297 or 888.234.7839

Mail: 145 University Ave W, St. Paul MN 55103-2044

Phone: 651.281.1200 or 800.925.1122

Claims can be submitted to the Trust using any of the following methods.

- Online
- Email
- Fax
- Mail
- Phone

CITY OF HOPKINS

December 17, 2019 Council Report 2019-128

Approve Facility Solar Project Agreements

Proposed Action.

Staff recommends adoption of the following motion: Move that Council approve a facility solar project to include purchase, facility lease, power purchase and put & call agreements for solar energy systems to be installed on the Public Works building, the Pavilion and the Fire Station and authorize the City Manager to execute the agreements on behalf of the City.

Overview.

Ideal Energies has proposed a facility solar project which includes installing solar panel arrays on three City buildings - the Fire Station, the Hopkins Pavilion and Public Works. There is very little cost or risk to the city for the solar panels or their installation, operation or maintenance through the lease period of 20 years for the PW building and Pavilion and 15 years for the Fire Station. The Fire Station has a shorter lease due to it qualifying for the Xcel SolarRewards program. During the 15 or 20 year lease period the City would: 1) purchase and insure the solar system and lease it back to a company that would operate and maintain the system through the lease period; and, 2) purchase the power produced by the solar arrays at a discounted rate. The total energy savings to the City during the lease period would be modest at about $10,000/year. After the lease periods, the City would benefit directly for all the energy produced by the solar systems - an estimated $80,000/year energy savings in year 21. The proposed solar panels are high-quality, what are called Tier 1 panels, expected to last well beyond their 25-year power production warranties. The ongoing maintenance costs should be minimal in comparison to the energy cost savings. Staff visited a similar solar project completed by Ideal Energies for the City of Roseville. The Roseville staff are pleased with the solar panel installs, the operation of the system, and working thru the project with Ideal Energies. Staff and City legal counsel have negotiated the final agreements with Ideal Energies. Staff recommends approval.

Primary Issues to Consider.

- Summary description of each agreement

Supporting Information.

- Cashflow summary document – PW Building only
- Estimated annual energy savings charts – all buildings
- Annual Production Reports for each facility + Jinko solar panel spec sheet
- Facility Solar Agreements

Steven J. Stadler
Public Works Director

Financial Impact: Y Budgeted: Y/N N Sources: Projected energy savings in the area of $10,000/year for the first 20 years, $70,000+/year thereafter including annual maint expenses

Analysis of Issues

Summary description of each agreement

Solar Array Purchase – this agreement is with Ideal Energies and covers the purchase of the solar system, its design and installation on the facilities.

- Requires City to also enter into Facility Lease and Power Purchase agreements
- Ideal Energies designs and installs the solar systems.
- Solar system components are listed on schedule A, work scope on schedule C
- Project completion date = August 31, 2020
- Ideal Energies may terminate the agreement if City is in breach of agreement or if any site is determined to be not feasible for the solar system installation. City may terminate for breach of agreement or if project is not complete by Dec 31, 2020.
- System design and engineering services under warranty for five years. After first year, Ideal assists City in pursuing manufacturer warranty replacement parts, etc.

Facility Lease – this agreement leases City facility space to Green2 Solar Leasing and City leases the solar energy system to Green2 Solar Leasing.

- Green2 Solar Leasing pays for the solar system and its installation
- Green2 Solar becomes the system owner for federal tax purposes & eligible for 30% federal tax credit
- Term = 20 years
- Green2 Solar pays nominal building space and solar system rent
- Green 2 Solar operates, monitors and maintains the solar system as described in Schedule B of the agreement
- City pays set price for components replaced under manufacturer's warranty as listed in Schedule B
- City insures the solar energy system

Power Purchase – via this agreement the City agrees to purchase all the power generated by the solar energy system, the City will pay a fixed monthly payment based on the size of the solar energy system.

- Green2 Solar will reimburse the City in the event the solar system doesn't meet certain energy production thresholds
- City owns the associated Renewable Energy Credits
- Term = 20 years

Put and Call Agreement – applies to Fire Station only and provides for the termination of the lease after 15 years vs. 20 years. Written to incentivize Green2 Solar to sell the remaining Green2 Solar interest in the energy system to the City for $1 after 15 years.

Solar Array Removal and Reinstallation – this agreement details the terms/conditions regarding solar array removal and reinstallation in the event that roof work is needed on any of the City facilities during the 20 year lease term.

- Ideal Energies will disconnect, remove, palletize, reinstall and start up system for a fee of $.30 per Watt DC during the first five years of the lease and for the years 6-10 apply a 3% cost escalator per year or $16,200 for Fire Station, $39,960 for Pavilion and $55,920 for Public Works

iDEAL ENERGIES
A GREEN² COMPANY

A GREEN² OPPORTUNITY

Make Money. Save the Planet.

Cashflow Summary

[Hopkins - Public Works]

Capital Lease w/ PPA - Solar for Minnesota Non-Profits, Schools & Public Organizations

2019 Xcel Photovoltaic Credit Rider Tariff
General Service Rate Plan

Rooftop Ballasted Solar Array - 186.4 kWDC 400 Watt Solar Panels @ 10°tilt & 180° az w/ 140 kWAC SolarEdge Inverters

ver. 11.25.19

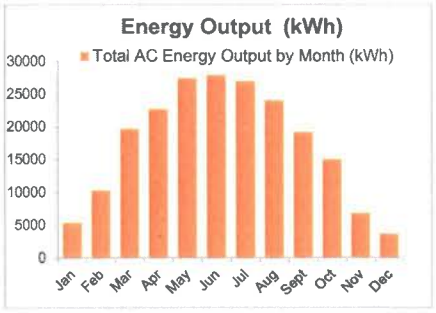
iDEAL ENERGIES
A GREEN² COMPANY

Solar Array Technical Information

Rooftop Ballasted Solar Array - 186.4 kWDC 400 Watt Solar Panels @ 10°tilt & 180° az w/ 140 kWAC SolarEdge Inverters

Xcel Photovoltaic Credit Rider Tariff
General Service Rate Plan

Solar Array Specification (Typical)	
System Size (kW DC)	186.40
Inversion Ratio (DC / AC)	1.331
Maximum AC Output of Inverters (AC KW)	140.0
Maximum Peak AC Output including AC line losses (kW)	135.8
Expected Energy Production (kWh/kW DC)	1125
Expected Energy Production (kWh/Year)	**209,700**

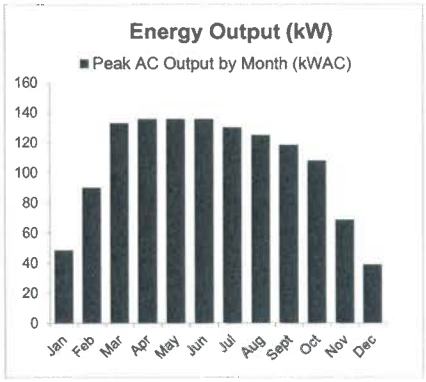


Information on Expected Solar Array Production (kWh)

Typical Solar Array Energy Production (kWh) using NREL modeling, Helioscope or PV Syst modelling tools with average adjusted historical weather conditions in Minneapolis, MN using TMY3 Weather Data. http://www.nrel.gov Estimated performance is based on information including but not limited to the equipment used, the solar array's kW DC size, AC/DC line losses, standard rectangular configuration, and the array pointing due south. Your System's energy production will vary with actual equipment, layout and weather conditions. Expected Energy Production below does not include any annual degradation in solar panel kWDC output.

Expected Energy Production from the Solar Array

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec	Total
Total AC Energy Output by Month (kWh)	5394	10377	19724	22769	27485	27957	27009	24097	19241	15108	6865	3675	209700
	2.6%	4.9%	9.4%	10.9%	13.1%	13.3%	12.9%	11.5%	9.2%	7.2%	3.3%	1.8%	**100.0%**
Peak AC Output by Month (kWAC)	49	90	133	136	136	136	130	125	119	108	69	39	
	35.8%	66.3%	97.9%	100.0%	100.0%	100.0%	95.9%	92.1%	87.3%	79.6%	50.6%	28.6%	



iDEAL ENERGIES
A GREEN² COMPANY

Utility Bill Savings

Net Metering w/ Solar Photovoltaic Demand Credit Rider Tariff

Rooftop Ballasted Solar Array - 186.4 kWDC 400 Watt Solar Panels @ 10°tilt & 180° az w/ 140 kWAC SolarEdge Inverters

System Sizing & Energy Assumptions

Energy System Size (kW DC)	**186.40**
Energy System Production (kWh from 1 to 7 PM)	53.40%
kWh generated per kW DC of Solar Panels	1125
Annual degradation - reduction in kWh output (% / year	0.50%
Ten year average increase in utility costs (%/year)	3.30%

Energy Expense: Savings (kWh)

Year 1 Energy Expense Savings ($)	**$15,363**
Energy Savings per kWh ($ / kW/h)	***$0.0733***
Utility Billing Plan	General Service Rate Plan

Demand Expense: Savings (kW)

Year 1 Demand Expense Savings ($)	**$3,074**
Demand Savings per kWh ($ / kWh)	***$0.0147***
Maximum instantaneous production (kW AC)	135.8
Estimated % realized on utility bill to reduce demand fees	12.8%
Available production to reduce demand (kW AC)	17.4
Average demand charge cost ($/kW)	$14.74

PV Credit Rider: Rate A-86 Savings (kWh)

Year 1 A-86 PV Rider Savings via Utility Bill Credit ($)	**$7,883**
PV Credit Rider Savings per kWh ($ / kWh)	***$0.0376***
Estimated energy production: hours 1 to 7PM (kWh)	111980
Photovoltaic Credit Rider ($ / kWh)	$0.07040
Photovoltaic Credit Rider Escalator (% / year)	1.00%

Year 1: Combined Total Savings: (kWh & kW)

Total savings / kWh produced from solar array ($/kWh)	***$0.1255***
Energy Expense Savings ($/kWh)	*$0.0733*
Demand Expense Savings ($/kWh)	*$0.0147*
A-85 PV Credit Rider Savings ($/kWh)	*$0.0376*

Note [1] The above PV Credit rate reflects a new rate Code A86 promulgated by the Public Utilities Commission on October 17, 2019 that replaced rate Code A-85 ($.07139 / kWh). Projects whose applications are deemed complete by Xcel before the new rate is published qualify for the A85 rate. The above rate is applicable through April, 2027. Rates are adjusted every 3 years during rate cases based on utility expense increases incurred since the prior rate case. PV Credit expected, but not guaranteed.

https://www.xcelenergy.com/staticfiles/xe/Regulatory/Regulatory%20PDFs/rates/MN/Me_Section_5.pdf, pg152.

Note [2] Assumes Excess Energy payment increases at same rate as utility cost.

Utility Bill Savings

Year	Electricity Produced (kWh/year)	Energy & Demand Expense Reduction / PV Rider Utility Bill Credit				Total Savings	
		Energy Expense Savings ($/year)	Demand Expense Savings ($/year)	PV Credit [1] [Rate A-86] ($/year)	Revenue [2] from Excess Energy ($/year)	Annual Savings ($)	Cumulative Annual Savings ($)
1	**209700**	**$ 15,363**	**$ 3,074**	**$ 7,883**	**$ -**	**$ 26,321**	**$ 26,321**
2	208652	$ 15,791	$ 3,160	$ 7,844	$ -	**$ 26,794**	**$ 53,115**
3	207609	$ 16,230	$ 3,248	$ 7,805	$ -	**$ 27,283**	**$ 80,398**
4	206571	$ 16,682	$ 3,338	$ 8,001	$ -	**$ 28,021**	**$ 108,419**
5	205538	$ 17,146	$ 3,431	$ 7,961	$ -	**$ 28,538**	**$ 136,957**
6	204510	$ 17,624	$ 3,526	$ 7,921	$ -	**$ 29,071**	**$ 166,028**
7	203487	$ 18,114	$ 3,624	$ 8,120	$ -	**$ 29,859**	**$ 195,888**
8	202470	$ 18,619	$ 3,725	$ 8,080	$ -	**$ 30,424**	**$ 226,311**
9	201458	$ 19,137	$ 3,829	$ 8,039	$ -	**$ 31,005**	**$ 257,317**
10	200451	$ 19,669	$ 3,936	$ 8,242	$ -	**$ 31,847**	**$ 289,163**
11	199449	$ 20,217	$ 4,045	$ 8,200	$ -	**$ 32,463**	**$ 321,626**
12	198452	$ 20,780	$ 4,158	$ 8,159	$ -	**$ 33,097**	**$ 354,723**
13	197460	$ 21,358	$ 4,274	$ 8,365	$ -	**$ 33,996**	**$ 388,719**
14	196473	$ 21,953	$ 4,392	$ 8,323	$ -	**$ 34,668**	**$ 423,387**
15	195491	$ 22,564	$ 4,515	$ 8,281	$ -	**$ 35,360**	**$ 458,747**
16	194514	$ 23,192	$ 4,640	$ 8,490	$ -	**$ 36,322**	**$ 495,069**
17	193541	$ 23,837	$ 4,770	$ 8,447	$ -	**$ 37,054**	**$ 532,123**
18	192573	$ 24,501	$ 4,902	$ 8,405	$ -	**$ 37,808**	**$ 569,932**
19	191610	$ 25,183	$ 5,039	$ 8,616	$ -	**$ 38,838**	**$ 608,769**
20	190652	$ 25,884	$ 5,179	$ 8,573	$ -	**$ 39,636**	**$ 648,406**
21	189699	$ 26,604	$ 5,323	$ 8,530	$ -	**$ 40,458**	**$ 688,863**
22	188751	$ 27,345	$ 5,471	$ 8,745	$ -	**$ 41,561**	**$ 730,425**
23	187807	$ 28,106	$ 5,624	$ 8,701	$ -	**$ 42,431**	**$ 772,855**
24	186868	$ 28,888	$ 5,780	$ 8,658	$ -	**$ 43,326**	**$ 816,182**
25	185934	$ 29,693	$ 5,941	$ 8,875	$ -	**$ 44,509**	**$ 860,691**
26	185004	$ 30,519	$ 6,106	$ 8,831	$ -	**$ 45,456**	**$ 906,147**
27	184079	$ 31,369	$ 6,276	$ 8,787	$ -	**$ 46,432**	**$ 952,579**
28	183159	$ 32,242	$ 6,451	$ 9,008	$ -	**$ 47,701**	**$ 1,000,280**
29	182243	$ 33,139	$ 6,631	$ 8,963	$ -	**$ 48,733**	**$ 1,049,012**
30	181332	$ 34,062	$ 6,815	$ 8,918	$ -	**$ 49,795**	**$ 1,098,807**
31	180425	$ 35,010	$ 7,005	$ 9,142	$ -	**$ 51,157**	**$ 1,149,964**
32	179523	$ 35,984	$ 7,200	$ 9,097	$ -	**$ 52,281**	**$ 1,202,245**
33	178625	$ 36,986	$ 7,400	$ 9,051	$ -	**$ 53,437**	**$ 1,255,682**
34	177732	$ 38,015	$ 7,606	$ 9,279	$ -	**$ 54,900**	**$ 1,310,582**
35	176843	$ 39,073	$ 7,818	$ 9,232	$ -	**$ 56,124**	**$ 1,366,706**
36	175959	$ 40,161	$ 8,036	$ 9,186	$ -	**$ 57,383**	**$ 1,424,089**
37	175079	$ 41,279	$ 8,259	$ 9,417	$ -	**$ 58,955**	**$ 1,483,044**
38	174204	$ 42,428	$ 8,489	$ 9,370	$ -	**$ 60,287**	**$ 1,543,331**
39	173333	$ 43,609	$ 8,726	$ 9,323	$ -	**$ 61,658**	**$ 1,604,989**
40	172466	$ 44,823	$ 8,968	$ 9,558	$ -	**$ 63,349**	**$ 1,668,338**

iDEAL ENERGIES
A GREEN² COMPANY

Financing Summary

Utility Bill Expense Savings w/ your Solar Array

Rooftop Ballasted Solar Array - 186.4 kWDC 400 Watt Solar Panels @ 10°tilt & 180° az w/ 140 kWAC SolarEdge Inverters

Xcel Photovoltaic Credit Rider Tariff

General Service Rate Plan

Year	Utility Bill Expense Savings	Green² Solar Leasing Utility Bill Expense & Savings vs. Utility	
	Utility Bill Power Purchase Expense Reduction	Solar Array Power Purchase Expense	Power Purchase Expense Savings w/ Solar Array
1	$26,321	$21,057	**$5,264**
2	$26,794	$21,436	**$5,359**
3	$27,283	$21,826	**$5,456**
4	$28,021	$22,417	**$5,604**
5	$28,538	$22,831	**$5,708**
6	$29,071	$23,257	**$5,814**
7	$29,859	$23,887	**$5,972**
8	$30,424	$24,339	**$6,085**
9	$31,005	$24,804	**$6,201**
10	$31,847	$25,477	**$6,369**
11	$32,463	$25,970	**$6,492**
12	$33,097	$26,478	**$6,619**
13	$33,996	$27,197	**$6,799**
14	$34,668	$27,735	**$6,934**
15	$35,360	$28,288	**$7,072**
16	$36,322	$29,058	**$7,264**
17	$37,054	$29,643	**$7,411**
18	$37,808	$30,247	**$7,562**
19	$38,838	$31,070	**$7,768**
20	$39,636	$31,709	**$7,927**
21	$40,458		**$40,458**
22	$41,561		**$41,561**
23	$42,431		**$42,431**
24	$43,326		**$43,326**
25	$44,509		**$44,509**
Total	$860,691	$518,726	$341,965

During the Term of your Lease and PPA

you will receive approximately...

20.0%

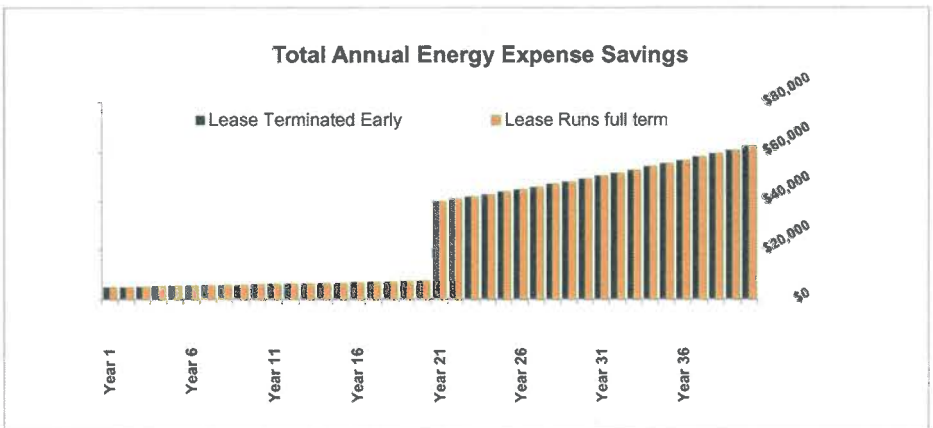
Utility Bill Expense Savings during years

1 to 20

Assuming an Average Annual Utility Rate Increase of

3.30%

Thereafter, you will receive ALL of the ENERGY generated from your solar array for FREE!



40 Year Customer Cash Flow Example - Net Metering w/ Utility Bill Savings

Rooftop Ballasted Solar Array - 186.4 kWDC 400 Watt Solar Panels @ 10°tilt & 180° az w/ 140 kWAC SolarEdge Inverters

Xcel Photovoltaic Credit Rider Tariff
General Service Rate Plan

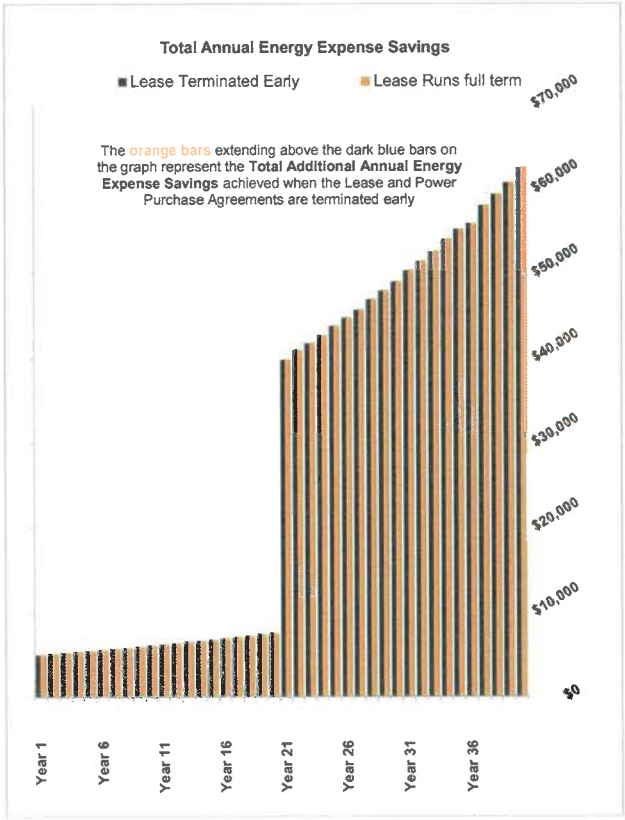
Year	Customer's Utility Savings and Rent Income			Customer's Expenses			Annual Savings	
	Utility Bill Savings	Rent Revenue	Total Annual Customer Revenue	Energy Payment to GreenSky (subject to sales tax)	Insurance Expense & Utility Fees	Total Annual Expenses	Total Annual Energy Expense Savings	Total Cumulative Annual Energy Expense Savings
Year 1	$ 26,321	$ 100	$ 26,421	$ (21,057)	$ (400)	$ (21,457)	$ 4,964	$ 4,964
Year 2	$ 26,794	$ 100	$ 26,894	$ (21,436)	$ (408)	$ (21,844)	$ 5,051	$ 10,015
Year 3	$ 27,283	$ 100	$ 27,383	$ (21,826)	$ (416)	$ (22,242)	$ 5,140	$ 15,155
Year 4	$ 28,021	$ 100	$ 28,121	$ (22,417)	$ (424)	$ (22,841)	$ 5,280	$ 20,435
Year 5	$ 28,538	$ 100	$ 28,638	$ (22,831)	$ (433)	$ (23,264)	$ 5,375	$ 25,809
Year 6	$ 29,071	$ 100	$ 29,171	$ (23,257)	$ (442)	$ (23,699)	$ 5,473	$ 31,282
Year 7	$ 29,859	$ 100	$ 29,959	$ (23,887)	$ (450)	$ (24,338)	$ 5,621	$ 36,903
Year 8	$ 30,424	$ 100	$ 30,524	$ (24,339)	$ (459)	$ (24,798)	$ 5,725	$ 42,629
Year 9	$ 31,005	$ 100	$ 31,105	$ (24,804)	$ (469)	$ (25,273)	$ 5,832	$ 48,461
Year 10	$ 31,847	$ 100	$ 31,947	$ (25,477)	$ (478)	$ (25,955)	$ 5,991	$ 54,452
Year 11	$ 32,463	$ 100	$ 32,563	$ (25,970)	$ (488)	$ (26,458)	$ 6,105	$ 60,557
Year 12	$ 33,097	$ 100	$ 33,197	$ (26,478)	$ (497)	$ (26,975)	$ 6,222	$ 66,779
Year 13	$ 33,996	$ 100	$ 34,096	$ (27,197)	$ (507)	$ (27,704)	$ 6,392	$ 73,171
Year 14	$ 34,668	$ 100	$ 34,768	$ (27,735)	$ (517)	$ (28,252)	$ 6,516	$ 79,688
Year 15	$ 35,360	$ 100	$ 35,460	$ (28,288)	$ (528)	$ (28,816)	$ 6,644	$ 86,332
Year 16	$ 36,322	$ 100	$ 36,422	$ (29,058)	$ (538)	$ (29,596)	$ 6,826	$ 93,158
Year 17	$ 37,054	$ 100	$ 37,154	$ (29,643)	$ (549)	$ (30,192)	$ 6,962	$ 100,120
Year 18	$ 37,808	$ 100	$ 37,908	$ (30,247)	$ (560)	$ (30,807)	$ 7,102	$ 107,221
Year 19	$ 38,838	$ 100	$ 38,938	$ (31,070)	$ (571)	$ (31,642)	$ 7,296	$ 114,517
Year 20	$ 39,636	$ 100	$ 39,736	$ (31,709)	$ (583)	$ (32,292)	$ 7,445	$ 121,962
Year 21	$ 40,458	$ -	$ 40,458	$ -	$ (594)	$ (594)	$ 39,864	$ 161,826
Year 22	$ 41,561	$ -	$ 41,561	$ -	$ (606)	$ (606)	$ 40,955	$ 202,781
Year 23	$ 42,431	$ -	$ 42,431	$ -	$ (618)	$ (618)	$ 41,813	$ 244,593
Year 24	$ 43,326	$ -	$ 43,326	$ -	$ (631)	$ (631)	$ 42,696	$ 287,289
Year 25	$ 44,509	$ -	$ 44,509	$ -	$ (643)	$ (643)	$ 43,866	$ 331,155
Year 26	$ 45,456	$ -	$ 45,456	$ -	$ (656)	$ (656)	$ 44,800	$ 375,956
Year 27	$ 46,432	$ -	$ 46,432	$ -	$ (669)	$ (669)	$ 45,763	$ 421,718
Year 28	$ 47,701	$ -	$ 47,701	$ -	$ (683)	$ (683)	$ 47,018	$ 468,736
Year 29	$ 48,733	$ -	$ 48,733	$ -	$ (696)	$ (696)	$ 48,036	$ 516,772
Year 30	$ 49,795	$ -	$ 49,795	$ -	$ (710)	$ (710)	$ 49,085	$ 565,857
Year 31	$ 51,157	$ -	$ 51,157	$ -	$ (724)	$ (724)	$ 50,433	$ 616,289
Year 32	$ 52,281	$ -	$ 52,281	$ -	$ (739)	$ (739)	$ 51,542	$ 667,831
Year 33	$ 53,437	$ -	$ 53,437	$ -	$ (754)	$ (754)	$ 52,684	$ 720,515
Year 34	$ 54,900	$ -	$ 54,900	$ -	$ (769)	$ (769)	$ 54,132	$ 774,646
Year 35	$ 56,124	$ -	$ 56,124	$ -	$ (784)	$ (784)	$ 55,340	$ 829,986
Year 36	$ 57,383	$ -	$ 57,383	$ -	$ (800)	$ (800)	$ 56,583	$ 886,569
Year 37	$ 58,955	$ -	$ 58,955	$ -	$ (816)	$ (816)	$ 58,140	$ 944,709
Year 38	$ 60,287	$ -	$ 60,287	$ -	$ (832)	$ (832)	$ 59,455	$ 1,004,164
Year 39	$ 61,658	$ -	$ 61,658	$ -	$ (849)	$ (849)	$ 60,809	$ 1,064,973
Year 40	$ 63,349	$ -	$ 63,349	$ -	$ (866)	$ (866)	$ 62,483	$ 1,127,456
TOTAL	$ 1,668,338	$ 2,000	$ 1,670,338	$ (518,726)	$ (24,156)	$ (542,882)	$ 1,127,456	

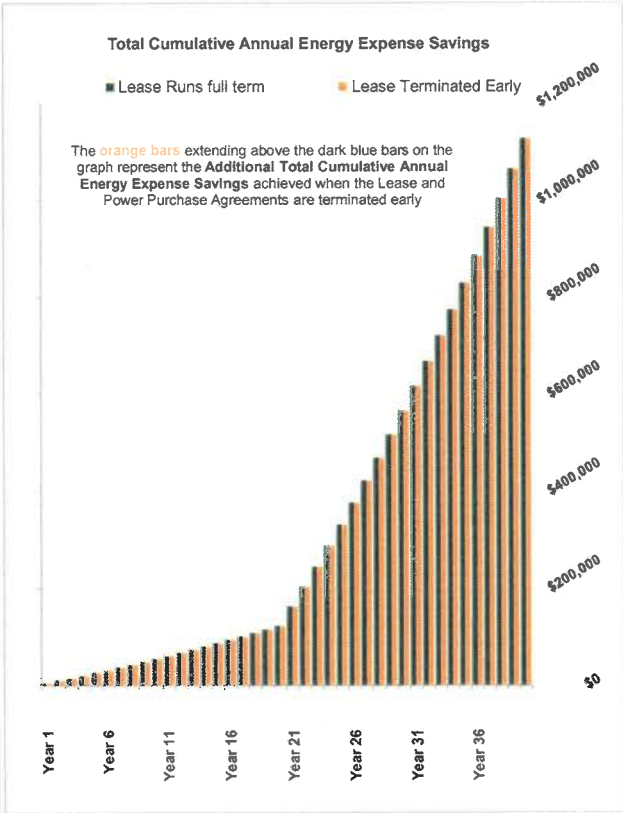
This Cashflow summary is intended only as an example.

40 Year Customer Cash Flow Example - Net Metering w/ Utility Bill Savings

Rooftop Ballasted Solar Array - 186.4 kWDC 400 Watt Solar Panels @ 10°tilt & 180° az w/ 140 kWAC SolarEdge Inverters

Xcel Photovoltaic Credit Rider Tariff
General Service Rate Plan





iDEAL Energies Deliverables - A Turnkey Service

Rooftop Ballasted Solar Array - 186.4 kWDC 400 Watt Solar Panels @ 10°tilt & 180° az w/ 140 kWAC SolarEdge Inverters

Xcel Photovoltaic Credit Rider Tariff
General Service Rate Plan

Project Task & Deliverables

Solar Survey

Site Electrical Systems Review

System Layout and Electrical Engineering

Structural Engineering & Analytical Testing (review of roof / soil adequacy to support the system)

Tariff Application, Procurement, Engineering and Processing Fees, if any

Utility Interconnection Agreement(s)

Solar Array Equipment

Solar Array Installation

Electrical Connection – connect system to your building's electrical switchgear

System monitoring equipment and software for web based monitoring

Building Permit & Inspection

Electrical Permit & Inspection

Project Management

Training

Start-up

Solar Array Supporting Documentation

Federal Tax Credit Documentation

All Other Required Deliverables

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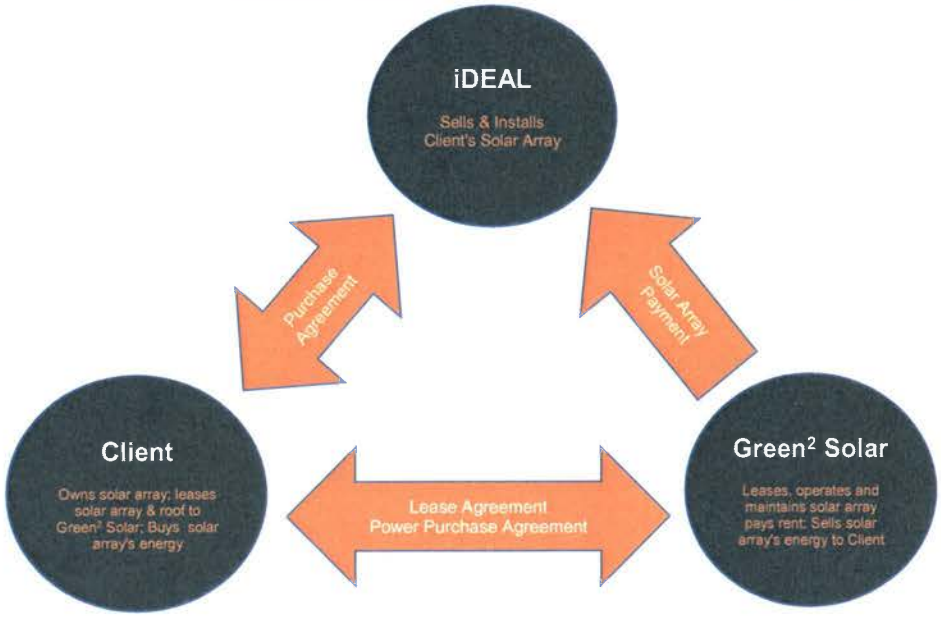
Capital Lease - How It Works

Rooftop Ballasted Solar Array - 186.4 kWDC 400 Watt Solar Panels @ 10°tilt & 180° az w/ 140 kWAC SolarEdge Inverters

Xcel Photovoltaic Credit Rider Tariff
General Service Rate Plan

Our Capital Lease Program



Purchase, Lease-back, and Power Purchase Highlights

Client

1. Is the Fee Title Owner of the solar array
2. Receives annual rent from Green² Solar Leasing
3. Pays Green² Solar Leasing for power generated from the solar array
4. Insures the solar array

Ownership
Our Client purchases their solar array from Ideal Energies and immediately owns it outright.
(Client is the fee title owner)

Facility Lease
Under the Facility Lease, Green² Solar Leasing pays Ideal Energies for the solar array, and becomes the tax owner so they can leverage tax benefits on the Client's behalf. The Facility Lease also assigns any rebates to Green² Solar Leasing to help pay for the solar array. Immediately after the purchase, the Client Leases the solar array to Green² Solar Leasing for annual lease payments, and Green² Solar Leasing operates and maintains it on the Client's behalf.

Green² Solar Leasing

1. Pays Purchase Price to Ideal Energies for Client
2. Pays annual rent to Client
3. Receives and uses available tax benefits
4. Receives and uses available Rebates
5. Operates and maintains solar array for Client
6. Bills Client for Power generated from the solar array

Power Purchase
The Client pays Green² Solar Leasing for the energy generated from the solar array at a discount vs. utility rates.

iDEAL ENERGIES
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40 Year Customer Cash Flow Example - Net Metering w/ Utility Bill Savings

Rooftop Ballasted Solar Array - 186.4 kWDC 400 Watt Solar Panels @ 10°tilt & 180° az w/ 140 kWAC SolarEdge Inverters

Xcel Photovoltaic Credit Rider Tariff
General Service Rate Plan

Year	Customer's Utility Savings and Rent Income			Customer's Expenses			Annual Savings	
	Utility Bill Savings	Rent Revenue	**Total Annual Customer Revenue**	Energy Payment to GreenSky (subject to sales tax)	Insurance Expense & Utility Fees	**Total Annual Expenses**	**Total Annual Energy Expense Savings**	**Total Cumulative Annual Energy Expense Savings**
Year 1	$ 26,321	$ 100	**$ 26,421**	$ (21,057)	$ (400)	**$ (21,457)**	**$ 4,964**	**$ 4,964**
Year 2	$ 26,794	$ 100	**$ 26,894**	$ (21,436)	$ (408)	**$ (21,844)**	**$ 5,051**	**$ 10,015**
Year 3	$ 27,283	$ 100	**$ 27,383**	$ (21,826)	$ (416)	**$ (22,242)**	**$ 5,140**	**$ 15,155**
Year 4	$ 28,021	$ 100	**$ 28,121**	$ (22,417)	$ (424)	**$ (22,841)**	**$ 5,280**	**$ 20,435**
Year 5	$ 28,538	$ 100	**$ 28,638**	$ (22,831)	$ (433)	**$ (23,264)**	**$ 5,375**	**$ 25,809**
Year 6	$ 29,071	$ 100	**$ 29,171**	$ (23,257)	$ (442)	**$ (23,699)**	**$ 5,473**	**$ 31,282**
Year 7	$ 29,859	$ 100	**$ 29,959**	$ (23,887)	$ (450)	**$ (24,338)**	**$ 5,621**	**$ 36,903**
Year 8	$ 30,424	$ 100	**$ 30,524**	$ (24,339)	$ (459)	**$ (24,798)**	**$ 5,725**	**$ 42,629**
Year 9	$ 31,005	$ 100	**$ 31,105**	$ (24,804)	$ (469)	**$ (25,273)**	**$ 5,832**	**$ 48,461**
Year 10	$ 31,847	$ 100	**$ 31,947**	$ (25,477)	$ (478)	**$ (25,955)**	**$ 5,991**	**$ 54,452**
Year 11	$ 32,463	$ 100	**$ 32,563**	$ (25,970)	$ (488)	**$ (26,458)**	**$ 6,105**	**$ 60,557**
Year 12	$ 33,097	$ 100	**$ 33,197**	$ (26,478)	$ (497)	**$ (26,975)**	**$ 6,222**	**$ 66,779**
Year 13	$ 33,996	$ 100	**$ 34,096**	$ (27,197)	$ (507)	**$ (27,704)**	**$ 6,392**	**$ 73,171**
Year 14	$ 34,668	$ 100	**$ 34,768**	$ (27,735)	$ (517)	**$ (28,252)**	**$ 6,516**	**$ 79,688**
Year 15	$ 35,360	$ 100	**$ 35,460**	$ (28,288)	$ (528)	**$ (28,816)**	**$ 6,644**	**$ 86,332**
Year 16	$ 36,322	$ 100	**$ 36,422**	$ (29,058)	$ (538)	**$ (29,596)**	**$ 6,826**	**$ 93,158**
Year 17	$ 37,054	$ 100	**$ 37,154**	$ (29,643)	$ (549)	**$ (30,192)**	**$ 6,962**	**$ 100,120**
Year 18	$ 37,808	$ 100	**$ 37,908**	$ (30,247)	$ (560)	**$ (30,807)**	**$ 7,102**	**$ 107,221**
Year 19	$ 38,838	$ 100	**$ 38,938**	$ (31,070)	$ (571)	**$ (31,642)**	**$ 7,296**	**$ 114,517**
Year 20	$ 39,636	$ 100	**$ 39,736**	$ (31,709)	$ (583)	**$ (32,292)**	**$ 7,445**	**$ 121,962**
Year 21	$ 40,458	$ -	**$ 40,458**	$ -	$ (594)	**$ (594)**	**$ 39,864**	**$ 161,826**
Year 22	$ 41,561	$ -	**$ 41,561**	$ -	$ (606)	**$ (606)**	**$ 40,955**	**$ 202,781**
Year 23	$ 42,431	$ -	**$ 42,431**	$ -	$ (618)	**$ (618)**	**$ 41,813**	**$ 244,593**
Year 24	$ 43,326	$ -	**$ 43,326**	$ -	$ (631)	**$ (631)**	**$ 42,696**	**$ 287,289**
Year 25	$ 44,509	$ -	**$ 44,509**	$ -	$ (643)	**$ (643)**	**$ 43,866**	**$ 331,155**
Year 26	$ 45,456	$ -	**$ 45,456**	$ -	$ (656)	**$ (656)**	**$ 44,800**	**$ 375,955**
Year 27	$ 46,432	$ -	**$ 46,432**	$ -	$ (669)	**$ (669)**	**$ 45,763**	**$ 421,718**
Year 28	$ 47,701	$ -	**$ 47,701**	$ -	$ (683)	**$ (683)**	**$ 47,018**	**$ 468,736**
Year 29	$ 48,733	$ -	**$ 48,733**	$ -	$ (696)	**$ (696)**	**$ 48,036**	**$ 516,772**
Year 30	$ 49,795	$ -	**$ 49,795**	$ -	$ (710)	**$ (710)**	**$ 49,085**	**$ 565,857**
Year 31	$ 51,157	$ -	**$ 51,157**	$ -	$ (724)	**$ (724)**	**$ 50,433**	**$ 616,289**
Year 32	$ 52,281	$ -	**$ 52,281**	$ -	$ (739)	**$ (739)**	**$ 51,542**	**$ 667,831**
Year 33	$ 53,437	$ -	**$ 53,437**	$ -	$ (754)	**$ (754)**	**$ 52,684**	**$ 720,515**
Year 34	$ 54,900	$ -	**$ 54,900**	$ -	$ (769)	**$ (769)**	**$ 54,132**	**$ 774,646**
Year 35	$ 56,124	$ -	**$ 56,124**	$ -	$ (784)	**$ (784)**	**$ 55,340**	**$ 829,986**
Year 36	$ 57,383	$ -	**$ 57,383**	$ -	$ (800)	**$ (800)**	**$ 56,583**	**$ 886,569**
Year 37	$ 58,955	$ -	**$ 58,955**	$ -	$ (816)	**$ (816)**	**$ 58,140**	**$ 944,709**
Year 38	$ 60,287	$ -	**$ 60,287**	$ -	$ (832)	**$ (832)**	**$ 59,455**	**$ 1,004,164**
Year 39	$ 61,658	$ -	**$ 61,658**	$ -	$ (849)	**$ (849)**	**$ 60,809**	**$ 1,064,973**
Year 40	$ 63,349	$ -	**$ 63,349**	$ -	$ (866)	**$ (866)**	**$ 62,483**	**$ 1,127,456**
TOTAL	$ 1,668,338	$ 2,000	**$ 1,670,338**	$ (518,726)	$ (24,156)	**$ (542,882)**	**$ 1,127,456**	

This Cashflow summary is intended only as an example.

iDEAL ENERGIES
A GREEN² COMPANY

40 Year Customer Cash Flow Example - Net Metering w/ Utility Bill Savings

Rooftop Ballasted Solar Array - 133.2 kWDC 400 Watt Solar Panels @ 10°tilt & 180° az w/ 99.9 kWAC SolarEdge Inverters

Xcel Photovoltaic Credit Rider Tariff
General Service Rate Plan

Year	Customer's Utility Savings and Rent Income			Customer's Expenses			Annual Savings	
	Utility Bill Savings	Rent Revenue	**Total Annual Customer Revenue**	Energy Payment to GreenSky (subject to sales tax)	Insurance Expense & Utility Fees	**Total Annual Expenses**	**Total Annual Energy Expense Savings**	**Total Cumulative Annual Energy Expense Savings**
Year 1	$ 18,805	$ 100	**$ 18,905**	$ (15,044)	$ (300)	**$ (15,344)**	**$ 3,561**	**$ 3,561**
Year 2	$ 19,144	$ 100	**$ 19,244**	$ (15,315)	$ (306)	**$ (15,621)**	**$ 3,623**	**$ 7,184**
Year 3	$ 19,493	$ 100	**$ 19,593**	$ (15,594)	$ (312)	**$ (15,906)**	**$ 3,686**	**$ 10,870**
Year 4	$ 20,020	$ 100	**$ 20,120**	$ (16,016)	$ (318)	**$ (16,335)**	**$ 3,786**	**$ 14,656**
Year 5	$ 20,390	$ 100	**$ 20,490**	$ (16,312)	$ (325)	**$ (16,637)**	**$ 3,853**	**$ 18,509**
Year 6	$ 20,770	$ 100	**$ 20,870**	$ (16,616)	$ (331)	**$ (16,948)**	**$ 3,923**	**$ 22,432**
Year 7	$ 21,333	$ 100	**$ 21,433**	$ (17,067)	$ (338)	**$ (17,405)**	**$ 4,029**	**$ 26,461**
Year 8	$ 21,737	$ 100	**$ 21,837**	$ (17,389)	$ (345)	**$ (17,734)**	**$ 4,103**	**$ 30,563**
Year 9	$ 22,152	$ 100	**$ 22,252**	$ (17,722)	$ (351)	**$ (18,073)**	**$ 4,179**	**$ 34,742**
Year 10	$ 22,753	$ 100	**$ 22,853**	$ (18,203)	$ (358)	**$ (18,561)**	**$ 4,292**	**$ 39,034**
Year 11	$ 23,193	$ 100	**$ 23,293**	$ (18,555)	$ (366)	**$ (18,920)**	**$ 4,373**	**$ 43,407**
Year 12	$ 23,646	$ 100	**$ 23,746**	$ (18,917)	$ (373)	**$ (19,290)**	**$ 4,456**	**$ 47,864**
Year 13	$ 24,289	$ 100	**$ 24,389**	$ (19,431)	$ (380)	**$ (19,812)**	**$ 4,577**	**$ 52,441**
Year 14	$ 24,769	$ 100	**$ 24,869**	$ (19,815)	$ (388)	**$ (20,203)**	**$ 4,666**	**$ 57,107**
Year 15	$ 25,263	$ 100	**$ 25,363**	$ (20,210)	$ (396)	**$ (20,606)**	**$ 4,757**	**$ 61,863**
Year 16	$ 25,950	$ 100	**$ 26,050**	$ (20,760)	$ (404)	**$ (21,164)**	**$ 4,886**	**$ 66,750**
Year 17	$ 26,473	$ 100	**$ 26,573**	$ (21,179)	$ (412)	**$ (21,591)**	**$ 4,983**	**$ 71,732**
Year 18	$ 27,012	$ 100	**$ 27,112**	$ (21,610)	$ (420)	**$ (22,030)**	**$ 5,082**	**$ 76,815**
Year 19	$ 27,748	$ 100	**$ 27,848**	$ (22,198)	$ (428)	**$ (22,627)**	**$ 5,221**	**$ 82,036**
Year 20	$ 28,318	$ 100	**$ 28,418**	$ (22,654)	$ (437)	**$ (23,091)**	**$ 5,327**	**$ 87,363**
Year 21	$ 28,905	$ -	**$ 28,905**	$ -	$ (446)	**$ (446)**	**$ 28,459**	**$ 115,822**
Year 22	$ 29,693	$ -	**$ 29,693**	$ -	$ (455)	**$ (455)**	**$ 29,239**	**$ 145,060**
Year 23	$ 30,315	$ -	**$ 30,315**	$ -	$ (464)	**$ (464)**	**$ 29,851**	**$ 174,911**
Year 24	$ 30,954	$ -	**$ 30,954**	$ -	$ (473)	**$ (473)**	**$ 30,481**	**$ 205,393**
Year 25	$ 31,799	$ -	**$ 31,799**	$ -	$ (482)	**$ (482)**	**$ 31,317**	**$ 236,709**
Year 26	$ 32,476	$ -	**$ 32,476**	$ -	$ (492)	**$ (492)**	**$ 31,984**	**$ 268,694**
Year 27	$ 33,173	$ -	**$ 33,173**	$ -	$ (502)	**$ (502)**	**$ 32,671**	**$ 301,365**
Year 28	$ 34,079	$ -	**$ 34,079**	$ -	$ (512)	**$ (512)**	**$ 33,567**	**$ 334,932**
Year 29	$ 34,817	$ -	**$ 34,817**	$ -	$ (522)	**$ (522)**	**$ 34,295**	**$ 369,226**
Year 30	$ 35,576	$ -	**$ 35,576**	$ -	$ (533)	**$ (533)**	**$ 35,043**	**$ 404,269**
Year 31	$ 36,549	$ -	**$ 36,549**	$ -	$ (543)	**$ (543)**	**$ 36,005**	**$ 440,275**
Year 32	$ 37,351	$ -	**$ 37,351**	$ -	$ (554)	**$ (554)**	**$ 36,797**	**$ 477,072**
Year 33	$ 38,178	$ -	**$ 38,178**	$ -	$ (565)	**$ (565)**	**$ 37,613**	**$ 514,685**
Year 34	$ 39,223	$ -	**$ 39,223**	$ -	$ (576)	**$ (576)**	**$ 38,647**	**$ 553,331**
Year 35	$ 40,097	$ -	**$ 40,097**	$ -	$ (588)	**$ (588)**	**$ 39,509**	**$ 592,840**
Year 36	$ 40,997	$ -	**$ 40,997**	$ -	$ (600)	**$ (600)**	**$ 40,397**	**$ 633,237**
Year 37	$ 42,120	$ -	**$ 42,120**	$ -	$ (612)	**$ (612)**	**$ 41,508**	**$ 674,745**
Year 38	$ 43,071	$ -	**$ 43,071**	$ -	$ (624)	**$ (624)**	**$ 42,447**	**$ 717,193**
Year 39	$ 44,050	$ -	**$ 44,050**	$ -	$ (636)	**$ (636)**	**$ 43,414**	**$ 760,607**
Year 40	$ 45,259	$ -	**$ 45,259**	$ -	$ (649)	**$ (649)**	**$ 44,610**	**$ 805,216**
TOTAL	**$ 1,191,941**	**$ 2,000**	**$ 1,193,941**	**$ (370,609)**	**$ (18,116)**	**$ (388,724)**	**$ 805,216**	

This Cashflow summary is intended only as an example.

iDEAL ENERGIES
A GREEN² COMPANY

40 Year Customer Cash Flow Example - Net Metering w/ Utility Bill Savings

Rooftop Ballasted Solar Array - 53.9 kWDC 385 Watt Solar Panels @ 10°tilt & 180° az w/ 40 kWAC SolarEdge Inverters

Xcel SolarRewards
General Service Rate Plan

Year	Customer's Utility Savings and Rent Income			Customer's Expenses			Annual Savings	
	Utility Bill Savings	Rent Revenue	Total Annual Customer Revenue	Energy Payment to GreenSky (subject to sales tax)	Insurance Expense & Utility Fees	Total Annual Expenses	Total Annual Energy Expense Savings	Total Cumulative Annual Energy Expense Savings
Year 1	$ 6,296	$ 50	$ 6,346	$ (5,037)	$ (180)	$ (5,217)	$ 1,129	$ 1,129
Year 2	$ 6,515	$ 50	$ 6,565	$ (5,212)	$ (184)	$ (5,396)	$ 1,169	$ 2,299
Year 3	$ 6,742	$ 50	$ 6,792	$ (5,394)	$ (187)	$ (5,581)	$ 1,211	$ 3,510
Year 4	$ 6,977	$ 50	$ 7,027	$ (5,581)	$ (191)	$ (5,772)	$ 1,254	$ 4,764
Year 5	$ 7,219	$ 50	$ 7,269	$ (5,775)	$ (195)	$ (5,970)	$ 1,299	$ 6,063
Year 6	$ 7,471	$ 50	$ 7,521	$ (5,976)	$ (199)	$ (6,175)	$ 1,345	$ 7,408
Year 7	$ 7,731	$ 50	$ 7,781	$ (6,185)	$ (203)	$ (6,387)	$ 1,393	$ 8,802
Year 8	$ 8,000	$ 50	$ 8,050	$ (6,400)	$ (207)	$ (6,606)	$ 1,443	$ 10,245
Year 9	$ 8,278	$ 50	$ 8,328	$ (6,622)	$ (211)	$ (6,833)	$ 1,495	$ 11,739
Year 10	$ 8,566	$ 50	$ 8,616	$ (6,853)	$ (215)	$ (7,068)	$ 1,548	$ 13,287
Year 11	$ 8,864	$ 50	$ 8,914	$ (7,091)	$ (219)	$ (7,311)	$ 1,603	$ 14,891
Year 12	$ 9,173	$ 50	$ 9,223	$ (7,338)	$ (224)	$ (7,562)	$ 1,661	$ 16,551
Year 13	$ 9,492	$ 50	$ 9,542	$ (7,594)	$ (228)	$ (7,822)	$ 1,720	$ 18,272
Year 14	$ 9,822	$ 50	$ 9,872	$ (7,858)	$ (233)	$ (8,091)	$ 1,782	$ 20,053
Year 15	$ 10,164	$ 50	$ 10,214	$ (8,131)	$ (237)	$ (8,369)	$ 1,845	$ 21,898
Year 16	$ 10,518	$ -	$ 10,518	$ -	$ (242)	$ (242)	$ 10,276	$ 32,174
Year 17	$ 10,884	$ -	$ 10,884	$ -	$ (247)	$ (247)	$ 10,637	$ 42,811
Year 18	$ 11,263	$ -	$ 11,263	$ -	$ (252)	$ (252)	$ 11,011	$ 53,821
Year 19	$ 11,654	$ -	$ 11,654	$ -	$ (257)	$ (257)	$ 11,397	$ 65,219
Year 20	$ 12,060	$ -	$ 12,060	$ -	$ (262)	$ (262)	$ 11,798	$ 77,017
Year 21	$ 12,480	$ -	$ 12,480	$ -	$ (267)	$ (267)	$ 12,212	$ 89,229
Year 22	$ 12,914	$ -	$ 12,914	$ -	$ (273)	$ (273)	$ 12,641	$ 101,870
Year 23	$ 13,363	$ -	$ 13,363	$ -	$ (278)	$ (278)	$ 13,085	$ 114,956
Year 24	$ 13,828	$ -	$ 13,828	$ -	$ (284)	$ (284)	$ 13,545	$ 128,500
Year 25	$ 14,310	$ -	$ 14,310	$ -	$ (289)	$ (289)	$ 14,020	$ 142,521
Year 26	$ 14,808	$ -	$ 14,808	$ -	$ (295)	$ (295)	$ 14,512	$ 157,033
Year 27	$ 15,323	$ -	$ 15,323	$ -	$ (301)	$ (301)	$ 15,022	$ 172,055
Year 28	$ 15,856	$ -	$ 15,856	$ -	$ (307)	$ (307)	$ 15,549	$ 187,604
Year 29	$ 16,408	$ -	$ 16,408	$ -	$ (313)	$ (313)	$ 16,095	$ 203,699
Year 30	$ 16,979	$ -	$ 16,979	$ -	$ (319)	$ (319)	$ 16,660	$ 220,358
Year 31	$ 17,570	$ -	$ 17,570	$ -	$ (326)	$ (326)	$ 17,244	$ 237,603
Year 32	$ 18,181	$ -	$ 18,181	$ -	$ (332)	$ (332)	$ 17,849	$ 255,452
Year 33	$ 18,814	$ -	$ 18,814	$ -	$ (339)	$ (339)	$ 18,475	$ 273,926
Year 34	$ 19,469	$ -	$ 19,469	$ -	$ (346)	$ (346)	$ 19,123	$ 293,049
Year 35	$ 20,146	$ -	$ 20,146	$ -	$ (353)	$ (353)	$ 19,794	$ 312,843
Year 36	$ 20,847	$ -	$ 20,847	$ -	$ (360)	$ (360)	$ 20,488	$ 333,331
Year 37	$ 21,573	$ -	$ 21,573	$ -	$ (367)	$ (367)	$ 21,206	$ 354,536
Year 38	$ 22,324	$ -	$ 22,324	$ -	$ (374)	$ (374)	$ 21,949	$ 376,486
Year 39	$ 23,100	$ -	$ 23,100	$ -	$ (382)	$ (382)	$ 22,719	$ 399,204
Year 40	$ 23,904	$ -	$ 23,904	$ -	$ (389)	$ (389)	$ 23,515	$ 422,719
TOTAL	$ 529,885	$ 750	$ 530,635	$ (97,048)	$ (10,868)	$ (107,916)	$ 422,719	

Assumes Put or Call is exercised per the transaction documents.

This Cashflow summary is intended only as an example.

186.4kW DC / 140kW AC City of Hopkins - Public Works, 11100 Excelsior Blvd Hopkins MN

Report

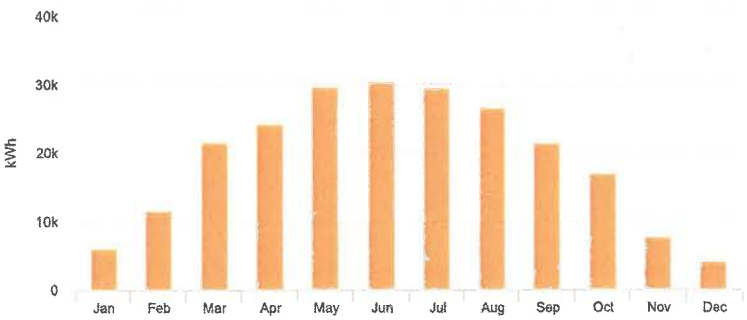
Project Name	City of Hopkins - Public Works
Project Address	11100 Excelsior Blvd Hopkins MN
Prepared By	Chris Psihos chris.psihos@idealenergies.com

System Metrics

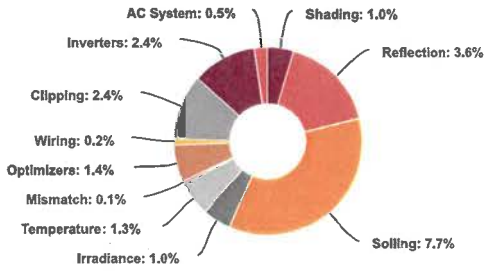
Design	186.4kW DC / 140kW AC
Module DC Nameplate	186.4 kW
Inverter AC Nameplate	140.4 kW Load Ratio: 1.33
Annual Production	229.4 MWh
Performance Ratio	80.8%
kWh/kWp	1,230.7
Weather Dataset	TMY, MINNEAPOLIS-ST PAUL INTL ARP, NSRDB (tmy3, l)
Simulator Version	0a85ecb1f7-666d51b86b-ae8fff61fa-cbebe908f0

Project Location

Monthly Production



Sources of System Loss



Annual Production

	Description	Output	% Delta
Irradiance (kWh/m²)	Annual Global Horizontal Irradiance	1,398.8	
	POA Irradiance	1,522.3	8.8%
	Shaded Irradiance	1,507.6	-1.0%
	Irradiance after Reflection	1,453.5	-3.6%
	Irradiance after Soiling	1,341.0	-7.7%
	Total Collector Irradiance	**1,341.0**	**0.0%**
Energy (kWh)	Nameplate	252,163.8	
	Output at Irradiance Levels	249,563.3	-1.0%
	Output at Cell Temperature Derate	246,295.2	-1.3%
	Output After Mismatch	246,070.2	-0.1%
	Optimizer Output	242,624.6	-1.4%
	Optimal DC Output	242,086.1	-0.2%
	Constrained DC Output	236,192.5	-2.4%
	Inverter Output	230,560.0	-2.4%
	Energy to Grid	**229,408.0**	**-0.5%**
Temperature Metrics			
	Avg. Operating Ambient Temp		11.3 °C
	Avg. Operating Cell Temp		17.8 °C
Simulation Metrics			
	Operating Hours		4601
	Solved Hours		4601

Condition Set

Description	MINNEAPOLIS-ST PAUL INTL ARP, NSRDB (tmy3, l) 25,50,50,25
Weather Dataset	TMY, MINNEAPOLIS-ST PAUL INTL ARP, NSRDB (tmy3, l)
Solar Angle Location	Meteo Lat/Lng
Transposition Model	Perez Model
Temperature Model	Sandia Model

Temperature Model Parameters

Rack Type	a	b	Temperature Delta
Fixed Tilt	-3.56	-0.075	3°C
Flush Mount	-2.81	-0.0455	0°C

Soiling (%)

J	F	M	A	M	J	J	A	S	O	N	D
50	25	2	2	2	2	2	2	2	2	25	50

Irradiation Variance	5%
Cell Temperature Spread	4° C
Module Binning Range	0% to 1.6%
AC System Derate	0.50%

Module Characterizations

Module	Uploaded By	Characterization
JKM400M-72H-V (Jinko Solar)	Folsom Labs	Spec Sheet Characterization, PAN

Component Characterizations

Device	Uploaded By	Characterization
SE20KUS (SolarEdge)	Folsom Labs	Default Characterization
P860 (SolarEdge)	Folsom Labs	Sheet

Components

Component	Name	Count
Inverters	SE20KUS (SolarEdge)	7 (140.4 kW)
Strings	10 AWG (Copper)	13 (1,064.7 ft)
Optimizers	P860 (SolarEdge)	234 (201.2 kW)
Module	Jinko Solar, JKM400M-72H-V (400W)	466 (186.4 kW)

Wiring Zones

Description	Combiner Poles	String Size	Stringing Strategy
Wiring Zone	12	13-38	Along Racking

Field Segments

Description	Racking	Orientation	Tilt	Azimuth	Intrarow Spacing	Frame Size	Frames	Modules	Power
Field Segment 1	Fixed Tilt	Landscape (Horizontal)	10°	182°	1.7 ft	1x1	474	466	186.4 kW

Detailed Layout

133.2kW DC / 100kW AC City of Hopkins - Ice Arena, 11000 Excelsior Blvd Hopkins MN

Report

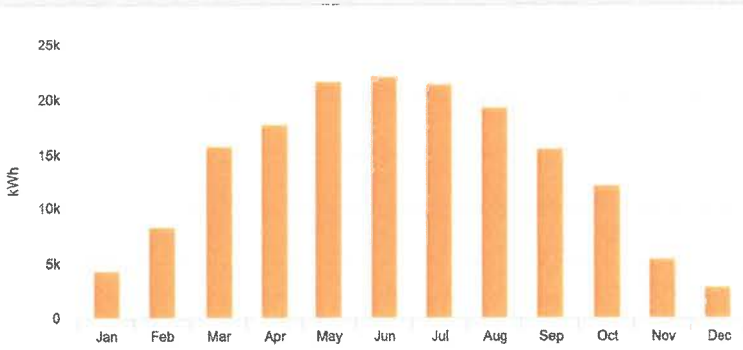
Project Name	City of Hopkins - Ice Arena
Project Address	11000 Excelsior Blvd Hopkins MN
Prepared By	Chris Psihos chris.psihos@idealenergies.com

System Metrics

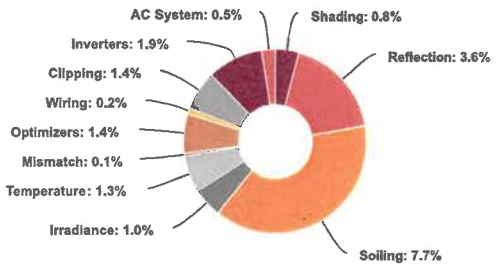
Design	133.2kW DC / 100kW AC
Module DC Nameplate	133.2 kW
Inverter AC Nameplate	100.2 kW Load Ratio: 1.33
Annual Production	166.7 MWh
Performance Ratio	82.2%
kWh/kWp	1,251.3
Weather Dataset	TMY, MINNEAPOLIS-ST PAUL INTL ARP, NSRDB (tmy3, I)
Simulator Version	0a85ecb1f7-666d51b86b-ae8fff61fa-cbebe908f0

Project Location

Monthly Production



Sources of System Loss



Annual Production

	Description	Output	% Delta
Irradiance (kWh/m²)	Annual Global Horizontal Irradiance	1,398.8	
	POA Irradiance	1,522.3	8.8%
	Shaded Irradiance	1,509.8	-0.8%
	Irradiance after Reflection	1,455.2	-3.6%
	Irradiance after Soiling	1,342.5	-7.7%
	Total Collector Irradiance	**1,342.5**	**0.0%**
Energy (kWh)	Nameplate	180,392.2	
	Output at Irradiance Levels	178,534.5	-1.0%
	Output at Cell Temperature Derate	176,202.7	-1.3%
	Output After Mismatch	176,045.3	-0.1%
	Optimizer Output	173,580.2	-1.4%
	Optimal DC Output	173,232.0	-0.2%
	Constrained DC Output	170,829.0	-1.4%
	Inverter Output	167,513.0	-1.9%
	Energy to Grid	**166,676.0**	**-0.5%**
Temperature Metrics			
	Avg. Operating Ambient Temp		11.3 °C
	Avg. Operating Cell Temp		17.8 °C
Simulation Metrics			
	Operating Hours		4601
	Solved Hours		4601

Condition Set

Description	MINNEAPOLIS-ST PAUL INTL ARP, NSRDB (tmy3, l) 25,50,50,25
Weather Dataset	TMY, MINNEAPOLIS-ST PAUL INTL ARP, NSRDB (tmy3, l)
Solar Angle Location	Meteo Lat/Lng
Transposition Model	Perez Model
Temperature Model	Sandia Model

Temperature Model Parameters

Rack Type	a	b	Temperature Delta
Fixed Tilt	-3.56	-0.075	3°C
Flush Mount	-2.81	-0.0455	0°C

Soiling (%)

J	F	M	A	M	J	J	A	S	O	N	D
50	25	2	2	2	2	2	2	2	2	25	50

Irradiation Variance	5%
Cell Temperature Spread	4° C
Module Binning Range	0% to 1.6%
AC System Derate	0.50%

Module Characterizations

Module	Uploaded By	Characterization
JKM400M-72H-V (Jinko Solar)	Folsom Labs	Spec Sheet Characterization, PAN

Component Characterizations

Device	Uploaded By	Characterization
SE33.3KUS (SolarEdge Technologies)	Folsom Labs	CEC Efficiency Curve 2015-09-05
P860 (SolarEdge)	Folsom Labs	Sheet

Components

Component	Name	Count
Inverters	SE33.3KUS (SolarEdge Technologies)	3 (100.2 kW)
Strings	10 AWG (Copper)	9 (935.5 ft)
Optimizers	P860 (SolarEdge)	171 (147.1 kW)
Module	Jinko Solar, JKM400M-72H-V (400W)	333 (133.2 kW)

Wiring Zones

Description	Combiner Poles	String Size	Stringing Strategy
Wiring Zone	12	13-38	Along Racking

Field Segments

Description	Racking	Orientation	Tilt	Azimuth	Intrarow Spacing	Frame Size	Frames	Modules	Power
Field Segment 1	Fixed Tilt	Landscape (Horizontal)	10°	181°	1.7 ft	1x1	333	333	133.2 kW

Detailed Layout

54kW Solar Rewards City of Hopkins - Fire Dept, 101 17th Ave S Hopkins MN

Report

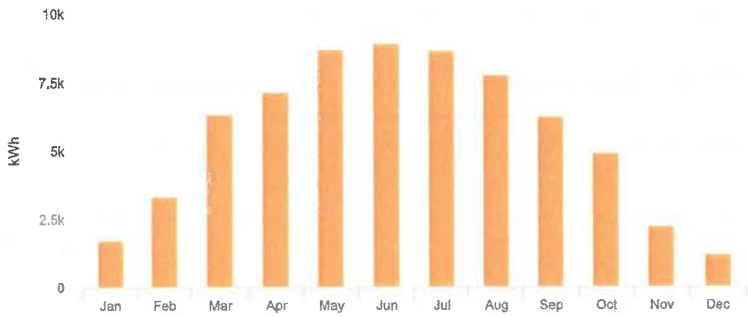
Project Name	City of Hopkins - Fire Dept
Project Address	101 17th Ave S Hopkins MN
Prepared By	Chris Psihos chris.psihos@idealenergies.com

System Metrics

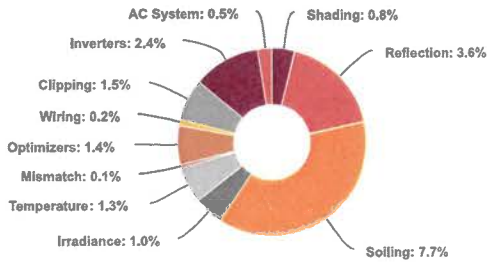
Design	54kW Solar Rewards
Module DC Nameplate	54.0 kW
Inverter AC Nameplate	40.1 kW Load Ratio: 1.35
Annual Production	67.24 MWh
Performance Ratio	81.8%
kWh/kWp	1,245.2
Weather Dataset	TMY, MINNEAPOLIS-ST PAUL INTL ARP, NSRDB (tmy3, I)
Simulator Version	0a85ecb1f7-666d51b86b-ae8fff61fa-cbebe908f0

Project Location

Monthly Production



Sources of System Loss



Annual Production

	Description	Output	% Delta
Irradiance (kWh/m²)	Annual Global Horizontal Irradiance	1,398.8	
	POA Irradiance	1,522.3	8.8%
	Shaded Irradiance	1,510.1	-0.8%
	Irradiance after Reflection	1,455.6	-3.6%
	Irradiance after Soiling	1,342.8	-7.7%
	Total Collector Irradiance	**1,342.9**	**0.0%**
Energy (kWh)	Nameplate	73,153.8	
	Output at Irradiance Levels	72,401.4	-1.0%
	Output at Cell Temperature Derate	71,453.0	-1.3%
	Output After Mismatch	71,387.9	-0.1%
	Optimizer Output	70,388.3	-1.4%
	Optimal DC Output	70,242.7	-0.2%
	Constrained DC Output	69,210.6	-1.5%
	Inverter Output	67,580.3	-2.4%
	Energy to Grid	**67,242.4**	**-0.5%**
Temperature Metrics			
	Avg. Operating Ambient Temp		11.3 °C
	Avg. Operating Cell Temp		17.8 °C
Simulation Metrics			
	Operating Hours		4601
	Solved Hours		4601

Condition Set

Description	MINNEAPOLIS-ST PAUL INTL ARP, NSRDB (tmy3, I) 25,50,50,25
Weather Dataset	TMY, MINNEAPOLIS-ST PAUL INTL ARP, NSRDB (tmy3, I)
Solar Angle Location	Meteo Lat/Lng
Transposition Model	Perez Model
Temperature Model	Sandia Model

Temperature Model Parameters

Rack Type	a	b	Temperature Delta
Fixed Tilt	-3.56	-0.075	3°C
Flush Mount	-2.81	-0.0455	0°C

Soiling (%)

J	F	M	A	M	J	J	A	S	O	N	D
50	25	2	2	2	2	2	2	2	2	25	50

Irradiation Variance	5%
Cell Temperature Spread	4° C
Module Binning Range	0% to 1.6%
AC System Derate	0.50%

Module Characterizations

Module	Uploaded By	Characterization
JKM400M-72H-V (Jinko Solar)	Folsom Labs	Spec Sheet Characterization, PAN

Component Characterizations

Device	Uploaded By	Characterization
SE20KUS (SolarEdge)	Folsom Labs	Default Characterization
P860 (SolarEdge)	Folsom Labs	Sheet

Components

Component	Name	Count
Inverters	SE20KUS (SolarEdge)	2 (40.1 kW)
Strings	10 AWG (Copper)	4 (306.8 ft)
Optimizers	P860 (SolarEdge)	68 (58.5 kW)
Module	Jinko Solar, JKM400M-72H-V (400W)	135 (54.0 kW)

Wiring Zones

Description	Combiner Poles	String Size	Stringing Strategy
Wiring Zone	12	13-38	Along Racking

Field Segments

Description	Racking	Orientation	Tilt	Azimuth	Intrarow Spacing	Frame Size	Frames	Modules	Power
Field Segment 1	Fixed Tilt	Landscape (Horizontal)	10°	181.5°	1.7 ft	1x1	36	36	14.4 kW
Field Segment 2	Fixed Tilt	Landscape (Horizontal)	10°	181.5°	1.7 ft	1x1	99	99	39.6 kW

Detailed Layout

jinkosolar.us

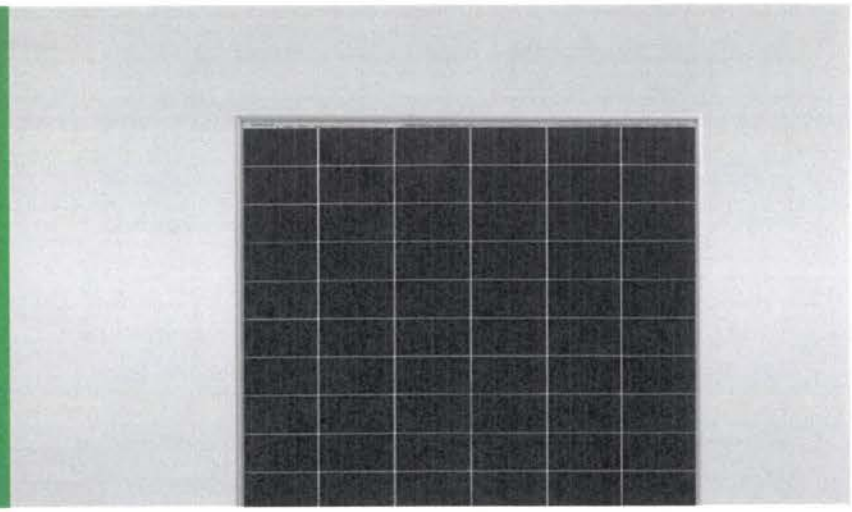
Solar JinKO
Building Your Trust in Solar

Eagle HC 72M G2

380-400 Watt

MONO PERC HALF CELL MODULE

Positive power tolerance of 0~+3%



KEY FEATURES

Diamond Cell Technology
Uniquely designed high performance 5 busbar mono PERC half cell

High Voltage
UL and IEC 1500V certified; lowers BOS costs and yields better LCOE

Higher Module Power
Decrease in current loss yields higher module efficiency

Shade Tolerance
More shade tolerance due to twin arrays

PID FREE
Reinforced cell prevents potential induced degradation

Strength and Durability
Certified for high snow (5400 Pa) and wind (2400 Pa) loads

- ISO9001:2008 Quality Standards
- ISO14001:2004 Environmental Standards
- OHSAS18001 Occupational Health & Safety Standards
- IEC61215, IEC61730 certified products
- UL1703 certified products

Nomenclature:

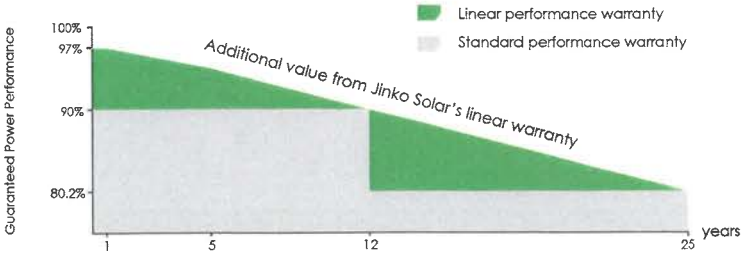
JKM400M-72HL-V

Code	Cell	Code	Cell	Code	Certification
null	Full	null	Normal	null	1000V
H	Half	L	Diamond	V	1500V

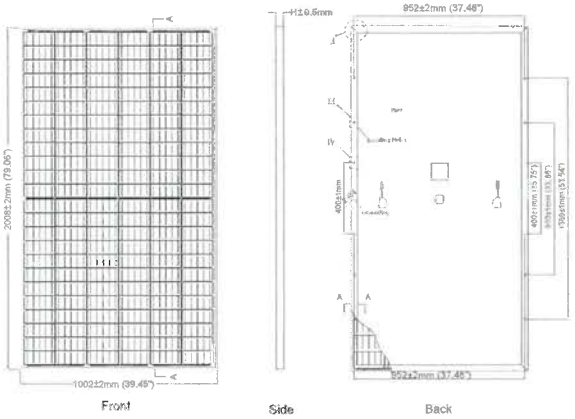
c UL us LISTED

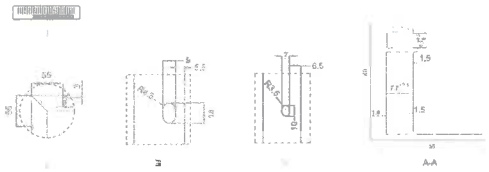
LINEAR PERFORMANCE WARRANTY

10 Year Product Warranty • 25 Year Linear Power Warranty

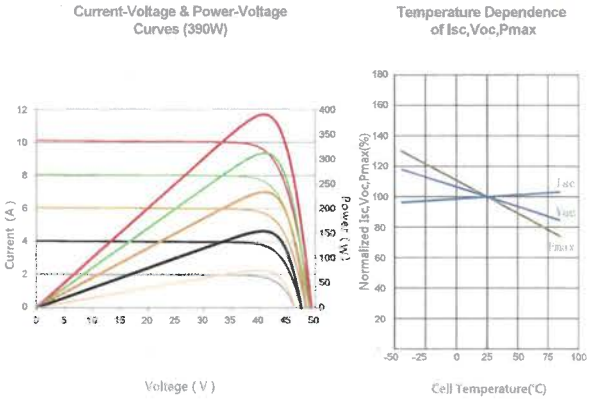


Engineering Drawings





Electrical Performance & Temperature Dependence



Mechanical Characteristics

Cell Type	Mono PERC Diamond Cell (158.75 x 158.75 mm)
No.of Half-cells	144 (6×24)
Dimensions	2008×1002×40mm (79.06×39.45×1.57 inch)
Weight	22.5 kg (49.6 lbs)
Front Glass	3.2mm, Anti-Reflection Coating, High Transmission, Low Iron, Tempered Glass
Frame	Anodized Aluminium Alloy
Junction Box	IP67 Rated
Output Cables	12AWG, Anode 1400mm(55.12 in), Cathode 1400mm(55.12 in) or Customized Length
Fire Type	Type 1

Packaging Configuration

(Two pallets = One stack)

27pcs/pallet, 54pcs/stack, 594pcs/40'HQ Container

SPECIFICATIONS

Module Type	JKM380M-72HL-V		JKM385M-72HL-V		JKM390M-72HL-V		JKM395M-72HL-V		JKM400M-72HL-V	
	STC	NOCT	STC	NOCT	STC	NOCT	STC	NOCT	STC	NOCT
Maximum Power (Pmax)	380Wp	286Wp	385Wp	290Wp	390Wp	294Wp	395Wp	298Wp	400Wp	302Wp
Maximum Power Voltage (Vmp)	40.5V	38.6V	40.8V	38.8V	41.1V	39.1V	41.4V	39.3V	41.7V	39.5V
Maximum Power Current (Imp)	9.39A	7.42A	9.44A	7.48A	9.49A	7.54A	9.55A	7.60A	9.60A	7.66A
Open-circuit Voltage (Voc)	48.9V	47.5V	49.1V	47.7V	49.3V	48.0V	49.5V	48.2V	49.8V	48.5V
Short-circuit Current (Isc)	9.75A	7.88A	9.92A	7.95A	10.12A	8.02A	10.23A	8.09A	10.36A	8.16A
Module Efficiency STC (%)	18.89%		19.14%		19.38%		19.63%		19.88%	
Operating Temperature (℃)	-40℃~+85℃									
Maximum System Voltage	1500VDC(UL)/1500VDC(IEC)									
Maximum Series Fuse Rating	20A									
Power Tolerance	0~+3%									
Temperature Coefficients of Pmax	-0.36%/℃									
Temperature Coefficients of Voc	-0.28%/℃									
Temperature Coefficients of Isc	0.048%/℃									
Nominal Operating Cell Temperature (NOCT)	45±2℃									

STC: Irradiance 1000W/m² Cell Temperature 25°C AM=1.5

NOCT: Irradiance 800W/m² Ambient Temperature 20°C AM=1.5 Wind Speed 1m/s

* Power measurement tolerance: ± 3%

CAUTION: READ SAFETY AND INSTALLATION INSTRUCTIONS BEFORE USING THE PRODUCT.

Trade Secret

iDEAL ENERGIES

Solar Array Purchase, Facility Lease & Power Purchase Agreements

186.400 kW DC JinkoJKM400M
140.00 kW AC SolarEdge SE100k(1) & 20k(2) 480V3Ph Inverter(s), SolarEdge P860 Power Optimizers & Unirac, PanelClaw (or equivalent) Ballasted Racking

Xcel Photovoltaic Credit Rider Tariff

Customer Information

Date:	December 12, 2019
Solar Array Legal Owner:	**City of Hopkins**
Customer Corporate Form:	Minnesota City
Customer Mailing Address:	11100 Excelsior Boulevard, Hopkins, MN 55343
Customer Signer Name:	Mike Mornson
Customer Signer Title:	City Manager
Customer Authorized Representative:	Steve Stadler
Customer Authorized Representative Tel:	(952) 548-6350
Installation Address:	**11100 Excelsior Boulevard, Hopkins, MN 55343**
Premise Number:	**302902893**
Real Property Owner:	City of Hopkins
Real Property Owner Mailing Address:	11100 Excelsior Boulevard, Hopkins, MN 55343

Project Information

System Size in kW DC:	**186.400 (kW DC)** (+/- 0.20 kW DC)
Installation Cost:	**$282,400.00**
Project Completion Date:	August 31, 2020
Tariff Name:	Xcel Photovoltaic Credit Rider Tariff
REC Owner:	Customer
Tax Credit Percent:	30%
Panel Description:	JinkoJKM400M (72 cell Tier 1, CEC listed, or DNV-GL Rated Top Performer)
Panel Size in Watts DC:	400 (+/- 20 Watts DC)
Inverter Description:	SolarEdge SE100k(1) & 20k(2) 480V3Ph Inverter(s)
Total Inversion in kW AC:	**140.00 (kW AC)**
Power Optimizer Description:	SolarEdge P860 Power Optimizers
Solar Racking Description:	Unirac, PanelClaw (or equivalent) Ballasted Racking

Facility Lease and Power Purchase Agreement Information

Real Property Use:	Public Works
Tenant:	Green2 Solar Leasing, LLC
Tenant Signer Name:	Rich Ragatz
Tenant Signer Title:	Vice President
Leased Space Rent Payment:	**$90.00** per year
Leased Energy System Rent Payment:	**$10.00** per year

Purchase Agreement

186.400 kW DC JinkoJKM400M Solar Panels with 140.00 kW AC SolarEdge SE100k(1) & 20k(2) 480V3Ph Inverter(s)(s), SolarEdge P860 Power Optimizers & Unirac, PanelClaw (or equivalent) Ballasted Racking

Customer / Owner	City of Hopkins
Installation Location	11100 Excelsior Boulevard, Hopkins, MN 55343
Xcel Premise #	302902893

Xcel Photovoltaic Credit Rider Tariff

This **PURCHASE AGREEMENT** (this "**Agreement**"), dated **December 12, 2019** ("**Effective Date**") is between **IDEAL ENERGIES, LLC**, a Minnesota Limited Liability Company, whose principal place of business is located at **5810 Nicollet Avenue Minneapolis, MN 55419** ("**Seller**"), and **City of Hopkins**, a Minnesota City, whose principal place of business is located at **11100 Excelsior Boulevard, Hopkins, MN 55343** ("**Customer**"). Seller and Customer are sometimes also referred to in this Agreement jointly as "**Parties**", or individually as a "**Party**".

RECITALS

A. Seller sells and installs grid-tied photovoltaic solar electric systems (the "**Energy System**") and Customer desires to purchase and install an Energy System on the Installation Location described above (the "**Site**" or "**Real Property**") in accordance with the terms and conditions set forth in this Agreement; and

B. Customer will, with the assistance of Seller, apply for the Tariff (as defined below) for the Project (as defined below) by executing Utility Agreements (as defined below) required to install the Energy System and receive the Tariff; and

C. Whereas, the Customer will, in connection with this Agreement, enter into a **Facility Lease Agreement** (the "**Facility Lease Agreement**") with **Green2 Solar Leasing, LLC** ("**Tenant**") pursuant to which Tenant leases, operates and maintains the Customer's Energy System; and

D. Whereas, the Customer will, in connection with this Agreement, enter into a Power Purchase Agreement (the "**Power Purchase Agreement**") with Tenant pursuant to which Tenant will sell power generated by the Energy System to Customer; and.

E. The following rules of construction apply to this Agreement; unless the context otherwise requires: (i) a term has the meaning assigned to it; (ii) "including" means including without limitation; (iii) words and defined term in the singular include the plural and words and defined terms in the plural include the singular; and (iv) any agreement, instrument, program, or statute defined or referred to herein means such agreement, instrument, program, or statute as from time to time amended, modified or supplemented.

AGREEMENT

NOW, THEREFORE, for valuable consideration, the receipt of which is hereby acknowledged, the Parties agree as follows:

1. **Condition.** This Agreement is executed on the same date as the Lease Agreement and Power Purchase Agreement between and among the Parties to this transaction, and the Tenant (collectively "Agreements"). The Agreements become operative on the Effective Date, are to be interpreted together where necessary and are each subject to termination upon the failure of essential conditions subsequent.

2. **Services**. Seller will, at its expense, perform electrical engineering on the Energy System, perform structural engineering on the Site to verify it is adequate to support the Energy System, provide and install an Energy System of **186.400 kW DC** (+/- 0.40 kWDC) on the Site, and perform Energy System commissioning (the "**Project**"). The Energy System will consist of the Energy System components identified on **Schedule A** (the "**System Components**") and be installed by Seller pursuant to the Project's design documents (the "**Design Documents**").

3. **Title and Risk of Loss**. Title and risk of loss for the Energy System will pass to Customer upon its Final Project Completion (as defined below).

4. **Purchase and Sale; Installation Costs and Payment Terms**. Seller agrees to sell and Customer agrees to purchase the Energy System and the services provided for hereunder for a total cost of **$282,400.00** (the "**Installation Cost**"). The Installation Cost for the Project will be paid in cash or other immediately available funds net fifteen (**15**) days within the Final Project Completion from the Tenant to the Seller pursuant to the Facility Lease Agreement.

5. **Customer's Representations and Responsibilities**.

   a. Customer represents that it owns the Site.

   b. Customer represents that they are not a party to any litigation that would materially or adversely affect their ability to enter into or perform under this Agreement, or the Facility Lease and Power Purchase Agreements of even date herewith between Customer and Green2 Solar Leasing, LLC.

   c. The individual listed in **Schedule B** is authorized to act on behalf of Customer.

   d. Customer will, at least two weeks before the Final Project Completion date for the Project, provide and maintain either a wireless internet connection or a RJ45 Internet outlet at the electrical room for connecting the Energy System's web-based monitoring equipment. If Customer does not provide the foregoing, Seller will provide and install a cellular device for exclusive use by the Energy System for an additional fee of $250 due directly from Customer in addition to the Installation Costs and Customer will be responsible for any cellular service provider data charges.

6. **Seller's Representations and Responsibilities**.

   a. Seller will provide all System Components, Design Documents, labor, equipment, supplies and services necessary to install the Energy System and the System Components at the Site in accordance with the "Scope of Work" described in **Schedule C**.

b. Seller will perform structural engineering at each Site and prepare electrical drawings for the Energy System (the "**Engineering**").

c. Seller will perform all services in compliance with applicable laws, rules, regulations, governmental approvals and permits, including all applicable agreements with, and tariffs of, the local utility (collectively, **"Applicable Requirements").**

7. **Installation Plan**. Customer and Seller will work together to develop a proposed work plan and schedule for the installation of the Project (the "**Schedule**"). If events arise which make meeting the Schedule impractical, such as availability of equipment and other reasonable delays, Seller will notify Customer of the same as soon as reasonably possible, and the Parties will adjust the Schedule accordingly. The Project will be completed when system witness test is performed for the Project, and the Energy System is turned on and is capable and authorized under all Applicable Requirements to generate and deliver electric energy to Customer and the local utility's electrical grid at the Interconnection Point ("**Final Project Completion**"). Notwithstanding any delays or any changes to the Schedule, the anticipated date for Final Project Completion for the Project is **August 31, 2020.**

8. **Changes**.

a. It is the desire of the Parties to keep changes to the terms of this Agreement to a minimum, including changes to the Schedule. Either Party may request a change by advising the other Party in writing of the proposed change. For each change request, Seller will prepare a revised Schedule, an updated schedule to this Agreement, or any other necessary document and an applicable cost estimate. Customer will advise Seller in writing of its approval or disapproval of the change. If Customer approves the change, Seller will perform the services as changed, and the Installation Costs will be adjusted to reflect the requested change. If Customer does not approve the change, approval not to be unreasonably withheld, Seller shall continue under the Schedule.

b. The equipment selected by Seller and described on **Schedule A** may be substituted by Seller in accordance with the requirements of this Section as required to accommodate structural limitations of the Site, the availability of equipment, changes in panel wattage available from manufacturers, or other reasons approved by Customer. For any substitution in solar panel listed on Schedule A, Seller may substitute a solar panel with any standard monocrystalline 72 cell high efficiency solar panel that is Tier 1 rated, CEC listed, &/or a DNV-GL Rated Top Performer, and that has at least a 10-year manufacturer's workmanship warranty and a 25-year production warranty achieving at least 80% of its rated capacity. A substitution in panel wattage that results in a total kW DC variance of +/- 0.20 kW DC may be made by Seller without amending this Agreement. Seller may substitute a power optimizer with any model that is appropriately rated for the solar panel installed at the Site.

9. **Tariff, Utility Bill Credits, and Tax Credits**. The Parties anticipate the Project will be eligible for the following:

a. The Customer's Project should be eligible to receive the Tariff described in Xcel Energy's Electric Rate Book, as may be amended or replaced from time to time, as the Photovoltaic Demand Credit Rider (the "**Photovoltaic Rider**") Rate Code A85 (closed rate) or A86 (open rate) which currently provides a Utility Bill Credit on the Customer's Utility Bill (the "**Utility Bill Credit**") based on the kWh produced from the Energy System from the hours 1:00 PM to 7:00 PM multiplied by the rate per kWh specified in the Tariff for the applicable Rate Code (the "**Tariff**"). To apply for the Tariff, Customer agrees to execute required Utility agreements (the "**Utility Agreements**") including but not limited to: (i) Electric Service Agreement (ii) Amendment No. 1 to Electric Service Agreement, and (iii) a Uniform Statewide Contract for Cogeneration and Small Power Production Facilities, under which Renewable Energy Credits (the "**RECs**") for the Project belong to Customer, and any other documentation required by the Utility's program.

b. Customer should be eligible to participate in the utility's **Net Metering Program,** Rate Codes A53/A54 (monthly net metering) or Rate Codes A55/A56 (annual net metering), whereby the Customer is compensated by the Utility at the applicable rate specified in the Rate Code for each kWh produced from the Energy System that exceeds the Site's consumption on a monthly or annual basis as per the applicable Rate Code (the "**Net Metering Credit**"). Under these programs, the energy generated from the Energy System is available for on-site use and reduces the total units of energy (kWh) that the Customer needs to purchase from the utility.

c. The Customer's Project may be eligible to receive a Federal Tax Credit from the U.S. Treasury pursuant to the terms of the Facility Lease equal to **30%** of the eligible Installation Cost of the Energy System ("**Tax Credit**") for Energy Systems that are put into service or safe-harbored during **2019**.

10. **Insurance**.

a. Seller will, at its own cost and expense, maintain in full force and effect, insurance reasonable and customary for the services being performed by Seller under this Agreement, including those set forth on Schedule C. Upon request, Seller shall provide Customer with certificate(s) evidencing such insurance prior to commencement of any work at the Site. A Certificate of Insurance for Seller is provided in **Schedule E**.

b. Customer will at all times, at its own cost and expense, maintain in full force and effect, insurance reasonable and customary for the Site and, after the Final Project Completion has occurred, for the Energy System and the System Components.

c. As required, Customer will provide Seller and the Utility with a certificate of insurance that conforms with the Tariff and Utility program requirements.

11. **Seller's Waiver and Indemnity Regarding Liens.** To the fullest extent permitted under the Applicable Requirements, Seller waives any right to file or impose any mechanic's, materialman's, or other liens with respect to the Site or the Project. Seller shall promptly pay all undisputed amounts owed for services, materials, equipment, and labor furnished by any person to Seller with respect to the Project. Seller shall, at Seller's sole cost and expense, discharge and cause to be released, whether by payment or posting of an appropriate surety bond in accordance with the Applicable Requirements, within thirty (30) days of its filing, any mechanic's, materialmen's, or other lien in respect of the Project, the Energy System, or the Site created by, through or under, or as a result of any act or omission (or

alleged act or omission) of, Seller or any subcontractor or other person providing services, materials, equipment or labor with respect to the Project. If Seller defaults in its obligation to discharge, satisfy or settle such liens, Customer may discharge, satisfy or settle such liens and Seller shall, within fifteen (15) days of a written request by Customer, reimburse Customer for all costs and expenses incurred by Customer to discharge, satisfy or settle such liens.

12. **Warranties**.

    a. Customer understands and acknowledges that the System Components furnished and installed by Seller (including the solar modules, inverters, power optimizers, racking, and monitoring equipment and their performance/energy output), are not manufactured by Seller and will carry only the warranty of their manufacturer. Seller provides only the warranties set forth on **Schedule D** hereto. Except as otherwise set forth on Schedule D, all other warranties are disclaimed as further set forth below. Seller shall promptly transmit to Customer all manufacturers' warranties on for the Projects, including on any of its System Components or other equipment, and all operations manual(s) following Final Project Completion. Customer, however, is solely responsible for pursuing any warranty claims on System Components against the manufacturer(s) at its own expense, and may look only to such manufacturer, and not to Seller, for any warranty with respect thereto. In accordance with the Lease Agreement, if applicable, Tenant will assist Customer in resolving any warranties relating to System Components as described therein.

    b. **EXCEPT AS EXPRESSLY PROVIDED IN SCHEDULE D, SELLER MAKES NO WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING WITHOUT LIMITATION ANY WARRANTY AS TO THE INSTALLATION, DESIGN, DESCRIPTION, QUALITY, MERCHANTABILITY, COMPLETENESS, USEFUL LIFE, ENERGY PRODUCTION, PROJECTED ECONOMIC VIABILITY, FINANCIAL DATA AND PROJECTIONS, CURRENT OR FUTURE TARIFF PROGRAMS, NET METERING, THE AMOUNT OF OR CUSTOMER'S RECEIPT OF UTILITY BILL CREDITS OR NET METERING CREDITS, ROOF PERFORMANCE, FITNESS FOR ANY PARTICULAR PURPOSE OR ANY OTHER MATTER OF THE ENERGY SYSTEM, THE SYSTEM COMPONENTS, THE PROJECT, OR ANY SERVICES PROVIDED UNDER THIS AGREEMENT**.

13. **Ownership of Project Documents and Design**. All Design Documents for the Customer's Energy System shall be the sole and exclusive property of Customer. Customer grants Seller a license to use the Design Documents solely for the Projects. Seller has no right under this license to use the Design Documents or cause them to be used by a third party.

14. **Indemnification; Limitation of Damages**.

    a. Subject to the limitations set forth below, Seller indemnifies, defends and holds harmless Customer and its elected officials, officers, members, consultants, representatives, agents, and employees (each a "Customer Indemnified Party") against any third party claim for damages, liabilities, losses, costs and expenses, including reasonable attorney fees and costs (collectively, "Damages") incurred or suffered by any of them caused by (i) any material breach of this Agreement by Seller, or (ii) the negligence, gross negligence or willful misconduct of Seller, its employees, or subcontractors in connection with the Projects.

    b. Subject to the limitations set forth below, Customer indemnifies, defends and holds harmless Seller and its officers, directors, members, consultants, representatives, agents, employees and affiliates (each a "Seller Indemnified Party") against any third party claim for damages incurred or suffered by any of them that is caused by (i) any material breach of this Agreement by Customer, or (ii) the negligence, gross negligence or willful misconduct of Customer or its employees in connection with the Projects.

    c. Any Customer Indemnified Party or Seller Indemnified Party claiming indemnification hereunder must give each Party prompt notice of the relevant claim and each Party agrees to cooperate with each other Party, at the its own expense, in the defense of such claim. Notwithstanding the forgoing, any Party from whom indemnification is sought shall control the defense and settlement of such claim; provided however that such Party shall not agree to any settlement that materially adversely affects the other Party without the prior written consent of such Party, which approval shall not be unreasonably withheld. Without limiting or diminishing the foregoing, any Party may, at its option and its own expense, participate in the defense of any such claim with legal counsel of its own choice.

    d. **IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES ARISING FROM, CONNECTED WITH OR RELATING TO THIS AGREEMENT, THE ENERGY SYSTEM OR THE PROJECT, OR TO SELLER'S OR CUSTOMER'S ACTS OR OMISSIONS IN CONNECTION WITH THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT, WHETHER FOR NEGLIGENCE, STRICT LIABILITY, PRODUCT LIABILITY OR OTHERWISE, EXCEPT FOR ANY DAMAGES OF THIRD PARTIES FOR WHICH ONE PARTY IS REQUIRED TO INDEMNIFY THE OTHER PARTY**.

15. **Termination**. This Agreement may be terminated as follows:

    a. Either Party may terminate this Agreement by providing the other Party written notice in the event the Project's the structural analysis indicates the Site is not capable of supporting the Project (except where Seller provides alternate equipment and/or structural retrofits or other requirements specified in the structural engineering report that render the Site suitable for installing the solar array in the Installation Costs).

    b. Customer may terminate this Agreement by giving written notice to Seller at any time prior to completion of the Project in the event that: (i) Seller has breached any representation, warranty or covenant contained in

this Agreement in any material respect, Customer has notified Seller of the breach, and the breach has continued without cure by Seller or written waiver by Customer for a period of thirty (30) days after the notice of breach; or (ii) upon sixty (60) days' prior notice to Seller if Seller has not achieved Final Project Completion on or prior to **December 31, 2020**.

c. Seller may terminate this Agreement by giving written notice to Customer at any time prior to completion of the Project in the event Customer has breached any representation, warranty or covenant contained in this Agreement in any material respect, Seller has notified Customer of the breach, and the breach has continued without cure by Customer or written waiver by Seller for a period of thirty (30) days after the notice of breach. In addition, Seller may before construction begins, in its sole discretion, terminate this Agreement by providing Customer written notice in the event the Seller's performance under the terms of this Agreement would cause Seller significant detriment for reasons including but not limited to significant increases in equipment costs resulting from import tariffs or market variations, or the unavailability of licensed labor required to perform the installation in accordance with the Project Schedule. In the event Seller terminates in accordance with the preceding sentence Seller will refund Customer any payments made to Seller.

d. If either Party terminates this Agreement pursuant to Sections 15(a), 15(b) or 15(c), all rights and obligations of the Parties under this Agreement will terminate without any liability of any Party to any other Party, except with respect to Section 14, Section 16, and as otherwise provided in this Section 15, and except for any liability of any Party then in breach.

e. Except as otherwise provided in this Section 15, the termination rights under this Section 15 are cumulative with and in addition to any other rights or remedies to which the Parties may be entitled at law or in equity and in accordance with the terms of this Agreement.

16. **General**.

a. **Subordination to Utility Agreement**. No portion of this Agreement is intended to conflict with any Utility Agreements (the "**Utility Agreements**") to which Seller or Customer is a party. In the case of a conflict between the terms or conditions of this Agreement and the Utility Agreements, the terms and conditions of Utility Agreements shall control. The utility, or its successors and assigns, is a third-party beneficiary of the provision of this paragraph. Nothing in this Agreement shall prevent the utility, from fully enforcing the terms and conditions of Utility Agreements.

b. **Relationship of the Parties**. The Parties shall for all purposes be considered independent contractors with respect to each other, and neither shall be considered an employee, employer, agent, principal, partner or joint venturer with or of the other.

c. **Entire Agreement**. This Agreement and all the schedules, exhibits, and attachments hereto, together with any agreements referenced herein, constitute the entire agreement and understanding of the Parties relative to the subject matter hereof. The Parties have not relied upon any promises, representations, warranties, agreements, covenants or undertakings, other than those expressly set forth or referred to herein. This Agreement replaces and supersedes any and all prior oral or written agreements, representations and discussions relating to such subject matter.

d. **Survival of Representations**. All representations, warranties, covenants and agreements of the Parties contained in this Agreement, or in any instrument, certificate, exhibit or other writing provided for in it, shall survive the execution of this Agreement and the consummation of the transactions contemplated herein.

e. **Amendment**. This Agreement may be amended or modified only by a document executed by the Parties. No custom or practice of the Parties at variance with the terms hereof shall have any effect of waiver or consent.

f. **Notices**. All notices to be given under this Agreement shall be in writing and shall be effectively given upon personal delivery, facsimile or email transmission (with confirmation of receipt), delivery by overnight delivery service or three days following deposit in the United States Mail (certified or registered mail, postage prepaid, return receipt requested).

g. **No Delay**. No delay or failure on the part of any Party hereto to exercise any right, power or privilege hereunder shall operate as a waiver thereof.

h. **Force Majeure**. Neither Party will be liable to the other Party for any delay, error, failure in performance or interruption of performance resulting from causes beyond its reasonable control, including without limitation fires, flood, accidents, explosions, sabotage, strikes or other labor disturbances, civil unrest, riots, invasions, wars, acts of God, terrorism, or any cause (whether similar or dissimilar to the foregoing) beyond the reasonable control of the Parties.

i. **Governing Law / Venue**. This Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota without regard to its conflicts of laws principals. Any lawsuit arising out of this Agreement shall be brought only in a court of general jurisdiction in Hennepin County, Minnesota.

j. **Severability**. The provisions of this Agreement are severable. If any part of this Agreement is rendered void, invalid or unenforceable, such rendering shall not affect the validity and enforceability of the remainder of this Agreement.

k. **Successors and Assigns**. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns. Neither Party shall assign this Agreement, or any portion thereof, without the prior written consent of the other Party, provided Seller may assign this Agreement in connection with the sale of any or all of its assets to a third party or Bank. Any attempted assignment or transfer without prior written consent of the other Party shall be of no force or effect. As to any permitted assignment: (a) reasonable prior notice of any such assignment shall be given to the other Party; and (b) any assignee shall expressly assume the assignor's obligations hereunder, unless otherwise agreed to by

the other Party in writing.

l. **Marketing and Promotion**. Seller shall not use Customer's name, image or likeness in connection with advertising and promoting the Project or the Energy System without Customer's approval, which shall not be unreasonably withheld.

m. **Data Practices**. Pursuant to Minnesota Statutes, Section13.05, subd. 11, all of the data created, collected, received, stored, used, maintained, or disseminated by Seller in performing this Agreement is subject to the requirements of the Minnesota Government Data Practices Act ("MGDPA"), Minnesota Statutes Chapter 13, and Seller must comply with those requirements as if it were a government entity. The remedies in Minnesota Statutes, Section 13.08 apply to Seller. Seller does not have a duty to provide access to public data to the public if the public data are available from the Customer, except as required by the terms of this Agreement.

n. **Proprietary Information**. Information claimed by Seller to be proprietary, trade secret or business data shall be governed by the standards required for "Trade Secret Information" as defined in MGDPA, Section 13.37(b) and as it may otherwise be referenced in the MGDPA. All of the data created, collected, received, stored, used, maintained, or disseminated by or to the Customer under this Agreement is subject to the requirements of the MGDPA. The Parties acknowledge that the classification of any government data is governed by the MGDPA and not by the understanding of either the Customer or the Seller. Notwithstanding any other provision in this Agreement, the Customer's obligation is to maintain and release the data in a manner that is consistent with the MGDPA, provided, however, that Customer agrees to provide prompt written notice to the Seller when Customer receives a request under the MGDPA for data concerning the terms of the Agreement, including the Agreement itself ("Contract Data"), not including presentations, memoranda and information previously disclosed publicly. When Customer receives a request for Contract Data, Customer shall notify Seller of the request promptly in writing. Customer shall reasonably wait to disclose the Contract Data until the later of (i) Seller getting a judicial determination by a judicial officer, arbitrator, or administrative law judge on the public or nonpublic designation of the Data or (ii) the last day that, in Customer's sole discretion, Customer must make such disclosure to avoid being at risk of a successful claim from the requester that Customer is in violation of the MGDPA. Customer remains solely responsible for the initial determination of whether the requested Contract Data is public or private/nonpublic, but the parties acknowledge that any final determination by a judicial officer, arbitrator, or administrative law judge, or appellate review thereof, will control. If the Customer determines that some or all of the Contract Data is public under section 13.03 of the MGDPA, Customer shall provide prompt written notice to Seller prior to Customer's disclosure of such data so that Seller, its sole expense, shall have the opportunity to object to such disclosure in writing and seek a determination by a judicial officer, arbitrator, or administrative law judge that such data constitutes trade secret information or business data under the MGDPA and therefore cannot be disclosed under the MGDPA. In no event shall Customer be required by the Seller under this Agreement to withhold or delay disclosure of public data contrary to requirements of the MGDPA. Notwithstanding the notice and timing provisions in this Subsection 16n., Customer shall not be liable to Seller for any failure to give notice or otherwise to timely respond to Seller regarding a third-party request for data. Seller's claims against the Customer shall be limited to private actions it may have, if any, for Customer's failure to follow the MGDPA.

o. **Record Keeping Availability and Retention**. Pursuant to Minnesota Statutes, Section 16C.05, subd. 5, Seller agrees that the books, records, documents and accounting procedures and practices of Seller, that are relevant to the Agreement or transaction, are subject to examination by the Customer and the state auditor for a minimum of six (6) years. Seller shall maintain such records for a minimum of six (6) years after final payment.

p. **Non-Discrimination**. Pursuant to Minnesota Statutes, Section 181.59, the Seller will take affirmative action to ensure that applicants are selected, and that employees are treated during employment, without regard to their race, color, creed, religion, national origin, sex, sexual orientation, marital status, status with regard to public assistance, membership or activity in a local civil rights commission, disability or age. The Seller agrees to be bound by the provisions of Section 181.59, that prohibits certain discriminatory practices and the terms of said section are incorporated into this Agreement.

The Parties hereto have caused this Agreement to be duly signed in their respective names effective the date first written above.

Seller
IDEAL ENERGIES, LLC

By: _____
Chris Psihos, its President

Dated: _____

Customer
City of Hopkins

By: _____
Mike Mornson, its City Manager

Dated: _____

SCHEDULE A
System Components

The Energy System is comprised of the following System Components:

1. UL Listed and approved Solar Panels: **466 @ JinkoJKM400M solar panels each rated at @ 400 (+/- 10 Watts DC); 72 cell Tier 1, CEC listed, or DNV-GL Rated Top Performer**
2. UL listed and approved DC/AC inverters: **SolarEdge SE100k(1) & 20k(2) 480V3Ph Inverter(s) kW AC**
3. Power Optimizers for SolarEdge Inverters: **233 - SolarEdge P860 Power Optimizers (or equivalent)**
4. Solar Panel Racking / mounting system: **Unirac, PanelClaw (or equivalent) Ballasted Racking**
5. Electrical components including but not limited to conductive wiring, ground circuitry, conduit, junction boxes, disconnects, switches, over-current protection, and any associated hardware necessary to complete the installation of the solar electric modules and interconnect with the Site's existing electric service excluding any Specialized Equipment as defined below.
6. Monitoring equipment and web-based remote system monitoring system. Customer is responsible for bringing, providing and paying for Cat-5 or cellular based internet service at the installation location (typically the electrical room).
7. For groundmounted systems, includes grass or mulch, at the Seller's discretion. Customer is responsible for maintaining the ground post installation.
8. If not provided by the Utility, a Revenue grade meter for measuring and monitoring electrical production from the Energy System.

The Parties agree that the Energy System does **NOT** include the following unless purchased as an option (except where Seller includes them in the Installation Costs):

1. Any structural improvements to the building required to support the Energy System and the System Components, or any fencing for ground mounted installations, if required.
2. Relocation of existing electric circuits, or any upgrades to Customer's electrical service to bring their service up to code.
3. Specialized roofing materials items that are not required to preserve any roof / warranty or to accommodate structural conditions.
4. Batteries or emergency back-up power capability.
5. Third-party fees for web-based monitoring of the Energy System.
6. Afterhours Labor / Weekend Labor
7. Tree removal, gas line relocation
8. Non-customary design requests, any other item or service not described in this Schedule A

SCHEDULE B
Contact Information for Parties

Real Property Owner:	**City of Hopkins** 11100 Excelsior Boulevard, Hopkins, MN 55343
Customer's Authorized Representative:	**Steve Stadler** (952) 548-6350
Seller/Installer:	**Ideal Energies, LLC** Chris Psihos **t.** (612)928-5008 chris.psihos@idealenergies.com 5810 Nicollet Avenue Minneapolis, MN 55419
Project Electrician(s):	**Green^2 Electric, LLC** Joaquin Thomas, Master Electrician Russell Goetze, Master Electrician **t.** (612)928-5008 **f:** (612)928-5009 5810 Nicollet Avenue Minneapolis, MN 55419 License **EA719118**

SCHEDULE C
Scope of Work

A. Design Scope

1. Seller will prepare structural and electrical Design Documents describing the Project.
2. Seller will comply with all building codes and, as necessary, obtain any code variances.
3. Seller will ensure that the Energy System installation meets then current National Electrical Code requirements.
4. Seller will apply for all permits, and complete inspections to close such permits after Project Completion.
5. Seller will prepare all documentation required by the Utility for the Customer to interconnect the Energy System with the Utility's Grid.
6. Seller will prepare all documentation required by the Utility for the Customer to apply for the Tariff.

B. Installation

1. Seller will furnish and install all required material or equipment for a complete installation.
2. Seller will connect the Energy System to Customer's electric panel.
3. Seller will commission and test the Energy System after installation.
4. Electrical interconnections will be performed by licensed electricians.
5. Except as provided in the Purchase Agreement, the Parties agree that Seller will not be liable for any indirect or consequential losses incurred by Customer as a result of the Energy System installation. Such losses may result from disruption of operations, interruption of electrical service, suspension of mechanical services and other interruptions reasonably related to standard Energy System installation of the size and type contemplated by the Project. Seller shall be responsible for any damage to the Site caused by Seller or its subcontractors, suppliers or representatives. Customer shall have the right to recover monetary damages or seek specific performance, for any Seller breach in the installation, maintenance or repair of the Energy System causing damages to the Site.

C. Safety

1. Seller will adhere to all current safety laws including without limitation federal, state and local safety regulations.
2. Seller's workers will conform to standard OSHA safety practices and procedures during installation.

D. General

1. Seller will provide all required design, engineering, construction, administration and management services necessary to complete the Project.
2. Seller will take all action reasonably necessary or required to bring the Project to commercial operation.
3. Seller will provide to Customer copies of all operating and maintenance manuals and third-party warranties.
4. Customer is responsible for scheduling and completing, if necessary, any energy audit required by any Tariff.

SCHEDULE D
Seller's Warranties

Engineering and Design Services Warranty Seller warrants that it will perform the engineering and design services in a professional and workmanlike manner using the degree of care, skill, prudence, judgment and diligence that a reasonable, qualified and competent provider of similar services would exercise. Except as otherwise provided herein, during the period beginning on the Final Project Completion date and ending five years later (the **"Warranty Period"**), it is shown that there was an error in such engineering and design services as a result of Seller's failure to meet those warranty standards, and if Customer properly notifies Seller within the Warranty Period, Seller will, at its own expense and at no cost to Customer, re-perform such services to remedy such error within a reasonable timeframe.

Installation Services Warranty Seller warrants that it will perform the installation services in a professional and workmanlike manner using the degree of care, skill, prudence, judgment and diligence that a reasonable, qualified and competent provider of similar services would exercise. Except as otherwise provided herein, if during the Warranty Period it is shown that there was an error in such installation services as a result of Seller's failure to meet those standards, and if Customer properly notifies Seller within the Warranty Period, Seller will, at its own expense and at no cost to Customer, re-perform such services to remedy such error within a reasonable timeframe.

Limited System Components Warranty Seller warrants that the System Components will be new and not physically damaged by Seller at the time of Final Project Completion. If Customer notifies Seller within a reasonable timeframe after Final Project Completion that any System Components were not new or are physically damaged by Seller at the time of Final Project Completion, Seller shall replace such System Components within a reasonable timeframe with System Components that are new and undamaged.

Roof Warranty Except as otherwise provided herein, if during the Warranty Period it is shown that the roof leaks solely as a result of Seller's installation of the Energy System, and if Customer properly notifies Seller within the Warranty Period, Seller will, at its own expense and at no cost to Customer, promptly repair the roof so that it does not leak; provided that such leaking is not due to normal wear and tear.

Limitation on Warranties The above warranties do NOT cover damage, malfunctions or services failures to the extent caused by:

1. Failure to follow any applicable operations or maintenance manual or any other maintenance instructions provided by Seller or the manufacturer of the System Components, or failure to maintain or operate the Energy System;
2. Repair, modification, maintenance, movement or relocation of the Energy System or the System Components by someone other than a service technician approved by Seller or the manufacturer of the System Components;
3. Attachment or connection to the Energy System of any equipment not supplied by Seller, or the use of the Energy System for a purpose for which the Project was not intended;
4. Abuse, misuse or acts of Customer or any third person (other than Seller or its employees or agents), including intentional damage, theft or vandalism; or
5. Damage or deteriorated performance of the Energy System or Site caused by electrical surges, building settling, building component failure, work done on the building or adjacent structures, use of machinery or vehicle in the area, winds in excess of the system design rating, lightning, fire, flood, extreme weather conditions, pests, tornadoes, hurricanes, hail, storms, explosions, earthquakes, ground subsidence, falling debris, accidental breakages (not caused by Seller or its employees or agents), normal wear and tear, and other events or accidents outside the reasonable control of Seller.

Customer's Right to Remedy In the event that Seller fails to remedy any breach of warranty within the prescribed timeframe under this **Schedule D** or such breach threatens imminent harm to Customer or its property, Customer shall have the right to employ any reasonable means necessary to remedy such breach, and Seller shall reimburse Customer for all reasonable and necessary expenses incurred by Customer in carrying out such remedy. The Warranties in this Schedule D are separate from and in addition to any manufacturer's or other warranty for the Energy System or components thereof, and Purchaser may prosecute any and all such warranties, including these Warranties, concurrently and in complement to the other(s).

SCHEDULE E

Seller & Affiliates - Certificate of Insurance

ACORD

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 4/12/2019

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	CONTACT NAME: Molly Kavolak	
Associated Benefits and Risk Consulting 6000 Clearwater Drive Minntonka MN 55343	PHONE (A/C, No, Ext): 952-947-9700	FAX (A/C, No): 952-947-9793
	E-MAIL ADDRESS: Molly.kavolak@associaetedBRC.com	
	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A : CNA Insurance	20508
INSURED IDEAL-6 Ideal Energies, LLC Green2 Electric, LLC 5810 Nicollet Avenue Minneapolis MN 55419	INSURER B : The Continental Insurance Company	35289
	INSURER C : Columbia Casualty	31127
	INSURER D : Transportation Insurance Company	20494
	INSURER E :	
	INSURER F :	

COVERAGES **CERTIFICATE NUMBER:** 1923879994 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
B	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE [X] OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: X POLICY [ ] PRO-JECT [ ] LOC OTHER:	Y		6046282925	6/23/2018	6/23/2019	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$ 1,000,000 $ 100,000 $ 15,000 $ 1,000,000 $ 2,000,000 $ 2,000,000 $
A	AUTOMOBILE LIABILITY X ANY AUTO OWNED AUTOS ONLY [ ] SCHEDULED AUTOS X HIRED AUTOS ONLY [X] NON-OWNED AUTOS ONLY			BUA 6046282956	6/23/2018	6/23/2019	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ 1,000,000 $ $ $ $
B	X UMBRELLA LIAB [X] OCCUR EXCESS LIAB [ ] CLAIMS-MADE DED X RETENTION $ 0			6046283007	6/23/2018	6/23/2019	EACH OCCURRENCE AGGREGATE	$ 10,000,000 $ 10,000,000 $
D	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y / N ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? [ ] (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N / A		6072703355	6/23/2018	6/23/2019	PER STATUTE [ ] OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	$ 500,000 $ 500,000 $ 500,000
B C	Leased/Rented Equipment E&O Installation Floater			6046282925 C 6050226756	6/23/2018 6/23/2018	6/23/2019 6/23/2019	Limit Limit Limit	$60,000 $2,000,000 $3,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

THE FOLLOWING ENDORSEMENT(S) APPLY TO THE NAME(S) AND/OR PROJEST(S) LISTED BELOW WHEN REQUIRED BY WRITTEN CONTRACT AND/OR AGREEMENT: GENERAL LIABILITY- CNA75079XX- Additional Insured- Automatic Status, GENERAL LIABILITY - CNA74705XX-Blanket Waiver

Additional Named Insureds include:
Green2 Company, LLC
CJP Holdings, LLC
Green Sky Leasing, LLC
See Attached...

CERTIFICATE HOLDER

City of New Brighton
803 Old Highway 8 NW
New Brighton MN 55112

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

ACORD 25 (2016/03) The ACORD name and logo are registered marks of ACORD

Facility Lease Agreement

186.400 kW DC JinkoJKM400M Solar Panels with 140.00 kW AC SolarEdge SE100k(1) & 20k(2) 480V3Ph Inverter(s)(s), SolarEdge P860 Power Optimizers & Unirac, PanelClaw (or equivalent) Ballasted Racking

Customer / Owner	**City of Hopkins**
Installation Location	**11100 Excelsior Boulevard, Hopkins, MN 55343**
Xcel Premise #	302902893

Xcel Photovoltaic Credit Rider Tariff

This **FACILITY LEASE AGREEMENT** (this "**Agreement**"), dated **December 12, 2019** ("**Effective Date**"), is between **Green2 Solar Leasing, LLC**, a Minnesota Limited Liability Company, whose principal place of business is located at **5810 Nicollet Avenue, Minneapolis, MN 55419** ("**Tenant**"), and **City of Hopkins**, a Minnesota City, whose principal place of business is located at **11100 Excelsior Boulevard, Hopkins, MN 55343** ("**Customer**"). The Tenant and Customer are sometimes also referred to in this Agreement jointly as "**Parties**", or individually as a "**Party**".

RECITALS

A. Customer is the owner or lessee of certain real property (if lessee, owned by an affiliated entity that has common ownership with Customer) located at **11100 Excelsior Boulevard, Hopkins, MN 55343** (the "**Installation Location**") presently used as a **Public Works** (the "**Property**"); and

B. Tenant desires to lease from Customer, and Customer desires and is authorized to lease to Tenant, subject to the terms and conditions of this Agreement, a portion of the Property for the construction, operation and maintenance of a photovoltaic solar electric system (the "**Energy System**") as defined in that certain Purchase Agreement (the "**Purchase Agreement**") between Customer and **Ideal Energies, LLC** (the "**Seller**") of even date herewith; and

C. Customer will be the **legal owner of the Energy System upon purchase from Ideal Energies, LLC**, and Customer desires to lease the same to Tenant subject to the terms and conditions of this Agreement; and

D. Tenant and Customer will, concurrently with this Agreement, enter into a **Power Purchase Agreement** (the "**Power Purchase Agreement**") pursuant to which Tenant will sell power generated by the Energy System to the Customer; and

E. For federal tax purposes, Customer and Tenant will treat this Agreement as a transfer of the ownership of the Energy System from Customer to Tenant; and

F. The Tenant should be eligible to receive a Federal Tax Credit from the U.S. Treasury pursuant to the terms of this Agreement equal to **30%** of the Energy System's eligible Installation Cost ("**Tax Credit**") for Energy Systems that are put into service or safe harbored during **2019.**

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing Recitals, the mutual promises of the Parties hereto and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Contingency. The Parties performance under this Agreement is contingent on the Final Project Completion (as defined in the Purchase Agreement) occurring in accordance with the terms of the Purchase Agreement.**

2. **Lease of Energy System and Leased Space**. Customer hereby leases to Tenant, and Tenant hereby leases from Customer the following: (a) the Energy System and (b) all roof/ground space required for the installation and operation of the Energy System on the Property (the "**Leased Space**") as generally prescribed on the Plan View drawing included herewith as **Schedule A**, including rights to place wiring to the point of electrical interconnection. The Energy System and the Leased Space together constitute the leased property (the "**Leased Property**"). The final As-Built Plan View drawing provided to Customer by Seller in its Operations Manual after Final Project Completion (as defined in the Purchase Agreement) occurs is hereby incorporated into **Schedule A** of this Agreement by reference.

3. **System Payments, Tax Ownership**.

   a. **Installation Cost Payment**. Tenant will pay Customer's Installation Cost on the Final Project Completion date.

   b. **Transfer of Tax Ownership**. The Parties shall treat the Energy System as having been sold to the Tenant for federal tax purposes in consideration of the payment made under Section 3(a) above.

4. **Access to Leased Space**. Customer grants to Tenant the right to access the Leased Space via reasonable route or routes over and across the Property upon reasonable prior notice to Customer. Customer will cooperate with Tenant to access the meter or any other part of the Energy System which are not located within the Leased Property.

5. **Permitted Use of Leased Space**. During the Term (as defined below) and subject to Customer rights set forth in this Lease, Tenant shall have the exclusive right to use the Leased Space for the construction, installation, operation, maintenance, repair, replacement, relocation, reconfiguration, removal, alteration, modification, improvement, use and enjoyment of the Energy System (and other necessary and incidental uses for the operation of the Energy System) to fulfill Tenant's obligations under this Agreement and the Power Purchase Agreement (the "**Permitted Uses**"). Tenant may not erect any other facilities or use any other equipment on the Leased Space that is not expressly permitted under the terms of this Agreement without first obtaining Customer's written consent, which consent shall not be unreasonably withheld, delayed or conditioned provided the other facilities or equipment are necessary for the operation of the Energy System and are not likely, in Customer's reasonable opinion, to damage the Property or interfere with Customer's business. Customer shall at all times have absolute and paramount right to operate the Site and Tenant's activities shall not materially interfere in any way

with Customer's operation of the same. This right shall supersede any other rights granted to Tenant in this Lease.

6. **Term**. The term (the "**Term**") of this Agreement shall begin on the date that Final Project Completion occurs and shall expire on the date that is the **20** years after the Final Project Completion date. If the Power Purchase Agreement is terminated by either party, this Lease shall terminate.

7. **Rent of Leased Space**. Beginning on the first anniversary of the Final Project Completion and continuing on each and every anniversary thereof throughout the Term, Tenant shall pay to Customer rent for the Leased Space (the "**Leased Space Rent**") in the amount of **$90.00** per year.

8. **Rent of Energy System**. Beginning on the first anniversary of the Final Project Completion and continuing on each and every anniversary thereof throughout the Term, Tenant shall pay to Customer rent for the Energy System (the "**Energy System Rent**") in the amount of **$10.00** per year.

9. **Holdover**. If Tenant holds over its tenancy after expiration of the Term, such tenancy shall be month-to-month subject to the terms and conditions of this Agreement. Either Party may terminate such month-to-month tenancy at any time upon the giving to the other Party no less than thirty (30) days written notice.

10. **Operating Permits**. Tenant shall, at its sole expense, maintain in full force and effect all certificates, permits and other approvals ("**Operating Permits**") required by any federal, state or local authorities ("**Governmental Authorities**") having jurisdiction over Tenant or the Leased Property.

11. **Energy System Title and Condition on Facility Lease Termination**. The Parties agree that legal title to any and all fixtures, equipment, improvements or personal property of whatsoever nature at any time constructed or placed on or affixed to the Leased Space by Tenant, including without limitation the Energy System and its System Components, shall be and remain with System Owner. Tenant shall leave the Energy System at the end of this Agreement in substantially the same condition as existed on the Final Project Completion date plus any improvements, ordinary wear and tear and casualty damage excepted.

12. **Energy System Operation and Maintenance**.

    a. **Operation and Maintenance of the Energy System**. Tenant will at its sole cost and expense operate the Energy System, monitor the system's performance and keep and maintain the Energy System in good condition and repair utilizing the Maintenance List provided in **Schedule B** herewith as a guideline, with strict adherence hereto not expected by the Parties. Customer is solely responsible for pursuing any available warranties on System Components against the manufacturer at its own expense, and may look only to such manufacturer, and not to Tenant, for any warranty with respect thereto. Tenant will assist Customer in resolving any warranties relating to System Components as described on **Schedule B**. Notwithstanding the foregoing or anything in this Lease to the contrary, nothing in this Lease shall prohibit, impair, or otherwise affect adversely, Customer's right to operate, maintain, repair or improve the buildings on which Energy Systems will be installed or the Customer's exercise of its governmental, regulatory, or proprietary authority ("Exercise") without triggering an Event of Default in this Lease. This Exercise right specifically includes, but is not limited to, emergency measures that Customer, in its sole discretion, may deem necessary for the health and safety of the public. Customer agrees to provide prompt notice to Tenant of the potential Exercise, if it may impact the terms of this Lease. Upon notice to Tenant of a possible Exercise, Tenant and Customer shall meet and confer regarding options available to eliminate or mitigate the impact of the Exercise on Tenant, which shall include consideration of any recapture of Tenant's Tax Credits during the first five years occurring following the Final Project Completion Date, and the Tenant's non-receipt of Power Payments Tenant would reasonably have received but for the occurrence of Customer's Exercise. Customer shall use best efforts to identify and facilitate the relocation of any Energy System or portion of an Energy System affected by the Exercise, including payment of Tenant's reasonable cost of such relocation, or agreeing to an expansion of the total Energy System on reasonable terms that eliminate or mitigate the effect of the Exercise. If Customer and Tenant cannot agree on Agreement modification resulting from an Exercise, the Parties agree to retain and share the cost of a mediator and continue good faith efforts to equitably resolve the impact of the Exercise on Tenant.

    b. **Energy System Casualty**. In the case of casualty to the Energy System, Tenant agrees to repair the Energy System with proceeds described in Section 17a. Said Proceeds will be provided to Tenant to make the repairs caused by the casualty. Tenant shall repair, at Tenant's expense, any damage to the Leased Space that results from the Tenant's repair, reconfiguration, alteration, modification or replacement of any Energy System.

13. **Repair of Leased Space During Term**. Customer shall have the right at any time to access the Leased Space to inspect, maintain, replace or repair items and components thereof, excluding the Energy System. ("**Customer Maintenance**"). Customer Maintenance shall include temporary removal of such components of the Energy System that interfere with Customer Maintenance of the Leased Space, and the replacement of such components upon completion. Customer shall provide thirty (30) days prior notice of any scheduled Customer Maintenance, except in the case of an emergency, the Customer shall give notice as soon as possible. Customer, at its own cost, will perform Customer Maintenance, and use Seller or, another third party approved by Tenant to perform Customer Maintenance (Tenant's approval of third parties will not be unreasonably withheld). The Customer Maintenance will be performed at Tenant's expense to the extent the Customer Maintenance was required as a result of damage to the Leased Spaced caused by the Energy System. Customer will reimburse Tenant for any lost Power Payment revenue resulting from the Energy System being non-operational in excess of forty-five (45) days, excluding any downtime resulting from damage to the Leased Space caused by the Energy System.

14. **Utilities/taxes**. Tenant shall pay all applicable taxes, assessments, or similar levied against the Energy System and other personal property located and/or installed on the Site by the Tenant due at the time of Final Project Completion. Customer shall pay applicable taxes, assessments, or similar levied against the Energy System and other personal property located and/or installed on the Site by the Tenant that are assessed after the Final Project Completion. Notwithstanding the foregoing, Tenant shall pay all personal or property taxes after Final Project Completion that are levied on any rent payments paid to

Customer pursuant to this Lease. Any payments due under this paragraph shall be made by Tenant within the later of 30 days after receipt of written notice thereof (together with a copy of the applicable tax bill) from Customer or otherwise or resolution of any contest hereunder.

15. **Interference**.

a. **Interference by Tenant**. Tenant shall operate the Energy System in a manner that will not unreasonably interfere with any existing operations or equipment located, operated or owned by Customer or any other permitted occupants as of the date of this Agreement (the "**Existing Operations**"). All operations by Tenant shall be lawful and in material compliance with all regulations and requirements of the Minnesota Public Utilities Commission, as well as any other applicable state, federal or local regulations and requirements ("**Legal Requirements**") and any applicable agreements with, or tariffs of, the local utility.

b. **Interference by Customer**. Following installation of the Energy System, Customer shall not, and shall not cause or permit any other persons or parties to, install equipment or facilities or construct or allow any construction of a structure or structures ("**New Construction**") near the Leased Space if such New Construction will interfere with the Energy System or its performance. Customer shall not move, modify, remove, adjust, alter, change, replace, reconfigure or operate the Energy System or any part of it during the term of the Agreement without prior written direction or approval of Tenant, except if there is an occurrence reasonably deemed by Customer to be a bona fide emergency, in which case Customer will immediately notify Tenant of such emergency and Customer's proposed actions. Customer shall be responsible for, and promptly notify Tenant, of any damage to the Energy System caused by the Customer or its employees, invitees or agents, and shall promptly pay Tenant the costs to repair such damage to the Energy System, along with any lost Power Payment revenue.

16. **Insurance**.

a. **General Liability and Property Insurance**. Customer shall keep the Energy System insured against loss by fire, theft, hail and wind and such other hazard as Tenant shall reasonably require with an insurance company acceptable to Tenant in its reasonable discretion, at all times will insure the Energy System at an amount equal to the Installation Cost (as defined in the Purchase Agreement) and will provide Tenant with a Certificate of Insurance that names Tenant as an additional insured and loss payee. Customer shall also secure and maintain adequate comprehensive general liability insurance against liability related to the Energy System. Customer shall provide Tenant with evidence of having acquired such insurance coverages prior to the Final Project Completion date and on an annual basis thereafter. The loss, injury or destruction of the Energy System shall not release Customer from payment as provided in this Agreement. Any insurance policies obtained by Customer shall provide that such policy of insurance cannot be terminated or cancelled by the insurer without thirty (30) days prior written notice to Tenant. Customer is responsible for any deductibles due under the insurance policies for casualties and will pay Tenant said deductible, along with insurance proceeds received to repair the Energy System, and Tenant's lost Power Payment revenue resulting from the casualty. Customer's failure or refusal to repair and recommission an Energy System following a loss shall constitute a breach of this Agreement.

b. **Workers' Compensation Insurance and Employers' Liability Insurance**. In accordance with Minnesota state law, Tenant shall maintain in force workers' compensation insurance for all of its employees. Tenant shall also maintain employer's liability coverage in an amount of not less than One Million Dollars ($1,000,000.00) per accident. Tenant shall also secure and maintain adequate comprehensive general liability insurance against liability related to the Leased Premises. Upon request, Tenant will provide Customer with a Certificate of Insurance.

a. **Tenant Insurance**. At all times during this Lease, Tenant shall, at its own expense, maintain and provide general commercial liability insurance in the amount of $2,000,000. Upon request, copies of certificates evidencing the existence and amounts thereof shall be delivered to Customer by Tenant. Should any insurance expire or be cancelled during the term of this Lease, Tenant shall provide Customer with renewal or replacement certificates at least 30 days prior to the expiration or cancellation of the original policies.

17. **Indemnification**.

a. Tenant shall indemnify, defend and hold harmless Customer and its elected officials, officers, consultants, representatives, agents, and employees (each a "Tenant Indemnified Party") against any damages, liabilities, losses, costs and expenses, including reasonable attorney fees and costs (collectively, "Damages") incurred or suffered by any of them in any way arising out of, relating to, or in connection with a third party claim for or (i) any breach of this Agreement by Tenant, or (ii) the negligence, gross negligence or willful misconduct of Tenant or its employees or agents in connection with the transactions contemplated by this Agreement.

b. Tenant shall defend and indemnify Customer from any mechanic's, materialman's, or other lien with respect to the Property or the Leased Property to the extent such lien is attributable to Tenant's failure to pay Installation Costs or other costs incurred in the performance of Tenant's obligations for maintenance and repair of the Energy System.

c. Customer shall indemnify, defend and hold harmless Tenant and its officers, directors, members, consultants, representatives, agents, employees and affiliates (each a "**Customer Indemnified Party**") against any Damages incurred or suffered by any of them in any way arising out of, relating to, or in connection with a third party claim for or of (i) any breach of this Agreement by Customer, or (ii) the negligence, gross negligence or willful misconduct of Customer or its employees or agents in connection with the transactions contemplated by this Agreement.

d. A Customer Indemnified Party or Tenant Indemnified Party claiming indemnification hereunder must give each Party prompt notice of the relevant claim and each Party agrees to cooperate with the each other Party, at its own expense, in the defense of such claim. Notwithstanding the forgoing, any Party from whom indemnification is sought, shall control the defense and settlement of such claim; provided however that such Party shall not agree to any settlement that materially adversely affects the other Party without the prior

written consent of such Party, which approval shall not be unreasonably withheld. Without limiting or diminishing the foregoing, any Party may, at its option and its own expense, participate in the defense of any such claim with legal counsel of its own choice.

e. Customer does not hereby in this Lease or in any Agreement related hereto waive its statutory immunities or limits on liability provided in Minnesota Statutes, Chapter 466.

18. **General**.

a. **Subordination to Utility Agreement**. No portion of this Lease is intended to conflict with any Utility Agreements (the "Utility Agreements") to which Tenant or Customer is a party. In the case of a conflict between the terms or conditions of this Agreement and the Utility Agreements, the terms and conditions of Utility Agreements shall control. The Utility, or its successors and assigns, is a third-party beneficiary of the provision of this paragraph. Nothing in this Lease shall prevent the Utility, from fully enforcing the terms and conditions of Utility Agreements.

b. **Relationship of the Parties**. The Parties shall for all purposes be considered independent contractors with respect to each other, and neither shall be considered an employee, employer, agent, principal, partner or joint venturer of the other.

c. **Entire Agreement**. This Lease and all the schedules, exhibits and attachments hereto, together with any agreement reference herein, constitute the entire agreement and understanding of the Parties relative to the subject matter hereof. The Parties have not relied upon any promises, representations, warranties, agreements, covenants or undertakings, other than those expressly set forth or referred to herein. This Lease replaces and supersedes any and all prior oral or written agreements, representations and discussions relating to such subject matter.

d. **Survival of Representations**. All representations, warranties, covenants and agreements of the Parties contained in this Lease, or in any instrument, certificate, exhibit or other writing provided for in it, shall survive the execution of this Lease and the consummation of the transactions contemplated herein.

e. **Amendment**. This Lease may be amended or modified only by a writing executed by the Parties to this Lease. No custom or practice of the Parties at variance with the terms hereof shall have any effect.

f. **Notices**. All notices to be given under this Lease shall be in writing and shall be effectively given upon personal delivery, facsimile or email transmission (with confirmation of receipt), delivery by overnight delivery service or three days following deposit in the United States Mail (certified or registered mail, postage prepaid, return receipt requested).

g. **No Delay**. No delay or failure on the part of any Party hereto to exercise any right, power or privilege hereunder shall operate as a waiver thereof.

h. **Force Majeure**. Neither Party will be liable to the other Party for any delay, error, failure in performance or interruption of performance resulting from causes beyond its reasonable control, including without limitation fires, flood, accidents, explosions, sabotage, strikes or other labor disturbances, civil commotion, riots, invasions, wars, acts of God, terrorism or any cause (whether similar or dissimilar to the foregoing) beyond the reasonable control of the Party.

i. **Governing Law / Venue**. This Lease shall be governed by and construed in accordance with the laws of the State of Minnesota without regard to its conflicts of laws principals. Any lawsuit brought in connection with this Lease shall be brought only in a court of general jurisdiction in Hennepin County, Minnesota.

j. **Severability**. The provisions of this Lease are severable. If any part of this Lease is rendered void, invalid or unenforceable, such rendering shall not affect the validity and enforceability of the remainder of this Lease.

k. **Successors and Assigns**. This Lease shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns. Neither Party shall assign this Lease, or any portion thereof, without the prior written consent of the other Party. Any attempted assignment or transfer without such prior written consent of the other Party shall be of no force or effect. As to any permitted assignment: (a) reasonable prior notice of any such assignment shall be given to the other Party; and (b) any assignee shall expressly assume the assignor's obligations hereunder, unless otherwise agreed to by the other Party in writing. Notwithstanding the foregoing, as may be required for Tenant to avoid being classified as a Public Utility under Minnesota Statutes Chapter 216B.02, Subd. 4., or to leverage tax benefits as tax owner, Tenant may, at its sole discretion, assign and/or sublease all or part of its full interest under this Lease to a controlled affiliate of Tenant, assign its rights under the Power Purchase Agreement a controlled affiliate of Tenant, or assign this Lease in connection with any sale of any or all of its Assets to a third party or Bank.

l. **Quiet Possession**. Customer agrees that upon compliance with the terms and conditions of this Lease, Tenant shall peaceably and quietly have, hold and enjoy the Leased Space for the Term and any extensions thereof.

m. **Data Practices**. Pursuant to Minnesota Statutes, Section13.05, subd. 11, all of the data created, collected, received, stored, used, maintained, or disseminated by Tenant in performing this Lease is subject to the requirements of the Minnesota Government Data Practices Act ("MGDPA"), Minnesota Statutes Chapter 13, and Tenant must comply with those requirements as if it were a government entity. The remedies in Minnesota Statutes, Section 13.08 apply to Tenant. Tenant does not have a duty to provide access to public data to the public if the public data are available from the Customer, except as required by the terms of this Lease.

n. **Proprietary Information**. Information claimed by Tenant to be proprietary, trade secret or business data shall be governed by the standards required for "Trade Secret Information" as defined in MGDPA, Section 13.37(b) and as it may otherwise be referenced in the MGDPA. All of the data created, collected, received, stored, used, maintained, or disseminated by or to the Customer under this Agreement is subject to the requirements of the MGDPA. The Parties acknowledge that the classification of any government

data is governed by the MGDPA and not by the understanding of either the Customer or the Tenant. Notwithstanding any other provision in this Agreement, the Customer's obligation is to maintain and release the data in a manner that is consistent with the MGDPA, provided, however, that Customer agrees to provide prompt written notice to the Tenant when Customer receives a request under the MGDPA for data concerning the terms of the Agreement, including the Agreement itself ("Contract Data"), not including presentations, memoranda and information previously disclosed publicly. When Customer receives a request for Contract Data, Customer shall notify Tenant of the request promptly in writing. Customer shall reasonably wait to disclose the Contract Data until the later of (i) Seller getting a judicial determination by a judicial officer, arbitrator, or administrative law judge on the public or nonpublic designation of the Data or (ii) the last day that, in Customer's sole discretion, Customer must make such disclosure to avoid being at risk of a successful claim from the requester that Customer is in violation of the MGDPA. Customer remains solely responsible for the initial determination of whether the requested Contract Data is public or private/nonpublic, but the parties acknowledge that any final determination by a judicial officer, arbitrator, or administrative law judge, or appellate review thereof, will control. If the Customer determines that some or all of the Contract Data is public under section 13.03 of the MGDPA, Customer shall provide prompt written notice to Tenant prior to Customer's disclosure of such data so that Tenant , at its sole expense, shall have the opportunity to object to such disclosure in writing and seek a determination by a judicial officer, arbitrator, or administrative law judge that such data constitutes trade secret information or business data under the MGDPA and therefore cannot be disclosed under the MGDPA. In no event shall Customer be required by the Tenant under this Agreement to withhold or delay disclosure of public data contrary to requirements of the MGDPA. Notwithstanding the notice and timing provisions in this Subsection 16 n., Customer shall not be liable to Tenant for any failure to give notice or otherwise to timely respond to Tenant regarding a third-party request for data. Tenant's claims against the Customer shall be limited to private actions it may have, if any, for Customer's failure to follow the MGDPA.

o. **Record Keeping—Availability and Retention**. Pursuant to Minnesota Statutes, Section 16C.05, subd. 5, Tenant agrees that the books, records, documents and accounting procedures and practices of Tenant, that are relevant to the Lease or transaction, are subject to examination by the Customer and the state auditor for a minimum of six (6) years. Tenant shall maintain such records for a minimum of six (6) years after final payment.

p. **Non-Discrimination**. Pursuant to Minnesota Statutes, Section 181.59, the Tenant will take affirmative action to ensure that applicants are selected, and that employees are treated during employment, without regard to their race, color, creed, religion, national origin, sex, sexual orientation, marital status, status with regard to public assistance, membership or activity in a local civil rights commission, disability or age. The Tenant agrees to be bound by the provisions of Minnesota Statutes, Section 181.59, that prohibits certain discriminatory practices and the terms of said section are incorporated into this Lease.

q. **Contamination Liability**. Tenant shall indemnify, defend, and hold harmless Customer, its officials, employees, agents, and assigns from and against any and all fines, suits, claims, demands, penalties, liabilities, costs or expenses, losses, settlements, remedial action requirements and enforcement actions, administrative proceedings, and any other actions of whatever kind or nature, including attorneys' fees and costs (and costs and fees on appeal), fees of environmental consultants and laboratory fees, known or unknown, contingent or otherwise, arising out of or in any way to the extent arising out of or related to any contamination to the Site caused by the negligence or willful misconduct of Tenant during the term of this Lease, including any personal injury (including wrongful death) or property damage (real or personal) arising therefrom. This paragraph shall survive the termination or earlier expiration of this Lease. For purposes of this paragraph "Contamination" shall be defined as any hazardous substances, hazardous materials, toxic substances or other similar or regulated substances, residues or wastes, pollutants, petroleum products and by-products, including any other environmental contamination whatsoever.

r. **Compliance with Law**. Tenant agrees to comply with all laws, orders, and regulations of federal, state and municipal authorities and with any lawful direction of any public officer which shall impose any duty upon Tenant with respect to Tenant's use of the Site.

s. **Indemnification by Tenant**. Tenant shall fully indemnify, save harmless and defend Customer or any of its elected officials, officers, employees, contractors and agents from and against any and all costs, claims, and expenses incurred by such parties in connection with or arising from any claim by a third party for physical damage to or physical destruction of property, or death of or bodily injury to any person, but only to the extent caused by (a) the negligence, gross negligence or willful misconduct of Tenant or its agents or employees or others under Tenant's control or (b) Tenant's default under this Agreement. Tenant shall indemnify, defend and hold harmless all of Customer's Indemnified Parties from and against all Liabilities to the extent arising out of or relating to any Hazardous Substance spilled or otherwise caused by the negligence or willful misconduct of Tenant or any of its contractors, agents or employees.

t. **Indemnification by Customer**. Customer shall fully indemnify, save harmless and defend Tenant or any of its officers, directors, employees and agents from and against any and all costs, claims, and expenses incurred by such parties in connection with or arising from any claim by a third party for physical damage to or physical destruction of property, or death of or bodily injury to any person, but only to the extent caused by (a) the negligence, gross negligence or willful misconduct of Customer or its agents or employees or others under Customer's control or (b) Customer's default under this Agreement. Customer shall indemnify, defend and hold harmless all of Tenant's Indemnified Parties from and against all Liabilities arising out of or relating to the existence at, on, above, below or near the Sites of any Hazardous Substance, except to the extent deposited, spilled or otherwise caused by the negligence or willful misconduct of Tenant or any of its contractors, agents or employees.

The Parties acknowledge they have read this Agreement, understand it and agree to be bound by its terms and conditions as of the date first set forth above.

Tenant
Green2 Solar Leasing, LLC

By: _____
Rich Ragatz, its Vice President
Dated: _____

Customer
City of Hopkins

By: _____
Mike Mornson, its City Manager

Dated: _____

SCHEDULE A
Site Plan

Facility Plan View Drawing Indicating the Final Location of the Energy System on the Leased Space and the point of interconnection of the Energy System with the electrical system at the Property

[The above document is provided by Seller, and is included in the Owner's Manual that is provided to the Customer after Final Project Completion]

SCHEDULE B
Maintenance Items

1. Operation and Maintenance Standard of Care. Tenant will use commercially reasonable efforts to identify, respond to, and complete necessary maintenance and repairs and to operate the Energy System to maximize its energy production. Notwithstanding the foregoing, the Parties understand that delays may be caused by multiple causes including without limitation delay in the identification of operational issues, troubleshooting issues, warranty replacement, warranty procurement, parts availability, parts delivery, crew availability, equipment defects, equipment performance, internet downtime, and similar causes.

2. Maintenance Services. The following Maintenance Services are provided by Tenant at Tenant's sole expense as described in Section 12 of this Agreement:

A. Weekly performance monitoring via online monitoring system to validate performance of panels and inverters, energy production; benchmark performance vs. similar systems for validation

B. Identify any defective equipment via on-line monitoring system

C. Semi-annual Site audits of the Energy System performing the following tasks

i. Inspect panels, inverters, and racking for physical damage

ii. Clean any debris on or under the solar arrays

iii. Ensure labels are intact

iv. Check for loose hanging wires, repair as necessary

v. Check electrical connections; tighten/torque as necessary

vi. Check for corrosion of electrical enclosures, repair as necessary

vii. Ensure roof drainage is adequate, that roof drains are not clogged, and confirm there are no signs of pooling water in the vicinity of the solar array

D. Tenant will manage System Component warranty claims on behalf of Customer.

3. Fees for parts replaced under manufacturer's warranty. For twelve (12) months after the Substantial Completion Date, Tenant will provide the services described in Section 12a at Tenant's sole expense. Beginning on the thirteenth (13) month, the following fees will be charged to Customer where Tenant removes and reinstalls parts that are available and replaced under the manufacturer's warranty. Inverters will be serviced as soon as possible after identification of a performance issue. After identification of performance issues, Optimizers will be replaced at least quarterly.

1. Panel Replacement & Recycling Services - $150 / each
2. Optimizer Replacement Services - $65 / each
3. Inverter Replacement Services
   - 20 to 50 kW inverter - $200 / each
   - 51 to 100 kW inverter - $400 / each

4. Solar Array Removal and Replacement During Lease. Following the termination of any Agreement between Seller and Customer relating to the removal and replacement of the solar array, Tenant will assist Customer by managing the Removal and Replacement of the solar array by providing Services through Seller, or anther Licensed electrical contractor if Seller is not able to provide the services directly, with the cost of said services being paid by Customer.

5. Payment for Services. Payment is due from Customer for any services provided by Tenant under Section 4 or 5 above net 30 days from Tenant's invoice date.

Power Purchase Agreement

186.400 kW DC JinkoJKM400M Solar Panels with 140.00 kW AC SolarEdge SE100k(1) & 20k(2) 480V3Ph Inverter(s)(s), SolarEdge P860 Power Optimizers & Unirac, PanelClaw (or equivalent) Ballasted Racking

Xcel Photovoltaic Credit Rider Tariff

Customer / Owner	**City of Hopkins**
Installation Location	**11100 Excelsior Boulevard, Hopkins, MN 55343**
Xcel Premise #	302902893

This **POWER PURCHASE AGREEMENT** (this "**Agreement**"), dated **December 12, 2019** ("**Effective Date**"), is between **Green2 Solar Leasing, LLC** a Minnesota Limited Liability Company, whose principal place of business is located at **5810 Nicollet Avenue, Minneapolis, MN 55419** ("**Tenant**"), and **City of Hopkins**, a Minnesota City, whose principal place of business is located at **11100 Excelsior Boulevard, Hopkins, MN 55343** ("**Customer**"). Tenant and Customer are sometimes also referred to in this Agreement jointly as "**Parties**", or individually as a "**Party**".

RECITALS

A. Tenant leases, operates and maintains Customer's photovoltaic solar electric system (the "**Energy System**") (as located at the Installation Location (the "**Installation Location**") described above as defined in that certain **Purchase Agreement** (the "**Purchase Agreement**") between Customer and **Ideal Energies, LLC** (the "**Seller**") of even date herewith) pursuant to a Facility Lease Agreement (the "**Facility Lease**") between the Parties of even date herewith; and

B. Tenant desires to sell renewable electric power inclusive of all rights to its available environmental attributes to Customer, and Customer desires to purchase from Tenant all such electric power which is produced by the Energy System; and

C. Customer has or will apply for the Tariff (as defined in the Purchase Agreement of even date herewith between Ideal Energies, LLC and the Customer). Pursuant to the Utility Agreements, (the "**Utility Agreements**") the Customer owns Renewable Energy Credits (the "**RECs**") for the electricity produced by the Energy System; and

D. Customer may be eligible to participate in the Utility's **Net Metering** Program (as defined in the Purchase Agreement of even date herewith between Ideal Energies, LLC and the Customer). Under this program, the energy generated from the Energy System is available for use and reduces the total amount of energy that needs to be purchased from the Utility. Under this program, for months where the Energy System produces more kWh than the site consumes, the Utility will compensate Customer at the applicable rate specified in the Utility Agreements; and

E. Pursuant to the Facility Lease, the Tenant may be eligible to receive a Federal Tax Credit from the U.S. Treasury equal to **30%** of the Energy System's eligible Installation Cost (the "**Tax Credit**") for Energy Systems that are put into service or safe harbored during **2019.**

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing Recitals, the mutual promises of the Parties hereto and for other good and valuable consideration, the receipt and sufficiency of which hereby are acknowledged, the Parties agree as follows:

1. **Contingency. The Parties performance under this Agreement is contingent on the Final Project Completion (as defined in the Purchase Agreement) occurring in accordance with the terms of the Purchase Agreement.**

2. **Power Purchase.** Tenant shall deliver all power generated from the Energy System to Customer at the point of interconnection shown on Schedule A of the Facility Lease.

   a. Customer will pay Tenant for all the power generated from the Energy System and delivered to the interconnection point by making the payments specified in Schedule A (the "**Power Payments**").

   b. The Power Payments for the Energy System are due monthly and payable in accordance with the Prompt Payment of Local Government Bills Act, Minnesota Statutes, Section 471.425 ("Act") beginning on the first day of the first month following its Final Project Completion date and continuing each month until expiration of the Term (as defined below) of this Agreement for the Energy System. Power Payments do not include any sales tax. Sales tax will be added to the Power Payments based on Customer's applicable sales tax rate. Payments shall be sent to:

   Green2 Solar Leasing, LLC
   5810 Nicollet Avenue
   Minneapolis MN 55419

3. **Utility Bill & Net Metering Credits**. The Utility Bill Credits and Met Metering Credits Program (as described in the Purchase Agreement between Ideal Energies and Customer of even date herewith), are owned by, and for the exclusive use of the Customer. In the event the actual Utility Bill Credits or Net Metering Credits received by the Customer are greater or less than the expected, there will be no adjustment to the terms of this Agreement, and each Party waives its right to recover any surplus or deficiency from the other Party.

4. **Ownership of Renewable Energy Credits**. Customer will, if required by the Utility Agreements, as may be amended, convey to the Utility all RECs generated by the Energy System for the term specified in the Utility Agreements. Subject to any required assignment to the Utility, Customer owns all RECs. For purposes of this Agreement, RECs include all attributes of an environmental or other nature that are created or otherwise arise from the Energy System, including without limitation tags, certificates or similar projects or rights associated with solar energy as a "green" or "renewable" electric generation resource. RECs shall also include any other environmental attribute intended to be transferred to the Utility under the Utility Agreement.

5. **Term**. The term (the "**Term**") of this Agreement for the Energy System shall begin on the date that Final Project Completion occurs for the Energy System and shall terminate on the date that is **twenty (20)** years after the

Final Project Completion date, unless otherwise provided in the Agreements.

6. **Late Charge/Costs of Collection**. In the event Customer fails to make any Power Payment when due and is not subject to a good faith dispute under the Act, Customer agrees to pay interest on the late payment not to exceed five (5%) percent per annum simple interest.

7. **Grant of Security Interest.** In order to secure the payment and performance of all of Customer's liabilities, obligations and covenants under this Agreement or the Lease, Customer hereby grants to Tenant a continuing security interest in the Energy System, together with all attachments, accessories or replacement parts and labor placed upon the Energy System, and in all proceeds of each of the foregoing.

8. **Insurance**. Customer shall keep the Energy System insured against loss by fire, theft, hail and wind and such other hazards as required by the

9. Events of **Customer's Default**. Each of the following shall constitute an event of Customer's default (**"Event of Default"**).

   a. Customer shall fail to make any payment to Tenant when due under the Act, Tenant has notified the Customer of such failure, and the failure has continued without cure by Customer or written waiver by Tenant for a period of thirty (**30**) days after the notice of failure;

   a. The Customer fails to comply with any of its material obligations under any of Customer's agreements with the Utility and such breaches materially affect Tenant's rights in this Agreement.

   b. Customer's failure or refusal to repair and recommission an Energy System following a casualty loss.

10. **Events of Tenant's Default**. Each of the following shall constitute an event of Tenant's default (**"Event of Default"**):

    a. Tenant shall fail to make any payment to Customer when due, Customer has notified Tenant of such failure, and the failure has continued without cure by Tenant or written waiver by Tenant for a period of thirty (30) days after the notice of failure;

       i. Tenant's failure or refusal to repair and recommission an Energy System following a casualty loss.

       ii. Tenant's failure to comply with any of its material obligations under any of the Tenant Agreements that materially affect Customer's rights in this Agreement and are not timely cured.

       iii. Tenant's failure to comply with any of its material obligations under any of the Tenant Agreements that materially affect Customer's rights in this Agreement and are not timely cured.

11. **Remedies.**

    a. If an Event of breach of this Agreement, the non-defaulting Party may, at its option, exercise any one or more of the following remedies:

       i. Declare all amounts due or to become due under this Agreement immediately due and payable;

       ii. Recover any additional damages and expenses sustained by the non-defaulting Party by reason the Event of Default; and

       iii. Exercise any other remedies available under law or in equity.

    b. The remedies provided herein shall be cumulative and may be exercised singularly, concurrently or successively with and in addition to all other remedies in law or equity. If either Party fails to perform any of its obligations under this Agreement, the other Party may (but need not) at any time thereafter perform such obligation, and the expenses incurred in connection therewith shall be payable in full by the nonperforming Party upon demand including but not limited to, the non-defaulting Party's attorney's fees and costs of collection in pursuing any remedies in which it is the prevailing Party.

11. **WARRANTY. TENANT WARRANTS THAT IT'S OPERATION, MAINTENANCE AND REPAIR OF THE ENERGY SYSTEMS WILL, AT ALL TIMES, MEET GENERALLY ACCEPTED INDUSTRY STANDARDS FOR PRUDENT PRACTICES, AS THEY MAY BE DEFINED THROUGHOUT THE TERM OF THIS AGREEMENT. THE PARTIES UNDERSTAND AND AGREE, HOWEVER, THAT THE ANNUAL ENERGY PRODUCTION FROM THE ENERGY SYSTEM IS NOT GUARANTEED BY TENANT AND MAY VARY FROM TENANT'S ANNUAL PROJECTIONS FOR REASONS BEYOND THE PARTIES CONTROL, INCLUDING WITHOUT LIMITATION, SEASON WEATHER VARIATIONS, ROUTINE AND NON-ROUTINE MAINTENANCE CAUSING DOWNTIME, EQUIPMENT PERFORMANCE, PROCESSING ANY EQUIPMENT WARRANTIES FOR MALFUNCTIONING EQUIPMENT, OR FORCED MAJEURE EVENTS. THE PARTIES UNDERSTAND THAT THE UTILITY BILL CREDITS, NET METERING CREDITS, AND UTILITY BILL SAVINGS THAT ARE RECOGNIZED WILL VARY WITH ENERGY SYSTEM ENERGY PRODUCTION, ACTUAL SITE ENERGY DEMAND OR CONSUMPTION PROFILES, OR SIMILAR, AND THAT THE ACTUAL AMOUNTS RECEIVED BY CUSTOMER WILL VARY ACCORDINGLY. SUBJECT TO TENANT'S WARRANTY TO EMPLOY PRUDENT PRACTICES, TENANT DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, THAT PRODUCTION WILL MATCH PROJECTIONS. CUSTOMER AND TENANT ASSUME, AT THEIR SOLE RISK, THE VARIABILITY OF ANNUAL ENERGY PRODUCTION AND VARIATIONS FROM ANY FINANCIAL PROJECTIONS RELATING TO UTILITY BILL CREDITS, NET METERING CREDITS, AND SAVINGS. NOTWITHSTANDING TENANT'S WARRANTY LIMITS AND DISCLAIMERS, TENANT AGREES THAT ANY MANUFACTURER'S WARRANTY ON THE ENERGY SYSTEM, OR ANY COMPONENT THEREOF, SHALL INURE TO THE BENEFIT OF CUSTOMER AS WELL AS TO TENANT IN THE EVENT OF A MANUFACTURER BREACH OF SUCH WARRANTY. CUSTOMER SHALL RECEIVE TIMELY NOTICE OF CLAIM BY TENANT AGAINST SUCH MANUFACTURER WARRANTY.**

12. **Power Production Adjustment**. Except where the reimbursement due under this Section is caused by Customer's breach of this Agreement, or the Energy System being non-operational during periods of Customer's Maintenance performed in accordance with Section 14 of the Facility Lease, in any 12-month period beginning with the applicable Final Project Completion date that the Energy System does not produce at least 900 kWh per KW DC, Tenant will reimburse Customer within sixty (60) days after the then applicable 12-month period as follows: Total payments made over the then applicable 12-month period * (1 - (actual kWh/kWDC / 900 kWh/kWDC)). For Example, a 40 kWDC Energy System produces 800 kWh/kWDC and power payments equaling $3000 are paid during the then applicable 12-month period. A $333.33 cash reimbursement will be paid to the Customer that is calculated as follows: $3000 * (1-800/900) = $333.33. Tenant's obligations in this paragraph are material to this Agreement. A failure to cure a default within (30) days after the expiration of the above-referenced 60-day period for making a reimbursement payment is considered untimely.

13. **Miscellaneous.**

a. **Subordination to Utility Agreement** No portion of this Agreement is intended to conflict with any Utility Agreements to which Tenant or Customer is a party. In the case of a conflict between the terms or conditions of this Agreement and the Utility Agreements, the terms and conditions of Utility Agreements shall control. The Utility, or its successors and assigns, is a third-party beneficiary of the provision of this paragraph. Nothing in this Agreement shall prevent the Utility, from fully enforcing the terms and conditions of Utility Agreements.

b. **Relationship of the Parties**. The Parties shall for all purposes be considered independent contractors with respect to each other, and neither shall be considered an employee, employer, agent, principal, partner or joint venturer with or of the other.

c. **Entire Agreement**. This Agreement and the Agreements as defined in the Purchase Agreement, schedules, exhibits and attachments hereto, constitute the entire agreement and understanding of the Parties relative to the subject matter hereof. The Parties have not relied upon any promises, representations, warranties, agreements, covenants or undertakings, other than those expressly set forth or referred to herein. This Agreement replaces and supersedes any and all prior oral or written agreements, representations and discussions relating to such subject matter.

d. **Survival of Representations**. All representations, warranties, covenants and agreements of the Parties contained in this Agreement, or in any instrument, certificate, exhibit or other writing provided for in it, shall survive the execution of this Agreement and the consummation of the transactions contemplated herein.

e. **Amendment**. This Agreement may be amended or modified only by a writing executed by the Parties to this Agreement. No custom or practice of the Parties at variance with the terms hereof may be used to argue waiver or consent in nullification of this Section.

f. **Notices**. All notices to be given under this Agreement shall be in writing and shall be effectively given upon personal delivery, facsimile or email transmission (with confirmation of receipt), delivery by overnight delivery service or three days following deposit in the United States Mail (certified or registered mail, postage prepaid, return receipt requested). Notice shall be made to:

Tenant
Green2Solar Leasing, LLC
5810 Nicollet Avenue
Minneapolis, MN 55419

Customer
City of Hopkins
Attn: City Manager or Mike Mornson
11100 Excelsior Boulevard, Hopkins, MN 55343

g. **No Delay**. No delay or failure on the part of any Party hereto to exercise any right, power or privilege hereunder shall operate as a waiver thereof.

h. **Force Majeure**. Neither Party will be liable to the other Party for any delay, error, failure in performance or interruption of performance resulting from causes beyond its reasonable control, including without limitation, fires, flood, accidents, explosions, sabotage, strikes or other labor disturbances, civil unrest, riots, invasions, wars, acts of God or any cause (whether similar or dissimilar to the foregoing) beyond the reasonable control of the Party.

i. **Governing Law / Venue**. This Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota without regard to its conflicts of laws principals. Any lawsuit brought in connection with this Agreement shall be brought only in a court of general jurisdiction in Hennepin County, Minnesota.

j. **Severability**. The provisions of this Agreement are severable. If any part of this Agreement is rendered void, invalid or unenforceable by a court of competent jurisdiction, such rendering shall not affect the validity and enforceability of the remainder of this Agreement.

k. **Successors and Assigns**. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns. Neither Party shall assign this Agreement, or any portion thereof, without the prior written consent of the other Party. Any attempted assignment or transfer without such prior written consent of the other Party shall be of no force or effect. As to any permitted assignment: (a) reasonable prior notice of any such assignment shall be given to the other Party; and (b) any assignee shall expressly assume the assignor's obligations hereunder, unless otherwise agreed to by the other Party in writing. Notwithstanding the foregoing, as may be required for Tenant to avoid being classified as a Public Utility under Minnesota Statutes Chapter 216B.02, Subd. 4., or to leverage tax benefits as tax owner, Tenant may, at its sole discretion, assign and/or sublease all or part of its full interest under the Lease to a controlled affiliate of Tenant, assign its rights under this Power Purchase Agreement a controlled affiliate of Tenant, or assign this Agreement in connection with any sale of any or all of its Assets to a third party or Bank

l. **Time is of the Essence**. Time is of the essence with respect to all of the terms of this Agreement.

m. **Data Practices**. Pursuant to Minnesota Statutes, Section13.05, subd. 11, all of the data created, collected, received, stored, used, maintained, or

disseminated by Tenant in performing this Agreement is subject to the requirements of the Minnesota Government Data Practices Act ("MGDPA"), Minnesota Statutes Chapter 13, and Tenant must comply with those requirements as if it were a government entity. The remedies in Minnesota Statutes, Section 13.08 apply to Tenant. Tenant does not have a duty to provide access to public data to the public if the public data are available from the Customer, except as required by the terms of this Agreement.

n. **Proprietary Information**. Information claimed by Tenant to be proprietary, trade secret or business data shall be governed by the standards required for "Trade Secret Information" as defined in MGDPA, Section 13.37(b) and as it may otherwise be referenced in the MGDPA. All of the data created, collected, received, stored, used, maintained, or disseminated by or to the Customer under this Agreement is subject to the requirements of the MGDPA. The Parties acknowledge that the classification of any government data is governed by the MGDPA and not by the understanding of either the Customer or the Tenant. Notwithstanding any other provision in this Agreement, the Customer's obligation is to maintain and release the data in a manner that is consistent with the MGDPA, provided, however, that Customer agrees to provide prompt written notice to the Tenant when Customer receives a request under the MGDPA for data concerning the terms of the Agreement, including the Agreement itself ("Contract Data"), not including presentations, memoranda and information previously disclosed publicly. When Customer receives a request for Contract Data, Customer shall notify Tenant of the request promptly in writing. Customer shall reasonably wait to disclose the Contract Data until the later of (i) Seller getting a judicial determination by a judicial officer, arbitrator, or administrative law judge on the public or nonpublic designation of the Data or (ii) the last day that, in Customer's sole discretion, Customer must make such disclosure to avoid being at risk of a successful claim from the requester that Customer is in violation of the MGDPA. Customer remains solely responsible for the initial determination of whether the requested Contract Data is public or private/nonpublic, but the parties acknowledge that any final determination by a judicial officer, arbitrator, or administrative law judge, or appellate review thereof, will control. If the Customer determines that some or all of the Contract Data is public under section 13.03 of the MGDPA, Customer shall provide prompt written notice to Tenant prior to Customer's disclosure of such data so that Tenant , at its sole expense, shall have the opportunity to object to such disclosure in writing and seek a determination by a judicial officer, arbitrator, or administrative law judge that such data constitutes trade secret information or business data under the MGDPA and therefore cannot be disclosed under the MGDPA. In no event shall Customer be required by the Tenant under this Agreement to withhold or delay disclosure of public data contrary to requirements of the MGDPA. Notwithstanding the notice and timing provisions in this Subsection 16 n., Customer shall not be liable to Tenant for any failure to give notice or otherwise to timely respond to Tenant regarding a third-party request for data. Tenant's claims against the Customer shall be limited to private actions it may have, if any, for Customer's failure to follow the MGDPA.

o. **Record Keeping—Availability and Retention**. Pursuant to Minnesota Statutes, Section 16C.05, subd. 5, Tenant agrees that the books, records, documents and accounting procedures and practices of Tenant, that are relevant to the Agreement or transaction, are subject to examination by the Customer and the state auditor for a minimum of six (6) years. Tenant shall maintain such records for a minimum of six (6) years after final payment.

p. **Non-Discrimination**. Pursuant to Minnesota Statutes, Section 181.59, the Tenant will take affirmative action to ensure that applicants are selected, and that employees are treated during employment, without regard to their race, color, creed, religion, national origin, sex, sexual orientation, marital status, status with regard to public assistance, membership or activity in a local civil rights commission, disability or age. The Tenant agrees to be bound by the provisions of Section 181.59, that prohibits certain discriminatory practices and the terms of said section are incorporated into this Agreement.

q. **Environmental**. Seller and Tenant represent and warrant that to the best of their knowledge, there are no Hazardous Materials in the Energy System that would cause the Energy System to be disposed of as a Hazardous Waste. In the event the Energy System cannot be re-used, recycled, disposed of as a solid waste, disposed of as a Universal Waste, or similar, and must be disposed of as a Hazardous Waste, either Seller or Tenant shall reimburse Customer for all Customer's actual reasonable disposal costs within thirty (30) days of receiving documentation evidencing the Customer's incurrence of such costs. Seller's and Tenant's obligations under this paragraph shall terminate one year after the termination of this Agreement. For the purposes of this Agreement, "Hazardous Materials" shall mean any hazardous, toxic or radioactive substance, material, matter or waste which is or becomes regulated by any federal, state or local law, ordinance, order, rule, regulation, code or any other governmental restriction or requirement, and shall include asbestos, petroleum products and the terms "Hazardous Substance" and "Hazardous Waste" as defined in the Comprehensive Environmental Response, Compensation and Liability Act ("**CERCLA**"), as amended, 42 U.S.C. 9601 et seq., the Resource Conservation and Recovery Act ("**RCRA**"), as amended, 42 U.S.C. 6901 et seq.

[SIGNATURE PAGE FOLLOWS]

The Parties acknowledge they have read this Agreement, understand it and agree to be bound by its terms and conditions as of the date first set forth above.

Tenant
Green2 Solar Leasing, LLC

By: _____
Rich Ragatz, its Vice President
Dated: _____

Customer
City of Hopkins

By: _____
Mike Mornson, its City Manager

Dated: _____

SCHEDULE A
Power Purchase Payment Schedule

186.400 kW DC JinkoJKM400M Solar Panels with
140.00 kW AC SolarEdge SE100k(1) & 20k(2) 480V3Ph Inverter(s)(s),
SolarEdge P860 Power Optimizers & Unirac, PanelClaw (or equivalent) Ballasted Racking

Xcel Photovoltaic Credit Rider Tariff

Green2 Solar Leasing, LLC Utility Bill Expense		
Year	(Power Purchase Expense)	
	($/year)	($/month)
1	$ 21,056.52	$ 1,754.71
2	$ 21,435.60	$ 1,786.30
3	$ 21,826.20	$ 1,818.85
4	$ 22,416.96	$ 1,868.08
5	$ 22,830.72	$ 1,902.56
6	$ 23,257.08	$ 1,938.09
7	$ 23,887.44	$ 1,990.62
8	$ 24,339.00	$ 2,028.25
9	$ 24,804.24	$ 2,067.02
10	$ 25,477.44	$ 2,123.12
11	$ 25,970.16	$ 2,164.18
12	$ 26,477.64	$ 2,206.47
13	$ 27,197.16	$ 2,266.43
14	$ 27,734.52	$ 2,311.21
15	$ 28,287.96	$ 2,357.33
16	$ 29,057.64	$ 2,421.47
17	$ 29,643.36	$ 2,470.28
18	$ 30,246.60	$ 2,520.55
19	$ 31,070.40	$ 2,589.20
20	$ 31,708.92	$ 2,642.41
21	$	$
22	$	$
23	$	$
24	$	$
25	$	$
Total	$ 518,725.56	

Put and Call Agreement

54.000 kW DC JinkoJKM400M,
40.00 kW AC SolarEdge SE20k 480V3Ph Inverter(s),
SolarEdge P860 Power Optimizers & Unirac, PanelClaw
(or equivalent) Ballasted Racking

Customer / Owner	City of Hopkins
Installation Location / Site	101 17th Avenue South, Hopkins, MN 55343
Xcel Premise #	303406842

Xcel SolarRewards

This **PUT AND CALL AGREEMENT** (this "**Agreement**"), dated **December 12, 2019** is between **Green2 Solar Leasing, LLC**, a Minnesota Limited Liability Company, whose principal place of business is located at **5810 Nicollet Avenue, Minneapolis, MN 55419** ("**Tenant**"), and **City of Hopkins**, a Minnesota City, whose principal place of business is located at **11100 Excelsior Boulevard, Hopkins, MN 55343** ("**Customer**"). Tenant and Customer are sometimes also referred to in this Agreement jointly as "**Parties**", or individually as a "**Party**".

RECITALS

A. Customer is the purchaser of a photovoltaic solar electric system (the "**Energy System**") located at the installation location described above (the "**Site**") and as described in the Purchase Agreement between Customer and **Ideal Energies, LLC** ("**Seller**") of even date herewith (the "**Purchase Agreement**"); and

B. Tenant is the lessee of the Energy System and associated rights under the **Facility Lease Agreement** with Customer (the "**Lease**") of even date herewith, and Tenant sells the Energy System generated from the Energy System pursuant to a Power Purchase Agreement with Customer (the "**Power Purchase Agreement**") of even date herewith (Tenant's interests in the Lease and Power Purchase Agreement is referred to herein as an "**Interest**"); and

C. The Parties hereto now desire to enter into this Agreement to set forth the terms and conditions upon which Tenant has an option, but not the obligation, to put its Interest(s) to the Customer and upon which Customer has an option, but the obligation, to call Tenant's Interest(s) from Tenant.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing Recitals, the mutual promises of the Parties hereto and for other good and valuable consideration, the receipt and sufficiency of which hereby are acknowledged, the Parties hereby agree as follows:

1. **Contingency**. **The Parties performance under this Agreement is contingent on Final Project Completion (as defined in the Purchase Agreement) occurring for n accordance with the terms of the Purchase Agreement.**

2. **Put of Tenant's Interest**. Commencing on the **15th full year after the Final Project Completion date for the Project**, and for a period of **three (3) months thereafter** (the "**Put Period**"), Tenant shall have the right and option to require Customer to purchase all, but not less than all, of Tenant's Interest the Energy System installed pursuant to that Project (the "**Put**"). Tenant may exercise the Put by delivering notice of exercise of such option in writing to Customer during the Put Period. If exercised, Tenant shall be obligated to sell, and Customer shall be obligated to purchase, all of the Interest owned by Tenant. The purchase price for the Interest shall be **$1.00** (the "**Put Price**"). The date of the Put closing will be thirty (30) days following the notice of exercise of the Put, or such earlier date as the Parties may agree in writing (the "**Put Closing Date**"). The Put Price shall be paid by Customer to Tenant in cash on the Put Closing Date. Each Party shall remain liable for any obligations arising under the Lease prior to the Put Closing Date. Notwithstanding the foregoing, an invoice provided by Tenant to Customer stating the Project and its Put Price, and Customer's payment of the same satisfies the requirements of this Section.

3. **Call of Tenant's Interest**. For a period of **nine (9) months beginning the day following the last day of the Put Period** (the "**Call Period**") for any Project, Customer shall have the right and option to purchase all, but not less than all, of Tenant's Interest in the Energy System installed pursuant to that Project (the "**Call**"). Customer may exercise the Call by delivering notice of exercise of such option to Tenant during the Call Period. If exercised and based on a Call Price determined by the method of calculation as set forth below, Customer shall be obligated to purchase, and Tenant shall be obligated to sell, all of the Interest owned by Tenant. The purchase price for the Interest pursuant to the Call shall be an amount equal to the fair market value (the "**Fair Market Value Price**") of such Interest as agreed by the Parties and if no agreement is possible, then by an independent qualified appraiser selected by the Customer and the cost of which is paid for by the Tenant (the "**Call Price**"). The Parties agree, for each Project, that a reasonable method of establishing the Fair Market Value Price is to use a discounted cash flow value of Tenant's power purchase income less expenses remaining under the Power Purchase Agreement and Lease Agreement as of the Call Date. As of the date hereof, the Parties believe that a discount rate of 15% is reasonable and agree that the Parties will use foregoing method in determining the Fair Market Value and resulting Call Price. If and only if Customer accepts the Call Price as agreed upon or determined by independent appraiser, Customer shall purchase the Energy System for the Price and pursuant to a mutually agreed upon purchase and sale agreement. The date of the Call closing shall be thirty (30) days following delivery of the notice of exercise of the Call, or such earlier date as the Parties may agree in writing (the "Call Closing **Date**"). The Call Price shall be paid by Customer to Tenant in cash on the Call Closing Date. Each Party shall remain liable for any obligations arising under the Lease for the Energy System prior to the Call Closing Date.

4. **Obligations following exercise of Put or Call**.

   a. **Tenant**. After the transfer and assignment of the Interest for the Energy System installed pursuant to each Project, pursuant to the Put or Call, Tenant shall have no further obligations or liability in connection with that Interest, except that Tenant shall indemnify, defend and hold Customer harmless from all third-party

claims arising out of Tenant's leasehold interest and operation of the Energy System prior to the termination of the Lease.

b. **Customer**. After the transfer and assignment of the Interest pursuant to the Put or Call for the Energy System installed pursuant to a Project, Customer shall make, if not already paid, the Power Payments described in Schedule A of the Power Purchase Agreement between the Parties of even date herewith beginning with the month after that Project's Final Project Completion date through and including the month of the Project's Put or Call Closing date. Customer is not obligated to pay Tenant any Power Purchase Payments after the Put or Call Closing date through the end of the Term for that Project as specified in the Power Purchase Agreement. Customer shall indemnify, defend and hold Tenant harmless from all third-party claims arising out of Customer's ownership or operation of the Energy System as of the date of the transfer and assignment to Customer, subject to Customer's right not to indemnify Tenant or contribute to costs or damages incurred by Customer due to Tenant's negligence, gross negligence or intentional misconduct prior to transfer of ownership or operation of the Energy System.

5. **Miscellaneous**.

a. **Subordination to Utility Rebate Agreement**. No portion of this Agreement is intended to conflict with any Utility Rebate Agreements (the "**Utility Rebate Agreements**") to which Tenant or Customer is a party. In the case of a conflict between the terms or conditions of this Agreement and the Utility Rebate Agreements, the terms and conditions of Utility Rebate Agreements shall control. The utility, or its successors and assigns, is a third-party beneficiary of the provision of this paragraph. Nothing in this Agreement shall prevent the utility, from fully enforcing the terms and conditions of Utility Rebate Agreements.

b. **Relationship of the Parties**. The Parties shall for all purposes be considered independent contractors with respect to each other, and neither shall be considered an employee, employer, agent, principal, partner or joint venturer of the other.

c. **Entire Agreement**. This Agreement and all schedules, exhibits and attachments hereto, together with any agreement reference herein, constitute the entire agreement and understanding of the Parties relative to the subject matter hereof. The Parties have not relied upon any promises, representations, warranties, agreements, covenants or undertakings, other than those expressly set forth or referred to herein. This Agreement replaces and supersedes any and all prior oral or written agreements, representations and discussions relating to such subject matter.

d. **Survival of Representations**. All representations, warranties, covenants and agreements of the Parties contained in this Agreement, or in any instrument, certificate, exhibit or other writing provided for in it, shall survive the execution of this Agreement and the consummation of the transactions contemplated herein.

e. **Amendment**. This Agreement may be amended or modified only by a writing executed by the Parties to this Agreement. No custom or practice of the Parties at variance with the terms hereof shall have any effect.

f. **Notices**. All notices to be given under this Agreement shall be in writing and shall be effectively given upon personal delivery, facsimile or email transmission (with confirmation of receipt), delivery by overnight delivery service or three days following deposit in the United States Mail (certified or registered mail, postage prepaid, return receipt requested).

g. **No Delay**. No delay or failure on the part of any Party hereto to exercise any right, power or privilege hereunder shall operate as a waiver thereof.

h. **Force Majeure**. Neither Party will be liable to the other Party for any delay, error, failure in performance or interruption of performance resulting from causes beyond its reasonable control, including without limitation fires, flood, accidents, explosions, sabotage, strikes or other labor disturbances, civil commotion, riots, invasions, wars, acts of God, terrorism or any cause (whether similar or dissimilar to the foregoing) beyond the reasonable control of the Party.

i. **Governing Law / Venue**. This Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota without regard to its conflicts of laws principals. Any lawsuit brought in connection with this Agreement shall be brought only in a court of general jurisdiction in Hennepin County, Minnesota.

j. **Severability**. The provisions of this Agreement are severable. If any part of this Agreement is rendered void, invalid or unenforceable, such rendering shall not affect the validity and enforceability of the remainder of this Agreement.

k. **Successors and Assigns**. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns. Neither Party shall assign this Agreement, or any portion thereof, without the prior written consent of the other Party. Any attempted assignment or transfer without such prior written consent of the other Party shall be of no force or effect. As to any permitted assignment: (a) reasonable prior notice of any such assignment shall be given to the other Party; and (b) any assignee shall expressly assume the assignor's obligations hereunder, unless otherwise agreed to by the other Party in writing. Notwithstanding the foregoing, as may be required for Tenant to avoid being classified as a Public Utility under Minnesota Statutes Chapter 216B.02, Subd. 4., or to leverage tax benefits as tax owner, Tenant may, at its sole discretion, assign and/or sublease all or part of its full interest under the Lease Agreement to a controlled affiliate of Tenant, assign its rights under the Power Purchase Agreement a controlled affiliate of Tenant, assign its rights under this Agreement to a controlled affiliate of Tenant, or assign this Agreement in connection with any sale of any or all of its Assets to a third party or Bank.

l. **Time is of the Essence**. Time is of the essence with respect to all of the terms of this Agreement.

[SIGNATURE PAGE FOLLOWS]

The Parties acknowledge they have read this Agreement, understand it and agree to be bound by its terms and conditions as of the date first set forth above.

Tenant
Green2 Solar Leasing, LLC

By: _____
Rich Ragatz, its Vice President

Dated: _____

Customer
City of Hopkins

By: _____
Mike Mornson, its City Manager

Dated: _____

SOLAR ARRAY REMOVAL & REINSTALLATION AGREEMENT

This **Solar Array Removal and Reinstallation Agreement** (this "**Agreement**"), dated **December 12, 2019**, is made by and between **IDEAL ENERGIES, LLC** ("**Seller**") and the **City of Hopkins** (the "**Customer**").

After the Customer has installed and started up its Solar Array(s), and the Customer subsequently repairs or replaces its roof, the Customer desires that the Seller disassemble the Solar Array to permit said roof work and re-install the Solar Array in its original location as further described below in **Section 3**.

1. **Fee for Services**: For each Solar Array located at the Sites (the '**Sites**') listed in **Section 3**, Seller will perform the Services described in **Section 4** (the '**Services**') for the all-inclusive fee listed below:

    a. $0.30 per Watt DC years 1 to 5
    b. $0.32 per Watt DC year 6
    c. $0.34 per Watt DC year 7
    d. $0.36 per Watt DC year 8
    e. $0.38 per Watt DC year 9
    f. $0.40 per Watt DC year 10

    The above fees do not include any of the following costs, which if incurred by Seller in performing the Services, shall be added to the Fixed fee (at Seller's cost) and paid by Customer in addition to the Fixed fees described above.

    a. Building Permits, Electrical Permits or Structural Engineering certification of the new roof.
    b. Costs associated with any additional roofing materials required by the roof manufacturer for Solar Arrays installed with their roofing system.
    c. If Customer has assigned a rebate to the Seller or its affiliated company in conjunction with the financing of a Solar Array installed by Seller, Customer will pay the assignee the amount of rebate lost due to the Solar Array being non-operational while the roof work is performed. Payments will be based on the energy produced for similar systems during the time period that the work is performed, and the unit rebate for the Customer's Solar Array.

2. **Payment for Services**: Payments are due net (30) days following the start-up of the system as described in **Section 4g** below.

3. **Sites**:

    - **Fire Station**: 101 17th Avenue South Hopkins, MN 55343 (54 kW DC)
    - **Public Works**: 11100 Excelsior Boulevard Hopkins, MN 55343 (186.4 kW DC)
    - **Ice Arena**: 11000 Excelsior Boulevard Hopkins, MN 55343 (133.2 kW DC)

4. **Services Description**: The Seller will perform the following Services:

    a. Following Customer's providing Seller its structural report relating to the installation of the solar array, Seller will work with the structural engineer of record to obtain certification that the solar array may be reinstalled on the new roofing system in accordance their original report.
    b. Seller will place a lock on the main AC disconnect to de-energize the solar array and disconnect it from the buildings electrical service.
    c. Seller will disassemble and palletize the solar array components ("**Palletized Solar Parts**").
    d. Where roof is replaced in sections, Customer will instruct its roofer to provide an area of roof that is available for storing the Palletized Solar Parts (the "**Staging Area**"). Seller will locate the Palletized Solar Parts in the Staging Area while roof work is performed.
    e. If the Customer is not able to provide a Staging Area and the Palletized Solar Parts need to be moved to the ground, Seller will instruct its roofer to utilize its crane to remove the Palletized Solar Parts from the roof before roof work is performed, and to replace the palletized parts on the roof following the roofer's completion of the roof work. If Customer's roofer cannot provide a required crane, and Seller is required to provide a crane for performing the Services, the cost for the crane will be charged to Customer (at Seller's expense with no markup) in addition to the fees specified in **Section 1**.
    f. After the roof work is performed and the Palletized Parts are craned to the Staging Area, the Seller will reassemble the Solar Array in its original installation location.
    g. After reinstallation, Seller will start-up the solar array.

5. **Roof Replacement System**: When Customer replaces its roof, Customer agrees that it will require its roofer to install a roofing system that conforms with the following conditions:

    a. Customer is responsible to consult with a Roofing Professional and ensure the reinstallation of the Solar Array will not impact their roof warranty.

b. If an existing roofing system is replaced with a different type of roofing system, a roofing system will be installed such that:

   i. The new roofing system's surface will have an equal or greater coefficient of friction so that additional ballast is not required to immobilize the Solar Array, and

   ii. The new roofing system's PSF is of equal or lesser PSF than the original roof allowing the Solar Array(s) to be reinstalled in its or original location with the original equipment.

6. **Conditions**:

   a. Customer will provide Seller with at least **90 days** prior notice before roof replacement begins.
   b. Customer will provide Seller at least **14 days** prior notice of the date the roof work is completed.
   c. For each Solar Array at a Site listed in **Section 3**, Seller will perform the Services during the term of this Agreement if Customer provides the required notice during the period beginning on the Solar Array's original start-up date and ending ten (10) years later, and the Services provided by Seller can be provided within three months following the termination of this Agreement.
   d. Any and all damage to the Solar Equipment caused by Customer or Customer's roofer or their subcontractors is the sole responsibility of the Customer.
   e. Seller will provide Customer with proof of insurance prior to performing the Services.

7. **Miscellaneous**:

   a. **Complete Agreement; Modification** This Agreement and the documents referred to herein constitute the entire agreement between Subcontractor and Ideal with respect to the subject matter hereof and incorporate all previous and contemporaneous oral and written understandings between the parties with respect thereto, except as may be otherwise provided by the contracts for Services contemplated by this agreement. No change to the terms of this Agreement shall be effective unless approved in writing by authorized representatives of both parties.
   b. **Governing Law; Venue All** Services performed in accordance with this Agreement and the General Contract documents, shall be governed by the laws of the state of Minnesota, without regard to its choice of law provisions. If the application of Minnesota law is prohibited by statute, then this Agreement and the Services shall be governed by the law of the state in which the project is located. Any suit or other legal action arising out of or related to this Agreement or the Services performed in accordance with this Agreement shall be brought only in Minneapolis, Minnesota.
   c. **Notice Any** notice or communication (**"Notice"**) provided in this Agreement given by either party must be in writing. Notice given by depositing the same in the United States mail, postage prepaid, registered or certified, and addressed to the party to be notified with return receipt requested, shall be effective from and after the expiration of three (3) days after such Notice is deposited. Notice given in any other manner shall be effective only if and when received by the party to be notified.
   d. **Severability** Any term or provision of this Agreement that is invalid or unenforceable in any situation in any jurisdiction will not affect the validity or enforceability of the remaining terms and provisions of this Agreement or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction.
   e. **Amendment; Waiver** No amendment of any provision of this Agreement will be valid unless the same is in writing and signed by the parties. No waiver by any party of any default, misrepresentation or breach of warranty or covenant under this Agreement, whether intentional or not, will be deemed to extend to any prior or subsequent default, misrepresentation or breach of warranty or covenant under this Agreement.

The Parties acknowledge they have read this Agreement, understand it and agree to be bound by its terms and conditions as of the date first set forth above.

Ideal Energies, LLC

By: _____
Chris Psihos, its President

Date: _____

Customer
City of Hopkins

By: _____
Mark Mornson, its City Manager

Dated: _____

December 17, 2019 **Council Report 2019-127**

City of Hopkins

2020 BUDGET MEETING,
2020 TAX LEVY AND GENERAL AND SPECIAL
REVENUE FUND BUDGETS

Proposed Action

Staff recommends adoption of the following motion: Move to Adopt Resolution 2019-096 approving the 2020 tax levy and adopting the 2020 General and Special Revenue Fund budgets.

Adoption of this motion will result in staff forwarding the appropriate documentation to Hennepin County for inclusion on property taxes for 2020 and will approve the 2020 General and Special Revenue Fund budgets.

Overview

The City Council and staff have held meetings and work sessions during 2019 to prepare for the 2020 general fund budget and 2020 tax levy. City Council reviewed and gave input related to the Capital Improvement Plan, the Equipment Replacement Plan and updated the Financial Management Plan which along with a series of program and budget discussions were instrumental in the development of the 2020 budgets.

The budget in its current form recommends spending in the general fund at $15,361,716 and a total tax levy of $17,529,684. The recommended levy has been reduced by $503,254 from the preliminary levy. In addition, a proposed HRA levy of $367,951 is also being recommended.

Staff is recommending that the council adopt the resolution approving the tax levy for 2020 and setting the 2020 general and special revenue fund budgets.

Primary Issues to Consider

- The 2020 levy must be certified to the Hennepin County by December 30, 2019.

Supporting Information

- Tax Levy and Budget Overview
- Resolution 2019-096
- 2020 General Fund and Special Revenue Fund Budgets
- 2020 Tax Levy Summary
- Association of MN Counties – "Why Property Taxes Vary from Year to Year"
- Power point presentation slides

Nick Bishop, CPA
Finance Director

Financial Impact: $17,529,684 Budgeted: Y/N Y
Source: Taxes & other revenues
Related Documents (CIP, ERP, etc): 2020 Budget, CIP, ERP,
Notes:

TAX LEVY AND BUDGET OVERVIEW

The levy being proposed is $17,529,684 a 9.71% increase from 2019. The levy provides for the continuation of outstanding customer service by City workers, exceptional police and fire protection and helps maintain a vibrant, authentic downtown.

City property taxes for a median value home ($276,000) in Hopkins are estimated to be $1,823 or an $88 increase from 2019. The two largest areas supported by the levy are public safety and capital projects & debt. This is a breakdown of estimated City property taxes:

Public Safety	$	645	35.4%
General Government	$	261	14.3%
Public Works	$	220	12.1%
Parks and Recreation	$	172	9.4%
Arts Center	$	34	1.9%
Pavilion	$	30	1.6%
Capital projects & debt	$	461	25.3%
Total	$	1,823	100.0%

Public Safety is comprised of police, fire and inspection departments. In total they make up 35.4% of the levy.

The Police Department's Mission is to serve the community with Honesty, Integrity and Respect. They accomplish this through community engagement, relationship building and providing education and youth initiatives. They also responded to over 26,000 calls for service in 2018. They work diligently to prevent and deter crime.

The Fire Department makes a positive difference everyday by providing quality fire response, prevention services, emergency medical, hazardous materials handling and emergency preparedness. In 2018, they responded to over 1,500 calls, which is over an 8% increase over the previous year. Their average response time is 4.2 minutes.

Inspections – this is the smallest department within public safety. The Inspections Department budget is mostly funded through charges for service. The 2020 budget includes revenues of $572,700 and expenditures of $863,296. The Inspections Department is 1.3% of the tax levy.

Capital projects and debt is the next largest portion of the levy making up 25.3%. It supports street reconstruction, capital projects at municipal buildings, equipment purchases and the Burnes Park improvement project.

> The City is completing an aggressive street reconstruction plan paid for through bond issuance, special assessments and user charges for water, sewer and storm-sewer. All streets in Hopkins are planned to be reconstructed in the next 10-12 years. Continuing this program ensures the future preservation of our streets and helps maintain the quality of life Hopkins residents have come to expect.
>
> In order to fully realize the benefits of Southwest Light Rail the city invested in 8th Avenue and created the Artery. The Artery is a bike, pedestrian and vehicle connection and community space between a future light rail transit station and the City's historic downtown. The $5.7 million project leveraged $2.6 million of grants from Metropolitan Council, Hennepin County and Three Rivers Park District.
>
> The City has also invested in the Blake Road Corridor. The City is adding several pedestrian friendly amenities including: multi-use trails, landscaped boulevards and upgraded street lighting. The Road will also be upgraded to handle future traffic and development demands. The $16 million project will receive reimbursements from Hennepin County ($8 Million) and utilize Municipal State Aid of ($3 million).
>
> The City's share of the Artery project and Blake Road reconstruction were funded with debt. They also took advantage of limited outside funding sources in order to make needed improvements. Delaying the projects would likely result in higher costs and a larger City-share of the overall cost.

The Arts Center levy being proposed is $325,255 or 1.9% of the total levy. Currently, the Arts Center has a deficit balance of $1.2 million owed to the City's General Fund that has accrued since its opening in 1997. This levy includes $60,000 to pay back the general fund. The remaining levy amount of $265,225 is needed to maintain current operations. The City believes that the Arts Center was an excellent economic development tool that helped make Mainstreet vibrant and authentic. With this levy, the Arts Center will continue to be an asset to the Community.

The Pavilion levy being proposed is $290,000 or 1.6% of the levy. In 2018, the Pavilion was upgraded and expanded. The City needed to complete a project to replace a 27-year old refrigeration system that was unreliable, developing leaks and being phased out by the EPA. The City was able to increase the scope of the project to include remodeled locker rooms, shower rooms, expanded lobby, remodeled office, remodeled concession stand and expanded restroom facilities after receiving contributions from Hopkins School District ($1.0 Million) and Hopkins Youth Hockey Association ($1.0 Million). The project still required bond proceeds of $3.1 million to complete. The debt service for the bonds will be paid with a Pavilion levy over the next 15 years.

CITY OF HOPKINS

Hennepin County, Minnesota

RESOLUTION NO. 2019-096

RESOLUTION APPROVING 2020 TAX LEVY AND ADOPTING THE 2020 GENERAL AND SPECIAL REVEUNE FUND BUDGETS

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF HOPKINS, MINNESOTA,

That the following sums of money be levied for the current year collectible in 2020 upon the taxable property in the City of Hopkins, for the following purposes.

General Levy		
General Operations		$13,279,530
Special Levies		
Debt Levies		
2010A GO Improvement Bonds	95,000	
2012A GO Capital Improvement Bonds	225,000	
2012B GO Bonds	160,000	
2012B Equipment Certificates	94,710	
2013A GO Bonds	91,078	
2014A GO Bonds	97,000	
2014B GO Refunding Bonds	670,000	
2015A GO Street Reconstruction Bonds	250,000	
2015B GO Tax Abatement Bonds	115,000	
2016A GO Improvement Bonds	100,000	
2016B GO Tax Abatement Bonds	33,841	
2016C Equipment Certificates	241,395	
2017A GO Street Reconstruction Bonds	973,398	
2017B GO Tax Abatement Bonds	160,330	
2018A GO Bonds	456,417	
2018A Equipment Certificates	81,112	
2019A GO Bonds	405,873	
Subtotal Special Levies		4,250,154
Total Levy		**$17,529,684**
HRA/EDA Levy		
Housing & Redevelopment Authority Levy		**$ 367,951**

This levy is made based on current law and the **2020 General Fund Budget** of $15,361,716.

BE IT FURTHER RESOLVED, that the following amounts are budgeted for the Special Revenue Funds:

State Chemical Assessment	$65,000	TIF 2.9 Oaks of Main	$5,000
Economic Development	$430,345	TIF 2.11 Super Valu	$1,750,000
TIF 1.2 Entertainment District	$15,000	5th Avenue Flats	$2,000
Parking	$150,690	TIF 1.4 – Marketplace & Main	$180,000
Communication (Cable TV)	$238,656	TIF 1.5 – Moline	$94,500
Depot Coffee House	$307,412	Arts Center	$1,125,836
TIF 2.6 Handicapped Housing Dev	$7,500		

BE IT FURTHER RESOLVED, that the City Clerk is hereby ordered and directed to transmit a certified copy of this resolution to the County Auditor of Hennepin County, Minnesota.

Adopted by the City Council of the City of Hopkins on this this 17th day of December, 2019.

_____

Jason Gadd, Mayor

ATTEST:

_____

Amy Domeier, City Clerk

City of Hopkins
General Fund Revenue Budget
For the Year Ending December 31, 2020

Proposed with Reductions
December 17, 2019

Department	2019 Budget	2020 Budget	% Increase (Decrease)
Property Taxes	**11,821,624**	**12,564,305**	**6.28%**
Intergovernmental Revenue			
PERA Aid	20,510	-	
Local Government Aid	556,619	734,946	
Intergovernmental Revenue - Other	590,000	618,000	
Total Intergovernmental Revenue	**1,167,129**	**1,352,946**	**15.92%**
Licenses, Permits & Fines			
Court Fines & Penalties	176,500	177,750	
Building Permits & Inspections	440,700	461,300	
Inspection Fines & Citations	8,000	8,000	
City Clerk - Business Licenses	7,000	7,000	
PD - Liquor, Animal Licenses & Penalties	89,100	102,300	
Fire - Licenses & Permits	1,100	1,100	
Public Works - Licenses & Permits	19,415	19,415	
Planning & Zoning - Licenses & Permits	3,500	1,000	
Total Licenses, Permits & Fines	**745,315**	**777,865**	**4.37%**
Charges for Service			
Finance Department	9,750	5,500	
Assessing	3,000	3,000	
Inspections	104,360	105,900	
Police	25,000	35,000	
Fire	10,500	10,500	
Public Works	4,150	4,150	
Activity Center	94,000	87,000	
Total Charges for Service	**250,760**	**251,050**	**0.12%**
Miscellaneous Revenue			
Franchise Fees	290,000	296,200	
Miscellaneous	15,250	15,250	
Finance Department	5,100	1,200	
Police	2,000	2,000	
Fire	3,500	3,500	
Public Works	5,300	5,300	
Activity Center	14,500	32,100	
Community Development	90,000	60,000	
Total Miscellaneous	**425,650**	**415,550**	**-2.37%**
Total Revenues	**14,410,478**	**15,361,716**	**6.60%**

City of Hopkins
General Fund Revenue Budget
For the Year Ending December 31, 2020

Proposed with Reductions
December 17, 2019

Department	2019 Budget	2020 Budget	% Increase (Decrease)
City Council	96,131	97,630	1.56%
Administrative Services	797,580	854,893	7.19%
Finance	351,173	400,495	14.04%
Legal	175,000	175,000	0.00%
Municipal Building	392,396	404,014	2.96%
Assessing	226,682	221,835	-2.14%
City Clerk	183,243	237,513	29.62%
Inspections	818,588	863,296	5.46%
Police	5,609,105	5,977,982	6.58%
Fire	1,399,178	1,483,177	6.00%
Public Works	3,221,137	3,443,017	6.89%
Recreation	269,279	285,279	5.94%
Activity Center	463,416	497,843	7.43%
Planning & Zoning	217,372	222,382	2.30%
Community Development	101,498	108,160	6.56%
Tuition Reimbursement	18,700	19,200	2.67%
Contingency	50,000	50,000	0.00%
Transfer to Other Funds	20,000	20,000	0.00%
Total Expenditures	**14,410,478**	**15,361,716**	**6.60%**

City of Hopkins **December 17, 2019**
Special Revnue Funds Budget
For the Year Ending December 31, 2020

Revenues

Fund No.	Fund	2019 Budget	2020 Budget	% Increase (Decrease)
203	State Chemical Assessment	60,000	65,000	8.33%
204	Economic Development	395,154	467,951	18.42%
211	TIF 1.2 Entertainment District	30,000	30,000	0.00%
214	Parking	152,650	154,524	1.23%
217	Communications (Cable TV)	255,235	238,014	(6.75%)
219	Depot Coffee House	362,600	307,412	(15.22%)
226	TIF 2.6 Handicapped Housing Dev.	15,000	21,000	40.00%
229	TIF 2.9 Oaks of Main	-	1,500	100.00%
231	TIF 2.11 Super Valu	2,408,000	2,217,000	(7.93%)
232	5th Avenue Flats	-	-	0.00%
233	TIF 1.4 - Marketplace & Main	188,000	185,000	(1.60%)
234	TIF 1.5 - The Moline	98,000	97,000	(1.02%)
250	Arts Center	988,582	1,185,836	19.95%

Expenditures

Fund No.	Fund	2019 Budget	2020 Budget	% Increase (Decrease)
203	State Chemical Assessment	60,000	65,000	8.33%
204	Economic Development	390,519	430,345	10.20%
211	TIF 1.2 Entertainment District	14,500	15,000	3.45%
214	Parking	141,783	150,690	6.28%
217	Communications (Cable TV)	482,459	238,656	(50.53%)
219	Depot Coffee House	347,925	307,412	(11.64%)
226	TIF 2.6 Handicapped Housing Dev.	7,500	7,500	0.00%
229	TIF 2.9 Oaks of Main	-	5,000	100.00%
231	TIF 2.11 Super Valu	1,750,053	1,750,000	(0.00%)
232	5th Avenue Flats	2,000	2,000	0.00%
233	TIF 1.4 - Marketplace & Main	176,000	180,000	2.27%
234	TIF 1.5 - The Moline	92,000	94,500	2.72%
250	Arts Center	1,005,600	1,125,836	11.96%

City of Hopkins
2020 Tax Levy

Proposed with Reductions
December 17, 2019

Purpose	Actual FY2019	Proposed FY2020	% Increase (Decrease)
General Operations			
General Fund	11,736,624	12,479,305	6.33%
Capital Levy	100,000	75,000	-25.00%
Arts Center	257,500	325,225	26.30%
Pavilion Fund	40,383	290,000	618.12%
Equipment Replacement	230,000	110,000	-52.17%
Total General Operations	12,364,507	13,279,530	7.40%
Debt Levy			
Debt Previously Issued	3,613,429	3,844,281	6.39%
Debt Issued in 2019	-	405,873	100.00%
Total Debt Levy	3,613,429	4,250,154	17.62%
Total Levy	15,977,936	17,529,684	9.71%

Fourteen Reasons

WHY PROPERTY TAXES VARY FROM YEAR TO YEAR

1. THE MARKET VALUE OF A PROPERTY MAY CHANGE.

- Each parcel of property is assessed at least once every five years and a sales ratio study is done to determine if the property is assessed similarly to like properties. If not, the Commissioner of Revenue may issue an 'order' that would affect the taxable value of a parcel.
- Additions and improvement made to a property generally increases its market value.

2. THE MARKET VALUE OF OTHER PROPERTIES IN YOUR TAXING DISTRICT MAY CHANGE, SHIFTING TAXES FROM ONE PROPERTY TO ANOTHER.

- If the market value of a property increases more or less than the average increase or decrease in a taxing district, the taxes on that property will also change.
- New construction in a taxing district increases the tax base and will affect the district's tax rate.

3. THE STATE GENERAL PROPERTY TAX MAY CHANGE.

- The state legislature directly applies a State General Property Tax to commercial/industrial and season/recreational property classes.

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A publication of the Association of Minnesota Counties

4. THE CITY BUDGET AND LEVY MAY CHANGE.

- Each year, cities review the needs and wants of their citizens and how to meet those needs and wants. This is called 'discretionary spending' in the city budget. Also included in the budget is non-discretionary spending which is required by state and federal mandates and court decisions and orders.

5. THE TOWNSHIP BUDGET AND LEVY MAY CHANGE.

- Each March, townships set the levy and budget for the next year.

6. THE COUNTY BUDGET AND LEVY MAY CHANGE.

- Each year, counties review the needs and wants of their citizens and how to meet those discretionary needs and wants. In addition, also included in the county budget is non-discretionary spending which is required by state and federal mandates and court decisions and orders. As much as sixty to eighty-five percent of the county expenditures are used to deliver mandated services.

7. THE SCHOOL DISTRICT'S BUDGET AND LEVY MAY CHANGE.

- The Legislature determines basic funding levels for K-12 education and mandates services that schools must perform. On average, approximately seventy percent of school costs are paid by the state.
- Local school districts set levies for purposes including safe school and community education, etc.

8. A SPECIAL DISTRICT'S BUDGET AND LEVY MAY CHANGE.

- Special districts such as the Metropolitan Council, hospital districts, watershed districts, drainage districts, etc. set levies to balance their budgets.

9. SPECIAL ASSESSMENTS MAY BE ADDED TO YOUR PROPERTY TAX BILL.

- Water lines, curb and gutter, and street improvements that directly benefit your property may be funded, in whole or in part, through a special assessment that is added to your tax bill.

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10. VOTERS MAY HAVE APPROVED A SCHOOL, CITY/TOWNSHIP, COUNTY, OR SPECIAL DISTRICT REFERENDUM.

- Local referendums may be held for local government construction projects, excess operating levies for schools or many other purposes.
- Referendum levies may be spread on the market value or the tax capacity of a property depending on process and type of referendum levy.

11. FEDERAL AND STATE MANDATES MAY HAVE CHANGED.

- Both the state and federal governments require local governments to provide certain services and follow certain rules. These mandates often require an increase in the cost and level of service delivery.

12. AID AND REVENUE FROM THE STATE AND FEDERAL GOVERNMENTS MAY HAVE CHANGED.

- Each year the state legislature reviews and adjusts the level of funding for a variety of aids provided to local governments including Local Government Aid and County Program Aid. The formulas for how aid is determined and distributed among local governments may have changed.
- While direct aid and revenue from the federal government to local governments has declined greatly in recent years, federal revenue continues to be a key portion of the local government revenue stream and that revenue stream may have changed.

13. THE STATE LEGISLATURE MAY HAVE CHANGED THE PORTION OF THE TAX BASE PAID BY DIFFERENT TYPES OF PROPERTIES.

- A change in class rates will require a change in the tax rate to raise the same amount of money.

14. OTHER STATE LAW CHANGES MAY ADJUST THE TAX BASE.

- Fiscal disparities, personal property taxes on utility properties, limited market value, and tax increment financing are example of laws that affect property taxes.

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Glossary of Terms

CATEGORICAL AID: Aid given to a local unit of government to be used only for a specific purpose.

CIRCUIT BREAKER: See "Property Tax Refund."

CLASS RATES: The percent of market value set by state law that establishes the property's tax capacity subject to the property tax.

COUNTY PROGRAM AID: State property tax relief aid to counties, distributed with a formula based on needs (households on foodstamps, age of the population, number of serious crimes) and tax base equalization for counties with smaller tax bases.

EDUCATION AID: The total amount of state dollars paid for K-12 education. This aid is paid to the school districts.

FISCAL DISPARITIES: A program in the Twin Cities metropolitan area and on the iron range in which a portion of the commercial and industrial property value of each city and township is contributed to a tax base sharing pool. Each city and township then receives a distribution of property value from the pool based on market value and population in each city.

GENERAL PURPOSE AID: Aid given to units of government to be used at their own discretion. Examples are Local Government Aid and County Program Aid.

HIGHWAY AID: Motor fuels tax and license tab money the state distributes to counties, cities and townships for highways and bridges.

HOMESTEAD: A residence occupied by the owner.

INDIVIDUAL INCOME TAX: A state tax on the income of residents and non-residents with Minnesota sources of income that is deposited into the state general fund.

LEVY: The imposition of a tax, associated with the property tax.

LEVY LIMIT: The amount a local unit of government is permitted to levy for specific services under state law.

LIMITED MARKET VALUE: A state imposed limit on property value increases for the purpose of calculating property taxes.

LOCAL GOVERNMENT AID (LGA): A state government revenue sharing program for cities with low property wealth or high service burdens that is intended to provide an alternative to the property tax.

LOCAL SALES TAX: A local tax, authorized by the state, levied on the sale of goods and services to be used for specific purposes by the local government.

LOCAL TAX RATE: The tax rate usually expressed as a percentage of tax capacity, used to determine the property tax due on a property.

MARKET VALUE: An assessor's estimate of what property would be worth if it were sold.

MARKET VALUE AGRICULTURE CREDIT: A state credit to reduce the property tax paid by agricultural homesteads to the local taxing jurisdiction.

MARKET VALUE HOMESTEAD CREDIT: The Market Value Homestead Credit (MVHC) program was eliminated during the 2011 Special Session for taxes payable in 2012 and beyond. The credit was replaced with a market value exclusion. This guide describes the (MVHC) reimbursement program. The program was designed to provide state-paid property tax relief to owners of certain qualifying homestead property. This program has been replaced by the Market Value Homestead Exclusion (defined below).

MARKET VALUE HOMESTEAD EXCLUSION: The exclusion reduces the taxable value of qualifying homesteads. Despite the decreased taxable value, taxes will increase on most properties including apartments and businesses and is independent of any action taken by local governments. The exclusion provides for a portion of each home's market value to be excluded from its value for property tax calculations. The amount of value excluded is directly proportional to the MVHC the home received under the old law. In this way, each home contributes a smaller amount to each taxing jurisdiction's tax base. The tax rate tends to be a little higher because of the reduced tax base, which is why taxes increase for the other types of property. The tax burden on any given homestead could be lesser or greater depending upon the mix of properties in the jurisdiction and the level of the tax rate.

PROPERTY TAX: A tax levied on any kind of property.

PROPERTY TAX REFUND: A partial property tax refund program for those who have property taxes out of proportion with their income. This program is available to homeowners and renters.

SALES RATIO STUDY: A study conducted by the Department of Revenue of open market property sales, which is then compared to local assessments to ensure that local assessments adequately reflect the market.

STATE GENERAL PROPERTY TAX: A state-imposed property tax on commercial, industrial, and seasonal recreational properties.

STATE SALES TAX: A state tax (6.5%) levied on the sale of goods and services that is deposited into the state general fund.

TAX CAPACITY: The valuation of property based on market value and class rates, on which property taxes are determined.

Revised December 2011

ASSOCIATION of MINNESOTA COUNTIES
Proudly Serving Counties Since 1909.

Association of Minnesota Counties
125 Charles Avenue
Saint Paul, MN 55103-2108
Main Line/Switchboard: 651.224.3344 Fax: 651.224.6540
www.mncounties.org

Continued Public Meeting for the 2020 Levy and Budget

December 17, 2019

City of Hopkins Minnesota

Purpose of this Meeting

- Discuss the Financial Management Plan and budget process
- Discuss the City's Tax Levy and how it impacts your taxes
- Hear public comment for residents who were unable to speak on December 3rd
- Will NOT address individual property valuations

Financial Management Plan

- Long range fiscal plan for tax supported funds
- Implemented with 2015 Budget Cycle
- Updated annually
- Used to inform budget decisions

2020 Budget Process

- Ten meetings to discuss 2020 Budget & Tax Levy
  - January 11th, Goal Setting Retreat – Financial Management Plan
  - June 11th, Financial Management Plan Update
  - August 13th, Preliminary General Fund Budget
  - September 3rd, Review 2020 General Fund Budget & Tax Levy

2020 Budget Process

- Ten Meetings to discuss 2020 Budget & Tax Levy (continued)
  - September 17th, Approved Proposed 2020 Levy and General Fund Budget
  - October 8th, 2020 Budget Update
  - November 12th, Continued Review of 2020 General Fund Budget and Tax Levy
  - November 26th, Continued 2020 General Fund Budget & Tax Levy

2020 Budget Process

- Ten Meetings to discuss 2020 Budget & Tax Levy (continued)
  - December 3rd, 2020 Budget Meeting, 2020 Tax Levy and General Revenue Fund Budget
  - December 17th, Continuation of 2020 Budget Meeting, 2020 Tax Levy and General Fund Budget

Proposed 2020 Levy

Purpose	Actual FY2019	Proposed FY2020	% Increase (Decrease)
General Operations			
General Fund	11,736,624	12,479,305	6.33%
Capital Levy	100,000	75,000	-25.00%
Arts Center	257,500	325,225	26.30%
Pavilion Fund	40,383	290,000	618.12%
Equipment Replacement	230,000	110,000	-52.17%
Total General Operations	12,364,507	13,279,530	7.40%

Proposed 2020 Levy

Purpose	Actual FY2019	Proposed FY2020	% Increase (Decrease)
Debt Levy			
Debt Previously Issued	3,613,429	3,844,281	6.39%
Debt Issued in 2019	-	405,873	100.00%
Total Debt Levy	3,613,429	4,250,154	17.62%

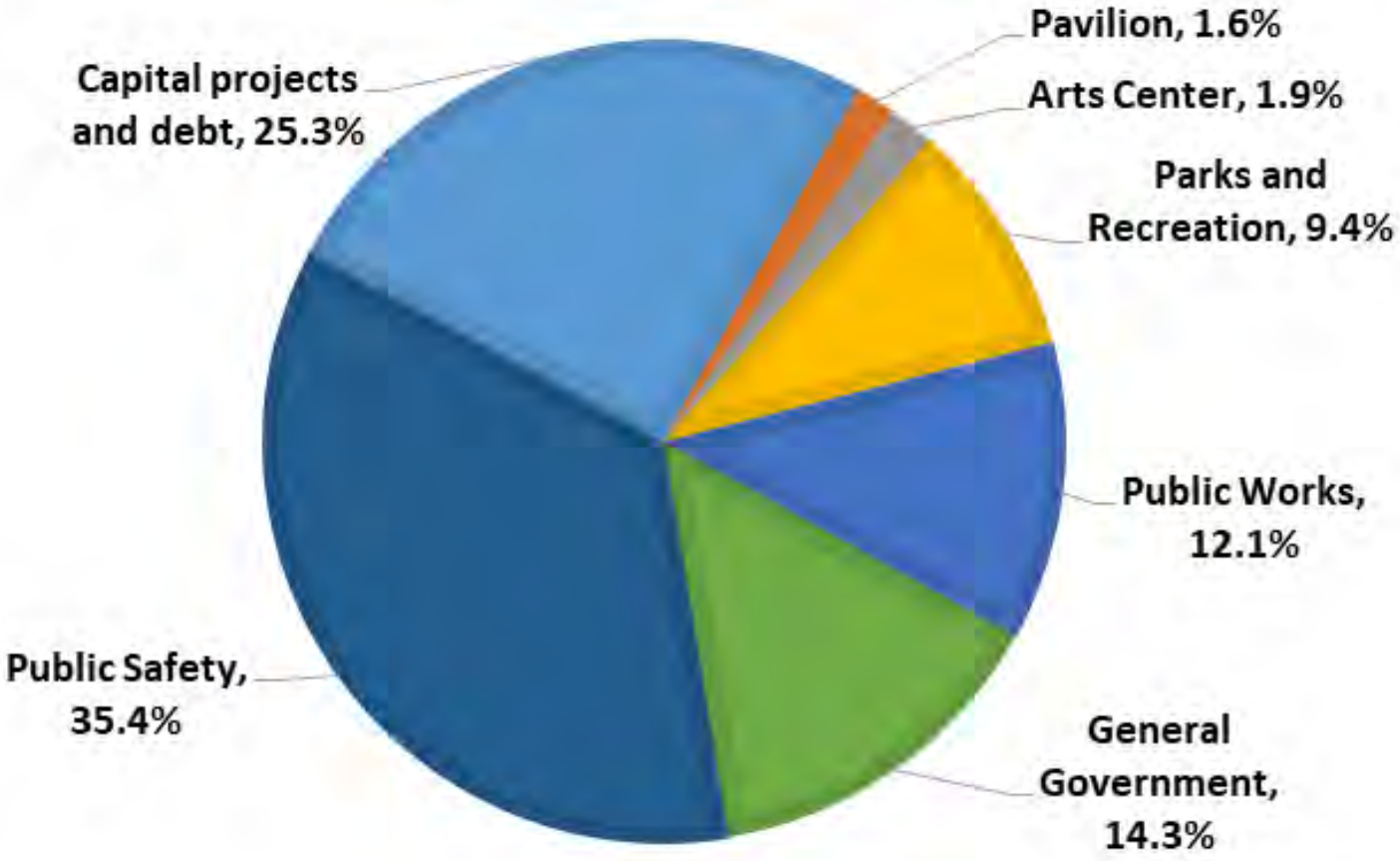
- 2019 Street Project (Cambridge/Oxford)
- City Hall – also funded through Franchise Fees
- City portions of Blake Road
- City utility work done by Southwest Light Rail Project

2020 Proposed Levy

Purpose	Actual FY2019	Proposed FY2020	% Increase (Decrease)
Total Levy	15,977,936	17,529,684	9.71%

- Median Value Home ($276,000)
  - City Taxes - $1,823
    - Increase of $88 or 5.1%

PROPOSED 2020 LEVY



Next Steps

- Approve Final Budget & Tax Levy by December 30th

- Continue Review of Budget Process and Financial Management Plan on January 21st

December 17, 2019 Council Report 2019-129

CITY

APPROVE RESOLUTION 2019-097 APPROVING THE MEDIATED SETTLEMENT AND THE ADDENDUM TO THE MEDIATED SETTLEMENT AGREEMENT AND RELEASE BETWEEN THE CITY OF HOPKINS, THE HOUSING AND REDEVELOPMENT AUTHORITY IN AND FOR THE CITY OF HOPKINS, DORAN 810 LLC AND DORAN 810 APARTMENTS, LLC

AND

APPROVE RESOLUTION 2019-098 APPROVING THE AMENDED AND RESTATED DEVELOPMENT AGREEMENT BETWEEN THE CITY OF HOPKINS, THE HOUSING AND REDEVELOPMENT AUTHORITY IN AND FOR THE CITY OF HOPKINS, DORAN 810 LLC AND DORAN 810 APARTMENTS, LLC

HRA

APPROVE RESOLUTION 530 APPROVING THE MEDIATED SETTLEMENT AND THE ADDENDUM TO THE MEDIATED SETTLEMENT AGREEMENT AND RELEASE BETWEEN THE CITY OF HOPKINS, THE HOUSING AND REDEVELOPMENT AUTHORITY IN AND FOR THE CITY OF HOPKINS, DORAN 810 LLC AND DORAN 810 APARTMENTS, LLC

APPROVE RESOLUTION 531 APPROVING THE AMENDED AND RESTATED DEVELOPMENT AGREEMENT BETWEEN THE CITY OF HOPKINS, THE HOUSING AND REDEVELOPMENT AUTHORITY IN AND FOR THE CITY OF HOPKINS, DORAN 810, LLC AND DORAN 810 APARTMENTS, LLC

Proposed Action.

1. Staff recommends that the Council approve the following motions: (A) Approve Resolution 2019-097 Approving the Mediated Settlement and the Addendum to the Mediated Settlement Agreement and Release between the City of Hopkins, the Housing and Redevelopment Authority in and for the City of Hopkins, Doran 810 LLC and Doran 810 Apartments, LLC and (B) Approve Resolution 2019-098 Approving the Amended and Restated Development Agreement between the City of Hopkins, the Housing and Redevelopment Authority in and for the City of Hopkins, Doran 810 LLC and Doran 810 Apartments, LLC.

2. Staff recommends that the HRA approve the following motions: (A) Approve Resolution 530 Approving the Mediated Settlement and the Addendum to the Mediated

Settlement Agreement and Release between the City of Hopkins, the Housing and Redevelopment Authority in and for the City of Hopkins, Doran 810 LLC and Doran 810 Apartments, LLC and (B) Approve Resolution 531 Approving the Amended and Restated Development Agreement between the City of Hopkins, the Housing and Redevelopment Authority in and for the City of Hopkins, Doran 810 LLC and Doran 810 Apartments, LLC.

Overview:

On March 4, 2016, Doran 810 LLC and Doran 810 Apartments, LLC (collectively "Doran") and City of Hopkins and Hopkins HRA (collective "City") entered into a Reimbursement and Purchase Option Agreement ("Purchase Agreement") and a Development Agreement regarding construction of an apartment complex and parking facility commonly known as The Moline. Pursuant to the Purchase and Development Agreements, Doran agreed to construct, and the City agreed to either buy or reimburse Doran for the cost of a Grade-Level Garage (the "Garage") which was to be utilized for parking for the Southwest LRT transit facility. Doran completed construction of the Garage on or around March 23, 2018. Notwithstanding the negotiation efforts of all of the parties regarding agreements for use and operation of the Garage, the closing on the purchase of the Garage did not occur as Doran and the Metropolitan Council were never able to come to a final agreement.

On July 31, 2018, Doran served the City with a Summons and Complaint alleging, among other things, that the City breached the Purchase and Development Agreements by failing and refusing to close on Garage. The Complaint sought recovery of all costs associated with the construction of the Garage along with damages incurred by Doran as a result of the delay in the closing. On August 30, 2018, the City answered Doran's Complaint and denied liability under the Purchase Agreement and the City also asserted Counterclaims against Doran alleging, among other things, that Doran had breached the terms of the Development Agreement thereby resulting in damage to the City.

To avoid the uncertainties, risks and expenses of protracted litigation, the Parties entered into a mediated settlement agreement on August 2, 2019 (the "Mediated Settlement Agreement"). Since the time of the Mediated Settlement Agreement, the parties have continued to negotiate outstanding settlement matters and settlement agreement language. Pursuant to Paragraph 2 of the Mediated Settlement Agreement, the parties have prepared the attached Addendum to the Mediated Settlement Agreement and Release which requires approval of the City Council and the HRA Board, contains mutual releases between the parties, and provides for cancellation of the Purchase Agreement. City staff, consultants and the City Attorney will provide a presentation and additional information regarding the Mediated Settlement Agreement and the Amended and Restated Development Agreement.

City staff and the City attorney recommend that the City Council and the HRA Board approve the Mediated Settlement Agreement, the Amendment to the Mediated Settlement Agreement and Release (via City Resolution 2019-097/via HRA Resolution 530) and the Amended and Restated Development Agreement (via City Resolution 2019-098/via HRA Resolution 531) and further authorizes the City Manager and the City attorney to take any and all additional steps and actions

necessary or convenient to prepare the appropriate documents and/or agreements to facilitate the approvals set forth herein.

Supporting Information:
City Resolution 2019-097 and City Resolution 2019-098.
HRA Resolution 530 and HRA Resolution 531.

_____

Scott J. Riggs
Hopkins City Attorney

CITY OF HOPKINS
Hennepin County, Minnesota

RESOLUTION 2019-097

A RESOLUTION APPROVING THE MEDIATED SETTLEMENT AND THE ADDENDUM TO THE MEDIATED SETTLEMENT AGREEMENT AND RELEASE BETWEEN THE CITY OF HOPKINS, THE HOUSING AND REDEVELOPMENT AUTHORITY IN AND FOR THE CITY OF HOPKINS, DORAN 810 LLC AND DORAN 810 APARTMENTS, LLC

WHEREAS, on March 4, 2016, Doran 810 LLC and Doran 810 Apartments, LLC (collectively "Doran") and City of Hopkins ("City", which together with Doran may hereinafter be collectively be referred to as the "Parties") entered into a Reimbursement and Purchase Option Agreement ("Purchase Agreement") and a Development Agreement; and

WHEREAS, pursuant to the Purchase and Development Agreements, Doran agreed to construct, and the City agreed to buy or reimburse Doran for the cost of a Grade-Level Garage (the "Garage"); and

WHEREAS, Doran completed construction of the Garage on or around March 23, 2018; and

WHEREAS, the closing on the purchase of the Garage did not occur; and

WHEREAS, on July 31, 2018, Doran served the City with a Summons and Complaint alleging, among other things, that the City breached the Purchase and Development Agreements by failing and refusing to close on Garage; and

WHEREAS, on August 30, 2018, the City answered Doran's Complaint and denied liability under the Purchase Agreement; and

WHEREAS, the City also asserted Counterclaims against Doran alleging, among other things, that Doran had breached the terms of the Development Agreement thereby resulting in damage to the City; and

WHEREAS, to avoid the uncertainties, risks and expenses of protracted litigation, the Parties entered into a mediated Settlement Agreement on August 2, 2019 (the "Mediated Agreement"); and

WHEREAS, pursuant to Paragraph 2 of the Mediated Agreement, the parties have prepared the attached Addendum to the Mediated Settlement Agreement and Release which requires approval of the City Council, contains mutual releases between the parties, and provides for cancellation of the Purchase Agreement.

NOW, THEREFORE, BE IT RESOLVED THAT the above-referenced recitals are incorporated herein to this Resolution.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the City Council hereby approves the Mediated Settlement and the Amendment to the Mediated Settlement Agreement and Release in substantially the form as attached hereto as Exhibit A, the contents of which are incorporated herein by reference.

NOW, THEREFORE, BE IT FURTHER RESOLVED THAT, the City Manager and the City Attorney are hereby authorized and directed to take any and all additional steps and actions necessary or convenient to prepare the appropriate documents and/or agreements to facilitate the directives of the City Council as provided herein in order to accomplish the intent of this Resolution.

The above resolution was approved/denied by a vote of ____ to _____.

Adopted by the City Council of the City of Hopkins this 17TH day of December, 2019.

_____
Jason Gadd, Mayor

ATTEST:

_____
Amy Domeier, City Clerk

EXHIBIT A

FORM OF ADDENDUM TO MEDIATED SETTLEMENT AGREEMENT AND RELEASE

ADDENDUM TO MEDIATED SETTLEMENT AGREEMENT AND RELEASE

This **Addendum to Mediated Settlement Agreement and Release** (hereinafter this "Addendum") is entered into to be effective as of the 2nd day of August, 2019, by and among Doran 810 LLC and Doran 810 Apartments, LLC (collectively "Doran") and City of Hopkins ("Hopkins", which together with Doran may hereinafter be collectively be referred to as the "Parties").

WHEREAS, on March 4, 2016, the Parties entered into a Reimbursement and Purchase Option Agreement ("Purchase Agreement").

WHEREAS, a Development Agreement was executed as of March 4, 2016, between the Housing and Redevelopment Authority in and for the City of Hopkins, the City of Hopkins, Doran 810 Apartments, LLC and Doran 810 LLC, as amended by that First Amendment to Development Agreement, dated February 2, 2017, and as amended and restated by that Amended and Restated Development Agreement, dated _____ (the "Development Agreement").

WHEREAS, pursuant to the Purchase Agreement and the Development Agreement, Doran agreed to construct, and Hopkins agreed to buy or reimburse Doran for the cost of a Grade-Level Garage (the "Garage").

WHEREAS, Doran completed construction of the Garage on or around March 23, 2018.

WHEREAS, the Parties did not close on the sale of the Garage from Doran to Hopkins.

WHEREAS, on July 31, 2018, Doran served Hopkins with a Summons and Complaint alleging, among other things, that Hopkins breached the Purchase Agreement by failing and refusing to close on Garage.

WHEREAS, on August 30, 2018, Hopkins answered Doran's Complaint, denied liability, and asserted Counterclaims against Doran.

WHEREAS, to avoid the uncertainties, risks and expenses of protracted litigation, the Parties entered into a Mediated Settlement Agreement on August 2, 2019, a copy of which is attached hereto as Exhibit A and incorporated herein (the "Mediated Agreement").

WHEREAS, this Addendum incorporates the mutually acceptable release referenced in Paragraph 2 of the Mediated Agreement and also amends the Mediated Settlement based on subsequent negotiations between the Parties.

NOW, THEREFORE, in return for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

1. The Mediated Agreement is amended to provide that the two currently issued TIF notes shall remain and that a new TIF note shall be issued in the principal amount of $8,000,000.00.

2. With respect to Section 6.5 of the Development Agreement, as amended and restated in that certain Amended and Restated Development Agreement dated _____, 2019, the Calculation Date and Stabilization have passed and the calculations have occurred with respect to Note A and Note B. Section 6.5 of the Development Agreement, as amended, is not operative as of, and after, August 2, 2019; and, it does not apply to Note C (as defined in the Amended and Restated Development Agreement).

3. Except for any defaults under this Addendum or the Mediated Agreement, the Parties hereby release, acquit and forever discharge each other, together with any successors and

assigns from any and all actions, suits, claims, contractual obligations, agreements, remedies, recourse and demands, whether known or unknown, foreseen or unforeseen, including unforeseen consequences of known or unknown conditions or injuries, liquidated or unliquidated, fixed, contingent, direct, or indirect, which the Parties ever had, now have or may have in the future against each other, which have or could have been asserted by the Parties with respect to the Garage and Purchase Agreement or any claims the Parties knew or should have known about as of the date of this Addendum. Without limiting the foregoing, the Parties hereby agree, stipulate, and acknowledge that the Purchase Agreement is hereby terminated in its entirety and is and shall be of no force or effect and neither of the Parties shall have any liabilities or rights under or with respect to the Purchase Agreement.

4. In entering into this Addendum, the Parties each represent that they have been represented by independent legal counsel, or that they have had the opportunity to be represented by independent legal counsel, that they have read and completely understand the terms of this Addendum, and that those terms are fully understood and voluntarily accepted by them. The Parties further affirmatively represent that they have voluntarily entered into this Addendum and that there are no representations made by the Parties, or their attorneys, agents or other representatives which are not expressly set forth in this Addendum.

5. It is specifically understood that, by reason of entering into this Addendum and the Mediated Agreement, no party admits liability of any sort and that such Parties have made no representations as to the extent of damages and/or injuries or the liability issues previously raised. It is further specifically understood and agreed that this Addendum shall not be construed as an admission of liability on the part of the parties, or by anyone else, liability having, at all times, been denied.

6. The Parties agree that they shall make no disparaging remarks about the other.

7. This Addendum may be executed in any number of counterparts, all of which shall constitute a single Addendum.

8. This Addendum shall be construed and interpreted in accordance with the laws of the State of Minnesota.

9. This Addendum and the Mediated Agreement constitute a full and complete Addendum between the parties hereto and may not be modified except by a writing signed by all of the Parties hereto.

IN WITNESS WHEREOF, the parties intending to be legally bound, execute this Addendum to be effective as of the date first shown above.

DORAN 810 LLC

Date: _____ By:_____
Kelly J. Doran
Its: Chief Manager

DORAN 810 APARTMENTS, LLC

Date: _____ By:_____
Kelly J. Doran
Its: Chief Manager

CITY OF HOPKINS

Date: _____ By _____
Jason Gadd
Its: Mayor

Date: _____ By _____
Michael J. Mornson
Its: City Manager

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HOUSING AND REDEVELOPMENT AUTHORITY IN AND FOR THE CITY OF HOPKINS (AS TO PARAGRAPH 2 ONLY)

Dated:_____ By:_____
Jason Gadd
Its: Chair

Dated:_____ By:_____
Michael Mornson
Its: Executive Director

Exhibit A

SETTLEMENT AGREEMENT

Doran 810, LLC, Doran 810 Apartments, LLC vs. City of Hopkins

27-CV-18-15041

Defendant will pay to Plaintiff, and Plaintiff will accept in full settlement of any and all claims against Defendant, the sum of $_____.

1. Payment by Defendant shall be made in the following manner:

The current approved TIF plan will be submitted to Mr. Weinberg ~~for review for verification so that the material terms of this document can be carried out.~~ The TIF plan will be ~~provided to Mr. Weinberg by August 9, 2019.~~

2. Terms:

The current TIF notes will be consolidated into one note for thirteen million ~~two~~ hundred thousand dollars. The date of the new note will be April 30, 2018. The first payment was paid August 1, 2018 and the last payment will be February 1, 2043.

The administrative fee on the TIF note will be 5% and Doran will receive 95% of the tax increment generated.

The TIF development agreement will be amended accordingly and a new note issued. The development agreement will be amended regarding the use of the grade level garage, which will recognize Doran's ownership and complete control of the grade level garage.

Mr Alsop will draft the amendments to the TIF agreement and development agreement subject to the approval of Mr. Weinberg. Mr. Weinberg will draft the cancellation of the purchase agreement, any statutory cancellations needed, subject to the approval of Mr. ~~Weinberg~~ Alsop. Mr. Weinberg will draft mutual and complete releases subject to approval of Mr. Alsop, and a stipulation of dismissal, ~~other terms:~~

This is subject to approval of all agreements and amendments by the Hopkins City Council.

The parties will reasonably cooperate with each other to make this agreement effective. KJH RAA PJM

The interest rate on the new note will remain the same as on the previous two notes.

4. ~~This payment includes [does not include] any outstanding subrogation claims or liens.~~

5. ~~Plaintiff~~ [Parties] will execute appropriate [mutual] releases and Plaintiff's counsel will execute an appropriate dismissal with prejudice and cause it to be filed with the Court.

6. The mediator will notify the Court of the fact this case has been settled. as conditioned herein.

This is a binding and enforceable agreement and contract. Pursuant to Minn. Stat. §572.35, the parties are hereby advised that (a) the mediator has no duty to protect their interests or provide them with information about their legal rights; (b) signing a mediated settlement agreement may adversely affect their legal rights; and (c) they should consult with an attorney before signing a mediated settlement agreement if they are uncertain of their rights.

Date: 8/2/19

WITNESS:

Robert A. Blaeser

Plaintiff

Kelly J. Dorey Chief Aerospace

Attorney for ~~Plaintiff~~ Justin P. Weinberg

Defendant Michael J. Morrison City Manager

Attorney for Defendant Robert Alsop

Scott J. Riggs

CITY OF HOPKINS
Hennepin County, Minnesota

RESOLUTION 2019-098

A RESOLUTION APPROVING THE AMENDED AND RESTATED DEVELOPMENT AGREEMENT BETWEEN THE CITY OF HOPKINS, THE HOUSING AND REDEVELOPMENT AUTHORITY IN AND FOR THE CITY OF HOPKINS, DORAN 810, LLC AND DORAN 810 APARTMENTS, LLC

WHEREAS, on March 4, 2016, Doran 810 LLC and Doran 810 Apartments, LLC (collectively "Doran"), the City of Hopkins (the "City"), and the Housing and Redevelopment Authority in and for the city of Hopkins (the "HRA") entered into a development agreement for the development of certain property located within the City (the "Development Agreement") along with a purchase agreement for a portion of the property that the City intended to purchase following redevelopment (the "Purchase Agreement"); and

WHEREAS, on February 2, 2016, the parties to such Development Agreement executed the "First Amendment to Development Agreement" (the "First Amendment") whereby the parties agreed to modify certain terms in the Development Agreement; and

WHEREAS, the First Amendment was not recorded with Hennepin County; and

WHEREAS, the parties hereby wish to approve an amended and restated Development Agreement which incorporates the changes included in the First Amendment as well as additional changes which are the product of a mediated settlement agreement between the parties (the "Amended and Restated Development Agreement").

NOW, THEREFORE, BE IT RESOLVED THAT the above-referenced recitals are incorporated herein to this Resolution.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the City Council hereby approves the Amended and Restated Development Agreement in substantially the form as attached hereto as Exhibit A, the contents of which are incorporated herein by reference.

NOW, THEREFORE, BE IT FURTHER RESOLVED THAT, the City Manager and the City Attorney are hereby authorized and directed to take any and all additional steps and actions necessary or convenient to prepare the appropriate documents and/or agreements to facilitate the directives of the City Council as provided herein in order to accomplish the intent of this Resolution.

The above resolution was approved/denied by a vote of ____ to _____.

Adopted by the City Council of the City of Hopkins this 17th day of December, 2019.

ATTEST:

_____ _____

Amy Domeier, City Clerk Jason Gadd, Mayor

EXHIBIT A

FORM OF AMENDED AND RESTATED DEVELOPMENT AGREEMENT

AMENDED AND RESTATED DEVELOPMENT AGREEMENT

By and Between

CITY OF HOPKINS

AND

HOUSING AND REDEVELOPMENT AUTHORITY IN AND FOR THE CITY OF HOPKINS

AND

DORAN 810 APARTMENTS, LLC

AND

DORAN 810, LLC

Dated: _____, 2019

This document was drafted by:

Briggs and Morgan, P.A.
2200 IDS Center
80 South 8th Street
Minneapolis, MN 55402
Telephone: (612) 977-8780

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12044995v11

TABLE OF CONTENTS

ARTICLE IX

Events of Default

ARTICLE X

Additional Provisions

AMENDED AND RESTATED DEVELOPMENT AGREEMENT

THIS AMENDED AND RESTATED DEVELOPMENT AGREEMENT (this "Agreement" or this "Amended and Restated Agreement"), made on or as of the ____ day of December, 2019, by and between the Housing and Redevelopment Authority in and for the City of Hopkins, a public body corporate and politic (hereinafter referred to as the "Authority"), established pursuant to Minnesota Statutes, 469.001-469.047 (hereinafter referred to as the "Act"), the City of Hopkins, a Minnesota municipal corporation (hereinafter referred to as the "City"), each having its principal office at 1010 First Street South, Hopkins, Minnesota 55343, Doran 810, LLC, a Minnesota limited liability company (hereinafter referred to as the "Land Owner"), and Doran 810 Apartments LLC, a Minnesota limited liability company (hereinafter referred to as the "Redeveloper"), each having its principal office at 7803 Glenroy Road, Suite 200, Bloomington, Minnesota 55439.

WITNESSETH:

WHEREAS, the Authority was created pursuant to Minnesota Statutes, sections 469.001-469.047 (the "Act") and was authorized to transact business and exercise its powers by a resolution of the City Council of the City pursuant to the Act;

WHEREAS, the Authority has established within the City its Redevelopment Project No. 1, a "redevelopment project" as defined in the Act, providing for the development and redevelopment of certain areas located within the City (which redevelopment project is hereinafter referred to as the "Project");

WHEREAS, as of the date of the Original Agreement (defined below), the Land Owner has acquired certain real property within the Project (which real property is referred to herein as the "Land Owner Property"), which, along with the City Property (as defined below), it has leased to the Redeveloper pursuant to that certain Ground Lease dated on or about the date of the Original Agreement, a copy of which has been provided to the Authority;

WHEREAS, the City has previously conveyed to Land Owner certain parcels of real property within the Project (which real property is referred to herein as the "City Property");

WHEREAS, the Redeveloper has presented to the Authority a proposal pursuant to which the Land Owner purchased the City Property and has combined or will combine the City Property with the Land Owner Property (which combined City Property and Land Owner Property is referred to herein as the "Redevelopment Property"), and Redeveloper will redevelop the Redevelopment Property through the construction of a residential rental development on the Redevelopment Property;

WHEREAS, as part of its proposal the Redeveloper has requested that the Authority create a tax increment financing district encompassing the Redevelopment Property and use a portion of the tax increment generated from the redeveloped Redevelopment Property to reimburse the

Redeveloper and Land Owner for a portion of the Redeveloper's and Land Owner's redevelopment costs;

WHEREAS, the Redeveloper would not undertake the redevelopment of the Project without the tax increment financing assistance described in this Agreement;

WHEREAS, the Authority believes that the redevelopment of the Project pursuant to the Redeveloper's proposal and the fulfillment generally of this Agreement, are in the vital and best interests of the City and the health, safety, morals, and welfare of its residents, and in accord with the public purposes and provisions of the applicable State and local laws and requirements under which the Project has been undertaken and is being assisted;

WHEREAS, the Authority, City and Redeveloper are parties to that certain Development Agreement dated March 4, 2016, which was filed with the Hennepin County Recorder on March 10, 2016, as Document No. A10293214, and filed with the Hennepin County Registrar of Titles on March 10, 2016, as Document No. T05332355, as amended by that certain First Amendment to Development Agreement dated February 2, 2017, which was filed with the Hennepin County Recorder on _____, 2017, as Document No. _____, and filed with the Hennepin County Registrar of Titles on _____, 2017, as Document No. _____ (collectively, the "Original Agreement");

WHEREAS, subsequent to the execution of the Original Agreement, the City, the Land Owner and Redeveloper have been engaged in the Litigation (defined below) related to the Reimbursement and Purchase Option Agreement and the Grade-Level Garage (as defined in the Original Agreement);

WHEREAS, the City, the Land Owner and Redeveloper have resolved the Litigation;

WHEREAS, the resolution of the Litigation requires the City, Authority, the Land Owner and Redeveloper to amend the Original Agreement;

WHEREAS, the Authority, City, Land Owner and Redeveloper amend, restate and replace, in its entirety, the Original Agreement with this Agreement;

WHEREAS, all obligations and actions required to have been completed by the Authority, City, Land Owner and Redeveloper prior to the completion of the Minimum Improvements have been satisfied; and

WHEREAS, the Redeveloper and Land Owner have completed the Minimum Improvements and a permanent certificate of occupancy has been issued.

NOW, THEREFORE, in consideration of the mutual covenants and obligations of the parties hereto, each of them does hereby covenant and agree with the other as follows:

ARTICLE I

Definitions

Section 1.1. Definitions. In this Agreement, unless a different meaning clearly appears from the context:

"Act" means Minnesota Statutes, Sections 469.001-469.047, as amended.

"Agreement" means this Agreement, as the same may be from time to time modified, amended, or supplemented.

"Artery" means the reconstructed improvements of 8th Avenue between Excelsior Boulevard to Mainstreet that will include widened sidewalks, artistic infrastructure elements, a two-way protected bikeway, reduced on-street parking, and a reduction of the lanes to a one-way northbound north of First Street South.

"Access Easement Agreement" means a permanent pedestrian walkway easement to be granted by the Redeveloper to the City for the purposes of the construction, maintenance and use of infrastructure associated with the Artery, the form of which Access Easement Agreement is set forth on Schedule D to this Agreement.

"Authority" means the Housing and Redevelopment Authority In and For the City of Hopkins, or any successor or assign.

"Available Tax Increment" means (a) until such time as Note A and Note B (as defined herein) are paid in full, ninety percent (90%) of the Tax Increment that is received by the Authority in the six (6) month period immediately preceding a Scheduled Payment Date; and thereafter, (b) until such time as Note C (as defined herein) is paid in full, ninety-five percent (95%) of the Tax Increment that is received by the Authority in the six (6) month period immediately preceding a Scheduled Payment Date.

"City" means the City of Hopkins.

"City Property" means the real property legally described as such on the attached Schedule A.

"Complete" or "Completion" means, with respect to the construction of the Minimum Improvements, the issuance of a permanent certificate of occupancy for the entire Minimum Improvements, or with respect to a portion of the Minimum Improvements, the issuance of a permanent certificate of occupancy for that portion of the Minimum Improvements.

"County" means Hennepin County, Minnesota.

"Development Plans" means those plans including site, grading, storm water management, utility, landscape, building floor plan and building exterior elevations for the Minimum

Improvements that are required for municipal land use and watershed district approvals that may include conditional use permits, rezoning, platting, and variances, as amended from time to time.

"Event of Default" means an action listed in Section 9.1 of this Agreement.

"Grade Level Garage" means the approximately 189 stalls of automobile parking constructed as part of the Minimum Improvements.

"Holder" means the owner of a Mortgage.

"Land Owner" means Doran 810, LLC, a Minnesota limited liability company, and its successors and assigns.

"Land Owner Property" means the real property described as such on Schedule A of this Agreement, which consists of the property on which is located the building commonly known as the "Johnson Building".

"Litigation" means the lawsuit filed in Hennepin County District Court, State of Minnesota, captioned *Doran 810, LLC and Doran 810 Apartments, LLC vs. City of Hopkins*, Court File No. 27-CV-18-15041.

"Minimum Improvements" means the Multifamily Facility, the Pedestrian and Bicycle Lobby, and the Grade Level Garage, all consistent with the Site Plan and the Development Plans, except as stated herein and excluding all improvements constructed or installed by the City or the Authority.

"Mortgage" means any mortgage made by the Redeveloper which is secured, in whole or in part, by the Redevelopment Property and which is a permitted encumbrance pursuant to the provisions of Article VIII of this Agreement.

"Multifamily Facility" means a building with approximately 241 market rate rental housing units and the below-grade parking garage, all consistent with the Development Plans.

"Note" or "Notes" means the Authority's limited revenue tax increment note or notes to be issued by the Authority to the Redeveloper pursuant to Article VI of this Agreement to reimburse the Redeveloper for its payment of the Qualified Costs.

"Pedestrian and Bicycle Lobby" means the pedestrian and bicycle lobby with 30 bicycle parking spaces.

"Permitted Encumbrances" means reservations of minerals or mineral rights to the State of Minnesota; public utility, roadway and other easements which will not adversely affect the development and use of the Redevelopment Property pursuant to the Redeveloper's Development Plans; applicable building laws, regulations and ordinances; real estate taxes that Redeveloper agrees to pay or assume pursuant to this Agreement; restrictions, covenants and easements of record that do not adversely affect the development and use of the Minimum Improvements;

encroachments of any buildings or improvements located on the Redevelopment Property that are to be demolished in order to construct the Minimum Improvements; exceptions to title to the Redevelopment Property which are not found objectionable by Land Owner upon examination of the abstract of title or the title insurance commitment delivered to the Land Owner pursuant to separate purchase agreement for the City Property; the re-conveyance obligations described in Section 3.3 of this Agreement; the use restrictions contained in Section 10.2 of this Agreement; the terms and provisions of this Agreement; and the encumbrances, which were as of date of the Original Agreement listed on Schedule B.

"Project" means the Authority's Redevelopment Project No. 1.

"Project Area" means the real property located within the boundaries of the Project.

"Qualified Costs" means the Land Owner's and Redeveloper's costs of redeveloping the Minimum Improvements to be reimbursed by the Authority as described in Article VI of this Agreement.

"Redeveloper" means Doran 810 Apartments LLC, a Minnesota limited liability company, its successors and assigns.

"Redevelopment Property" means, collectively the City Property and the Land Owner Property.

"Scheduled Payment" means a Scheduled Payment as defined in a Note.

"Scheduled Payment Date" means a Scheduled Payment Date as defined in a Note.

"Site Plan" means the preliminary Site Plan which has been provided to the City and Authority, which shows the proposed nature and location of the Minimum Improvements, a copy of which is attached to this Agreement as Schedule F.

"State" means the State of Minnesota.

"Tax Increment" means that portion of the real property taxes paid with respect to the Redevelopment Property and Minimum Improvements which is remitted to the Authority as tax increment pursuant to the Tax Increment Act.

"Tax Increment Act" means Minnesota Statutes, Section 469.174-469.1794, as the same may be amended from time to time.

"Tax Increment District" means Tax Increment Financing District 1-5 (The Moline) created on February 2, 2016 by the City and the Authority as described in Section 6.1 of this Agreement.

"Termination Date" means the earliest of: the date that the Note or Notes have been paid in full; the date that the Note or Notes have been terminated in accordance with their terms; or the date that this Agreement is terminated in accordance with the terms hereof.

"Unavoidable Delays" means delays due to unforeseeable causes beyond the control of the party claiming the Unavoidable Delay (or an affiliate), including but not limited to acts of God, acts of terrorism, unforeseen adverse weather conditions, strikes, other labor troubles, fire or other casualty to the Minimum Improvements or Artery, epidemics, quarantines, unavailability of power, unavailability of materials, "economic recession" defined as two consecutive quarters in which there is a drop in the GDP, discovery of hazardous materials or other concealed site conditions or delays of contractors due to such discovery, litigation commenced by third parties which, by injunction or other similar judicial action, directly results in delays, or acts of any federal, state or local governmental unit (other than the Authority in enforcing its rights under this Agreement) which directly result in delays.

ARTICLE II

Representations

Section 2.1. Representations by the Authority. The Authority makes the following representations as of the date of the Original Agreement and as the basis for the undertaking on its part herein contained:

(a) The Authority is a municipal housing and redevelopment authority organized and existing under the Act. Under the laws of the State, the Authority has the power to enter into this Agreement and to perform its obligations hereunder, and has duly authorized the execution, delivery and performance of this Agreement by action of its Board of Commissioners.

(b) There is not pending, nor to the best of the Authority's knowledge is there threatened, any suit, action or proceeding against the Authority before any court, arbitrator, administrative agency or other governmental authority that materially and adversely affects the validity of any of the transactions contemplated hereby, the ability of the Authority to perform its obligations hereunder, or as contemplated hereby or thereby, or the validity or enforceability of this Agreement.

(c) The Authority has taken all action necessary to create the Project Area and the Tax Increment District, and has adopted a tax increment financing plan to finance a portion of the Qualified Costs in accordance with the Tax Increment Act.

(d) As of the date of execution of this Agreement, to the best of its knowledge, the Authority has received no notice or communication from any local, state or federal official that the activities of the Redeveloper or Authority in the Project Area may be or will be in violation of any environmental law or regulation. As of the date of execution of this Agreement, the Authority is aware of no facts the existence of which would cause the Authority to be in violation of any local, state or federal environmental law, regulation or review procedure or which would give any person a valid claim under the Minnesota Environmental Rights Act against the Redeveloper, Authority or City should the parties commence to perform their respective obligations under this Agreement.

(e) Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of this Agreement is prevented, limited by or conflicts with or results in a breach of, the terms, conditions or provisions of any corporate restriction or any evidences of indebtedness, agreement or instrument of whatever nature to which the Authority is now a party or by which it is bound, or constitutes a default under any of the foregoing.

(f) The Authority shall promptly advise the Redeveloper in writing of all filed and pending litigation or claims materially and adversely affecting the Authority's ability to satisfy its obligations under this Agreement and all written complaints and charges made by any governmental authority that may materially delay or require material changes in construction of the Minimum Improvements.

Section 2.2. Representations by the City. The City makes the following representations as of the date of the Original Agreement and as the basis for the undertaking on its part herein contained:

(a) The City is a municipal corporation organized and existing under the laws of the State of Minnesota. Under the laws of the State, the City has the power to enter into this Agreement and to perform its obligations hereunder, and has duly authorized the execution, delivery and performance of this Agreement by action of its City Council.

(b) There is not pending, nor to the best of the City's knowledge is there threatened, any suit, action or proceeding against the City before any court, arbitrator, administrative agency or other governmental City that materially and adversely affects the validity of any of the transactions contemplated hereby, the ability of the City to perform its obligations hereunder, or as contemplated hereby or thereby, or the validity or enforceability of this Agreement.

(c) As of the date of execution of this Agreement, to the best of its knowledge, the City has received no notice or communication from any local, state or federal official that the activities of the Redeveloper, Authority or City in the Project Area may be or will be in violation of any environmental law or regulation. As of the date of execution of this Agreement, the City is aware of no facts the existence of which would cause the City to be in violation of any local, state or federal environmental law, regulation or review procedure or which would give any person a valid claim under the Minnesota Environmental Rights Act against the Redeveloper, Authority or City should the parties commence to perform their respective obligations under this Agreement.

(d) Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of this Agreement is prevented, limited by or conflicts with or results in a breach of, the terms, conditions or provisions of any corporate restriction or any evidences of indebtedness, agreement or instrument of whatever nature to which the City is now a party or by which it is bound, or constitutes a default under any of the foregoing.

(e) The City shall promptly advise the Redeveloper in writing of all filed and pending litigation or claims materially and adversely affecting the City's ability to satisfy its obligations under this Agreement and all written complaints and charges made by any governmental authority that may materially delay or require material changes in construction of the Minimum Improvements.

Section 2.3. Representations by the Redeveloper. The Redeveloper represents that as of the date of the Original Agreement:

(a) The Redeveloper is a limited liability company duly organized and in good standing under the laws of the State, is not in violation of any provisions of its articles of organization, member control agreement, or the laws of the State, has the power to enter into this Agreement and has duly authorized the execution, delivery and performance of this Agreement by proper action of its members.

(b) The Redeveloper will construct the Minimum Improvements in accordance with the terms of this Agreement and all applicable local, state and federal laws and regulations (including, but not limited to, environmental, engineering, zoning, building code and public health laws and regulations), except for variances necessary to construct the improvements contemplated in the Development Plans approved by the City.

(c) Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of this Agreement is prevented, limited by or conflicts with or results in a breach of, the terms, conditions or provisions of any restriction or any evidences of indebtedness, agreement or instrument of whatever nature to which the Redeveloper is now a party or by which it is bound, or constitutes a default under any of the foregoing.

(d) The Redeveloper will obtain, in a timely manner, all required permits, licenses and approvals, and will meet, in a timely manner, all requirements of all applicable local, state and federal laws and regulations which must be obtained or met before the Minimum Improvements may be lawfully constructed.

(e) The Redeveloper shall promptly advise the Authority in writing of all filed and pending litigation or claims materially and adversely affecting the Redeveloper's ability to satisfy its obligations under this Agreement and all written complaints and charges made by any governmental authority that may materially delay or require material changes in construction of the Minimum Improvements.

(f) The Redeveloper acknowledges that land use permits shall be governed by City land use ordinances and specific land use approvals separate from this Agreement.

(g) The Redeveloper would not construct the Minimum Improvements on the Redevelopment Property but for the assistance being provided by the Authority hereunder.

Section 2.4. Representations by the Land Owner. The Land Owner represents that as of the date of the Original Agreement:

(a) The Land Owner is a limited liability company duly organized and in good standing under the laws of the State, is not in violation of any provisions of its articles of organization, member control agreement, or the laws of the State, has the power to enter into this Agreement and has duly authorized the execution, delivery and performance of this Agreement by proper action of its members.

(b) Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of this Agreement is prevented, limited by or conflicts with or results in a breach of, the terms, conditions or provisions of any restriction or any evidences of indebtedness, agreement or instrument of whatever nature to which the Land Owner is now a party or by which it is bound, or constitutes a default under any of the foregoing.

(c) The Land Owner shall promptly advise the Authority in writing of all filed and pending litigation or claims materially and adversely affecting any part of the Minimum Improvements, the Land Owner, or the Land Owner's ability to satisfy its obligations under this Agreement and all written complaints and charges made by any governmental authority materially and adversely affecting the Minimum Improvements or materially and adversely affecting Land Owner or its business, which may delay or require changes in construction of the Minimum Improvements.

(d) The Land Owner acknowledges that land use permits shall be governed by City land use ordinances and specific land use approvals separate from this Agreement.

ARTICLE III

Conveyance of City Property

Section 3.1. Status of Redevelopment Property. The Land Owner has acquired the Land Owner Property, for the purpose of constructing the Minimum Improvements. The City had acquired the City Property. The City previously conveyed the City Property to the Land Owner pursuant to a separate purchase agreement for the price of one thousand dollars ($1,000).

Section 3.2. Copies of Reports. If the Redeveloper fails to commence and complete the construction of the Minimum Improvements when required by this Agreement, the Redeveloper shall furnish to the Authority upon request, at no cost to the Authority, copies of all reports, assessments, studies, surveys and other documentation prepared on behalf of the Redeveloper in connection with its acquisition of the City Property.

Section 3.3. Authority and City Costs. In consideration for the Authority's covenants and undertakings under this Agreement, the Redeveloper agrees that it will pay all reasonable out-of-pocket costs incurred by the Authority or City, including, without limitation, all fees owed to the Authority's or City's traffic, engineering, development, fiscal, environmental and other consultants, and all attorneys' fees incurred by the Authority or City in connection with the creation of the Tax Increment District, the negotiation and preparation of the Original Agreement, any planning documents required by the City, and all related documents, or in enforcing the Redeveloper's obligations to pay costs which it is obligated to pay under this Agreement. All of the Authority's and City's attorneys and consultants shall be under contract with the Authority or City, unless the Authority or City otherwise agree in writing. The Authority will provide to the Redeveloper requests for payment of the costs incurred by the Authority or the City from time to time accompanied by statements or invoices documenting such costs. Such costs shall be payable by the Redeveloper to the Authority within thirty (30) days after request by the Authority. The Redeveloper's obligations under this Section shall survive termination of this Agreement to the extent costs were incurred prior to the date of termination or to the extent that costs are incurred to enforce the Redeveloper's obligations under this Section.

Prior to incurring costs subject to payment or reimbursement by the Redeveloper under this Section, the Authority will use its best efforts to obtain proposals from its consultants and attorneys describing the hourly rate or other basis on which the costs will be incurred and an estimate of the costs to be incurred. A failure to obtain such proposals or the exceeding of the cost estimates shall not relieve the Redeveloper of its obligation to pay the costs incurred.

The Redeveloper has deposited $50,000.00 with the Authority as of the date of this Agreement. The Authority shall have the right to draw upon amounts on deposit with it to pay the fees and costs described in this Section. The Redeveloper agrees to maintain a deposit with the Authority in the amount of $25,000.00. If the amount on deposit becomes depleted below $5,000.00, the Authority shall have the right to request in writing, accompanied by itemized invoices which have been paid from the deposit, that the Redeveloper replenish such funds upon which the Redeveloper shall, within 15 days of request by the Authority, remit to the Authority additional funds to be held on deposit so that the amount on deposit will equal $25,000.00. If upon termination of this

Agreement, the amounts held by the Authority are insufficient to pay the Authority's costs, the Redeveloper shall be liable for any deficiency. If this Agreement is terminated in accordance with the terms hereof, any sums remaining on deposit with the Authority, after the Authority pays or reimburses itself and the City for costs incurred to the date of termination, shall be returned to the Redeveloper. In addition, any sums remaining on deposit with the Authority six (6) months after Completion of the Minimum Improvements, after all documents and agreements necessary to implement the transactions contemplated by this Agreement have been prepared and executed and after the Authority pays or reimburses itself and the City for costs incurred to the date of termination shall be returned to the Redeveloper. Notwithstanding anything herein to the contrary, the Authority and the City shall bear their own attorney's fees and costs in connection with the Litigation and the preparation of this Amended and Restated Agreement.

Section 3.4. Re-conveyance of City Property. In the event that the Redeveloper fails to commence construction of the Minimum Improvements when required by this Agreement, subject to extension of such date by agreement of the Authority and the Redeveloper, the Redeveloper and Land Owner shall be obligated to, if requested by the Authority, convey the City Property to the City, except that once the Redeveloper has commenced construction of the Minimum Improvements, then there shall be no obligation to convey the City Property to the City. The purchase price to be paid by the City to reacquire the City Property shall be $1,000.00, less any costs incurred by the City or Authority in enforcing such re-conveyance obligation but only to the extent not otherwise reimbursed by Redeveloper per Section 3.3. The City Property shall be conveyed to the City pursuant to a limited warranty deed conveying marketable title to such property, subject only to such defects, liens, easements, encumbrances or other title matters to which the City Property was subject when the City deeded it to the Land Owner, and any other Permitted Encumbrances. The Redeveloper will cooperate with the City in such subdivision or re-platting of the Property as may be necessary to permit the re-conveyance of the City Property to the City. In the event that City incurs costs, including reasonable attorneys' fees, enforcing the Redeveloper and Land Owner's obligations under this Section, the Redeveloper shall be liable and shall pay to the City the amount of such costs within ten (10) days written demand by the City.

ARTICLE IV

Construction of Improvements

Section 4.1. Construction of Minimum Improvements. The Redeveloper agrees that it will construct the Minimum Improvements on the Redevelopment Property in accordance with the approved Development Plans. The City agrees that, at its cost, it will complete the Artery in accordance with the approved Development Plans.

Section 4.2. Development Plans. (a) The City's conveyance of the City Property to the Redeveloper was and is predicated upon and subject to the Redeveloper's agreement that it will construct the Minimum Improvements consistent with the Site Plan and Development Plans, both of which have been approved by the City and the Authority. Attached to this Agreement is the Site Plan that has been approved by the City and the Authority showing the general nature and location of the Minimum Improvements. Also, the Redeveloper has submitted and the City has approved Development Plans for the Minimum Improvements. All further construction plans shall be prepared to be consistent with the approved Site Plan and Development Plans, subject to any changes approved by the Authority.

(b) Nothing in this Agreement shall be deemed to relieve the Redeveloper of its obligation to comply with the requirements of the City's normal land use approval process. The parties acknowledge that the Redeveloper has already complied with the requirements of this process.

(c) If the Redeveloper desires to make any material change in any Development Plans after their approval by the Authority, the Redeveloper shall submit the proposed change to the Authority for its approval. If the Development Plans, as modified by the proposed change, conform to the requirements of this Agreement and such changes do not materially alter the nature, quality or exterior appearance of the Minimum Improvements, the Authority shall approve the proposed change and notify the Redeveloper in writing of its approval. Any requested change in the Development Plans shall, in any event, be deemed approved by the Authority unless rejected, in whole or in part, by written notice by the Authority to the Redeveloper, setting forth in detail the reasons therefor within ten (10) days after receipt of the notice of such change.

(d) The Redeveloper and Land Owner have created separate tax parcels from the Redevelopment Property to separate the Grade-Level Garage and Pedestrian and Bicycle Lobby from the remainder of the Redevelopment Property in coordination with the City at the Redeveloper's cost and subject to all City ordinances and procedures. The creation of separate tax parcels resulted in one recordable legal description encompassing both the Grade-Level Garage and Pedestrian and Bicycle Lobby. The Land Owner and Redeveloper also platted the Redevelopment Property.

(e) The Redeveloper will pay to the City a park dedication fee of $180,750 and donate to the City $25,000 for public art prior to the City's issuance of the final certificate of occupancy for the Minimum Improvements.

(f) The Redeveloper will install in the Minimum Improvements, in accordance with the City's generally applicable requirements, a radio booster for the purposes of amplifying radio signals for emergency responders.

Section 4.3. Commencement and Completion of Construction. (a) Subject to Unavoidable Delays, the Redeveloper shall commence construction of the Minimum Improvements by December 31, 2016, and Complete construction of the Minimum Improvements by June 30, 2018.

The Redeveloper agrees that it shall promptly begin and diligently prosecute to completion construction of the Minimum Improvements within the periods specified in this Agreement. Until construction of the Minimum Improvements has been completed, the Redeveloper shall make construction progress reports, at such times as may reasonably be requested by the Authority as to the actual progress of the Redeveloper with respect to such construction.

(b) Subject to Unavoidable Delays, the City will complete final plans and specs for the Artery by February 1, 2017, and provide a copy thereof to the Redeveloper. Subject to Unavoidable Delays, the City will commence construction of the portion of the Artery located within the Access Easement Agreement area (the "**Artery Easement Work**") by June 1, 2017 and complete such construction by August 1, 2017. In addition, the City will ensure that the remainder of its work with respect to the Artery will not interfere with access to the front lobby of the Multifamily Facility or the access to the lower-level parking portion of the Multifamily Facility. The City will pay the cost of constructing the Artery, provided that upon Completion of the Artery Easement Work, Redeveloper will pay the City the actual cost of the Artery Easement Work. After completion, the City shall provide evidence, reasonably acceptable to Redeveloper, of the actual cost.

(c) The City will install public art, the location and design of which will be mutually agreed upon by the City and the Redeveloper, near the Minimum Improvements on or before November 1, 2017. Redeveloper shall pay for up to $50,000 of the public art in addition to the donation it is making pursuant to Section 4.2(e).

ARTICLE V

Insurance

Section 5.1. Insurance.

(a) The Redeveloper will provide and maintain or cause its contractors and subcontractors and at all times during the process of constructing the Minimum Improvements and, from time to time at the reasonable request of the Authority, furnish the Authority with proof of insurance as follows:

(i) Builder's risk insurance, written on the so-called "Builder's Risk – Replacement Cost Basis," in an amount equal to one hundred percent (100%) of the insurable value of the Minimum Improvements at the date of Completion, and with coverage available in nonreporting form on the so called "all risk" form of policy; and

(ii) Comprehensive general liability insurance (including operations, contingent liability, operations of subcontractors, completed operations, Broadening Endorsement) together with an Owner's Contractor's Policy with limits against bodily injury and property damage of not less than $2,000,000 for each occurrence (to accomplish the above-required limits, an umbrella excess liability policy may be used);

(iii) Worker's compensation insurance, with statutory coverage and employer's liability protection.

The policies of insurance required pursuant to clauses (i) and (ii) above shall be in form and content satisfactory to the Authority and shall be placed with financially sound and reputable insurers licensed to transact business in the State, the liability insurer to be rated A or better in Best's Insurance Guide. The policies of insurance delivered pursuant to clause (i) and (ii) above shall contain an agreement of the insurer to give not less than ten (10) days' advance written notice to the Authority in the event of cancellation of such policy or change affecting the coverage thereunder. The Authority shall be named as an additional insured on the liability policy obtained pursuant to clause (ii) above.

(b) Upon Completion of construction of the Minimum Improvements and prior to the Termination Date so long as the Redeveloper owns any portion of the Minimum Improvements, the Redeveloper shall maintain, at its cost and expense, and from time to time at the reasonable request of the Authority shall furnish proof of insurance as follows:

(i) a policy of commercial general liability insurance written on an "occurrence basis", not a "claims basis", and with coverage limits of not less than $1,000,000 for each occurrence of injury or property damage and $2,000,000 in the aggregate; provided, however, that, from time-to-time, these coverage limits may be raised or lowered in accordance with industry standard recommendations for comparable policies;

(ii) an umbrella or excess liability policy with coverage limits that, when combined with the commercial general liability policy, aggregate not less than $10,000,000 per occurrence and $10,000,000 in the aggregate; provided, however, that, from time-to-time, these coverage limits may be raised or lowered in accordance with industry standard recommendations for comparable excess policies; and

(iii) a policy of property insurance with "all-risk" coverage in the amount of one hundred percent (100%) of the full Replacement Cost of the Minimum Improvements and terrorism coverage and rental income coverage.

(c) All insurance required in Article V of this Agreement shall be taken out and maintained in responsible insurance companies selected by the Redeveloper which are authorized under the laws of the State to assume the risk covered thereby. Upon request, the Redeveloper will deposit annually with the Authority binders evidencing all such insurance, or a certificate or certificates of the respective insurers stating that such insurance is in force and effect. Unless otherwise provided in this Article V of this Agreement each policy shall contain a provision that the insurer shall not cancel or modify it without giving written notice to the Redeveloper and the Authority at least ten (10) days before the cancellation or modification becomes effective. Not less than fifteen (15) days prior to the expiration of any policy, the Redeveloper shall furnish the Authority evidence satisfactory to the Authority that the policy has been renewed or replaced by another policy conforming to the provisions of this Article V of this Agreement, or that there is no necessity therefor under the terms hereof. In lieu of separate policies, the Redeveloper may maintain a single policy, blanket or umbrella policies, or a combination thereof, having the coverage required herein, in which event the Redeveloper shall deposit with the Authority a certificate or certificates of the respective insurers as to the amount of coverage in force upon the Minimum Improvements.

(d) The Redeveloper agrees to notify the Authority immediately in the case of damage to or destruction of, the Minimum Improvements or any portion thereof resulting from fire or other casualty. In the event of any such damage or destruction, the Redeveloper will forthwith repair, reconstruct and restore those portions of the Minimum Improvements which it owns to substantially the same or an improved condition or value as existed prior to the event causing such damage and, to the extent necessary to accomplish such repair, reconstruction and restoration, the Redeveloper will apply the Net Proceeds of any insurance relating to such damage received by the Redeveloper to the payment or reimbursement of the costs thereof.

The Redeveloper shall complete the repair, reconstruction and restoration of the portions of the Minimum Improvements owned by the Redeveloper, whether or not the Net Proceeds of insurance received by the Redeveloper for such purposes are sufficient to pay for the same. Any Net Proceeds remaining after completion of such repairs, construction and restoration shall be remitted to the Redeveloper.

The obligation to repair, reconstruct and restore the Minimum Improvements shall continue during the term of the Tax Increment District.

ARTICLE VI

Tax Increment; Reimbursement of Qualified Costs

Section 6.1. Creation of Tax Increment District. The City and the Authority approved the creation of the Tax Increment District, a redevelopment tax increment district, on February 2, 2016. The Tax Increment District encompasses the Redevelopment Property. Tax increment from the Tax Increment District will be used to pay costs as described in this Agreement.

Section 6.2. Reimbursement for Qualified Costs. (a) The Authority will use a portion of the Tax Increment generated by the Tax Increment District to reimburse the Redeveloper for a portion of the Qualified Costs incurred and paid by the Redeveloper in connection with its construction of the Minimum Improvements. The Qualified Costs consist of the following:

(i) Land Acquisition costs,

(ii) Parking for the residential apartment units,

(iii) Public improvements,

(iv) Pedestrian and Bicycle Lobby,

(v) Utilities,

(vi) Geotechnical investigation and correction costs,

(vii) Stormwater management costs,

(viii) Site improvements, and

(ix) Any other Tax Increment eligible costs.

The Authority shall have the right to designate which of the above Qualified Costs will be reimbursed so long as such designation does not result in reimbursed Qualified Costs below $13,200,000.

(b) The Authority will issue to the Redeveloper Notes to reimburse them for Qualified Costs in the following principal amounts: (1) $2,100,000 ("Note A") to Doran 810, LLC; (2) $3,100,000 ("Note B") to Doran 810 Apartments, LLC; and, (3) $8,000,000 ("Note C") to Doran 810, LLC, each with an annual interest rate equal to 5%. The term of Notes A and B shall be 12

years and the term of Note C shall be 26 years and shall be paid with Available Tax Increment. The Notes shall be payable solely with Available Tax Increment and the amount of Tax Increment deducted in calculating Available Tax Increment will be retained by the Authority. Available Tax Increment will be applied as follows on each Scheduled Payment Date:

(i) First, on a pro-rata basis to pay all accrued, current and unpaid interest, based on the outstanding principal amount of Notes A and B on such Scheduled Payment Date;

(ii) Second, to pay any outstanding principal on Note A;

(iii) Third, to pay any outstanding principal on Note B; and

(iv) Fourth, to pay all accrued, current and unpaid interest and principal outstanding on Note C.

Section 6.3. Intentionally Deleted.

Section 6.4. Conditions Precedent to Issuance of Note or Notes. Notwithstanding anything to the contrary contained herein, the Authority's obligation to issue the Note or Notes shall be subject to satisfaction, or waiver in writing by the Authority, of all of the following conditions precedent:

(a) there shall be no uncured default by Land Owner or Redeveloper under the terms of this Agreement;

(b) the Redeveloper shall have provided to the Authority documentation acceptable to the Authority showing that the Redeveloper and Land Owner have incurred and paid Qualified Costs in an amount at least equal to the principal amount of the Note or Notes; and

(c) the Redeveloper shall have Completed construction of the Minimum Improvements.

Section 6.5. Potential Reduction of Assistance. (a) On the Calculation Date, as defined below, the amount of the tax increment finance assistance provided pursuant to this Agreement will be subject to adjustment based on a target Cash on Cash Return, as defined below, of 11%. By the Calculation Date, the Redeveloper must deliver to the Authority's municipal advisor evidence of its Cash on Cash Return, subject to a confidentiality agreement reasonably acceptable to Redeveloper and the Authority. The Cash on Cash Return shall be calculated by the Authority's municipal advisor based on the Redeveloper's pro forma financial statement submitted to the Authority's municipal advisor, a summary of which pro forma is attached to this Agreement as Schedule J (the "Pro Forma").

If the Cash on Cash Return exceeds 11%, then the principal amount of the Note or Notes issued to the Redeveloper will first be reduced to an amount that results in a stabilized Cash on Cash Return equal to 11% over the term of the Note or Notes, in which case the Redeveloper shall

deliver the Note or Notes to the Authority in exchange for a new Note or Notes in the adjusted principal amount upon the Authority's written request. If the Redeveloper's Note or Notes is reduced to zero and the Cash on Cash return is still greater than 11% over the term of the Note or Notes, then the principal amount of the Landowner's Note or Notes will be reduced to an amount that results in a stabilized Cash on Cash Return equal to 11% over the term of the Note or Notes, in which case Landowner shall deliver the Landowner Note to the Authority in exchange for a new Note in the adjusted principal amount upon the Authority's written request.

(b) For the purposes of this Section, the following terms have the following meanings:

"Calculation Date" means 60 days after the earliest of (i) the date of Stabilization, as defined below, of the Minimum Improvements; (ii) the date of any transfer of the Multifamily Facility (provided that the Redeveloper and the Authority may agree that the Calculation Date will occur prior to the actual transfer); or (iii) two years after the date of completion of the Minimum Improvements, as evidenced by the City's issuance of a final certificate of occupancy.

"Cash Flow" means Net Operating Income less debt service with respect to the first mortgage loan.

"Cash on Cash Return" means Cash Flow divided by the sum of Redeveloper's and Land Owner's actual equity, which excludes any grants or City, Authority, Federal or State funds received by the Redeveloper or the Land Owner, and the principal amount of the Note(s).

"Net Operating Income" means total rent excluding any payments under the Ground Lease, and other project-derived revenue, including payments under the Note(s), less Operating Expenses in accordance with the Pro Forma.

"Operating Expenses" means reasonable and customary expenses incurred in operating the Redevelopment Property in accordance with the Pro Forma, including deposits to capital replacement reserves.

"Stabilization" is defined as the first date upon which both of the following have occurred: (1) the Multifamily Facility within the Minimum Improvements have achieved 95% occupancy for three consecutive months; and (2) real estate taxes have been fully assessed on the completed Minimum Improvements.

Section 6.6. Redeveloper's and Land Owner's Representations as to Note or Notes. Each of the Redeveloper and Land Owner makes the following representations to the Authority with respect to the issuance of any Note to the Redeveloper or Land Owner:

(a) Neither the Land Owner nor the Redeveloper has relied on any representations of the Authority, or any of its officers, agents, or employees, and has not relied on any opinion of any attorney of the Authority, as to the Federal or State income tax consequences relating to the purchase and ownership of the Note by the Redeveloper or the Land Owner.

(b) Each of the Redeveloper and Land Owner is sufficiently knowledgeable and experienced in financial and business matters, including the purchase and ownership of obligations

of a nature similar to the Note, to be able to evaluate the risks and merits of the purchase and ownership of the Note. Each of the Redeveloper and Land Owner has been made aware of the security for the Note and the proposed uses of the proceeds of the Note, and has received the cooperation of the Authority in undertaking any due diligence that the Redeveloper or the Land Owner has deemed necessary or appropriate.

(c) Each of the Redeveloper and Land Owner understands that the Available Tax Increment is the sole source of money that is pledged and will be available for the payments due under the Note; that the Authority is not under any obligation to repurchase the Note from the Redeveloper or the Land Owner under any circumstances; that the Note is not a general obligation of the Authority or the City; and that, if the Available Tax Increment is not sufficient to make the payments due under the Note in full, no right will exist to have taxes levied by the Authority or City for the payment of the unpaid amounts due under the Note.

(d) The Redeveloper and Land Owner understand that the Note is not registered or otherwise qualified for sale or transfer under the securities laws and regulations of the State or under the Federal securities laws or regulations, the Note is not listed on any stock or other securities exchange, and the Note will carry no rating from any rating service.

(e) Each of the Redeveloper and Land Owner has conducted its own investigation regarding the projected Tax Increment from the Redeveloper's development and acknowledges that any estimates of Tax Increment prepared by or on behalf of the Authority or City were intended for the Authority's or City's use only and have not been and will not be relied upon by the Redeveloper or the Land Owner.

Section 6.7. Real Property Taxes. (a) The Redeveloper and Land Owner acknowledge that the Authority and City are providing substantial aid and assistance in furtherance of the development described in this Agreement and that such assistance will be financed using the Tax Increment generated from the Tax Increment District. Therefore, the Redeveloper and Land Owner agree for themselves, and their successors and assigns, that in addition to the obligation pursuant to statute to pay real estate taxes, it is also obligated by reason of this Agreement to pay before delinquency all real estate taxes assessed against the Redevelopment Property and all improvements thereon. The Redeveloper and Land Owner acknowledge that this obligation creates a contractual right on behalf of the Authority and City through the term of the Tax Increment District to declare an Event of Default or sue the Redeveloper or Land Owner, or their successors and assigns, to collect delinquent real estate taxes and any penalty or interest thereon and to pay over the same as a tax payment to the county auditor. In any such suit, the Authority and City shall also be entitled to recover its costs, expenses and reasonable attorney fees.

(b) The Redeveloper and Land Owner agree that during the term of the Tax Increment District, they will not cause a reduction in the real property taxes paid in respect of the Redevelopment Property through: (A) willful destruction of the Redevelopment Property or any part thereof; or (B) willful refusal to reconstruct damaged or destroyed property pursuant to Section 5.1 of this Agreement. The Redeveloper and Land Owner also agree that they will not, during the term of the Tax Increment District, apply for a deferral of property tax on the

Redevelopment Property pursuant to any law, or transfer or permit transfer of the Redevelopment Property to any entity whose ownership or operation of the property would result in the Redevelopment Property being exempt from real estate taxes under State law.

(c) Nothing in this Agreement is intended to hinder or impair the rights of the Redeveloper or Land Owner to seek reduction in market value or property taxes on any portion of the Redevelopment Property under any State law (referred to as a "Tax Petition"). The Redeveloper or Land Owner, as applicable, shall notify the Authority within 10 days of filing any Tax Petition. If as of any Scheduled Payment Date under the Note(s), any Tax Petition is then pending, the Authority will withhold payments of Tax Increment attributable to the portion of the tax payment that is the subject of the Tax Petition. The Authority will pay any withheld amount to the extent not reduced as a result of the Tax Petition, without interest, promptly after the Tax Petition is fully resolved and the amount of Tax Increment attributable to the disputed tax payments is finalized.

ARTICLE VII

Financing

Section 7.1. Financing. Prior to the date of this Agreement, the Redeveloper shall submit to the Authority evidence, satisfactory to the Authority, that the Redeveloper has obtained financing or has available and committed funds (such as a bank financing term sheet) in an amount sufficient to pay the cost of constructing the Minimum Improvement.

Section 7.2. Limitation Upon Encumbrance of Property. Prior to the Completion of the Minimum Improvements, as certified by the Authority, neither the Redeveloper nor any successor in interest to the Redevelopment Property, or any part thereof, shall engage in any financing or any other transaction creating any mortgage or other encumbrance or lien upon the Redevelopment Property, whether by express agreement or operation of law, or suffer any encumbrance or lien to be made on or attach to the Redevelopment Property, except for the purposes of obtaining funds only to the extent necessary for acquiring and constructing the Minimum Improvements and except for the Permitted Encumbrances, without the prior written approval of the Authority. Nothing in this Agreement shall be construed as a limitation upon Redeveloper's ability to obtain financing, including loans from members or investors, that does not create an encumbrance or lien on the Redevelopment Property.

Section 7.3. Copy of Notice of Default to Mortgagee. Whenever the Authority or the City will deliver any notice or demand to the Redeveloper or Land Owner with respect to any breach or default by the Redeveloper or Land Owner in its obligations or covenants under this Agreement, the City or Authority will at the same time forward a copy of such notice or demand to each Holder of any Mortgage at the last address of such Holder shown in the records of the Authority. Such notice to a Holder will be given in the manner set forth in Section 10.5. Failure to give such notice shall not affect the Authority's or City's rights to exercise remedies under this Agreement as a result of such breach or default.

Section 7.4. Mortgagee's Option to Cure Defaults. After any breach or default referred to in Section 7.3, each such Holder will have the right, at its option, to cure or remedy such breach or default within the time for cure set forth in Section 9.2 of this Agreement.

ARTICLE VIII

Prohibitions Against Assignment and Transfer, Indemnification

Section 8.1. Prohibition Against Transfer of Property and Assignment of Agreement. Subject to Section 8.3 of this Agreement, the Redeveloper represents and agrees that during the term of the Tax Increment District, except only by way of security for, and only for, the purpose of obtaining financing necessary to enable the Redeveloper or any successor in interest to the Redevelopment Property, or any part thereof, to perform its obligations with respect to constructing the Minimum Improvements under this Agreement, and any other purpose authorized by this Agreement, the Redeveloper (except as so authorized) has not made or created, and will not make or create, or suffer to be made or created, any total or partial sale, assignment, conveyance, or lease (other than leases to residential tenants, the ground lease between Land Owner and Redeveloper), or any trust or power, or transfer in any other mode or form of or with respect to this Agreement or the Redevelopment Property or any part thereof or any interest herein or therein, or any contract or agreement to do any of the same, without the prior written approval of the Authority which shall not be unreasonably withheld or conditioned.

Notwithstanding the foregoing, the Redeveloper may, without the Authority's consent transfer the Redevelopment Property to an affiliate of the Redeveloper that is owned by or under common ownership with the Redeveloper, or to Doran Companies or any affiliate of Doran Companies, which entity will act as manager or operator of the Minimum Improvements; provided that any such transferee must enter into an agreement pursuant to which it assumes and agrees to perform the obligations of the Redeveloper under this Agreement. Nothing in this Article VIII shall limit Redeveloper's ability to enter into management agreements with affiliates.

In the absence of specific written agreement by the Authority to the contrary, no such transfer or approval thereof by the Authority shall be deemed to relieve the Redeveloper, or any other party bound in any way by this Agreement from any of its obligations hereunder.

Nothing in this Agreement shall be construed to prohibit the foreclosure of a Mortgage (or deed in lieu of foreclosure) or subsequent sale, nor shall the Authority's consent be required for any such transfer.

Section 8.2. Release and Indemnification Covenants. (a) The Redeveloper releases from and covenants and agrees that the City, the Authority and the governing body members, officers, agents, servants and employees thereof shall not be liable for and agrees to indemnify and hold harmless the Authority and the governing body members, officers, agents, servants and employees thereof against any loss or damage to property or any injury to or death of any person occurring at or about or resulting from any defect in the Minimum Improvements, except to the extent caused by the City's or Authority's negligence.

(b) Except for any willful misrepresentation or any misconduct of the following named parties, the Redeveloper agrees to protect and defend the Authority and City and the governing body members, officers, agents, servants and employees thereof, now or forever, and further agrees to hold the aforesaid harmless from any claim, demand, suit, action or other proceeding whatsoever

by any person or entity whatsoever arising from this Agreement, or the transactions contemplated hereby or the acquisition, construction, installation, ownership, and operation of the Redevelopment Property and Minimum Improvements, except with respect to any construction, installation, operation or maintenance of the Artery.

Section 8.3. Transfer After Completion of Minimum Improvements. After Completion of the Minimum Improvements, each of the Land Owner and Redeveloper may, upon notice to the Authority, sell, assign or transfer its interest in the Redevelopment Property and/or Minimum Improvements; provided that such transferee has the experience and financial ability to satisfy its obligations under this Agreement and related documents and enters into an agreement by which it assumes the obligations of the Land Owner or Redeveloper under this Agreement. The Authority's approval of such a transferee shall not be unreasonably withheld or delayed. At such time, the Land Owner and/or Redeveloper, as applicable, shall be relieved of its obligations hereunder, which shall remain obligations of its or their successors in interest to the Redevelopment Property and/or Minimum Improvements, as applicable. The Redeveloper or Land Owner, as applicable, shall remain responsible for indemnification obligations under this Agreement with respect to matters becoming known after the date of such transfer the basis of which occurred prior to the date of such transfer. Notwithstanding the foregoing, the Authority's consent shall not be required under this Section 8.3 after the balances of Note A and Note B have been paid in full or otherwise matured.

ARTICLE IX

Events of Default

Section 9.1. Events of Default Defined. The term "Event of Default" shall mean, whenever it is used in this Agreement (unless the context otherwise provides); (i) any failure by the Redeveloper or Land Owner to observe or perform any covenant, condition, obligation or agreement on its part to be observed or performed hereunder or (ii) a material breach of any Redeveloper or Land Owner representation set forth herein.

Section 9.2. Remedies on Default. Whenever any Event of Default occurs, the Authority and City may immediately suspend their performance under this Agreement and may take any one or more of the following actions after providing thirty (30) days written notice to the Redeveloper and Land Owner of the Event of Default, but only if the Event of Default has not been cured within said thirty (30) days or, if the Event of Default is by its nature incurable within said thirty (30) days, the Redeveloper has not provided reasonable assurances to the Authority that the Event of Default will be cured and that it will be cured as soon as reasonably possible:

(a) Other than termination of this Agreement or the Notes, take whatever action, including legal, equitable or administrative action, which may appear necessary or desirable to collect any payments due under this Agreement, or to enforce performance and observance of any obligation, agreement, or covenant under this Agreement.

Section 9.3. No Remedy Exclusive. No remedy herein conferred upon or reserved to the Authority or Redeveloper is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Authority or the Redeveloper to exercise any remedy reserved to it, it shall not be necessary to give notice, other than such notice as may be required in this Article IX.

Section 9.4. No Additional Waiver Implied by One Waiver. In the event any agreement contained in this Agreement should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other concurrent, previous or subsequent breach hereunder.

Section 9.5. Effect of Termination of Agreement. In the event that this Agreement is terminated pursuant to Section 9.2, all provisions hereof shall terminate except that Sections 3.3, 9.6 and 8.2 shall survive such termination and any cause of action arising hereunder prior to such termination shall not be affected.

Section 9.6. Costs of Enforcement. Whenever any Event of Default occurs and the Authority shall employ attorneys or incur other expenses for the collection of payments due or to

become due or for the enforcement of performance or observance of any obligation or agreement on the part of the Redeveloper under this Agreement, the Redeveloper agrees that it shall, within ten (10) days of written demand by the Authority pay to the Authority the reasonable fees of such attorneys and such other expenses so incurred by the Authority.

ARTICLE X

Additional Provisions

Section 10.1. Representatives Not Individually Liable. No member, official, or employee of the City or the Authority shall be personally liable to the Redeveloper, or any successor in interest, in the event of any default or breach or on any obligations under the terms of the Agreement. No member, affiliate, employee, or employee of an affiliate of the Redeveloper or Land Owner shall be personally liable to the City or the Authority, or any successor in interest, in the event of any default or breach or on any obligations under the terms of the Agreement.

Section 10.2. Restrictions on Use. The Redeveloper agrees that neither the Redevelopment Property nor Minimum Improvements nor any portion thereof, shall be used for the any of the following uses: adult establishment, adult motion picture theater, adult novelty business or bookstore (provided that this limitation shall not prohibit bookstores or other businesses that include sales of adult material as an ancillary part of their sales), auto sales and\or lease, cabinet, electrical, heating, plumbing, air conditioning sales or service shop, open sales lot, pawn shop, drive-thru restaurant, auto repair, warehouse or taxi terminal. This restriction shall run with the title to and encumber the Redevelopment Property, for as long as the Minimum Improvements exist, for the benefit of the City and shall be enforceable by means of an injunction. If the above terms are defined in the City's zoning ordinances, the terms shall have the meaning contained therein.

Section 10.3. Provisions Not Merged With Deed. None of the provisions of this Agreement are intended to or shall be merged by reason of any deed transferring any interest in the Redevelopment Property and any such deed shall not be deemed to affect or impair the provisions and covenants of this Agreement.

Section 10.4. Titles of Articles and Sections. Any titles of the several parts, Articles, and Sections of the Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.

Section 10.5. Notices and Demands. Except as otherwise expressly provided in this Agreement, a notice, demand, or other communication under the Agreement by either party to the other shall be sufficiently given or delivered if it is dispatched by registered or certified mail, postage prepaid, return receipt requested, or delivered personally; and

(a) in the case of the Redeveloper or Land Owner, is addressed to or delivered personally to the Redeveloper or Land Owner, as applicable, at 7803 Glenroy Road, Suite 200, Bloomington, MN 55439; and

(b) in the case of the Authority or City, is addressed to or delivered personally to the Authority or City, as applicable, at 1010 First Street South, Hopkins , Minnesota 55343,

or at such other address with respect to either such party as that party may, from time to time, designate in writing and forward to the other as provided in this Section. Mailed notice shall be deemed to have been delivered two (2) business days after being deposited with the U.S. Postal Service.

Section 10.6. Disclaimer of Relationships. The Redeveloper acknowledges that nothing contained in this Agreement nor any act by the Authority or the Redeveloper shall be deemed or construed by the Redeveloper or by any third person to create any relationship of third-party beneficiary, principal and agent, limited or general partner, or joint venture between the Authority and the Redeveloper and/or any third party.

Section 10.7. Modifications. This Agreement may be modified solely through written amendments hereto executed by the Redeveloper, Land Owner, Authority and City.

Section 10.8. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall constitute one and the same instrument.

Section 10.9. Judicial Interpretation. Should any provision of this Agreement require judicial interpretation, the court interpreting or construing the same shall not apply a presumption that the terms hereof shall be more strictly construed against one party by reason of the rule of construction that a document is to be construed more strictly against the party who itself or through its agent or attorney prepared the same, it being agreed that the agents and attorneys of both parties have participated in the preparation hereof.

Section 10.10. No Business Subsidy. The assistance being provided by the Authority under this Agreement does not constitute a "business subsidy" under the Minnesota Business Subsidy Act, Minnesota Statutes, Sections 116J.993 to 116J.995, because the assistance is being provided for redevelopment purposes and the Redeveloper's investment in the Redevelopment and site preparation will exceed 70% of the County's Assessor's current year's estimated market value for the Redevelopment Property.

Section 10.11. Term of Agreement. Except as specifically provided herein to the contrary, this Agreement shall expire as of the Termination Date.

Section 10.12. Intent. The Parties hereto acknowledge that the modifications made in this Agreement represent the mutually agreed upon terms of a mediated settlement agreement entered into by the parties to settle the Litigation. The underlying goal of these changes is to provide that the Redeveloper and Land Owner shall own and operate the Minimum Improvements, including the Grade Level Garage and Pedestrian and Bicycle Lobby, in any manner they see fit. Further, the City or Authority shall issue Note C, as defined in this Agreement, to Redeveloper in the amount of $8,000,000. To the extent that any terms of this Agreement, as amended, conflict with these purposes, the intent as stated in this Section 10.12 and the terms of the mediated settlement agreement shall govern.

IN WITNESS WHEREOF, the Authority and the City each has caused this Agreement to be duly executed in its name and behalf and the Land Owner and the Redeveloper each has caused this Agreement to be duly executed in its name and behalf on or as of the date first above written.

HOUSING AND REDEVELOPMENT AUTHORITY IN AND FOR THE CITY OF HOPKINS

By:_____
Jason Gadd
Its: Chair

By:_____
Michael Mornson
Its: Executive Director

STATE OF MINNESOTA)
)SS.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this __ day of _____, 2019, by Jason Gadd and Michael Mornson, the Chair and Executive Director of the Housing and Redevelopment Authority In and For the City of Hopkins, a public body politic and corporate under the laws of the state of Minnesota.

_____
Notary Public

CITY OF HOPKINS

By: _____
Jason Gadd
Its: Mayor

By: _____
Michael Mornson
Its: City Manager

STATE OF MINNESOTA)
) SS.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this _____ day of _____, 2019, by Jason Gadd and Michael Mornson, the Mayor and City Manager, respectively, of the City of Hopkins, a municipal corporation under the laws of the state of Minnesota.

_____
Notary Public

DORAN 810 APARTMENTS, LLC

By_____
Kelly J. Doran
Its: Chief Manager

STATE OF MINNESOTA)
)SS.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this ___ day of _____, 2019, by Kelly J. Doran, the Chief Manager of Doran 810 Apartments, LLC, a Minnesota limited liability company.

_____
Notary Public

DORAN 810, LLC

By_____
Kelly J. Doran
Its: Chief Manager

STATE OF MINNESOTA)
)SS.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this ___ day of _____, 2019, by Kelly J. Doran, the Chief Manager of Doran 810, LLC, a Minnesota limited liability company.

_____
Notary Public

SCHEDULE A

Redevelopment and Land Owner Property:

Tract A, Registered Land Survey No. 1856, Hennepin County, Minnesota

Tract B, Registered Land Survey No. 1856, Hennepin County, Minnesota

City Property:
The southerly half of vacated 2nd Street South, dedicated in the plat of "West Minneapolis," lying between the southerly extensions of the east line and of the west line of Block 13, said plat.

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SCHEDULE B

Additional Permitted Encumbrances
(as of date of the Original Agreement)

1. The lien of real estate taxes and special assessments, if any, due and payable in 2017 and thereafter.

2. Quit Claim Deed from the Housing and Redevelopment Authority of Hopkins, to Mibco-K.F., Inc., dated November 13, 1973, recorded January 10, 1974, in the office of the County Recorder as Doc. No. 4062262, and recorded January 15, 1974, in the office of the Registrar of Titles as Doc. No. 1096735, as amended by the Certificate of Completion and Release of Forfeiture, dated November 6, 1974, recorded November 12, 1974, in the office of the County Recorder as Doc. No. 4114450, and recorded November 13, 1974, in the office of the Registrar of Titles as Doc. No. 1125504.

   The following, which appears as a recital on Certificate of Title No. 1399946: Subject to the covenants contained in section 3 (b) of Deed Doc. No. 1096735; (See Doc. Nos. 1125504 and 5234826).

3. The following, which appears as a memorial on Certificate of Title No. 296696: Hennepin County State Aid Highway No. 3, Plat 16, recorded August 22, 1972, in the office of the Registrar of Titles as Doc. No. 1042735.

4. Conditions contained in Ordinance 2015-1099 by the City of Hopkins, recorded January 21, 2016, in the office of the County Recorder as Doc. No. 10279621, and recorded January 21, 2016, in the office of the Registrar of Titles as Doc. No. 5321809.

5. Application for Certificate of Possessory Title, recorded December 23, 2015, in the office of the County Recorder as Doc. No. 10270512.

   As amended by Amended Application for Certificate of Possessory Title recorded February 17, 2016, in the office of the County Recorder as Document No. A10287061.

6. Declaration dated January 20, 2016, recorded February 5, 2016 as Document No. A10284514 and recorded February 23, 2016 as Document No. T05329024 by Doran 810, LLC, a Minnesota limited liability company, as Declarant, in favor of Nine Mile Creek Watershed District.

7. Right of reverter as evidenced in Quit Claim Deed dated February 4, 2016, recorded February 5, 2016 as Document No. A10284513, by the City of Hopkins as Grantor and Doran 810, LLC as Grantee.

8. City of Hopkins Resolution No. 2015-069 recorded February 2, 2016, as Document No. A10282881 (Abstract) and T5324424 (Torrens).

9. City of Hopkins Resolution No. 2015-085 recorded February 2, 2016, as Document No. A10282882 (Abstract) and T5324425 (Torrens).

10. City of Hopkins Resolution No. 2015-086 recorded February 2, 2016, as Document No. A10282883 (Abstract) and T5324426 (Torrens).

11. City of Hopkins Ordinance No. 2015-1102 recorded February 2, 2016, as Document No. A10282884 (Abstract) and T5324427 (Torrens).

12. Doran 810 Apartments, LLC as a tenant under an unrecorded ground lease as evidenced by the Memorandum of Lease with Option to Purchase dated March ____, 2016, executed by Doran 810 Partners, LLC, a Minnesota limited liability company and Doran 810 Apartments, LLC, a Minnesota limited liability company.

13. Access Easement Agreement dated March ___, 2016, by and between Doran 810, LLC and the City of Hopkins.

14. No Build Easement dated March ____, 2016, by and between Doran 810, LLC and the City of Hopkins.

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SCHEDULE C-1

Form of Land Owner Note

UNITED STATES OF AMERICA
STATE OF MINNESOTA
COUNTY OF HENNEPIN
HOUSING AND REDEVELOPMENT IN AND FOR
THE CITY OF HOPKINS
LIMITED REVENUE TAX INCREMENT NOTE
(DORAN 810 LLC NOTE)
Series 201__A

The Housing and Redevelopment Authority In and For the City of Hopkins, Minnesota (the "Authority"), hereby acknowledges itself to be indebted and, for value received, promises to pay to the order of Doran 810, LLC, a Minnesota limited liability company, or its permitted assigns (the "Owner"), solely from the source, to the extent and in the manner hereinafter provided, the principal amount of this Note, being _____ Dollars ($_____) (the "Principal Amount"), said amount, together with interest as hereinafter described, to be paid, without demand, commencing on August 1, 201__, and continuing on each February 1 and August 1, thereafter to and including February 1, 20__ (the "Scheduled Payment Dates"). This Note is the Note defined in that certain Development Agreement dated as of _____, 2016, between the Authority, the City of Hopkins, Doran 810 Apartments, LLC and the Owner (the "Contract"). Interest at the rate of _____ percent (_____%) per annum (the "Rate") shall accrue from the date of issuance of this Note and shall be added to the Principal Amount on each Scheduled Payment Date up to and including _____ 1, 201__, From and after such date simple non-compounding interest at the Rate shall accrue with respect to the Principal Amount, as increased pursuant to the previous sentence, until the earlier of the date that this Note is paid in full or terminated or the date of termination of the Authority's Tax Increment Financing District No. 1-5 (The Moline) (the "District). Interest shall be computed on the basis of a 360-day year of twelve (12) 30-day months. The term of this Note shall continue until the entire Principal Amount of and interest on this Note has been paid, until this Note is terminated in accordance with the terms of the Contract, or until February 1, 20__, whichever is earliest.

Each payment on this Note is payable in any coin or currency of the United States of America which on the date of such payment is legal tender for public and private debts and shall be made by check or draft made payable to the Owner and mailed to the Owner at its postal address within the United States which shall be designated from time to time by the Owner.

The Note is a special and limited obligation and not a general obligation of the Authority, which has been issued by the Authority pursuant to and in full conformity with the Constitution and laws of the State of Minnesota, including Minnesota Statutes, Section 469.178, subdivision 4, to aid in financing a "project", as therein defined, of the Authority consisting generally of defraying certain public redevelopment costs incurred and to be incurred by the Authority within and for the benefit of its Redevelopment Project No. 1 (the "Project"). Absent issuance of this Note, the Owner would not have undertaken the Project and this Note is necessary to reimburse the Owner for the Qualified Costs as identified in the Contract. This Note is issued only after and to the extent

the Authority has received reasonable evidence that the applicable Qualified Costs have been incurred by the Owner.

THIS NOTE IS A LIMITED OBLIGATION OF THE AUTHORITY AND NOT A DEBT OF THE CITY OF HOPKINS OR THE STATE OF MINNESOTA (THE "STATE"), AND NEITHER THE CITY, THE STATE NOR ANY POLITICAL SUBDIVISION THEREOF SHALL BE LIABLE ON THE NOTE, NOR SHALL THIS NOTE BE PAYABLE OUT OF ANY FUNDS OR PROPERTIES OTHER THAN THE AVAILABLE TAX INCREMENT, AS DEFINED BELOW.

The Scheduled Payment of this Note due on any Scheduled Payment Date is payable solely from and only to the extent of Available Tax Increment less amounts of Available Tax Increment owing with respect to the Authority's Limited Revenue Tax Increment Note (Doran 810 Apartments LLC Note) Series 201__B as set forth in Section 6.2(b) of the Contract. Available Tax Increment consists of a portion of the real property taxes received as tax increment by the Authority with respect to the Authority's Tax Increment Financing District No. 1-5 (The Moline). Available Tax Increment, with respect to each Scheduled Payment Date, shall have the meaning given to such term in the Contract.

This Note is issued in one denomination.

The Authority shall not be in default under this Note for failure to make a payment under this Note and no interest shall accrue with respect to such payment not made until a date ten (10) days after the Authority receives written demand for such payment from the Owner; provided, that the Authority shall endeavor to make all payments when due or as soon as possible after receipt of the Owner's written demand.

The Authority shall pay on each Scheduled Payment Date to the Owner the Available Tax Increment. Payment shall be first applied to accrued interest and then to the Principal Amount. No interest shall accrue with respect to unpaid interest on a Scheduled Payment Date. If not terminated sooner pursuant to the terms of this Note or the Contract, on February 1, 20___, the Authority's payment obligations under this Note shall terminate and this Note shall no longer be an obligation of the Authority.

The Authority's obligations herein are subject to the terms and conditions of the Contract. Subject to Section 9.2 of the Contract, the Authority's payment obligations hereunder shall be suspended and this Note may be terminated by the Authority upon the occurrence of an Event of Default as provided in Section 9.1 of the Contract, which Contract is incorporated herein and made a part hereof by reference. Upon such termination, the Authority's obligations to make further payments hereunder shall be discharged. Such termination may be accomplished by the Authority's giving of written notice to the then registered owner of this Note, as shown on the books of the Authority.

This Note shall not be payable from or constitute a charge upon any funds of the Authority, and the Authority shall not be subject to any liability hereon or be deemed to have obligated itself to pay hereon from any funds except the Available Tax Increment, and then only to the extent and in the manner herein specified.

The Owner shall never have or be deemed to have the right to compel any exercise of any taxing power of the Authority or of any other public body, and neither the Authority nor any director, commissioner, council member, board member, officer, employee or agent of the Authority, nor any person executing or registering this Note shall be liable personally hereon by reason of the issuance or registration hereof or otherwise.

This Note shall not be transferable or assignable, in whole or in part, by the Owner without the prior written consent of the Authority, which consent shall not be unreasonably withheld or delayed.

This Note is issued pursuant to Resolution No. ____ of the Authority and is entitled to the benefits thereof, which resolution is incorporated herein by reference.

IT IS HEREBY CERTIFIED AND RECITED that all acts, conditions, and things required by the Constitution and laws of the State of Minnesota to be done, to have happened, and to be performed precedent to and in the issuance of this Note have been done, have happened, and have been performed in regular and due from, time, and manner as required by law; and that this Note, together with all other indebtedness of the Authority outstanding on the date hereof and on the date of its actual issuance and delivery, does not cause the indebtedness of the Authority to exceed any constitutional or statutory limitation thereon.

IN WITNESS WHEREOF, the Housing and Redevelopment Authority In and For the City of Hopkins, by its Commissioners, has caused this Note to be executed by the manual signatures of the Chair and the Executive Director of the Authority and has caused this Note to be dated _____, 201__.

_____ _____

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SCHEDULE C-2

Form of Redeveloper Note

UNITED STATES OF AMERICA
STATE OF MINNESOTA
COUNTY OF HENNEPIN
HOUSING AND REDEVELOPMENT IN AND FOR
THE CITY OF HOPKINS
LIMITED REVENUE TAX INCREMENT NOTE
(DORAN 810 APARTMENTS LLC NOTE)
Series 201__B

The Housing and Redevelopment Authority In and For the City of Hopkins, Minnesota (the "Authority"), hereby acknowledges itself to be indebted and, for value received, promises to pay to the order of Doran 810 Apartments, LLC, a Minnesota limited liability company, or its permitted assigns (the "Owner"), solely from the source, to the extent and in the manner hereinafter provided, the principal amount of this Note, being _____ Dollars ($_____) (the "Principal Amount"), said amount, together with interest as hereinafter described, to be paid, without demand, commencing on August 1, 201__, and continuing on each February 1 and August 1, thereafter to and including February 1, 20__ (the "Scheduled Payment Dates"). This Note is the Note defined in that certain Development Agreement dated as of _____, 2016, between the Authority, the City of Hopkins, Doran 810, LLC and the Owner (the "Contract"). Interest at the rate of _____ percent (_____%) per annum (the "Rate") shall accrue from the date of issuance of this Note and shall be added to the Principal Amount on each Scheduled Payment Date up to and including _____ 1, 201__, From and after such date simple non-compounding interest at the Rate shall accrue with respect to the Principal Amount, as increased pursuant to the previous sentence, until the earlier of the date that this Note is paid in full or terminated or the date of termination of the Authority's Tax Increment Financing District No. 1-5 (The Moline) (the "District). Interest shall be computed on the basis of a 360-day year of twelve (12) 30-day months. The term of this Note shall continue until the entire Principal Amount of and interest on this Note has been paid, until this Note is terminated in accordance with the terms of the Contract, or until February 1, 20__, whichever is earliest.

Each payment on this Note is payable in any coin or currency of the United States of America which on the date of such payment is legal tender for public and private debts and shall be made by check or draft made payable to the Owner and mailed to the Owner at its postal address within the United States which shall be designated from time to time by the Owner.

The Note is a special and limited obligation and not a general obligation of the Authority, which has been issued by the Authority pursuant to and in full conformity with the Constitution and laws of the State of Minnesota, including Minnesota Statutes, Section 469.178, subdivision 4, to aid in financing a "project", as therein defined, of the Authority consisting generally of defraying certain public redevelopment costs incurred and to be incurred by the Authority within and for the benefit of its Redevelopment Project No. 1 (the "Project"). Absent issuance of this Note, the Owner would not have undertaken the Project and this Note is necessary to reimburse the Owner for the Qualified Costs as identified in the Contract. This Note is issued only after and to the extent

the Authority has received reasonable evidence that the applicable Qualified Costs have been incurred by the Owner.

THIS NOTE IS A LIMITED OBLIGATION OF THE AUTHORITY AND NOT A DEBT OF THE CITY OF HOPKINS OR THE STATE OF MINNESOTA (THE "STATE"), AND NEITHER THE CITY, THE STATE NOR ANY POLITICAL SUBDIVISION THEREOF SHALL BE LIABLE ON THE NOTE, NOR SHALL THIS NOTE BE PAYABLE OUT OF ANY FUNDS OR PROPERTIES OTHER THAN THE AVAILABLE TAX INCREMENT, AS DEFINED BELOW.

The Scheduled Payment of this Note due on any Scheduled Payment Date is payable solely from and only to the extent of Available Tax Increment less amounts of Available Tax Increment owing with respect to the Authority's Limited Revenue Tax Increment Note (Doran 810 LLC Note) Series 201__A as set forth in Section 6.2(b) of the Contract. Available Tax Increment consists of a portion of the real property taxes received as tax increment by the Authority with respect to the Authority's Tax Increment Financing District No. 1-5 (The Moline). Available Tax Increment, with respect to each Scheduled Payment Date, shall have the meaning given to such term in the Contract.

This Note is issued in one denomination.

The Authority shall not be in default under this Note for failure to make a payment under this Note and no interest shall accrue with respect to such payment not made until a date ten (10) days after the Authority receives written demand for such payment from the Owner; provided, that the Authority shall endeavor to make all payments when due or as soon as possible after receipt of the Owner's written demand.

The Authority shall pay on each Scheduled Payment Date to the Owner the Available Tax Increment. Payment shall be first applied to accrued interest and then to the Principal Amount. No interest shall accrue with respect to unpaid interest on a Scheduled Payment Date. If not terminated sooner pursuant to the terms of this Note or the Contract, on February 1, 20___, the Authority's payment obligations under this Note shall terminate and this Note shall no longer be an obligation of the Authority.

The Authority's obligations herein are subject to the terms and conditions of the Contract. Subject to Section 9.2 of the Contract, the Authority's payment obligations hereunder shall be suspended and this Note may be terminated by the Authority upon the occurrence of an Event of Default as provided in Section 9.1 of the Contract, which Contract is incorporated herein and made a part hereof by reference. Upon such termination, the Authority's obligations to make further payments hereunder shall be discharged. Such termination may be accomplished by the Authority's giving of written notice to the then registered owner of this Note, as shown on the books of the Authority.

This Note shall not be payable from or constitute a charge upon any funds of the Authority, and the Authority shall not be subject to any liability hereon or be deemed to have obligated itself to pay hereon from any funds except the Available Tax Increment, and then only to the extent and in the manner herein specified.

The Owner shall never have or be deemed to have the right to compel any exercise of any taxing power of the Authority or of any other public body, and neither the Authority nor any director, commissioner, council member, board member, officer, employee or agent of the Authority, nor any person executing or registering this Note shall be liable personally hereon by reason of the issuance or registration hereof or otherwise.

This Note shall not be transferable or assignable, in whole or in part, by the Owner without the prior written consent of the Authority, which consent shall not be unreasonably withheld or delayed.

This Note is issued pursuant to Resolution No. ____ of the Authority and is entitled to the benefits thereof, which resolution is incorporated herein by reference.

IT IS HEREBY CERTIFIED AND RECITED that all acts, conditions, and things required by the Constitution and laws of the State of Minnesota to be done, to have happened, and to be performed precedent to and in the issuance of this Note have been done, have happened, and have been performed in regular and due from, time, and manner as required by law; and that this Note, together with all other indebtedness of the Authority outstanding on the date hereof and on the date of its actual issuance and delivery, does not cause the indebtedness of the Authority to exceed any constitutional or statutory limitation thereon.

IN WITNESS WHEREOF, the Housing and Redevelopment Authority In and For the City of Hopkins, by its Commissioners, has caused this Note to be executed by the manual signatures of the Chair and the Executive Director of the Authority and has caused this Note to be dated _____, 201__.

_____ _____

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SCHEDULE D

Access Easement Agreement

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SCHEDULE E

(Intentionally Omitted)

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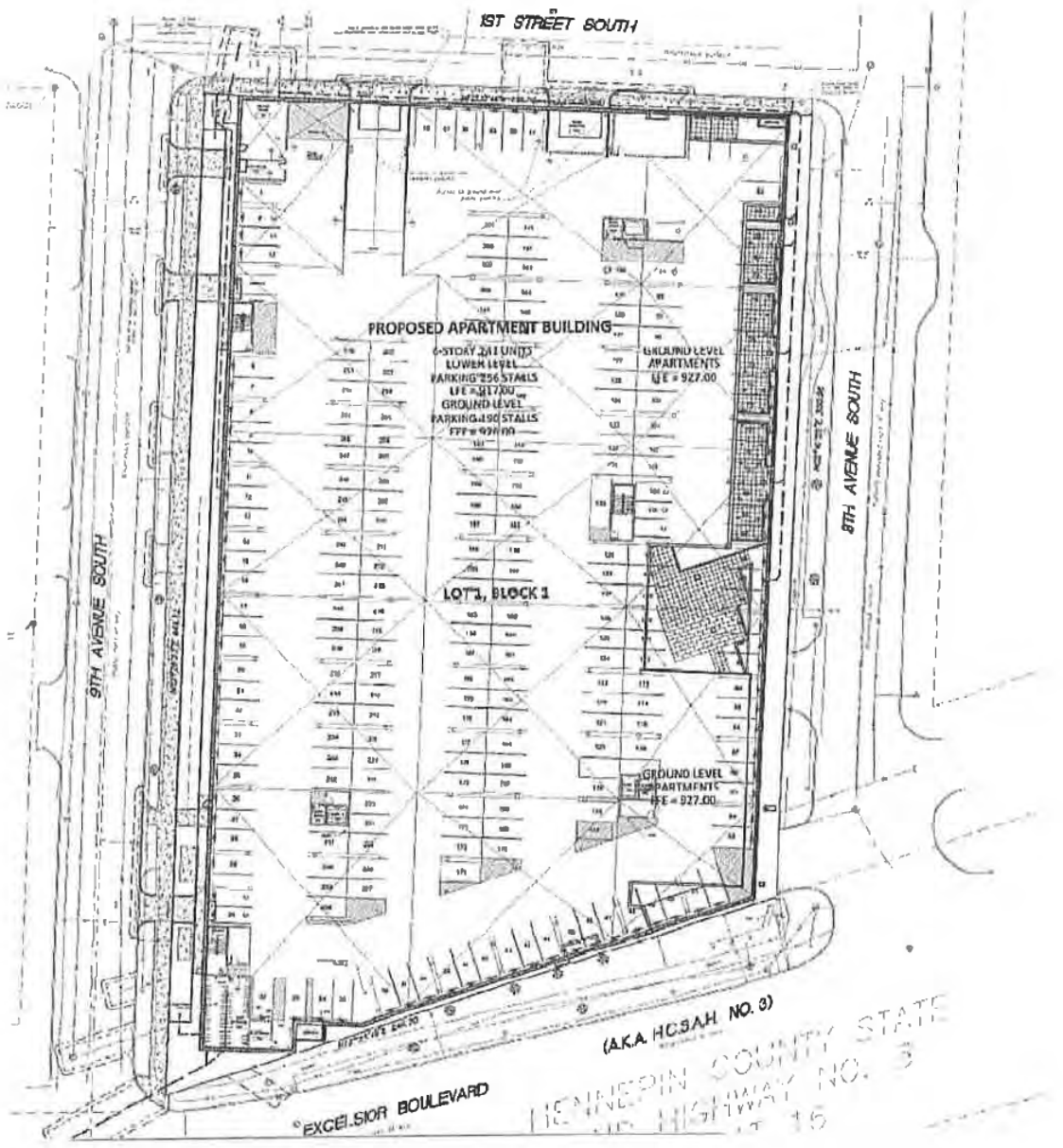
SCHEDULE F

Site Plan



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SCHEDULE G

(Intentionally Omitted)

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SCHEDULE H

(Intentionally Omitted)

SCHEDULE I

(Intentionally Omitted)

SCHEDULE J

Development Pro Forma

EHLERS
LEADERS IN PUBLIC FINANCE

City of Hopkins
The Moline
239 Apartment Units

SOURCES	Amount	Pct.
Developer Financing - Series A	37,451,500	63.58%
Developer Financing - Series B - TIF Note	5,000,000	8.49%
Developer Equity	5,890,000	10.00%
Subtotal	**48,341,500**	82.07%
CMAQ	6,000,000	10.19%
Metro Transit	3,058,500	5.19%
City Match	1,500,000	2.55%
Subtotal	10,558,500	17.93%
TOTAL SOURCES	58,900,000	100.00%

USES	Amount	% of Cost	Per Unit/Stall
Acquisition	3,851,000	6.54%	16,113
Construction	48,040,575	81.56%	201,007
Professional Services	3,818,500	6.48%	15,977
Financing Costs	1,722,226	2.92%	7,206
Real Estate Taxes	161,700	0.27%	677
Developer Fee	1,100,000	1.87%	4,603
Miscellaneous	205,999	0.35%	862
TOTAL USES	58,900,000		246,444

Note: This is a summary of the development proforma and the detailed one is IRR Analysis 2-23-16 - FINAL FOR DEVELOPMENT AGREEMENT ON File at Ehlers

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EHLERS
LEADERS IN PUBLIC FINANCE

City of Hopkins
The Moline
239 Apartment Units

Income	Monthly Rent	Units	Annual Revenue	Sq/Ft	Rent/ Sq/Ft
Rent	399,090	239	$4,791,480	237,201	$1.68
Other Income			$190,300		
Gross Revenue			**$4,981,780**		
Vacancy Loss - Units	5%		($239,574)		
Vacancy Loss - Other	5%		($9,515)		
Effective Gross Income			$4,732,691		

Expense	Total	Per Unit
Operating Costs	$816,990	$3,418
Management and Other Costs	$953,911	$3,991
Total Expenses	$1,770,901	$7,410
Net Operating Income	$2,961,790	

Note: This is a summary of the development proforma and the detailed one is IRR Analysis 2-23-15 - FINAL FOR DEVELOPMENT AGREEMENT ON File at Ehlers

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[illegible]	
Rental Revenue Inflation	2.00%
Other Income Inflation	2.00%
Inflation on Expenses	2.00%
Vacancy Rate - Rental Units	5%
Vacancy Rate -Other Income	5%

	2018	2019	Stabilized Year 2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032
Income	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Year 11	Year 12	Year 13	Year 14	Year 15
Rental Income															
Gross potential	2,103,136	4,142,399	4,887,310	4,985,056	5,084,757	5,186,452	5,290,181	5,395,985	5,503,904	5,613,982	5,726,262	5,840,787	5,957,603	6,076,755	6,198,290
Less Vacancy			(244,365)	(249,253)	(254,238)	(259,323)	(264,509)	(269,799)	(275,195)	(280,699)	(286,313)	(292,039)	(297,880)	(303,838)	(309,915)
Total Rental Income	2,103,136	4,142,399	4,642,944	4,735,803	4,830,519	4,927,129	5,025,672	5,126,185	5,228,709	5,333,283	5,439,949	5,548,748	5,659,723	5,772,917	5,888,376
Other Income															
Gross Potential	81,602	161,459	190,300	190,300	190,300	190,300	190,300	190,300	190,300	190,300	190,300	190,300	190,300	190,300	190,300
Less Vacancy			(9,515)	(9,515)	(9,515)	(9,515)	(9,515)	(9,515)	(9,515)	(9,515)	(9,515)	(9,515)	(9,515)	(9,515)	(9,515)
Total Other Income	81,602	161,459	180,785	180,785	180,785	180,785	180,785	180,785	180,785	180,785	180,785	180,785	180,785	180,785	180,785
Effective Gross income	2,184,738	4,303,858	4,823,729	4,916,588	5,011,304	5,107,914	5,206,457	5,306,970	5,409,494	5,514,068	5,620,734	5,729,533	5,840,508	5,953,702	6,069,161

	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032
Expenses	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Year 11	Year 12	Year 13	Year 14	Year 15
TOTAL EXPENSES	1,441,401	1,743,834	1,790,519	1,825,125	1,860,422	1,896,425	1,933,149	1,970,607	2,008,814	2,047,785	2,087,536	2,128,082	2,169,438	2,211,622	2,254,650
NET OPERATING INCOME	743,337	2,560,024	3,033,210	3,091,463	3,150,882	3,211,489	3,273,308	3,336,364	3,400,680	3,466,283	3,533,198	3,601,451	3,671,070	3,742,080	3,814,611
TIF PAYMENTS	386,522	585,987	598,916	610,894	623,112	635,574	648,286	661,252	674,477	687,966	701,726	715,760	0	0	0
Draw on Reserves	326,228														
ADJUSTED NET OPERATING INCOME	1,456,087	3,146,011	3,632,126	3,702,358	3,773,994	3,847,063	3,921,594	3,997,616	4,075,157	4,154,249	4,234,923	4,317,211	3,671,070	3,742,080	3,814,611
Debt Service - Series A	1,245,672	1,245,672	2,551,746	2,551,746	2,551,746	2,551,746	2,551,746	2,551,746	2,551,746	2,551,746	2,551,746	2,551,746	2,551,746	2,551,746	2,551,746
Debt Service - Series B	210,414	210,414	474,476	474,476	474,476	474,476	474,476	474,476	474,476	474,476	474,476	474,476	474,476	474,476	474,476
Total Debt Service			3,026,222	3,026,222	3,026,222	3,026,222	3,026,222	3,026,222	3,026,222	3,026,222	3,026,222	3,026,222	3,026,222	3,026,222	3,026,222
NET CASH TO DEVELOPER	1	1,689,925	605,904	676,136	747,772	820,841	895,372	971,393	1,048,935	1,128,027	1,208,701	1,290,989	644,847	715,858	788,389
RETURN ON INVES.-ANNUAL - With TIF	0.00%	28.69%	10.20%	11.48%	12.70%	-13.94%	15.20%	16.49%	17.81%	19.15%	20.52%	21.92%	10.95%	12.15%	13.38%
RETURN ON INVES.-ANNUAL - Without TIF	-6.56%	18.74%	0.12%	1.11%	2.12%	3.16%	4.20%	5.27%	6.36%	7.47%	8.61%	9.77%	10.96%	12.15%	13.38%
RETURN ON INVES.-AVERAGE	0.00%	14.35%	12.99%	12.61%	12.63%	12.85%	13.18%	13.63%	14.07%	14.57%	15.11%	15.68%	15.32%	15.09%	14.99%
CASH ON COST - With TIF	3.01%	8.51%	7.51%	7.66%	7.81%	7.96%	8.11%	8.27%	8.43%	8.59%	8.76%	8.93%	7.59%	7.74%	7.89%
CASH ON COST - Without TIF	1.84%	5.30%	6.27%	6.39%	6.52%	6.64%	6.77%	6.90%	7.03%	7.17%	7.31%	7.45%	7.59%	7.74%	7.89%
ANNUAL DEBT COVERAGE	100.00%	216.09%	120.02%	122.34%	124.71%	127.12%	129.59%	132.10%	134.66%	137.29%	139.94%	142.66%	121.31%	123.65%	126.05%
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15

Note: This is a summary of the development proforma and the detailed one is IRR Analysis 3-21-18 - FINAL FOR DEVELOPMENT AGREEMENT ON File at Ehlers

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