



# City Council Agenda

Monday, July 20, 2009

6:00 p.m.

**Closed Executive Session**

6:30 p.m.

**Regular Meeting**

**City Council Chambers**

*(Times are Approximate)*

- |           |                                                                                                                                                                                       |
|-----------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 6:00 p.m. | <b>1. Roll Call</b>                                                                                                                                                                   |
|           | Voting & Seating Order for July: Pust, Roe, Ihlan, Johnson and Klausing                                                                                                               |
|           | <b>Closed Executive Session -<br/>Discuss Labor Relations</b>                                                                                                                         |
| 6:32 p.m. | <b>2. Approve Agenda</b>                                                                                                                                                              |
| 6:35 p.m. | <b>3. Public Comment</b>                                                                                                                                                              |
| 6:40 p.m. | <b>4. Council Communications, Reports, Announcements and<br/>Housing and Redevelopment Authority Report</b>                                                                           |
|           | <b>5. Recognitions, Donations, Communications</b>                                                                                                                                     |
|           | <b>6. Approve Minutes</b>                                                                                                                                                             |
| 6:45 p.m. | a. Approve Minutes of July 13, 2009 Meeting                                                                                                                                           |
| 6:50 p.m. | <b>7. Approve Consent Agenda</b>                                                                                                                                                      |
|           | a. Approve Payments                                                                                                                                                                   |
|           | b. Approve Business Licenses                                                                                                                                                          |
|           | c. Set August 10, 2009 Public Hearing for Smashburger<br>Acquisition-Minneapolis, LLC On-Sale Wine and an On-<br>Sale 3.2 Liquor License Application at 2100 Snelling<br>Avenue North |
|           | d. Accept Second Quarter Financial Report                                                                                                                                             |
|           | e. Adopt a Resolution Requesting Minnesota Green Corps<br>Members                                                                                                                     |

- f. Accept the Target Corporation Donation for National Night Out
  - g. Accept Multiple Donations to the Police Department
  - h. Accept Roseville Skating Center 2008 Bonding Project Update
  - i. Adopt a Resolution Awarding Bid for 2009 Contract C in the amount of \$343,930 to Lametti & Sons, Inc. of Hugo
- 7:00 p.m.    **8. Consider Items Removed from Consent**
- 9. General Ordinances for Adoption**
- 10. Presentations**
- 11. Public Hearings**
- 12. Business Items (Action Items)**
- 7:10 p.m.    a. Approve City Abatement for Code Violations at 3065 Sandy Hook Drive
- 7:20 p.m.    b. Award the Sale of the 2009 Refunding Bonds
- 7:25 p.m.    c. Award the Sale of the 2009 Housing Revenue Bonds for Westwood Village I
- 13. Business Items – Presentations/Discussions**
- 7:30 p.m.    a. Budgeting for Outcomes Update
- 7:45 p.m.    b. Discussion of Environmental Cost Recovery within the Twin Lakes Area
- 8:00 p.m.    c. Discussion regarding Hazardous Building Law
- 8:15 p.m.    d. Discussion regarding Appraisals for Property purchased from Roseville Acquisitions for Twin Lakes Phase I Infrastructure
- 8:30 p.m.    e. Discussion of Possible Presumptive Penalty Liquor Code Revisions
- 8:45 p.m.    **14. City Manager Future Agenda Review**
- 8:50 p.m.    **15. Councilmember Initiated Items for Future Meetings**
- 16. Adjourn**

*Some Upcoming Public Meetings.....*

Council Agenda - Page 3

|           |        |           |                                                       |
|-----------|--------|-----------|-------------------------------------------------------|
| Monday    | Jul 20 | 6:00 p.m. | City Council Meeting                                  |
| Tuesday   | Jul 21 | 6:00 p.m. | Housing & Redevelopment Authority                     |
| Monday    | Jul 27 | 6:00 p.m. | City Council Meeting                                  |
| Tuesday   | Jul 28 | 6:30 p.m. | Public Works, Environment & Transportation Commission |
| Tuesday   | Aug 4  | 6:30 p.m. | Parks & Recreation Commission                         |
| Wednesday | Aug 5  | 6:30 p.m. | Planning Commission                                   |
| Monday    | Aug 10 | 6:00 p.m. | City Council Meeting                                  |
| Tuesday   | Aug 11 | 6:30 p.m. | Human Rights Commission                               |
| Wednesday | Aug 12 | 6:30 p.m. | Ethics Commission                                     |

*All meetings at Roseville City Hall, 2660 Civic Center Drive, Roseville, MN unless otherwise noted.*

Date: 7/20/09

Item: 6.a

Minutes of 7/13/09

No Attachment

  
**REQUEST FOR COUNCIL ACTION**

Date: 7/20/2009  
Item No.: 7.a

Department Approval

City Manager Approval

*Chris Miller*

*W. J. Mahonen*

Item Description: Approval of Payments

**BACKGROUND**

State Statute requires the City Council to approve all payment of claims. The following summary of claims has been submitted to the City for payment.

| Check Series # | Amount       |
|----------------|--------------|
| ACH Payments   | \$642,943.48 |
| 55695--55728   | \$163,095.14 |
| Total          | \$806,038.62 |

A detailed report of the claims is attached. City Staff has reviewed the claims and considers them to be appropriate for the goods and services received.

**POLICY OBJECTIVE**

Under Mn State Statute, all claims are required to be paid within 35 days of receipt.

**FINANCIAL IMPACTS**

All expenditures listed above have been funded by the current budget, from donated monies, or from cash reserves.

**STAFF RECOMMENDATION**

Staff recommends approval of all payment of claims.

**REQUESTED COUNCIL ACTION**

Motion to approve the payment of claims as submitted

Prepared by: Chris Miller, Finance Director  
Attachments: A: n/a

# Accounts Payable

## Checks for Approval

User: mjenson

Printed: 07/14/2009 - 3:57 PM

| Check Number | Check Date | Fund Name                | Account Name                  | Vendor Name                    | Description                            | Amount     |
|--------------|------------|--------------------------|-------------------------------|--------------------------------|----------------------------------------|------------|
| 0            | 07/08/2009 | Sanitary Sewer           | Metro Waste Control Board     | Metropolitan Council           | Wastewater Flow                        | 190,650.93 |
| 0            | 07/08/2009 | Telephone                | Telephone                     | FSH Communications-LLC         | Payphone Advantage Service             | 127.80     |
| 0            | 07/08/2009 | Storm Drainage           | Operating Supplies            | Samba Holdings Inc             | Driver Records                         | 11.00      |
| 0            | 07/08/2009 | Sanitary Sewer           | Operating Supplies            | Samba Holdings Inc             | Driver Records                         | 8.25       |
| 0            | 07/08/2009 | Recreation Fund          | Transportation                | Jeff Evenson                   | Mileage Reimbursement                  | 162.25     |
| 0            | 07/08/2009 | General Fund             | 211402 - Flex Spending Health |                                | Flexible Benefit Reimbursement         | 293.07     |
| 0            | 07/08/2009 | General Fund             | 211402 - Flex Spending Health |                                | Flexible Benefit Reimbursement         | 35.00      |
| 0            | 07/08/2009 | General Fund             | 211403 - Flex Spend Day Care  |                                | Dependent Care Reimbursement           | 690.00     |
| 0            | 07/08/2009 | General Fund             | 211403 - Flex Spend Day Care  |                                | Dependent Care Reimbursement           | 166.15     |
| 0            | 07/08/2009 | Water Fund               | Professional Services         | Elecsys International Corp.    | UMS Software Support Fee-Aug 2009      | 93.33      |
| 0            | 07/08/2009 | Water Fund               | Use Tax Payable               | Elecsys International Corp.    | Sales/Use Tax                          | -5.70      |
| 0            | 07/08/2009 | Water Fund               | Operating Supplies            | Sherwin Williams               | Paint Supplies                         | 104.11     |
| 0            | 07/08/2009 | General Fund             | Operating Supplies            | Flint Hills Resources          | 65,000 CRS2 Oil per 2009 Materials Bid | 22,533.31  |
| 0            | 07/08/2009 | General Fund             | Operating Supplies            | Flint Hills Resources          | 65,000 CRS2 Oil per 2009 Materials Bid | 441.39     |
| 0            | 07/08/2009 | General Fund             | Operating Supplies            | Flint Hills Resources          | 65,000 CRS2 Oil per 2009 Materials Bid | 17,476.39  |
| 0            | 07/08/2009 | Pathway Maintenance Fund | Operating Supplies            | Flint Hills Resources          | 65,000 CRS2 Oil per 2009 Materials Bid | 5,122.00   |
| 0            | 07/08/2009 | Water Fund               | St. Paul Water                | City of St. Paul               | Water Usage 4/30/09-5/29/09            | 399,272.33 |
| 0            | 07/08/2009 | Sanitary Sewer           | Operating Supplies            | Brock White Co                 | Stone, Tan Tubes                       | 16.61      |
| 0            | 07/08/2009 | Water Fund               | Operating Supplies            | Sherwin Williams               | Paint Supplies                         | 81.51      |
| 0            | 07/08/2009 | General Fund             | Employer Insurance            | Delta Dental Plan of Minnesota | Dental Insurance Premium-June 2009     | 31.00      |
| 0            | 07/08/2009 | General Fund             | Employer Insurance            | Delta Dental Plan of Minnesota | Dental Insurance Premium-June 2009     | 31.00      |
| 0            | 07/08/2009 | Information Technology   | Employer Insurance            | Delta Dental Plan of Minnesota | Dental Insurance Premium-June 2009     | 62.00      |
| 0            | 07/08/2009 | General Fund             | Employer Insurance            | Delta Dental Plan of Minnesota | Dental Insurance Premium-June 2009     | 61.67      |
| 0            | 07/08/2009 | General Fund             | Employer Insurance            | Delta Dental Plan of Minnesota | Dental Insurance Premium-June 2009     | 682.00     |
| 0            | 07/08/2009 | General Fund             | Employer Insurance            | Delta Dental Plan of Minnesota | Dental Insurance Premium-June 2009     | 31.00      |
| 0            | 07/08/2009 | General Fund             | Employer Insurance            | Delta Dental Plan of Minnesota | Dental Insurance Premium-June 2009     | 31.00      |
| 0            | 07/08/2009 | General Fund             | Employer Insurance            | Delta Dental Plan of Minnesota | Dental Insurance Premium-June 2009     | 62.00      |
| 0            | 07/08/2009 | General Fund             | Employer Insurance            | Delta Dental Plan of Minnesota | Dental Insurance Premium-June 2009     | 62.00      |

| Check Number | Check Date | Fund Name                  | Account Name                   | Vendor Name                    | Description                              | Amount     |
|--------------|------------|----------------------------|--------------------------------|--------------------------------|------------------------------------------|------------|
| 0            | 07/08/2009 | Recreation Fund            | Employer Insurance             | Delta Dental Plan of Minnesota | Dental Insurance Premium-June 2009       | 31.00      |
| 0            | 07/08/2009 | P & R Contract Maintenance | Employer Insurance             | Delta Dental Plan of Minnesota | Dental Insurance Premium-June 2009       | 93.00      |
| 0            | 07/08/2009 | General Fund               | Employer Insurance             | Delta Dental Plan of Minnesota | Dental Insurance Premium-June 2009       | 31.00      |
| 0            | 07/08/2009 | Community Development      | Employer Insurance             | Delta Dental Plan of Minnesota | Dental Insurance Premium-June 2009       | 31.00      |
| 0            | 07/08/2009 | Community Development      | Employer Insurance             | Delta Dental Plan of Minnesota | Dental Insurance Premium-June 2009       | 31.00      |
| 0            | 07/08/2009 | License Center             | Employer Insurance             | Delta Dental Plan of Minnesota | Dental Insurance Premium-June 2009       | 154.67     |
| 0            | 07/08/2009 | Sanitary Sewer             | Employer Insurance             | Delta Dental Plan of Minnesota | Dental Insurance Premium-June 2009       | 62.00      |
| 0            | 07/08/2009 | Water Fund                 | Employer Insurance             | Delta Dental Plan of Minnesota | Dental Insurance Premium-June 2009       | 93.00      |
| 0            | 07/08/2009 | Storm Drainage             | Employer Insurance             | Delta Dental Plan of Minnesota | Dental Insurance Premium-June 2009       | 61.67      |
| 0            | 07/08/2009 | Risk Management            | Employer Insurance             | Delta Dental Plan of Minnesota | Dental Insurance Premium-June 2009       | -1,642.01  |
| 0            | 07/08/2009 | Risk Management            | Employer Insurance             | Delta Dental Plan of Minnesota | Dental Insurance Premium-June 2009       | 5,123.59   |
| 0            | 07/08/2009 | Water Fund                 | Operating Supplies             | USA BlueBook                   | DPD 4 Dispenser                          | 125.69     |
| 0            | 07/08/2009 | General Fund               | Vehicle Supplies               | Grainger Inc                   | 2009 Blanket PO for Vehicle Repairs      | 68.75      |
| 0            | 07/08/2009 | General Fund               | Vehicle Supplies               | Grainger Inc                   | 2009 Blanket PO for Vehicle Repairs      | 61.97      |
| 0            | 07/08/2009 | General Fund               | Vehicle Supplies               | Grainger Inc                   | 2009 Blanket PO for Vehicle Repairs      | 11.49      |
| 0            | 07/08/2009 | General Fund               | Vehicle Supplies               | Napa Auto Parts                | 2009 Blanket PO for Vehicle Repairs      | 9.93       |
| 0            | 07/08/2009 | General Fund               | Vehicle Supplies               | Napa Auto Parts                | 2009 Blanket PO for Vehicle Repairs      | 14.32      |
| 0            | 07/08/2009 | General Fund               | Vehicle Supplies               | Napa Auto Parts                | 2009 Blanket PO for Vehicle Repairs      | 58.90      |
| 0            | 07/08/2009 | General Fund               | Vehicle Supplies               | Napa Auto Parts                | 2009 Blanket PO for Vehicle Repairs      | 7.71       |
| 0            | 07/08/2009 | Recreation Fund            | Operating Supplies             | Grainger Inc                   | Utility Pump                             | 181.40     |
| Check Total: |            |                            |                                |                                |                                          | 642,943.48 |
| 55695        | 07/08/2009 | Street Construction        | 09-02 Roselawn/HamlineVictoria | Asphalt Surface Tech, Corp     | Roselawn Ave                             | 44,380.11  |
| 55695        | 07/08/2009 | Storm Drainage             | 09-02 Roselawn/HamlineVictoria | Asphalt Surface Tech, Corp     | Roselawn Watermain                       | 40,913.65  |
| 55695        | 07/08/2009 | Storm Drainage             | 09-02 Roselawn/HamlineVictoria | Asphalt Surface Tech, Corp     | Roselawn Storm Sewer                     | 1,129.17   |
| Check Total: |            |                            |                                |                                |                                          | 86,422.93  |
| 55696        | 07/08/2009 | General Fund               | Operating Supplies             | Bituminous Roadways Inc        | 2009 Blanket PO for LVWE45030B, LVNW3500 | 4,137.81   |
| 55696        | 07/08/2009 | Water Fund                 | Operating Supplies             | Bituminous Roadways Inc        | 2009 Blanket PO for LVWE45030B, LVNW3500 | 5,228.14   |
| Check Total: |            |                            |                                |                                |                                          | 9,365.95   |
| 55697        | 07/08/2009 | Pathway Maintenance Fund   | Rental                         | BNSF Railway Company           | Lease Payment                            | 12,500.00  |
| Check Total: |            |                            |                                |                                |                                          | 12,500.00  |
| 55698        | 07/08/2009 | Information Technology     | Operating Supplies             | CDW Government, Inc.           | Battery for Fire Station #3              | 606.77     |

| Check Number | Check Date | Fund Name               | Account Name                 | Vendor Name                   | Description                       | Amount   |
|--------------|------------|-------------------------|------------------------------|-------------------------------|-----------------------------------|----------|
| Check Total: |            |                         |                              |                               |                                   | 606.77   |
| 55699        | 07/08/2009 | General Fund            | 211403 - Flex Spend Day Care |                               | Dependent Care Reimbursement      | 230.00   |
| Check Total: |            |                         |                              |                               |                                   | 230.00   |
| 55700        | 07/08/2009 | Recreation Donations    | Professional Services        | Concrete Arts                 | Completed Concrete Rose Medallion | 3,000.00 |
| 55700        | 07/08/2009 | Recreation Fund         | Operating Supplies           | Concrete Arts                 | Completed Concrete Rose Medallion | 1,000.00 |
| 55700        | 07/08/2009 | Recreation Improvements | CP Amphitheater              | Concrete Arts                 | Completed Concrete Rose Medallion | 1,991.00 |
| Check Total: |            |                         |                              |                               |                                   | 5,991.00 |
| 55701        | 07/08/2009 | Water Fund              | Water Meters                 | Dakota Supply Group           | Water Meter Supplies              | 1,648.62 |
| 55701        | 07/08/2009 | Water Fund              | Water Meters                 | Dakota Supply Group           | Water Meter Supplies              | 3,601.23 |
| 55701        | 07/08/2009 | Water Fund              | Water Meters                 | Dakota Supply Group           | Water Meter Supplies              | 166.14   |
| 55701        | 07/08/2009 | Water Fund              | Water Meters                 | Dakota Supply Group           | Water Meter Supplies              | 381.57   |
| Check Total: |            |                         |                              |                               |                                   | 5,797.56 |
| 55702        | 07/08/2009 | Recreation Fund         | Professional Services        | Mark Emme                     | Volleyball Officiating            | 176.00   |
| Check Total: |            |                         |                              |                               |                                   | 176.00   |
| 55703        | 07/08/2009 | Sanitary Sewer          | Operating Supplies           | General Industrial Supply Co. | Alloy Slip Hook, Alloy Chain      | 39.47    |
| Check Total: |            |                         |                              |                               |                                   | 39.47    |
| 55704        | 07/08/2009 | Recreation Fund         | Professional Services        | Pat Hubbard                   | Volleyball Officiating            | 242.00   |
| Check Total: |            |                         |                              |                               |                                   | 242.00   |
| 55705        | 07/08/2009 | Recreation Fund         | Professional Services        | Tom Imhoff                    | Volleyball Officiating            | 172.00   |
| Check Total: |            |                         |                              |                               |                                   | 172.00   |
| 55706        | 07/08/2009 | Water Fund              | Professional Services        | Instrumental Research, Inc.   | Coliform Bacteria Test            | 360.00   |
| Check Total: |            |                         |                              |                               |                                   | 360.00   |
| 55707        | 07/08/2009 | Sanitary Sewer          | Professional Services        | Loucks Associates             | Professional Services-Easements   | 800.00   |

| Check Number | Check Date | Fund Name                  | Account Name                  | Vendor Name                   | Description                         | Amount    |
|--------------|------------|----------------------------|-------------------------------|-------------------------------|-------------------------------------|-----------|
| 55707        | 07/08/2009 | Street Construction        | Professional Services         | Loucks Associates             | Professional Services-Easements     | 396.00    |
| Check Total: |            |                            |                               |                               |                                     | 1,196.00  |
| 55708        | 07/08/2009 | Water Fund                 | State surcharge - Water       | MN Dept of Health             | Water Supply Connection Fee-2nd Qtr | 16,163.94 |
| Check Total: |            |                            |                               |                               |                                     | 16,163.94 |
| 55709        | 07/08/2009 | Sanitary Sewer             | Operating Supplies            | Networkfleet, Inc.            | Hardware                            | 1,384.50  |
| 55709        | 07/08/2009 | Sanitary Sewer             | Use Tax Payable               | Networkfleet, Inc.            | Sales/Use Tax                       | -84.50    |
| 55709        | 07/08/2009 | Sanitary Sewer             | Professional Services         | Networkfleet, Inc.            | Monthly Service Fee-May             | 89.85     |
| 55709        | 07/08/2009 | Sanitary Sewer             | Professional Services         | Networkfleet, Inc.            | Monthly Service Fee-June            | 89.85     |
| Check Total: |            |                            |                               |                               |                                     | 1,479.70  |
| 55710        | 07/08/2009 | General Fund               | Contract Maint. - City Hall   | Nitti Sanitation Inc.         | Regular Service                     | 153.00    |
| 55710        | 07/08/2009 | General Fund               | Contract Maintenance          | Nitti Sanitation Inc.         | Regular Service                     | 88.40     |
| 55710        | 07/08/2009 | General Fund               | Contract Maint. - City Garage | Nitti Sanitation Inc.         | Regular Service                     | 275.40    |
| 55710        | 07/08/2009 | General Fund               | Contract Maintenance          | Nitti Sanitation Inc.         | Regular Service                     | 54.40     |
| 55710        | 07/08/2009 | Golf Course                | Contract Maintenance          | Nitti Sanitation Inc.         | Regular Service                     | 108.80    |
| 55710        | 07/08/2009 | Recreation Fund            | Contract Maintenance          | Nitti Sanitation Inc.         | Regular Service                     | 224.40    |
| 55710        | 07/08/2009 | P & R Contract Maintenance | Contract Maintenance          | Nitti Sanitation Inc.         | Regular Service                     | 516.80    |
| Check Total: |            |                            |                               |                               |                                     | 1,421.20  |
| 55711        | 07/08/2009 | General Fund               | 211403 - Flex Spend Day Care  |                               | Dependent Care Reimbursement        | 200.00    |
| Check Total: |            |                            |                               |                               |                                     | 200.00    |
| 55712        | 07/08/2009 | Recreation Fund            | Professional Services         | Chelsea Preiner               | Volleyball Officiating              | 126.00    |
| Check Total: |            |                            |                               |                               |                                     | 126.00    |
| 55713        | 07/08/2009 | Water Fund                 | Rental                        | Quality Restoration Services, | Barricades, Signs                   | 169.17    |
| Check Total: |            |                            |                               |                               |                                     | 169.17    |
| 55714        | 07/08/2009 | Telephone                  | St. Anthony Telephone         | Qwest                         | Telephone                           | 130.63    |
| 55714        | 07/08/2009 | Telephone                  | Telephone                     | Qwest                         | Telephone                           | 355.81    |
| 55714        | 07/08/2009 | Telephone                  | NSCC Telephone                | Qwest                         | Telephone                           | 198.60    |

| Check Number | Check Date | Fund Name             | Account Name                   | Vendor Name                    | Description                     | Amount   |
|--------------|------------|-----------------------|--------------------------------|--------------------------------|---------------------------------|----------|
| Check Total: |            |                       |                                |                                |                                 | 685.04   |
| 55715        | 07/08/2009 | Storm Drainage        | Rental                         | Railroad Management Co. III, L | Rent                            | 90.75    |
| 55715        | 07/08/2009 | Storm Drainage        | Rental                         | Railroad Management Co. III, L | Rent                            | 90.75    |
| 55715        | 07/08/2009 | Storm Drainage        | Rental                         | Railroad Management Co. III, L | Rent                            | 90.75    |
| 55715        | 07/08/2009 | Storm Drainage        | Rental                         | Railroad Management Co. III, L | Rent                            | 90.75    |
| Check Total: |            |                       |                                |                                |                                 | 363.00   |
| 55716        | 07/08/2009 | Sanitary Sewer        | PaperCalmenson/Gravity Replace | Reed Business Information      | Construction Bulletin Legal Ads | 206.64   |
| Check Total: |            |                       |                                |                                |                                 | 206.64   |
| 55717        | 07/08/2009 | Equipment Replacement | FunRental - Copier Machines    | Ricoh Americas Corp.           | Copier Buyout 004-2212157-000   | 471.46   |
| Check Total: |            |                       |                                |                                |                                 | 471.46   |
| 55718        | 07/08/2009 | Water Fund            | Water - Roseville              | St. Paul Industrial Properties | Refund for Overcharge           | 1,352.25 |
| Check Total: |            |                       |                                |                                |                                 | 1,352.25 |
| 55719        | 07/08/2009 | General Fund          | Operating Supplies             | Staples Business Advantage     | Toner                           | 237.66   |
| 55719        | 07/08/2009 | General Fund          | Operating Supplies             | Staples Business Advantage     | Toner                           | 106.03   |
| Check Total: |            |                       |                                |                                |                                 | 343.69   |
| 55720        | 07/08/2009 | Recreation Fund       | Professional Services          | Shane Sturgis                  | Volleyball Officiating          | 44.00    |
| Check Total: |            |                       |                                |                                |                                 | 44.00    |
| 55721        | 07/08/2009 | Recreation Fund       | Professional Services          | Gwen Thielke                   | Girls Basketball Camp Director  | 4,615.00 |
| Check Total: |            |                       |                                |                                |                                 | 4,615.00 |
| 55722        | 07/08/2009 | General Fund          | 211402 - Flex Spending Health  |                                | Flexible Benefit Reimbursement  | 233.57   |
| Check Total: |            |                       |                                |                                |                                 | 233.57   |
| 55723        | 07/08/2009 | Sanitary Sewer        | Operating Supplies             | United Rentals Northwest, Inc. | Rain Coat                       | 9.78     |

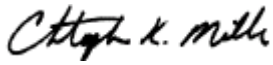
| Check Number | Check Date | Fund Name                  | Account Name                  | Vendor Name                    | Description            | Amount     |
|--------------|------------|----------------------------|-------------------------------|--------------------------------|------------------------|------------|
|              |            |                            |                               |                                | Check Total:           | 9.78       |
| 55724        | 07/08/2009 | Recreation Fund            | Professional Services         | Kathie Urbaniak                | Volleyball Officiating | 352.00     |
|              |            |                            |                               |                                | Check Total:           | 352.00     |
| 55725        | 07/08/2009 | General Fund               | Contract Maintenance Vehicles | Vermeer Sales and Service, Cor | Compost Turner         | 202.97     |
|              |            |                            |                               |                                | Check Total:           | 202.97     |
| 55726        | 07/08/2009 | P & R Contract Maintenance | Operating Supplies            | Vineland Tree Care, Inc        | Scouting-IPM Visit     | 660.30     |
|              |            |                            |                               |                                | Check Total:           | 660.30     |
| 55727        | 07/08/2009 | Water Fund                 | Professional Services         | Water Conservation Service, In | Water Leak Locating    | 214.50     |
|              |            |                            |                               |                                | Check Total:           | 214.50     |
| 55728        | 07/10/2009 | Storm Drainage             | Other Improvements            | Burschville Construction, Inc. | Improvements           | 7,276.90   |
| 55728        | 07/10/2009 | Street Construction        | Contractor Payments           | Burschville Construction, Inc. | Contractor Payments    | 3,404.35   |
|              |            |                            |                               |                                | Check Total:           | 10,681.25  |
|              |            |                            |                               |                                | Report Total:          | 806,038.62 |

**ROSEVILLE**  
**REQUEST FOR COUNCIL ACTION**

Date: 07-27-09  
Item No.: 7.b

Department Approval

City Manager Approval



Item Description: Approval of 2009-2010 Business Licenses

**BACKGROUND**

Chapter 301 of the City Code requires all applications for business licenses to be submitted to the City Council for approval. The following application(s) is (are) submitted for consideration

Massage Therapist

Elizabeth Dawn Schwietz  
At Roseville Lifetime Fitness  
2480 Fairview Ave N  
Roseville, MN 55113

Massage Therapist

Erica Carlene Pointer-Kobett  
At Serene Body Therapy  
1629 County Rd C  
Roseville MN 55113

Massage Therapist

Bangwu Zhang  
At American Academy of Acupuncture and Oriental Medicine  
1925 W County Road B2  
Roseville, MN 55113

Massage Therapy Establishment

American Academy of Acupuncture and Oriental Medicine  
1925 W County Road B2  
Roseville, MN 55113

33  
34 Massage Therapy Establishment  
35 Rocco Altobelli, Inc.  
36 1595 Hwy 36  
37 Roseville, MN 55113  
38

39  
40 Massage Therapist  
41 Crystal Lenzen  
42 At Serene Body Therapy  
43 1629 W County Road C  
44 Roseville, MN 55113  
45  
46

47  
48 **POLICY OBJECTIVE**  
49 Required by City Code

50 **FINANCIAL IMPACTS**  
51 The correct fees were paid to the City at the time the application(s) were made.

52 **STAFF RECOMMENDATION**  
53 Staff has reviewed the application(s) and has determined that the applicant(s) meet all City requirements.

54 **REQUESTED COUNCIL ACTION**  
55 Motion to approve the business license application(s) as submitted.  
56

57  
Prepared by: Chris Miller, Finance Director  
Attachments: A: Applications

58



Finance Department, License Division  
2660 Civic Center Drive, Roseville, MN 55113  
(651) 792-7036

## Massage Therapist License

New License ☒ Renewal ☐

For License year ending June 30 2010

1. Legal Name Elizabeth Dawn Schwiertz

2. Home Address \_\_\_\_\_

3. Home Telephone \_\_\_\_\_

4. Date of Birth \_\_\_\_\_

5. Drivers License Number \_\_\_\_\_

6. Email Address elizabeth.schwiertz@gmail.com

7. Have you ever used or been known by any name other than the legal name given in number 1 above?  
Yes ☒ No ☐ If yes, list each name along with dates and places where used.

None

8. Name and address of the licensed Massage Therapy Establishment that you expect to be employed by.

Roseville Lifetime Fitness

9. Attach a certified copy of a diploma or certificate of graduation from a school of massage therapy including a minimum of 600 hours in successfully completed course work as described in Roseville Ordinance 116, massage Therapy Establishments.

10. Have you had any previous massage therapist license that was revoked, suspended, or not renewed?  
Yes ☒ No ☐ If yes explain in detail.

Oakdale license NOT renewed Stopped working there

License fee is 75.00

Make checks payable to City of Roseville



Finance Department, License Division  
2660 Civic Center Drive, Roseville, MN 55113  
(651) 792-7036

## Massage Therapist License

New License \_\_\_\_\_ Renewal X

For License year ending June 30 2010

1. Legal Name ERICA CARLENE POINTER KOBETT

2. Home Address \_\_\_\_\_

3. Home Telephone \_\_\_\_\_ 2

4. Date of Birth \_\_\_\_\_

5. Drivers License Number \_\_\_\_\_

6. Email Address \_\_\_\_\_ u

7. Have you ever used or been known by any name other than the legal name given in number 1 above?  
Yes X No \_\_\_\_\_ If yes, list each name along with dates and places where used.

8. Name and address of the licensed Massage Therapy Establishment that you expect to be employed by.

SERENE BODY THERAPY 1629 City Rd C Roseville

9. Attach a certified copy of a diploma or certificate of graduation from a school of massage therapy including a minimum of 600 hours in successfully completed course work as described in Roseville Ordinance 116, massage Therapy Establishments.

10. Have you had any previous massage therapist license that was revoked, suspended, or not renewed?  
Yes \_\_\_\_\_ No X If yes explain in detail.

License fee is 75.00

Make checks payable to City of Roseville



Finance Department, License Division  
2660 Civic Center Drive, Roseville, MN 55113  
(651) 792-7034

## Massage Therapist License

New License \_\_\_\_\_ Renewal ☒

For License year ending June 30 # 2007095

1. Legal Name Bangwu Zhang
2. Home Address \_\_\_\_\_
3. Home Telephone \_\_\_\_\_
4. Date of Birth \_\_\_\_\_
5. Drivers License Number \_\_\_\_\_
6. Email Address \_\_\_\_\_
7. Have you ever used or been known by any name other than the legal name given in number 1 above?  
Yes \_\_\_\_\_ No ☒ If yes, list each name along with dates and places where used.

8. Name and address of the licensed Massage Therapy Establishment that you expect to be employed by.  
American Academy of Acupuncture and Oriental Medicine  
1925, W. County Rd B2, Roseville, MN 55113

9. Attach a certified copy of a diploma or certificate of graduation from a school of massage therapy including a minimum of 600 hours in successfully completed course work as described in Roseville Ordinance 116, massage Therapy Establishments.

10. Have you had any previous massage therapist license that was revoked, suspended, or not renewed?  
Yes \_\_\_\_\_ No ☒ If yes explain in detail.

License fee is 75.00

Make checks payable to City of Roseville



City of Roseville  
Finance Department, License Division  
2660 Civic Center Drive, Roseville, MN 55113  
(651) 792-7034

## Massage Therapy Establishment License Application

Business Name American Academy of Acupuncture and Oriental Medicine  
Business Address 1925 West County Road B2 Roseville, MN 55113  
Business Phone \_\_\_\_\_  
Email Address \_\_\_\_\_

Person to Contact in Regard to Business License:

Legal Name Changzhen Gong  
Address 1925 West County Road B2 Roseville, MN 55113  
Phone (651) 631-0204 Date of Birth \_\_\_\_\_  
Drivers License Number \_\_\_\_\_

I hereby apply for the following license(s) for the term of one year, beginning July 1, 2009 and ending June 31, 2010, in the City of Roseville, County of Ramsey and State of Minnesota.

License Required  
Massage Therapy Establishment

Fee  
\$300.00  
\$150.00 Background Check  
(new license only)

The undersigned applicant makes this application pursuant to all the laws of the State of Minnesota and regulation as the Council of the City of Roseville may from time to time prescribe, including Minnesota Statue #176.182. In addition, the applicant acknowledges that they are responsible for reviewing the background and work history of their employees, including those that have received a massage therapist license from the City.

Signature

Date

Changzhen Gong  
6-28-2009

If completed license should be mailed somewhere other than the business address, please advise.



City of Roseville  
Finance Department, License Division  
2660 Civic Center Drive, Roseville, MN 55113  
(651) 792-7036

## Massage Therapy Establishment License Application

Business Name ROCCO ALTOBELLI INC.  
Business Address 14301 BURNSVILLE PKWY. W. BURNSVILLE, MN 55306.  
Business Phone 952 707-1900  
Email Address \_\_\_\_\_  
Person to Contact in Regard to Business License:  
Legal Name KRISTEN L WICK  
Address 14301 BURNSVILLE PKWY. W. BURNSVILLE MN 55306  
Phone \_\_\_\_\_ Date of Birth \_\_\_\_\_  
Drivers License Number \_\_\_\_\_

I hereby apply for the following license(s) for the term of one year, beginning July 1, 2009, and ending June 31, 2010, in the City of Roseville, County of Ramsey, and State of Minnesota.

| License Required              | Fee                                             |
|-------------------------------|-------------------------------------------------|
| Massage Therapy Establishment | \$300.00                                        |
|                               | \$150.00 Background Check<br>(new license only) |

The undersigned applicant makes this application pursuant to all the laws of the State of Minnesota and regulation as the Council of the City of Roseville may from time to time prescribe, including Minnesota Statue #176.182. In addition, the applicant acknowledges that they are responsible for reviewing the background and work history of their employees, including those that have received a massage therapist license from the City.

Signature \_\_\_\_\_

Date 5.6.2009

If completed license should be mailed somewhere other than the business address, please advise.



Finance Department, License Division  
2660 Civic Center Drive, Roseville, MN 55113  
(651) 792-7036

## Massage Therapist License

New License \_\_\_\_\_ Renewal X

For License year ending June 30 \_\_\_\_\_

1. Legal Name Crystal Lenzem

2. Home Address \_\_\_\_\_

3. Home Telephone \_\_\_\_\_

4. Date of Birth \_\_\_\_\_

5. Drivers License Number \_\_\_\_\_

6. Email Address \_\_\_\_\_

7. Have you ever used or been known by any name other than the legal name given in number 1 above?  
Yes \_\_\_\_\_ No X If yes, list each name along with dates and places where used.

8. Name and address of the licensed Massage Therapy Establishment that you expect to be employed by.

Serene Body Therapy  
1429 W. Cty. Rd. C  
Roseville, MN 55113

9. Attach a certified copy of a diploma or certificate of graduation from a school of massage therapy including a minimum of 600 hours in successfully completed course work as described in Roseville Ordinance 116, massage Therapy Establishments.

10. Have you had any previous massage therapist license that was revoked, suspended, or not renewed?  
Yes \_\_\_\_\_ No X If yes explain in detail.

License fee is 75.00

Make checks payable to City of Roseville

**ROSEVILLE**  
**REQUEST FOR COUNCIL ACTION**

Date: 07-20-09  
Item No.: 7.c

Department Approval

City Manager Approval

*Christopher K. Miller*

*W. J. Mahinen*

Item Description: Smashburger Acquisition-Minneapolis, LLC application for On-Sale Wine & On-Sale 3.2 liquor license.

**Background**

Smashburger Acquisition-Minneapolis, LLC has applied for On-Sale Wine and an On-Sale 3.2 liquor license at 2100 N. Snelling Ave. The City Attorney will review the application prior to the issuance of the license to ensure that it is in order. A representative from Smashburger Acquisition-Minneapolis, LLC will attend the hearing to answer any questions the Council may have.

**Financial Implications**

The revenue that is generated from the license fees collected is used to offset the cost of police compliance checks, background investigations, enforcement of liquor laws, and license administration.

**Council Action**

Motion to set a public hearing for On-Sale Wine and an On-Sale 3.2 liquor license, for Smashburger Acquisition-Minneapolis, LLC to be held on August 10, 2009.

Prepared by: Chris Miller, Finance Director  
Attachments: A: Applications



Minnesota Department of Public Safety  
Alcohol and Gambling Enforcement Division (AGED)  
444 Cedar Street, Suite 133, St. Paul, MN 55101-5133  
Telephone 651-201-7507 Fax 651-297-5259 TTY 651-282-6555

**Certification of an On Sale Liquor License, 3.2% Liquor license, or Sunday Liquor License**

**Cities and Counties:** You are required by law to complete and sign this form to certify the issuance of the following liquor license types:  
1) City issued on sale intoxicating and Sunday liquor licenses  
2) City and County issued 3.2% on and off sale malt liquor licenses

Name of City or County Issuing Liquor License Roseville License Period From: 1/1/2009 To: 12/31/2009

Circle One: New License License Transfer \_\_\_\_\_ Suspension \_\_\_\_\_ Revocation \_\_\_\_\_ Cancel \_\_\_\_\_  
(former licensee name) (Give dates)

License type: (circle all that apply) On Sale Intoxicating Sunday Liquor 3.2% On sale 3.2% Off Sale  
Fee(s): On Sale License fee: \$ \_\_\_\_\_ Sunday License fee: \$ \_\_\_\_\_ 3.2% On Sale fee: \$ \_\_\_\_\_ 3.2% Off Sale fee: \$ \_\_\_\_\_

Licensee Name: Smashburger Acquisition-Minneapolis, LLC DOB \_\_\_\_\_ Social Security # \_\_\_\_\_  
(corporation, partnership, LLC, or Individual)

Business Trade Name Smashburger Business Address 2100 N. Snelling Ave. City Roseville

Zip Code 55113 County Ramsey Business Phone (612) 802-1095 Suite 65 A Temporary Home Phone (303) 633-1500

Home Address 1515 Arapahoe St. Tower One, City Denver, CO 80202 Licensee's MN Tax ID # \_\_\_\_\_  
10th Floor (To Apply call 651-296-6181)

Licensee's Federal Tax ID # \_\_\_\_\_  
(To apply call IRS 800-829-4933)

If above named licensee is a corporation, partnership, or LLC, complete the following for each partner/officer:

| Partner/Officer Name (First Middle Last)   | DOB | Social Security # | Home Address |
|--------------------------------------------|-----|-------------------|--------------|
| (Partner/Officer Name (First Middle Last)) | DOB | Social Security # | Home Address |
| Partner/Officer Name (First Middle Last)   | DOB | Social Security # | Home Address |

Intoxicating liquor licensees must attach a certificate of Liquor Liability Insurance to this form. The insurance certificate must contain all of the following:

- 1) Show the exact licensee name (corporation, partnership, LLC, etc) and business address as shown on the license.
- 2) Cover completely the license period set by the local city or county licensing authority as shown on the license.

Circle One: (Yes) No During the past year has a summons been issued to the licensee under the Civil Liquor Liability Law?

Workers Compensation Insurance is also required by all licensees: Please complete the following:

Workers Compensation Insurance Company Name: Traveler's Insurance Policy # \_\_\_\_\_

I Certify that this license(s) has been approved in an official meeting by the governing body of the city or county.

City Clerk or County Auditor Signature \_\_\_\_\_ Date \_\_\_\_\_  
(title)

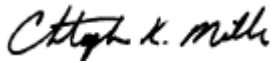
**On Sale Intoxicating liquor licensees must also purchase a \$20 Retailer Buyers Card. To obtain the application for the Buyers Card, please call 651-201-7504, or visit our website at [www.dps.state.mn.us](http://www.dps.state.mn.us).**

  
**REQUEST FOR COUNCIL ACTION**

Date: 7/20/09  
Item No.: 7.d

Department Approval

City Manager Approval



Item Description: 2009 2nd Quarter Financial Report

**BACKGROUND**

In an effort to keep the Council informed on the City's fiscal condition, a comparison of the 2009 revenues and expenditures for the period ending June 30, 2009 (unaudited) is shown below. This comparison is presented in accordance with the City's Operating Budget Policy, which reads (in part) as follows:

*The Finance Department will prepare regular reports comparing actual expenditures to budgeted amounts as part of the budgetary control system. These reports shall be distributed to the City Council on a periodic basis.*

The comparison shown below includes those programs and services that constitute the City's core functions and for which changes in financial trends can have a near-term impact on the ability to maintain current service levels. Programs such as debt service and tax increment financing which are governed by pre-existing obligations and restricted revenues are not shown. In addition, expenditures in the City's vehicle and equipment replacement programs are not shown as these expenditures are specifically tied to pre-established sinking funds. Unlike some of the City's operating budgets, these sinking funds are not susceptible to year-to-year fluctuations. In these instances, annual reviews are considered sufficient.

The information is presented strictly on a cash basis which measures only the actual revenues that have been deposited and the actual expenditures that have been paid. This is in contrast with the City's audited year-end financial report which attempts to measure revenues earned but not collected, as well as costs incurred but not yet paid.

It should be noted that many of the City's revenue streams such as property taxes, are non-recurring or are received intermittently throughout the year. This can result in wide revenue fluctuations from month to month. In addition, some of the City's expenditures such as capital replacements are also non-recurring and subject to wide fluctuations. To accommodate these differences, a comparison is made to historical results to identify whether any new trends exist.

## Citywide Revenue & Expenditure Comparison

The following table depicts the 2009 revenues and expenditures for the fiscal period ending June 30, 2009 for the City's core programs and services.

|                           | 2009<br><u>Budget</u> | 2009<br><u>Actual</u> | %<br><u>Actual</u> | %<br><u>Norm.</u> | <u>Diff.</u> |
|---------------------------|-----------------------|-----------------------|--------------------|-------------------|--------------|
| <b>Revenues</b>           |                       |                       |                    |                   |              |
| General property taxes    | \$ 10,768,860         | \$ 5,425,000          | 50.4%              | 51.1%             | -0.7%        |
| Intergovernmental revenue | 864,000               | 141,969               | 16.4%              | 18.0%             | -1.5%        |
| Licenses & permits        | 1,332,400             | 535,210               | 40.2%              | 47.4%             | -7.2%        |
| Charges for services      | 16,168,650            | 5,320,104             | 32.9%              | 32.1%             | 0.8%         |
| Fines and forfeits        | 286,000               | 81,354                | 28.4%              | 46.3%             | -17.9%       |
| Cable franchise fees      | 322,500               | 91,213                | 28.3%              | 29.1%             | -0.8%        |
| Rentals / Lease           | 325,675               | 166,557               | 51.1%              | 62.5%             | -11.3%       |
| Donations                 | 38,500                | 510                   | 1.3%               | 50.7%             | -49.4%       |
| Interest earnings         | 434,860               | -                     | 0.0%               | 0.0%              | n/a          |
| Miscellaneous             | 508,550               | 127,037               | 25.0%              | 29.7%             | -4.8%        |
| <b>Total Revenues</b>     | <b>\$ 31,049,995</b>  | <b>\$ 11,888,953</b>  | <b>38.3%</b>       | <b>39.1%</b>      | <b>-0.8%</b> |
|                           |                       |                       |                    |                   |              |
|                           | 2009<br><u>Budget</u> | 2009<br><u>Actual</u> | %<br><u>Actual</u> | %<br><u>Norm.</u> | <u>Diff.</u> |
| <b>Expenditures</b>       |                       |                       |                    |                   |              |
| General government        | \$ 1,716,800          | \$ 870,742            | 50.7%              | 48.3%             | 2.5%         |
| Public safety             | 7,750,975             | 3,500,424             | 45.2%              | 46.2%             | -1.0%        |
| Public works              | 2,385,375             | 1,002,378             | 42.0%              | 46.7%             | -4.7%        |
| Information technology    | 961,680               | 405,029               | 42.1%              | 55.4%             | -13.3%       |
| Communications            | 323,500               | 194,694               | 60.2%              | 62.6%             | -2.4%        |
| Recreation                | 3,750,045             | 1,515,614             | 40.4%              | 44.3%             | -3.9%        |
| Community development     | 1,317,055             | 588,194               | 44.7%              | 44.4%             | 0.2%         |
| License Center            | 1,245,375             | 468,118               | 37.6%              | 41.9%             | -4.3%        |
| Sanitary Sewer            | 4,085,000             | 1,531,783             | 37.5%              | 41.2%             | -3.7%        |
| Water                     | 5,624,950             | 1,484,953             | 26.4%              | 33.6%             | -7.2%        |
| Storm Drainage            | 1,457,575             | 236,256               | 16.2%              | 33.6%             | -17.4%       |
| Golf Course               | 404,200               | 116,794               | 28.9%              | 43.4%             | -14.5%       |
| Recycling                 | 357,550               | 215,608               | 60.3%              | 63.0%             | -2.7%        |
| <b>Total Expenditures</b> | <b>\$ 31,380,080</b>  | <b>\$ 12,130,586</b>  | <b>38.7%</b>       | <b>43.0%</b>      | <b>-4.3%</b> |

### Table Comments:

- ❖ '% Actual' column depicts the percentage spent compared to the budget
- ❖ '% Norm' column depicts the percentage of expenditures we normally incur during this period as measured over the previous 3 years
- ❖ 'Diff' column depicts the difference between the percentage actually spent and the percentage we typically incur. A percentage difference of 10% or more in this column would be considered significant

41 Revenue and Expenditure Comments

42 Overall, revenues and expenditures were slightly lower than expected. Licenses and Permit revenue were  
43 significantly lower reflected the continued downturn in the economy. Fines & Forfeits and Rental and  
44 Lease revenue were also lower partially due to the timing of collections. Most operating divisions  
45 experienced lower than expected expenditures resulting from personnel vacancies, and other measures  
46 taken to offset the expected loss of state-aid. Lower equipment and other capital replacements also  
47 contributed to the decline.

48

49 Final Comments

50 The City's overall financial condition remains strong, but the sustained economic downturn could result in  
51 the continued loss of state aid, lower license and permit revenues, and diminished interest earnings.

52

53 Information on individual operating fund performance is shown below.

54

## General Fund Summary

The following table depicts the 2009 financial activity for the General Fund for the fiscal period ending June 30, 2009 (unaudited).

|                           | 2009<br><u>Budget</u> | 2009<br><u>Actual</u> | %<br><u>Actual</u> | %<br><u>Expect.</u> | <u>Diff.</u> |
|---------------------------|-----------------------|-----------------------|--------------------|---------------------|--------------|
| Revenues                  |                       |                       |                    |                     |              |
| General property taxes    | \$ 8,910,360          | \$ 5,425,000          | 60.9%              | 61.5%               | -0.7%        |
| Intergovernmental revenue | 864,000               | 141,969               | 16.4%              | 18.0%               | -1.5%        |
| Licenses & permits        | 282,400               | 37,769                | 13.4%              | 15.5%               | -2.1%        |
| Charges for services      | 1,050,000             | 473,366               | 45.1%              | 56.7%               | -11.7%       |
| Fines and forfeits        | 286,000               | 81,354                | 28.4%              | 46.3%               | -17.9%       |
| Donations                 | -                     | -                     | 0.0%               | 0.0%                | n/a          |
| Interest earnings         | 257,360               | -                     | 0.0%               | 0.0%                | n/a          |
| Miscellaneous             | 125,000               | 8,704                 | 7.0%               | 10.5%               | -3.6%        |
| Total Revenues            | \$ 11,775,120         | \$ 6,168,162          | 52.4%              | 53.9%               | -1.5%        |
| Expenditures              |                       |                       |                    |                     |              |
| General government        | \$ 1,716,800          | \$ 870,742            | 50.7%              | 48.3%               | 2.5%         |
| Public safety             | 7,750,975             | 3,500,424             | 45.2%              | 46.2%               | -1.0%        |
| Public works              | 2,385,375             | 1,002,378             | 42.0%              | 46.7%               | -4.7%        |
| Other                     | -                     | -                     | n/a                | n/a                 | n/a          |
| Total Expenditures        | \$ 11,853,150         | \$ 5,373,544          | 45.3%              | 46.6%               | -1.3%        |

### Comments:

Overall, General Fund revenues and expenditures were near expected levels. Notable exceptions include:

- 1) Charges for services revenue was lower than expected due to delayed allocation of internal service charges.
- 2) Fines and forfeits revenue was lower than expected due to delayed receipts from the County.

The primary concerns for the General Funds' financial condition include the pending loss of state aid and the potential for less than expected interest earnings due to the continued economic downturn. The City should also be concerned about the General Fund's overall reserve levels which have dropped to 31% of the annual operating budget. This is well below the 50% amount prescribed by Council-adopted policies and industry-recommended standards.

### Information Technology Fund Summary

The following table depicts the 2009 financial activity for the Information Technology Fund for the fiscal period ending June 30, 2009 (unaudited).

|                           | 2009<br><u>Budget</u> | 2009<br><u>Actual</u> | %<br><u>Actual</u> | %<br><u>Expect.</u> | <u>Diff.</u>  |
|---------------------------|-----------------------|-----------------------|--------------------|---------------------|---------------|
| <b>Revenues</b>           |                       |                       |                    |                     |               |
| Charges for services      | \$ 564,005            | \$ 248,228            | 44.0%              | 38.1%               | 5.9%          |
| General property taxes    | 50,000                | -                     | 0.0%               | 0.0%                | 0.0%          |
| Rentals / Lease           | 272,675               | 145,604               | 53.4%              | 63.2%               | -9.8%         |
| Miscellaneous             | 75,000                | 9,149                 | 12.2%              | 44.5%               | -32.3%        |
| <b>Total Revenues</b>     | <b>\$ 961,680</b>     | <b>\$ 402,981</b>     | <b>41.9%</b>       | <b>46.9%</b>        | <b>-5.0%</b>  |
| <b>Expenditures</b>       |                       |                       |                    |                     |               |
| Information technology    | 961,680               | 405,029               | 42.1%              | 55.4%               | -13.3%        |
| Other                     | -                     | -                     | n/a                | n/a                 | n/a           |
| <b>Total Expenditures</b> | <b>\$ 961,680</b>     | <b>\$ 405,029</b>     | <b>42.1%</b>       | <b>55.4%</b>        | <b>-13.3%</b> |

#### Comments:

Information Technology revenues and expenditures were lower than expected. Rental and Lease revenue was lower than expected due to the timing of collection efforts. Expenditures were also lower due to lower overall investments in IT assets compared to prior years.

The Information Technology Fund is expected to continue to face challenges in meeting unmet citywide needs. Current funding sources are insufficient to replace city equipment at the end of their useful lives. In addition, the Fund has no cash reserves rendering it unable to provide for any new initiatives. A computer replacement charge to other funds is expected to be recommended with the 2010 Budget to improve the Fund's financial stability.

### Communications Fund Summary

The following table depicts the 2009 financial activity for the Communications Fund for the fiscal period ending June 30, 2009 (unaudited).

|                           | 2009<br><u>Budget</u> | 2009<br><u>Actual</u> | %<br><u>Actual</u> | %<br><u>Expect.</u> | <u>Diff.</u> |
|---------------------------|-----------------------|-----------------------|--------------------|---------------------|--------------|
| <b>Revenues</b>           |                       |                       |                    |                     |              |
| Cable franchise fees      | \$ 322,500            | \$ 91,213             | 28.3%              | 29.1%               | -0.8%        |
| Interest earnings         | 1,000                 | -                     | 0.0%               | 0.0%                | 0.0%         |
| Miscellaneous             | -                     | -                     | n/a                | n/a                 | n/a          |
| <b>Total Revenues</b>     | \$ 323,500            | \$ 91,213             | 28.2%              | 28.9%               | -0.7%        |
| <b>Expenditures</b>       |                       |                       |                    |                     |              |
| Communications            | \$ 323,500            | \$ 194,694            | 60.2%              | 62.6%               | -2.4%        |
| Other                     | -                     | -                     | n/a                | n/a                 | n/a          |
| <b>Total Expenditures</b> | \$ 323,500            | \$ 194,694            | 60.2%              | 62.6%               | -2.4%        |

#### Comments:

Communications Fund revenues and expenditures were near expected levels.

The Communications Fund is currently in good financial condition with a cash reserve of \$184,000 or 64% of the annual operating budget. However, the uncertainty of future cable franchise fees, such as the abolishment of local franchising authority, may warrant the development of a contingency plan in the event this revenue stream ceases.

## Recreation Fund Summary

The following table depicts the 2009 financial activity for the Recreation Fund for the fiscal period ending June 30, 2009 (unaudited).

|                           | 2009<br><u>Budget</u> | 2009<br><u>Actual</u> | %<br><u>Actual</u> | %<br><u>Expect.</u> | <u>Diff.</u> |
|---------------------------|-----------------------|-----------------------|--------------------|---------------------|--------------|
| <b>Revenues</b>           |                       |                       |                    |                     |              |
| General property taxes    | \$ 1,858,500          | \$ -                  | 0.0%               | 0.0%                | 0.0%         |
| Charges for services      | 1,749,495             | 832,053               | 47.6%              | 51.3%               | -3.8%        |
| Rentals / Lease           | 53,000                | 20,953                | 39.5%              | 59.3%               | -19.8%       |
| Donations                 | 38,500                | 510                   | 1.3%               | 17.8%               | -16.5%       |
| Interest earnings         | 6,500                 | -                     | 0.0%               | 0.0%                | 0.0%         |
| Miscellaneous             | 44,050                | 9,559                 | 21.7%              | 61.7%               | -40.0%       |
| <b>Total Revenues</b>     | \$ 3,750,045          | \$ 863,074            | 23.0%              | 26.0%               | -2.9%        |
| <b>Expenditures</b>       |                       |                       |                    |                     |              |
| Recreation                | 3,750,045             | 1,515,614             | 40.4%              | 44.3%               | -3.9%        |
| Other                     | -                     | -                     | n/a                | n/a                 | n/a          |
| <b>Total Expenditures</b> | \$ 3,750,045          | \$ 1,515,614          | 40.4%              | 44.3%               | -3.9%        |

### Comments:

Recreation Fund revenues and expenditures are near expected levels. Revenues were slightly lower due to reduced program fees and facility rentals. Expenditures were lower due to personnel vacancies.

The Recreation Fund is currently in fair financial condition with a cash reserve of \$429,000 or 12% of the annual operating budget. The Council-adopted policy recommends a reserve level of 25%. Additional reserves will be needed to ensure program stability. Absent the elimination of some non-fee programs, additional property taxes remain the most viable option for improving the overall condition.

## Community Development Fund Summary

The following table depicts the 2009 financial activity for the Community Development Fund for the fiscal period ending June 30, 2009 (unaudited).

|                           | 2009<br><u>Budget</u> | 2009<br><u>Actual</u> | %<br><u>Actual</u> | %<br><u>Expect.</u> | <u>Diff.</u> |
|---------------------------|-----------------------|-----------------------|--------------------|---------------------|--------------|
| <b>Revenues</b>           |                       |                       |                    |                     |              |
| Licenses & permits        | \$ 1,050,000          | \$ 497,441            | 47.4%              | 57.5%               | -10.1%       |
| Charges for services      | -                     | -                     | 0.0%               | 0.0%                | n/a          |
| Fines and forfeits        | -                     | -                     | 0.0%               | 0.0%                | n/a          |
| Interest earnings         | 10,000                | -                     | 0.0%               | 0.0%                | 0.0%         |
| Miscellaneous             | 130,000               | 69,925                | 53.8%              | 28.0%               | 25.8%        |
| <b>Total Revenues</b>     | \$ 1,190,000          | \$ 567,366            | 47.7%              | 55.3%               | -7.6%        |
| <b>Expenditures</b>       |                       |                       |                    |                     |              |
| Community development     | 1,317,055             | 588,194               | 44.7%              | 44.4%               | 0.2%         |
| Other                     | -                     | -                     | n/a                | n/a                 | n/a          |
| <b>Total Expenditures</b> | \$ 1,317,055          | \$ 588,194            | 44.7%              | 44.4%               | 0.2%         |

### Comments:

Community Development Fund revenues are below expected levels resulting from less building activity and corresponding Licenses and Permit revenues. However, there are a number of large-scale projects that are expected to pull permits in the 3<sup>rd</sup> and 4<sup>th</sup> quarters. Expenditures are at expected levels.

The Community Development Fund is currently in good financial condition with a cash reserve of \$404,000 or 33% of the annual operating budget. However the City needs to remain mindful of current economic conditions and the viability of redevelopment opportunities. A sustained slowdown in housing and/or commercial development will impact the Fund's ability to sustain current staffing and service levels.

**License Center Fund Summary**

The following table depicts the 2009 financial activity for the License Center Fund for the fiscal period ending June 30, 2009 (unaudited).

|                           | 2009<br><u>Budget</u> | 2009<br><u>Actual</u> | %<br><u>Actual</u> | %<br><u>Expect.</u> | <u>Diff.</u> |
|---------------------------|-----------------------|-----------------------|--------------------|---------------------|--------------|
| <b>Revenues</b>           |                       |                       |                    |                     |              |
| Charges for services      | \$ 1,245,375          | \$ 429,512            | 34.5%              | 47.7%               | -13.2%       |
| Miscellaneous             | -                     | -                     | n/a                | n/a                 | n/a          |
| <b>Total Revenues</b>     | \$ 1,245,375          | \$ 429,512            | 34.5%              | 47.7%               | -13.2%       |
| <b>Expenditures</b>       |                       |                       |                    |                     |              |
| License Center operations | 1,245,375             | 468,118               | 37.6%              | 41.9%               | -4.3%        |
| Other                     | -                     | -                     | n/a                | n/a                 | n/a          |
| <b>Total Expenditures</b> | \$ 1,245,375          | \$ 468,118            | 37.6%              | 41.9%               | -4.3%        |

**Comments:**

License Center Fund revenues are down significantly due to the continued downturn in the local economy. New and used car sales have decreased which in turn results in less titling fees at the License Center. In addition, consumer demand for passports has also waned due to reduced travel to other countries. Expenditures are below expected levels due to a reduction in hours and wages from part-time employees as well as leaving a budgeted full-time position vacant.

The License Center Fund is currently in good financial condition with a cash reserve of \$306,000 or 29% of the annual operating budget. However the City needs to stay cognizant of increased competition from other area licensing centers, as well as new federal or state mandates that could result in higher operating costs. A sustained economic downturn also poses a risk.

148 **Sanitary Sewer Fund Summary**  
 149 The following table depicts the 2009 financial activity for the Sanitary Sewer Fund for the fiscal period  
 150 ending June 30, 2009 (unaudited).  
 151

|                           | 2009<br><u>Budget</u> | 2009<br><u>Actual</u> | %<br><u>Actual</u> | %<br><u>Expect.</u> | <u>Diff.</u> |
|---------------------------|-----------------------|-----------------------|--------------------|---------------------|--------------|
| <b>Revenues</b>           |                       |                       |                    |                     |              |
| Charges for services      | \$ 3,985,000          | \$ 1,194,071          | 30.0%              | 24.9%               | 5.1%         |
| Interest earnings         | 100,000               | -                     | 0.0%               | 0.0%                | 0.0%         |
| Miscellaneous             | -                     | -                     | n/a                | n/a                 | n/a          |
| <b>Total Revenues</b>     | \$ 4,085,000          | \$ 1,194,071          | 29.2%              | 24.2%               | 5.0%         |
| <b>Expenditures</b>       |                       |                       |                    |                     |              |
| Sanitary Sewer operations | 4,085,000             | 1,531,783             | 37.5%              | 41.2%               | -3.7%        |
| Other                     | -                     | -                     | n/a                | n/a                 | n/a          |
| <b>Total Expenditures</b> | \$ 4,085,000          | \$ 1,531,783          | 37.5%              | 41.2%               | -3.7%        |

152  
 153 Comments:  
 154 Sanitary Sewer Fund revenues are above expected levels primarily due to the change in the rate structure  
 155 which ensured better cash flows independent of sewer usage. Expenditures are near expected levels.  
 156  
 157 The Sanitary Sewer Fund is currently in good financial condition with a cash reserve of \$2.9 million or  
 158 84% of the annual operating budget. An internal loan of \$450,000 has been made to the Water Fund to  
 159 cover that fund's prior-period operating losses.

## Water Fund Summary

The following table depicts the 2009 financial activity for the Water Fund for the fiscal period ending June 30, 2009 (unaudited).

|                           | 2009<br><u>Budget</u> | 2009<br><u>Actual</u> | %<br><u>Actual</u> | %<br><u>Expect.</u> | <u>Diff.</u> |
|---------------------------|-----------------------|-----------------------|--------------------|---------------------|--------------|
| <b>Revenues</b>           |                       |                       |                    |                     |              |
| Charges for services      | \$ 5,620,950          | \$ 1,580,782          | 28.1%              | 21.4%               | 6.7%         |
| Interest earnings         | 2,000                 | -                     | 0.0%               | 0.0%                | 0.0%         |
| Miscellaneous             | 2,000                 | 11,880                | 594.0%             | 124.8%              | 469.2%       |
| <b>Total Revenues</b>     | \$ 5,624,950          | \$ 1,592,662          | 28.3%              | 21.5%               | 6.8%         |
| <b>Expenditures</b>       |                       |                       |                    |                     |              |
| Water operations          | 5,624,950             | 1,484,953             | 26.4%              | 33.6%               | -7.2%        |
| Other                     | -                     | -                     | n/a                | n/a                 | n/a          |
| <b>Total Expenditures</b> | \$ 5,624,950          | \$ 1,484,953          | 26.4%              | 27.4%               | -1.0%        |

### Comments:

Water Fund revenues are above expected levels primarily due to the change in the rate structure which ensured better cash flows independent of water usage. Expenditures are below expected levels due to reduced capital improvements compared to previous years.

The Water Fund is currently in poor financial condition with no cash reserves. Although a positive operating surplus was realized in 2007 and 2008, an internal loan of \$450,000 has been made from the Sanitary Sewer Fund to the Water Fund to cover prior period operating losses. Future rate increases will be needed to repay the internal loan and to offset projected increases in operational and capital replacement costs.

176 **Storm Sewer Fund Summary**

177 The following table depicts the 2009 financial activity for the Storm Sewer Fund for the fiscal period  
 178 ending June 30, 2009 (unaudited).

179

|                           | 2009<br><u>Budget</u> | 2009<br><u>Actual</u> | %<br><u>Actual</u> | %<br><u>Expect.</u> | <u>Diff.</u> |
|---------------------------|-----------------------|-----------------------|--------------------|---------------------|--------------|
| <b>Revenues</b>           |                       |                       |                    |                     |              |
| Charges for services      | \$ 1,402,575          | \$ 311,765            | 22.2%              | 33.1%               | -10.8%       |
| Interest earnings         | 50,000                | -                     | 0.0%               | 0.0%                | 0.0%         |
| Miscellaneous             | 5,000                 | 16,545                | 330.9%             | n/a                 | n/a          |
| <b>Total Revenues</b>     | \$ 1,457,575          | \$ 328,310            | 22.5%              | 30.4%               | -7.9%        |
| <b>Expenditures</b>       |                       |                       |                    |                     |              |
| Storm Drainage operations | 1,457,575             | 236,256               | 16.2%              | 33.6%               | -17.4%       |
| Other                     | -                     | -                     | n/a                | n/a                 | n/a          |
| <b>Total Expenditures</b> | \$ 1,457,575          | \$ 236,256            | 16.2%              | 33.6%               | -17.4%       |

180

181 Comments:

182 Storm Sewer Fund revenues and expenditures are below expected levels. Revenues are lower due to the  
 183 timing of collecting customer payments. Expenditures are below expected levels due to lower capital  
 184 replacement costs compared to prior years during the same period.

185

186 The Storm Sewer Fund is currently in excellent financial condition with a cash reserve of \$2.5 million.  
 187 This reserve level is expected to decline over the next 10 years due to planned capital improvements.  
 188 Future rate increases will partially offset the draw down of reserves.

### Golf Course Fund Summary

The following table depicts the 2009 financial activity for the Golf Course Fund for the fiscal period ending June 30, 2009 (unaudited).

|                           | 2009<br><u>Budget</u> | 2009<br><u>Actual</u> | %<br><u>Actual</u> | %<br><u>Expect.</u> | <u>Diff.</u>  |
|---------------------------|-----------------------|-----------------------|--------------------|---------------------|---------------|
| <b>Revenues</b>           |                       |                       |                    |                     |               |
| Charges for services      | \$ 393,700            | \$ 121,770            | 30.9%              | 43.5%               | -12.6%        |
| Interest earnings         | 8,000                 | -                     | 0.0%               | 0.0%                | 0.0%          |
| Miscellaneous             | 2,500                 | 1,275                 | 51.0%              | 43.3%               | 7.7%          |
| <b>Total Revenues</b>     | <b>\$ 404,200</b>     | <b>\$ 123,045</b>     | <b>30.4%</b>       | <b>42.1%</b>        | <b>-11.7%</b> |
| <b>Expenditures</b>       |                       |                       |                    |                     |               |
| Golf Course operations    | 404,200               | 116,794               | 28.9%              | 43.4%               | -14.5%        |
| Other                     | -                     | -                     | n/a                | n/a                 | n/a           |
| <b>Total Expenditures</b> | <b>\$ 404,200</b>     | <b>\$ 116,794</b>     | <b>28.9%</b>       | <b>43.4%</b>        | <b>-14.5%</b> |

### Comments:

Golf Course Fund revenues and expenditures were lower than expected, but comparable to the previous year. Revenues and expenditures can fluctuate greatly from year to year depending on the length of the golfing season and the number of paid rounds.

The Golf Course Fund is currently in good financial condition with a cash reserve of \$365,000 or 106% of the annual operating budget. However it does not have sufficient funds to replace the clubhouse and maintenance facilities at the end of their useful life. Future green fee increases will be needed to offset projected increases in operational and capital replacement costs.

## Recycling Fund Summary

The following table depicts the 2009 financial activity for the Recycling Fund for the fiscal period ending June 30, 2009 (unaudited).

|                           | 2009<br><u>Budget</u> | 2009<br><u>Actual</u> | %<br><u>Actual</u> | %<br><u>Expect.</u> | <u>Diff.</u> |
|---------------------------|-----------------------|-----------------------|--------------------|---------------------|--------------|
| <b>Revenues</b>           |                       |                       |                    |                     |              |
| Intergovernmental revenue | \$ 75,000             | \$ 34,818             | 46.4%              | 44.9%               | 1.5%         |
| Charges for services      | 157,550               | 128,558               | 81.6%              | 39.8%               | 41.8%        |
| Miscellaneous             | 125,000               | -                     | n/a                | n/a                 | n/a          |
| <b>Total Revenues</b>     | \$ 357,550            | \$ 163,376            | 45.7%              | 42.6%               | 3.1%         |
| <b>Expenditures</b>       |                       |                       |                    |                     |              |
| Recycling operations      | 357,550               | 215,608               | 60.3%              | 63.0%               | -2.7%        |
| <b>Total Expenditures</b> | \$ 357,550            | \$ 215,608            | 60.3%              | 63.0%               | -2.7%        |

### Comments:

Recycling Fund revenues were higher than expected due to the rate increase which appears to be generating more-than expected revenues. This should offset the expected decline in revenue sharing. Expenditures were slightly lower than expected but comparable to the previous year's levels.

The Recycling Fund is currently in poor financial condition, with a cash reserve of \$26,000 or 6% of the annual operating budget. Future rate increases will be needed to offset projected increases in operational costs and potential reductions in revenue sharing.

### **Final Comments**

The City's overall financial condition remains strong; however a couple of concerns should be noted. First, it is expected that the City will lose \$400,000 in state aid for 2009. In addition, a sustained economic downturn will result in lower investment earnings and lower licenses and permit revenues. In addition, the City's cash reserve levels in key operating units and asset replacement funds are below recommended levels and should be addressed with future budgets.

### **POLICY OBJECTIVE**

The information presented above satisfies the reporting requirements in the City's Operating Budget Policy.

### **FINANCIAL IMPACTS**

Not applicable.

### **STAFF RECOMMENDATION**

Not applicable.

### **REQUESTED COUNCIL ACTION**

No formal Council action is requested. The financial report is presented for informational purposes only.

Prepared by: Chris Miller, Finance Director  
Attachments: A: None

  
**REQUEST FOR COUNCIL ACTION**

Date: July 20, 2009  
Item No.: 7.e

Department Approval

City Manager Approval



Item Description: MN GreenCorps Host Application

**BACKGROUND**

The Minnesota Pollution Control Agency (MPCA) is coordinating a MN GreenCorps program. The MPCA plans to place workers in approximately nine communities that are committed to improving the environment. Communities are encouraged to request two employees. Workers would spend 11 months on the job starting in September 2009. The MPCA is offering staffing in several areas. Two areas are of great interest to the City: Local Government Energy Conservation Specialist and Urban Forestry Specialist.

Interested communities must apply by August 3. A letter of support from the governing board must be part of the application.

**POLICY OBJECTIVE**

The City of Roseville is committed to improving the environment. In 2007 the Mayor signed the U.S. Mayors Climate Protection Agreement and the Council endorsed his action. The City also joined ICLEI - International Council for Local Environmental Initiatives. Incrementally the City has been making changes to reduce our energy consumption. These efforts include LED lights, energy efficient vehicles, no idling policies, among other efforts. Last year the City installed a geothermal system at the Skating Center. This project has helped the City reduce its carbon footprint. Other job responsibilities have prevented the City from undertaking more in depth steps. Having an employee solely dedicated to Local Government Energy Conservation for 11 months would allow the City to make substantial improvements in this area.

The City is also committed to maintaining our tree stock. Trees add beauty, lower energy costs and enhance property values. Roseville is facing a serious threat from the Emerald Ash Borer. Experts in the field warn communities surrounding the only known infestation of EAB in the Twin Cities to prepare for infestation within a year. The City has been working to complete a tree inventory, parks master plan and a natural resources inventory and writing natural resources restoration guidelines. Having an Urban Forestry Specialist for 11 months would allow the City to make substantial steps forward with our urban forestry program.

30 **FINANCIAL IMPACTS**

31 Workers would be paid a stipend through the MN GreenCorps project. The City would be  
32 responsible for staff oversight, office space, necessary equipment to complete their jobs and any  
33 miscellaneous costs.

34 **STAFF RECOMMENDATION**

35 Authorize staff to send a letter from the Mayor on behalf of the City supporting the application  
36 and indicating the City's commitment to host two MN GreenCorps members.

37  
38 Enact a resolution that indicates the City's support for the application to host two MN  
39 GreenCorps members. The resolution also indicates the City's ongoing commitment to reducing  
40 our carbon footprint.

41 **REQUESTED COUNCIL ACTION**

42 Authorize staff to send a letter from the Mayor on behalf of the City supporting the application  
43 and indicating the City's commitment to host two MN GreenCorps members.

44 Enact a resolution that indicates the City's support for the application to host two MN  
45 GreenCorps members. The resolution also indicates the City's ongoing commitment to reducing  
46 our carbon footprint

47

**Prepared by:** William J. Malinen  
**Attachments:** A: Resolution

**EXTRACT OF MINUTES OF MEETING  
OF THE  
CITY COUNCIL OF THE CITY OF ROSEVILLE**

\* \* \* \* \*

Pursuant to due call and notice thereof, a regular meeting of the City Council of the City of Roseville, County of Ramsey, Minnesota was duly held on the      day of      , 20      , at 6:00 p.m.

The following members were present:

and the following were absent:

Member      introduced the following resolution and moved its adoption:

**RESOLUTION No.  
Minnesota GreenCorps**

WHEREAS, The Minnesota Pollution is seeking communities interested in hiring two MN GreenCorps workers to spend a year dedicated to improving our environment and strengthening our forestry program; and

WHEREAS, The City of Roseville is committed to improving the environment and reducing the City's carbon footprint; and

WHEREAS, The City of Roseville is committed to maintaining a strong forestry program; and

WHEREAS, The City of Roseville is committed to provide professional supervision, office space and supplies, training and other support to ensure a successful work experience; and

NOW, THEREFORE, BE IT RESOLVED, that the Roseville City Council enthusiastically supports the City's application for a Local Government Energy Conservation Specialist and Urban Forestry Specialist to assist in Roseville's efforts to reduce our carbon footprint and to improve our forestry program.

The motion for the adoption of the foregoing resolution was duly seconded by Member

, and upon a vote being taken thereon, the following voted in favor thereof:

and the following voted against the same: none.

WHEREUPON said resolution was declared duly passed and adopted.

1  
2     *Resolution – GreenCorps*  
3

4     STATE OF MINNESOTA     )  
5                                     ) ss  
6     COUNTY OF RAMSEY     )  
7  
8

9             I, the undersigned, being the duly qualified City Manager of the City of Roseville,  
10     County of Ramsey, State of Minnesota, do hereby certify that I have carefully compared  
11     the attached and foregoing extract of minutes of a regular meeting of said City Council  
12     held on the 13th day of July, 2009 with the original thereof on file in my office.  
13

14     WITNESS MY HAND officially as such Manager this 13<sup>th</sup> day of July, 2009.  
15  
16  
17

18  
19                                     \_\_\_\_\_  
20                                     William J. Malinen, City Manager  
21

22             (Seal)  
23  
24  
25

**ROSEVILLE**  
**REQUEST FOR COUNCIL ACTION**

Date: 7/20/09

Item No.: 7.f

Department Approval

City Manager Approval



Item Description:

**Accept Donation from the Target Corporation -- \$500**

1

2 **BACKGROUND**

3 In July of 2009 Target Corporation graciously donated \$500.00 for the police department to purchase supplies  
4 needed for the City's 2009 National Night Out Program.

5 **POLICY OBJECTIVE**

6 Allow the police department to accept the funds donated by Target Corporation. The funds will be used to  
7 purchase handouts for distribution at neighborhood block parties.

8 **FINANCIAL IMPACTS**

9 Not applicable.

10 **STAFF RECOMMENDATION**

11 Allow the police department to accept the funds donated by Target Corporation.  
12

13 **REQUESTED COUNCIL ACTION**

14 Request Council approval to accept the donation from the Target Corporation.  
15  
16  
17

Prepared by:  
Attachments:

18

**ROSEVILLE**  
**REQUEST FOR COUNCIL ACTION**

Date: 7/20/09

Item No.: 7.g

Department Approval

City Manager Approval



Item Description: Accept Donations to the Police Department

1

2 **BACKGROUND**

3 The police department is in receipt of donations from the following businesses: Residential Mortgage, OptionCare,  
4 and the Teamsters. The donations total \$400.00.

5 **POLICY OBJECTIVE**

6 Allow the police department to accept the funds donated by Residential Mortgage, OptionCare, and the  
7 Teamsters.

8 **FINANCIAL IMPACTS**

9 Not applicable.

10 **STAFF RECOMMENDATION**

11 Allow the police department to accept the funds donated by Residential Mortgage, OptionCare, and the  
12 Teamsters.

13 **REQUESTED COUNCIL ACTION**

14 Request Council approval to accept the donations from Residential Mortgage, OptionCare, and the Teamsters.  
15  
16  
17

Prepared by:  
Attachments:

18



**Parks and Recreation Department**



To: Mayor, City Council and City Manager William Malinen  
From: Lonnie Brokke, Director of Parks and Recreation  
Date: July 20, 2009  
Re: Communication on the Roseville Skating Center/Guidant John Rose Minnesota OVAL 2008 Bonding Projects

On February 23, 2009 the City Council approved a State Grant Agreement and related improvement projects to the Roseville Skating Center/Guidant John Rose Minnesota OVAL. The projects are 100% funded by the State Grant and staff is continuing to work with the State to complete the project list. It is the aim to complete as many of the projects as possible in 2009/2010 with the allotted grant money. The approved project list in the grant agreement for a total grant award of \$600,000 was as follows:

- 1) Install Facility Monitoring Equipment
  - Install security cameras to monitor activity throughout facility especially at building access points
  - Maximize staffing efficiency and effectiveness by directing staff to needed areas
- 2) OVAL Scoreboard/Timing Mechanism/Electronic Marquee sign
  - Current technology is outdated and expensive to maintain
  - Provide better service for regional, national and international events
  - Expand marketing opportunities
  - Ability to incorporate electronics into existing primary facility marquee signage (County Road C) in order to reduce manual labor to change and to increase promotions of the Guidant John Rose Minnesota OVAL
- 3) Renovate Banquet Facility Kitchen
  - The renovation would move the walk-in cooler to the existing storage space next to the kitchen for easier caterer access in one room. It would be more convenient for the caterers and less disruptive for the users.

- 1       • Current kitchen to meet caterers' expectations and to handle larger
- 2       groups of visitors
- 3
- 4       4) Replace OVAL Tarmac – Training Track
- 5       • Mill and blacktop perimeter of OVAL
- 6       • Eliminate cracks and potholes and create a smooth training surface
- 7
- 8       5) Sound System Upgrade
- 9       • Upgrade aging sound system to allow an "All-Call" for safety, control
- 10       and monitoring
- 11       • Improve communications throughout facility while minimizing sound
- 12       levels in adjacent neighborhood
- 13
- 14       6) Replace Skate Park OVAL Equipment
- 15       • Replace outdated wood equipment with new, weather resistant pieces
- 16       • Eliminate potential structural failures
- 17
- 18       7) Install Gas Heating and Snow Melt Pit at OVAL
- 19       • Create melting and heating area to increase efficiency when removing
- 20       or cleaning ice
- 21       • Minimize the need to operate heavy equipment while participants are
- 22       using the OVAL
- 23
- 24       8) Furnish Carpet in Olympic Room
- 25       • Carpet is nearing the end of its useful life
- 26
- 27       9) Geothermal Related Items for Facility
- 28       • If money remains from value engineering efforts
- 29

#### 30       Specific Project Update

31       Item # 2) OVAL Scoreboard/Timing Mechanism/Electronic Marquee sign:  
32       A Request for Proposal has been issued; two proposals have been  
33       received, are being analyzed and it is anticipated to be ordered in July to  
34       be installed prior to the November skating season.

35  
36       Item #4) Replace OVAL Tarmac – Training Track:  
37       Is contracted and is expected to be completed by the end of July and  
38       ready for the winter season

39  
40       All other projects are in the process of being researched, quotes obtained and  
41       will be completed as they are finalized and appropriate.

42  
43       All of these projects are anticipated to facilitate increased efficiency and enhance  
44       use of the facility.

- 1 Thank you and please let me know if you have any questions.

**ROSEVILLE**  
**REQUEST FOR COUNCIL ACTION**

Date: 7/20/09

Item No.: 7.i

Department Approval



City Manager Approval



Item Description: Award Bid for 2009 Contract C

**BACKGROUND**

The 2009 Contract C consists of two utility projects. Bids were solicited during June. The bids were opened at 10 a.m. on Wednesday, July 8, 2009. Based on the bids received, staff recommends awarding the following work:

**ST-08-12: STORM SEWER PROJECTS**

RESERVOIR WOODS DOG PARK PARKING LOT OUTLET REPAIR

FULHAM POND INLET REPAIR

This project is the repair of two storm sewer inlets. One located on the east side of Fulham pond directly adjacent to 2328 Terminal Road. The second is located to the east of the Ramsey County Open Space parking lot at 481 Larpenteur Avenue. The work consists of storm sewer manhole construction, pipe installation, and restoration. Details for this project are on the plans and specifications.

**SS-09-13: TH280 SANITARY SEWER REPLACEMENT**

This project is the elimination of a lift station and the construction of a gravity line into the City of Lauderdale to allow conveyance of the Paper Calmenson wastewater to the Metropolitan Council's trunk system via the Lauderdale sanitary sewer system. The work in this project includes bituminous removal, sanitary sewer construction, sanitary sewer directional boring, sewer structure repair, removal of the existing lift station and grading and restoration. Details for this project are on the plans and specifications.

**POLICY OBJECTIVE**

Based on past practice, the City Council has awarded the contract to the lowest responsible bidder. In the case of 2009 Contract C, the apparent lowest bidder is Lametti & Sons, of Hugo, Minnesota. What follows is a summary of the bids for this project:

| Contractor              | Bid          |
|-------------------------|--------------|
| Lametti & Sons, Inc     | \$343,930.00 |
| Northdale Construction  | \$393,666.04 |
| Arcon Construction      | \$406,222.30 |
| Geislinger & Sons, Inc. | \$436,087.50 |

|                          |              |
|--------------------------|--------------|
| Burschville Construction | \$434,264.00 |
| C. W. Houle, Inc         | \$442,516.00 |

**FINANCIAL IMPACTS**

We received 6 bids for this project. The low bid submitted by Lametti & Sons, Inc., \$343,930.00, is 27% lower than the Engineer's construction estimate of \$472,393.50.

The costs for Project SS-09-13: TH 280 Sanitary Sewer Realignment, \$304,054, is proposed to be paid for using MnDOT funds. Project ST-08-12: Storm sewer improvements costs in the amount of \$39,876, is proposed to be paid for using Storm Sewer Infrastructure funds.

**STAFF RECOMMENDATION**

Approval of a resolution awarding bid for 2009 Contract C in the amount of \$343,930 to Lametti & Sons, Inc, of Hugo, Minnesota.

**REQUESTED COUNCIL ACTION**

Approval of a resolution awarding bid for 2009 Contract C in the amount of \$343,930 to Lametti & Sons, Inc, of Hugo, Minnesota.

**Prepared by: Debra Bloom, City Engineer**

Attachments: A: Resolution

**EXTRACT OF MINUTES OF MEETING  
OF CITY COUNCIL  
CITY OF ROSEVILLE  
RAMSEY COUNTY, MINNESOTA**

Pursuant to due call and notice thereof, a regular meeting of the City Council of the City of Roseville, County of Ramsey, Minnesota, was duly held in the City Hall at 2660 Civic Center Drive, Roseville, Minnesota, on Monday, the 20th day of July, 2009, at 6:00 o'clock p.m.

The following members were present: and the following were absent:

Councilmember introduced the following resolution and moved its adoption:

**RESOLUTION  
RESOLUTION AWARDDING BIDS  
FOR 2009 CONTRACT C**

WHEREAS, pursuant to advertisement for bids for the improvement, according to the plans and specifications thereof on file in the office of the Manager of said City, said bids were received on 10 a.m. on Wednesday, July 8, 2009, opened and tabulated according to law and the following bids were received complying with the advertisement:

| Contractor               | Bid          |
|--------------------------|--------------|
| Lametti & Sons, Inc      | \$343,930.00 |
| Northdale Construction   | \$393,666.04 |
| Arcon Construction       | \$406,222.30 |
| Geislinger & Sons, Inc.  | \$436,087.50 |
| Burschville Construction | \$434,264.00 |
| C. W. Houle, Inc         | \$442,516.00 |

WHEREAS, Lametti & Sons, of Hugo, Minnesota, is the lowest responsible bidder at the tabulated price of \$343,930.00, and

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

1. The Mayor and Manager are hereby authorized and directed to enter into a contract with Lametti & Sons, of Hugo, Minnesota for \$343,930 in the name of the City of Roseville for the above improvements according to the plans and specifications thereof heretofore approved by the City Council and on file in the office of the City Engineer.
2. The City Engineer is hereby authorized and directed to return forthwith to all bidders the deposits made with their bids except the deposits of the successful bidder and the next lowest bidder shall be retained until contracts have been signed.

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

The motion for the adoption of the foregoing resolution was duly seconded by and upon vote being taken thereon, the following voted in favor and the following voted against the same:

Whereupon said resolution was declared duly passed and adopted.

1 STATE OF MINNESOTA )  
2 ) ss  
3 COUNTY OF RAMSEY )  
4  
5  
6

7 I, the undersigned, being the duly qualified City Manager of the City of Roseville, County of  
8 Ramsey, State of Minnesota, do hereby certify that I have carefully compared the attached and foregoing  
9 extract of minutes of a regular meeting of said City Council held on the 20th day of July, 2009, with the  
10 original thereof on file in my office.  
11

12 WITNESS MY HAND officially as such Manager this 20th day of July, 2009.  
13  
14  
15

16 \_\_\_\_\_  
17 City Manager

**ROSEVILLE**  
**REQUEST FOR COUNCIL ACTION**

Date: 7-20-09  
Item No.: 12.a

Department Approval



City Manager Approval



Item Description: **Community Development Department Request to Perform a City Abatement for Unresolved Violations of City Code at 3065 Sandy Hook Drive.**

**BACKGROUND**

- The subject property is a vacant single family home.
- The current owner is listed as Marlene Lee, 5011 Lake Avenue N. Unit 108, White Bear Lake, MN 55110.
- A building permit was issued for remodeling the home but all work on the project has ceased. The property is now for sale.
- Notice was sent May 15, 2009, requesting the violations be corrected by June 16, 2009.
- Current violations include:
  - Parts of the soffits, fascia, and roofing have been removed with the partial construction of a new dormer. A tarp has been placed over the unfinished dormer and over the area that is missing shingles (a violation of the City Code Section 906.05.C)
  - A weather protective surface has not been placed over the new dormer's sheathing, subjecting much of the new construction to the weather (a violation of City Code Section 906.05.C).
  - The paint on much of the existing structure has peeled and weathered to the point that it is no longer providing protection from the elements (a violation of City Code Section 906.05.C).
- The home is tentatively sold with the prospective buyer intending to finish the project. There is no guarantee the sale will go through.
- A status update, including pictures, will be provided at the public hearing.

**POLICY OBJECTIVE**

The City goals within the Comprehensive Plan are to protect and improve property values (Goal 3, 4, and 5; page 6 and, Section 3) and to adhere to performance standards which protect the integrity of the housing units and the neighborhood (Policy 6, page 8, Section 3).

**FINANCIAL IMPACTS**

City Abatement: An abatement would encompass the following:

- Reroof the entire structure, repair, replace, and paint soffits, fascia, and siding:
  - o Approximately - \$25,000.00
- Total: Approximately - \$25,000.00

In the short term, costs of the abatement will be paid out of the HRA budget, which has allocated \$100,000 for abatement activities. The property owner will then be billed for actual and administrative costs. If charges are not paid, staff is to recover costs as specified in Section 407.07B. Costs will be reported to Council following the abatement.

#### **STAFF RECOMMENDATION**

Staff recommends that the Council direct Community Development staff to abate the above referenced public nuisance violations at 3065 Sandy Hook Drive if repairs to the home are not substantially complete by September 15th, 2009.

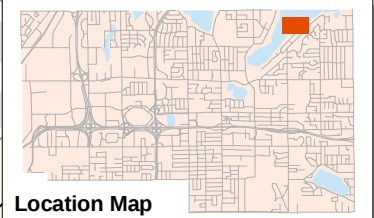
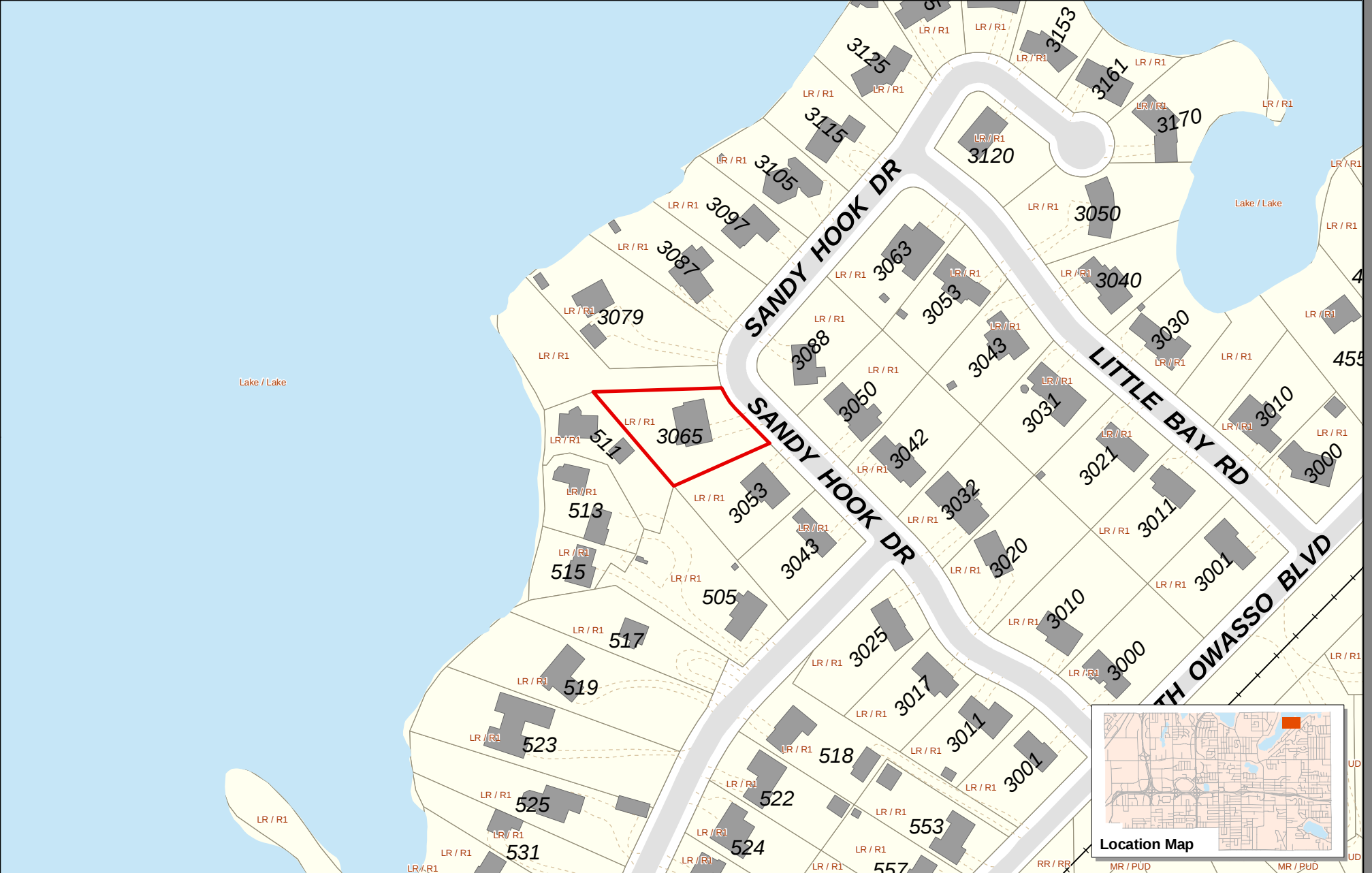
#### **REQUESTED COUNCIL ACTION**

Direct Community Development staff to abate the above referenced public nuisance violation at 3065 Sandy Hook Drive by hiring a general contractor to reroof entire structure, repair, replace, and paint portions of soffits, fascia, and siding if repairs to the home are not substantially complete by September 15th, 2009. The property owner will then be billed for actual and administrative costs. If charges are not paid, staff is to recover costs as specified in Section 407.07B.

Prepared by: Don Munson, Permit Coordinator

Attachments: A: Map of 3065 Sandy Hook Drive

# 3065 Sandy Hook Dr



**ROSEVILLE**  
**REQUEST FOR COUNCIL ACTION**

Date: 07/20/09  
Item No.: 12.b

Department Approval

City Manager Approval

*Christopher K. Miller*

*W. J. Mahinen*

Item Description: Award the Sale of the City's 2009 Refunding Bonds

**BACKGROUND**

On June 8, 2009, the City Council established a date of sale for the issuance of the City's 2009 Refunding Bonds. Bids on these bonds will be received on the morning of July 20, 2009, with an award taking place later that evening at the City Council meeting.

Back in 1999, the City issued the last of its Street Construction Bonds used to finance local street improvements. Since then, the City has relied solely on MSA monies and interest earnings from the City's Street Infrastructure Replacement Fund for this purpose.

The 1999 Bonds are scheduled to be retired in 2014. However, given current market conditions the City can financially benefit by refinancing those bonds at today's lower interest rates. The mechanism to achieve this involves the issuance of 'refunding' bonds – whereby the City's issues new bonds to pay off the remaining principle on the old bonds. Tax levies earmarked for the old bonds are then redirected to pay the new bonds.

**POLICY OBJECTIVE**

The City's Council-adopted Debt Service Policy encourages the City to refinance outstanding debt whenever it is financially beneficial.

**FINANCIAL IMPACTS**

The estimated financial impact will be made available at the City Council meeting, pending the bid award. Preliminary estimates suggest a present value savings in the amount of \$22,800 over the next 5 years.

**STAFF RECOMMENDATION**

At the City Council meeting, Staff will recommend the Council approve the attached resolution awarding the sale of the 2009 Refunding Bonds.

24 **REQUESTED COUNCIL ACTION**

25 Motion to approve the attached resolution awarding the sale of the City's 2009 Refunding Bonds.

26

27

Prepared by: Chris Miller, Finance Director

Attachments: A: Resolution awarding the sale of the City's 2009 Refunding Bonds.

28

EXTRACT OF MINUTES OF A MEETING  
OF THE CITY COUNCIL  
CITY OF ROSEVILLE, MINNESOTA

HELD: July 20, 2009

Pursuant to due call, a regular or special meeting of the City Council of the City of Roseville, Ramsey County, Minnesota, was duly held at the City Hall on July 20, 2009, at 7:00 P.M, for the purpose, in part, of considering proposals and awarding the competitive negotiated sale of \$1,105,000 General Obligation Refunding Improvement Bonds, Series 2009B.

The following members were present:

and the following were absent:

The City Manager presented proposals on \$1,105,000 General Obligation Refunding Improvement Bonds, Series 2009B, for which proposals were received, opened and tabulated by the City Manager, or designee, this same day, in accordance with the resolution adopted by the City Council on June 8, 2009.

The following proposals were received, opened and tabulated at 10:30 A.M., central time, at the offices of Springsted Incorporated, in the presence of the City Manager, or designee, on this same day:

Bidder

Interest Rate

True Interest Cost

See Attached Exhibit A

The Council then proceeded to consider and discuss the proposals, after which Member \_\_\_\_\_ introduced the following resolution and moved its adoption:

RESOLUTION ACCEPTING PROPOSAL ON THE COMPETITIVE NEGOTIATED SALE  
OF \$1,105,000 GENERAL OBLIGATION REFUNDING IMPROVEMENT BONDS, SERIES  
2009B, PROVIDING FOR THEIR ISSUANCE AND PLEDGING FOR THE SECURITY  
THEREOF SPECIAL ASSESSMENTS AND LEVYING A TAX FOR THE PAYMENT  
THEREOF

A. WHEREAS, the City of Roseville, Minnesota (the "City"), hereby determines and declares that it is necessary and expedient to provide moneys for a current refunding on October 1, 2009 (the "Call Date") the City's outstanding \$2,500,000 original principal amount of General Obligation Improvement Bonds, Series 25, dated February 16, 1999 (the "Prior Bonds", which mature on and after March 1, 2010, in the aggregate principal amount of \$1,045,000 (the "Refunded Bonds"), at a price of par plus accrued interest, as provided in the Resolution of the City Council, adopted on January 25, 1999 (the "Prior Resolution"); and

B. WHEREAS, the refunding of the Refunded Bonds on the Call Date is consistent with covenants made with the holders thereof, and is necessary and desirable for the reduction of debt service cost to the City; and

C. WHEREAS, the City Council hereby determines and declares that it is necessary and expedient to issue \$1,105,000 General Obligation Refunding Improvement Bonds, Series 2009B, pursuant to Minnesota Statutes, Chapter 475, to provide moneys for a current refunding of the Refunded Bonds; and

D. WHEREAS, it is in the best interests of the City that the Bonds be issued in book-entry form as hereinafter provided; and

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

1. Acceptance of Proposal. The proposal of \_\_\_\_\_ (the "Purchaser"), to purchase the Bonds in accordance with the terms and at the rates of interest hereinafter set forth, and to pay therefor the sum of \$\_\_\_\_\_, plus interest accrued to settlement, is hereby found, determined and declared to be the most favorable proposal received and is hereby accepted, and the Bonds are hereby awarded to said proposal maker. The City Manager is directed to retain the deposit of said proposal maker and to forthwith return to the unsuccessful bidders their good faith checks and drafts.

2. Terms of Bonds.

(a) Original Issue Date; Denominations; Maturities. The Bonds shall be dated August 1, 2009, as the date of original issue and shall be issued forthwith on or after such date in fully registered form. The Bonds shall be numbered from R-1 upward in the denomination of \$5,000 each or in any integral multiple thereof of a single maturity (the "Authorized Denominations"). The Bonds shall mature on March 1 in the years and amounts as follows:

| <u>Year</u> | <u>Amount</u> |
|-------------|---------------|
| 2010        |               |
| 2011        |               |
| 2012        |               |
| 2013        |               |
| 2014        |               |

All dates are inclusive. As may be requested by the Purchaser, one or more term Bonds may be issued having mandatory sinking fund redemption and final maturity amounts conforming to the foregoing principal repayment schedule, and corresponding additions may be made to the provisions of the applicable Bond(s).

(b) Book Entry Only System. The Depository Trust Company, a limited purpose trust company organized under the laws of the State of New York or any of its successors or its successors to its functions hereunder (the "Depository") will act as securities depository for the Bonds, and to this end:

- (i) The Bonds shall be initially issued and, so long as they remain in book entry form only (the "Book Entry Only Period"), shall at all times be in the form of a separate single fully registered Bond for each maturity of the Bonds; and for purposes of complying with this requirement under paragraphs 5 and 10 Authorized Denominations for any Bond shall be deemed to be limited during the Book Entry Only Period to the outstanding principal amount of that Bond.
- (ii) Upon initial issuance, ownership of the Bonds shall be registered in a bond register maintained by the Bond Registrar (as hereinafter defined) in the name of CEDE & CO, as the nominee (it or any nominee of the existing or a successor Depository, the "Nominee").
- (iii) With respect to the Bonds neither the City nor the Bond Registrar shall have any responsibility or obligation to any broker, dealer, bank, or any other financial institution for which the Depository holds Bonds as securities depository (the "Participant") or the person for which a Participant holds an interest in the Bonds shown on the books and records of the Participant (the "Beneficial Owner"). Without limiting the immediately preceding sentence, neither the City, nor the Bond Registrar, shall have any such responsibility or obligation with respect to (A) the accuracy of the records of the Depository, the Nominee or any Participant with respect to any ownership interest in the Bonds, or (B) the delivery to any Participant, any Owner or any other person, other than the Depository, of any notice with respect to the Bonds, including any notice of redemption, or (C) the payment to any Participant, any Beneficial Owner or any other person, other than the Depository, of any amount with respect to the principal of or premium, if any, or interest on the Bonds, or (D) the consent given or other action taken by the Depository as the Registered Holder of any Bonds (the "Holder"). For purposes of securing the vote or consent of any Holder under this Resolution, the City may, however, rely upon an omnibus proxy under which the Depository assigns its consenting or voting rights to certain Participants to whose accounts the Bonds are credited on the record date identified in a listing attached to the omnibus proxy.
- (iv) The City and the Bond Registrar may treat as and deem the Depository to be the absolute owner of the Bonds for the purpose of payment of the principal of and premium, if any, and interest on the Bonds, for the purpose of giving notices of redemption and other matters with respect to the Bonds, for the purpose of obtaining any consent or other action to be taken by Holders for the purpose of registering transfers with respect to such Bonds, and for all purpose whatsoever. The Bond Registrar, as paying agent hereunder, shall pay all principal of and premium, if any, and interest on the Bonds only to the Holder or the Holders of the Bonds as shown on the bond register, and all such payments shall be valid and effective to fully satisfy and discharge the City's obligations with respect to the principal of and premium, if any, and interest on the Bonds to the extent of the sum or sums so paid.

- (v) Upon delivery by the Depository to the Bond Registrar of written notice to the effect that the Depository has determined to substitute a new Nominee in place of the existing Nominee, and subject to the transfer provisions in paragraph 10, references to the Nominee hereunder shall refer to such new Nominee.
- (vi) So long as any Bond is registered in the name of a Nominee, all payments with respect to the principal of and premium, if any, and interest on such Bond and all notices with respect to such Bond shall be made and given, respectively, by the Bond Registrar or City, as the case may be, to the Depository as provided in the Letter of Representations to the Depository required by the Depository as a condition to its acting as book-entry Depository for the Bonds (said Letter of Representations, together with any replacement thereof or amendment or substitute thereto, including any standard procedures or policies referenced therein or applicable thereto respecting the procedures and other matters relating to the Depository's role as book-entry Depository for the Bonds, collectively hereinafter referred to as the "Letter of Representations").
- (vii) All transfers of beneficial ownership interests in each Bond issued in book-entry form shall be limited in principal amount to Authorized Denominations and shall be effected by procedures by the Depository with the Participants for recording and transferring the ownership of beneficial interests in such Bonds.
- (viii) In connection with any notice or other communication to be provided to the Holders pursuant to this Resolution by the City or Bond Registrar with respect to any consent or other action to be taken by Holders, the Depository shall consider the date of receipt of notice requesting such consent or other action as the record date for such consent or other action; provided, that the City or the Bond Registrar may establish a special record date for such consent or other action. The City or the Bond Registrar shall, to the extent possible, give the Depository notice of such special record date not less than fifteen calendar days in advance of such special record date to the extent possible.
- (ix) Any successor Bond Registrar in its written acceptance of its duties under this Resolution and any paying agency/bond registrar agreement, shall agree to take any actions necessary from time to time to comply with the requirements of the Letter of Representations.
- (x) In the case of a partial prepayment of a Bond, the Holder may, in lieu of surrendering the Bonds for a Bond of a lesser denomination as provided in paragraph 5, make a notation of the reduction in principal amount on the panel provided on the Bond stating the amount so redeemed.
- (c) Termination of Book-Entry Only System. Discontinuance of a particular Depository's services and termination of the book-entry only system may be effected as follows:
  - (i) The Depository may determine to discontinue providing its services with respect to the Bonds at any time by giving written notice to the City and discharging its

responsibilities with respect thereto under applicable law. The City may terminate the services of the Depository with respect to the Bond if it determines that the Depository is no longer able to carry out its functions as securities depository or the continuation of the system of book-entry transfers through the Depository is not in the best interests of the City or the Beneficial Owners.

- (ii) Upon termination of the services of the Depository as provided in the preceding paragraph, and if no substitute securities depository is willing to undertake the functions of the Depository hereunder can be found which, in the opinion of the City, is willing and able to assume such functions upon reasonable or customary terms, or if the City determines that it is in the best interests of the City or the Beneficial Owners of the Bond that the Beneficial Owners be able to obtain certificates for the Bonds, the Bonds shall no longer be registered as being registered in the bond register in the name of the Nominee, but may be registered in whatever name or names the Holder of the Bonds shall designate at that time, in accordance with paragraph 10. To the extent that the Beneficial Owners are designated as the transferee by the Holders, in accordance with paragraph 10, the Bonds will be delivered to the Beneficial Owners.
- (iii) Nothing in this subparagraph (d) shall limit or restrict the provisions of paragraph 10.

(d) Letter of Representations. The provisions in the Letter of Representations are incorporated herein by reference and made a part of the resolution, and if and to the extent any such provisions are inconsistent with the other provisions of this resolution, the provisions in the Letter of Representations shall control.

3. Purpose; Refunding Findings. The Bonds shall provide funds for a current refunding of the Refunded Bonds (the "Refunding"). It is hereby found, determined and declared that the Refunding is pursuant to Minnesota Statutes, Section 475.67, and shall result in a reduction of debt service cost to the City.

4. Interest. The Bonds shall bear interest payable semiannually on March 1 and September 1 of each year (each, an "Interest Payment Date"), commencing March 1, 2010, calculated on the basis of a 360-day year of twelve 30-day months, at the respective rates per annum set forth opposite the maturity years as follows:

| <u>Maturity Year</u> | <u>Interest Rate</u> |
|----------------------|----------------------|
| 2010                 |                      |
| 2011                 |                      |
| 2012                 |                      |
| 2013                 |                      |
| 2014                 |                      |

5. No Optional Redemption. The Bonds shall not be subject to redemption and prepayment prior to their stated maturity dates.

6. Bond Registrar. The Finance Director of the City is appointed to act as bond registrar and transfer agent with respect to the Bonds (the "Bond Registrar"), and shall do so unless and until a successor Bond Registrar is duly appointed, all pursuant to any contract the City and Bond Registrar shall execute which is consistent herewith. The Bond Registrar shall also serve as paying agent unless and until a successor paying agent is duly appointed. Principal and interest on the Bonds shall be paid to the registered holders (or record holders) of the Bonds in the manner set forth in the form of Bond and paragraph 12.

7. Form of Bond. The Bonds, together with the Bond Registrar's Certificate of Authentication, the form of Assignment and the registration information thereon, shall be in substantially the following form:

UNITED STATES OF AMERICA  
STATE OF MINNESOTA  
RAMSEY COUNTY  
CITY OF ROSEVILLE

R-\_\_\_\_\_

\$\_\_\_\_\_

GENERAL OBLIGATION REFUNDING IMPROVEMENT BOND, SERIES 2009B

| <u>Interest Rate</u> | <u>Maturity Date</u> | <u>Date of Original Issue</u> | <u>CUSIP</u> |
|----------------------|----------------------|-------------------------------|--------------|
|                      | March 1,             | August 1, 2009                |              |

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT:

The City of Roseville, Ramsey County, Minnesota (the "Issuer"), certifies that it is indebted and for value received promises to pay to the registered owner specified above, or registered assigns, in the manner hereinafter set forth, the principal amount specified above, on the maturity date specified above, without option of prior payment, and to pay interest thereon semiannually on March 1 and September 1 of each year (each, an "Interest Payment Date"), commencing March 1, 2010, at the rate per annum specified above (calculated on the basis of a 360-day year of twelve 30-day months) until the principal sum is paid or has been provided for. This Bond will bear interest from the most recent Interest Payment Date to which interest has been paid or, if no interest has been paid, from the date of original issue hereof. The principal of and premium, if any, on this Bond are payable upon presentation and surrender hereof at the principal office of the Finance Director of the Issuer (the "Bond Registrar"), acting as paying agent, or any successor paying agent duly appointed by the Issuer (the "Bond Registrar"), acting as paying agent, or any successor paying agent duly appointed by the Issuer. Interest on this Bond will be paid on each Interest Payment Date by check or draft mailed to the person in whose name this Bond is registered (the "Holder" or "Bondholder") on the registration books of the Issuer maintained by the Bond Registrar and at the address appearing thereon at the close of business on the fifteenth day of the calendar month next preceding such Interest Payment Date (the "Regular Record Date"). Any interest not so timely paid shall cease to be payable to the person who is the Holder hereof as of the Regular Record Date, and shall be payable to the person who is the Holder hereof at the close of business on a date (the "Special Record Date") fixed by the Bond Registrar whenever money becomes available for payment of the defaulted interest. Notice of the Special Record Date shall be given to Bondholders not less than ten days prior to the Special Record Date. The principal of and premium, if any, and interest on this Bond are payable in lawful money of the United States of America. So long as this Bond is registered in the name of the Depository or its Nominee as provided in the Resolution hereinafter described, and as those terms are defined therein, payment of principal of, premium, if any, and interest on this Bond and notice with respect thereto shall be made as provided in the Letter of Representations, as defined in the Resolution, and surrender of this Bond shall not be required for payment of the redemption price upon a partial redemption of this Bond. Until termination of

the book-entry only system pursuant to the Resolution, Bonds may only be registered in the name of the Depository or its Nominee.

No Optional Redemption. The Bonds of this issue (the "Bonds") are not subject to redemption and prepayment prior to their stated maturity date.

Issuance; Purpose; General Obligation. This Bond is one of an issue in the total principal amount of \$1,105,000, all of like date of original issue and tenor, except as to number, maturity, interest rate and denomination, issued pursuant to and in full conformity with the Constitution and laws of the State of Minnesota and pursuant to a resolution adopted by the City Council of the Issuer on July 20, 2009 (the "Resolution"), for the purpose of providing funds for a current refunding of the Issuer's General Obligation Improvement Bonds, Series 25, dated February 16, 1999 which mature on and after March 1, 2010. This Bond is payable out of the General Obligation Refunding Improvement Bonds, Series 2009B Fund of the Issuer. This Bond constitutes a general obligation of the Issuer, and to provide moneys for the prompt and full payment of its principal, premium, if any, and interest when the same become due, the full faith and credit and taxing powers of the Issuer have been and are hereby irrevocably pledged.

Denominations; Exchange; Resolution. The Bonds are issuable solely in fully registered form in Authorized Denominations (as defined in the Resolution) and are exchangeable for fully registered Bonds of other Authorized Denominations in equal aggregate principal amounts at the principal office of the Bond Registrar, but only in the manner and subject to the limitations provided in the Resolution. Reference is hereby made to the Resolution for a description of the rights and duties of the Bond Registrar. Copies of the Resolution are on file in the principal office of the Bond Registrar.

Transfer. This Bond is transferable by the Holder in person or the Holder's attorney duly authorized in writing at the principal office of the Bond Registrar upon presentation and surrender hereof to the Bond Registrar, all subject to the terms and conditions provided in the Resolution and to reasonable regulations of the Issuer contained in any agreement with the Bond Registrar. Thereupon the Issuer shall execute and the Bond Registrar shall authenticate and deliver, in exchange for this Bond, one or more new fully registered Bonds in the name of the transferee (but not registered in blank or to "bearer" or similar designation), of an Authorized Denomination or Denominations, in aggregate principal amount equal to the principal amount of this Bond, of the same maturity and bearing interest at the same rate.

Fees upon Transfer or Loss. The Bond Registrar may require payment of a sum sufficient to cover any tax or other governmental charge payable in connection with the transfer or exchange of this Bond and any legal or unusual costs regarding transfers and lost Bonds.

Treatment of Registered Owners. The Issuer and Bond Registrar may treat the person in whose name this Bond is registered as the owner hereof for the purpose of receiving payment as herein provided (except as otherwise provided herein with respect to the Record Date) and for all other purposes, whether or not this Bond shall be overdue, and neither the Issuer nor the Bond Registrar shall be affected by notice to the contrary.

Authentication. This Bond shall not be valid or become obligatory for any purpose or be entitled to any security unless the Certificate of Authentication hereon shall have been executed by the Bond Registrar.

Qualified Tax-Exempt Obligations. The Bonds have been designated by the Issuer as "qualified tax-exempt obligations" for purposes of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended.

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 happen and to be performed, precedent to and in the issuance of this Bond, have been done, have happened and have been performed, in regular and due form, time and manner as required by law, and that this Bond, together with all other debts of the Issuer outstanding on the date of original issue hereof and the date of its issuance and delivery to the original purchaser, does not exceed any constitutional or statutory limitation of indebtedness.

IN WITNESS WHEREOF, the City of Roseville, Ramsey County, Minnesota, by its City Council has caused this Bond to be executed on its behalf by the facsimile signatures of its Mayor and its City Manager, the corporate seal of the Issuer having been intentionally omitted as permitted by law.

Date of Registration:

Registrable by: FINANCE DIRECTOR  
CITY OF ROSEVILLE, MINNESOTA

\_\_\_\_\_

Payable at: FINANCE DIRECTOR  
CITY OF ROSEVILLE, MINNESOTA

BOND REGISTRAR'S  
CERTIFICATE OF  
AUTHENTICATION

CITY OF ROSEVILLE,  
RAMSEY COUNTY, MINNESOTA

This Bond is one of the  
Bonds described in the  
Resolution mentioned  
within.

/s/ Facsimile  
Mayor

Finance Director  
City of Roseville, Minnesota,  
Bond Registrar

/s/ Facsimile  
Manager

By: \_\_\_\_\_  
Authorized Signature

## ABBREVIATIONS

The following abbreviations, when used in the inscription on the face of this Bond, shall be construed as though they were written out in full according to applicable laws or regulations:

TEN COM - as tenants in common

TEN ENT - as tenants by the entireties

JT TEN - as joint tenants with right of survivorship and not as tenants in common

UTMA - \_\_\_\_\_ as custodian for \_\_\_\_\_

(Cust) (Minor)

under the \_\_\_\_\_ Uniform

(State)

Transfers to Minors Act

Additional abbreviations may also be used though not in the above list.

## ASSIGNMENT

For value received, the undersigned hereby sells, assigns and transfers unto \_\_\_\_\_ the within Bond and does hereby irrevocably constitute and appoint \_\_\_\_\_ attorney to transfer the Bond on the books kept for the registration thereof, with full power of substitution in the premises.

Dated: \_\_\_\_\_

Notice: The assignor's signature to this assignment must correspond with the name as it appears upon the face of the within Bond in every particular, without alteration or any change whatever.

Signature Guaranteed:

\_\_\_\_\_

Signature(s) must be guaranteed by a national bank or trust company or by a brokerage firm having a membership in one of the major stock exchanges or any other "Eligible Guarantor Institution" as defined in 17 CFR 240.17 Ad-15(a)(2).

The Bond Registrar will not effect transfer of this Bond unless the information concerning the transferee requested below is provided.

Name and Address: \_\_\_\_\_

\_\_\_\_\_

(Include information for all joint owners if the Bond is held by joint account.)

8. Execution. The Bonds shall be in typewritten form, shall be executed on behalf of the City by the signatures of its Mayor and Manager and be sealed with the seal of the City; provided, as permitted by law, both signatures may be photocopied facsimiles and the corporate seal has been omitted. In the event of disability or resignation or other absence of either officer, the Bonds may be signed by the manual or facsimile signature of the officer who may act on behalf of the absent or disabled officer. In case either officer whose signature or facsimile of whose signature shall appear on the Bonds shall cease to be such officer before the delivery of the Bonds, the signature or facsimile shall nevertheless be valid and sufficient for all purposes, the same as if the officer had remained in office until delivery.

9. Authentication. No Bond shall be valid or obligatory for any purpose or be entitled to any security or benefit under this resolution unless a Certificate of Authentication on the Bond, substantially in the form hereinabove set forth, shall have been duly executed by an authorized representative of the Bond Registrar. Certificates of Authentication on different Bonds need not be signed by the same person. The Bond Registrar shall authenticate the signatures of officers of the City on each Bond by execution of the Certificate of Authentication on the Bond and by inserting as the date of registration in the space provided the date on which the Bond is authenticated, except that for purposes of delivering the original Bonds to the Purchaser, the Bond Registrar shall insert as a date of registration the date of original issue of August 1, 2009. The Certificate of Authentication so executed on each Bond shall be conclusive evidence that it has been authenticated and delivered under this resolution.

10. Registration; Transfer; Exchange. The City will cause to be kept at the principal office of the Bond Registrar a bond register in which, subject to such reasonable regulations as the Bond Registrar may prescribe, the Bond Registrar shall provide for the registration of Bonds and the registration of transfers of Bonds entitled to be registered or transferred as herein provided.

Upon surrender for transfer of any Bond at the principal office of the Bond Registrar, the City shall execute (if necessary), and the Bond Registrar shall authenticate, insert the date of registration (as provided in paragraph 9) of, and deliver, in the name of the designated transferee or transferees, one or more new Bonds of any Authorized Denomination or Denominations of a like aggregate principal amount, having the same stated maturity and interest rate, as requested by the transferor; provided, however, that no Bond may be registered in blank or in the name of "bearer" or similar designation.

At the option of the Holder, Bonds may be exchanged for Bonds of any Authorized Denomination or Denominations of a like aggregate principal amount and stated maturity, upon surrender of the Bonds to be exchanged at the principal office of the Bond Registrar. Whenever any Bonds are so surrendered for exchange, the City shall execute (if necessary), and the Bond Registrar shall authenticate, insert the date of registration of, and deliver the Bonds which the Holder making the exchange is entitled to receive.

All Bonds surrendered upon any exchange or transfer provided for in this resolution shall be promptly canceled by the Bond Registrar and thereafter disposed of as directed by the City.

All Bonds delivered in exchange for or upon transfer of Bonds shall be valid general obligations of the City evidencing the same debt, and entitled to the same benefits under this resolution, as the Bonds surrendered for such exchange or transfer.

Every Bond presented or surrendered for transfer or exchange shall be duly endorsed or be accompanied by a written instrument of transfer, in form satisfactory to the Bond Registrar, duly executed by the Holder thereof or his, her or its attorney duly authorized in writing

The Bond Registrar may require payment of a sum sufficient to cover any tax or other governmental charge payable in connection with the transfer or exchange of any Bond and any legal or unusual costs regarding transfers and lost Bonds.

Transfers shall also be subject to reasonable regulations of the City contained in any agreement with the Bond Registrar, including regulations which permit the Bond Registrar to close its transfer books between record dates and payment dates. The Administrator-Clerk-Treasurer is hereby authorized to negotiate and execute the terms of said agreement.

11. Rights Upon Transfer or Exchange. Each Bond delivered upon transfer of or in exchange for or in lieu of any other Bond shall carry all the rights to interest accrued and unpaid, and to accrue, which were carried by such other Bond.

12. Interest Payment; Record Date. Interest on any Bond shall be paid on each Interest Payment Date by check or draft mailed to the person in whose name the Bond is registered (the "Holder") on the registration books of the City maintained by the Bond Registrar and at the address appearing thereon at the close of business on the fifteenth day of the calendar month next preceding such Interest Payment Date (the "Regular Record Date"). Any such interest not so timely paid shall cease to be payable to the person who is the Holder thereof as of the Regular Record Date, and shall be payable to the person who is the Holder thereof at the close of business on a date (the "Special Record Date") fixed by the Bond Registrar whenever money becomes available for payment of the defaulted interest. Notice of the Special Record Date shall be given by the Bond Registrar to the Holders not less than ten days prior to the Special Record Date.

13. Treatment of Registered Owner. The City and Bond Registrar may treat the person in whose name any Bond is registered as the owner of such Bond for the purpose of receiving payment of principal of and premium, if any, and interest (subject to the payment provisions in paragraph 12) on, such Bond and for all other purposes whatsoever whether or not such Bond shall be overdue, and neither the City nor the Bond Registrar shall be affected by notice to the contrary.

14. Delivery; Application of Proceeds. The Bonds when so prepared and executed shall be delivered by the City Manager to the Purchaser upon receipt of the purchase price, and the Purchaser shall not be obliged to see to the proper application thereof.

15. Fund and Accounts. For the convenience and proper administration of the moneys to be borrowed and repaid on the Bonds, and to make adequate and specific security to the Purchaser and holders from time to time of the Bonds, there is hereby created a special fund to be designated the "General Obligation Refunding Improvement Bonds, Series 2009B Fund"

(the "Fund") to be administered and maintained by the Finance Director as a bookkeeping account separate and apart from all other funds maintained in the official financial records of the City. The Fund shall be maintained in the manner herein specified until all of the Bonds and the interest thereon shall have been fully paid. There shall be maintained and created in the fund the "Payment Account" and a "Debt Service Account".

(a) Payment Account. The proceeds of the Bonds, less accrued interest shall be deposited in the Payment Account. On or prior to the Call Date, the Finance Director shall transfer \$\_\_\_\_\_ of the proceeds of the Bonds from the Payment Account to the paying agent for the Prior Bonds. The sums are sufficient, together with other funds on deposit in debt service fund for the Refunded Bonds, to pay the principal and interest due on the Refunded Bonds due after the Call Date, including the principal of the Refunded Bonds called for redemption on the Call Date. The remainder of the monies in the Payment Account shall be used to pay the costs of issuance of the Bonds. Any monies remaining in the Payment Account after payment of all costs of issuance and payment of the Refunded Bonds shall be transferred to the Debt Service Account.

(b) Debt Service Account. To the Debt Service Account there is hereby pledged and irrevocable appropriated and there shall be credited: (1) accrued interest; (2) any balance remaining after the Call Date, in the Prior Bonds Debt Service Account created by the Prior Resolution; (3) any uncollected special assessments which were heretofore pledged for the payment of the Refunded Bonds and are herein pledged to the payment of the Bonds; (4) all investment earnings on funds in the Debt Service Account; (5) any taxes herein or hereafter levied for the payment of the Bonds; (6) any and all other moneys which are properly available and are appropriated by the governing body of the City to the Debt Service Account. The amount of any surplus remaining in the Debt Service Account when the Bonds and interest thereon are paid shall be used consistent with Minnesota Statutes, Section 475.61, Subdivision 4.

No portion of the proceeds of the Bonds shall be used directly or indirectly to acquire higher yielding investments or to replace funds which were used directly or indirectly to acquire higher yielding investments, except (1) for a reasonable temporary period until such proceeds are needed for the purpose for which the Bonds were issued and (2) in addition to the above in an amount not greater than the lesser of five percent of the proceeds of the Bonds or \$100,000. To this effect, any proceeds of the Bonds and any sums from time to time held in the Debt Service Account (or any other City account which will be used to pay principal or interest to become due on the bonds payable therefrom) in excess of amounts which under then applicable federal arbitrage regulations may be invested without regard to yield shall not be invested at a yield in excess of the applicable yield restrictions imposed by the arbitrage regulations on such investments after taking into account any applicable "temporary periods" or "minor portion" made available under the federal arbitrage regulations. Money in the Fund shall not be invested in obligations or deposits issued by, guaranteed by or insured by the United States or any agency or instrumentality thereof if and to the extent that such investment would cause the Bonds to be "federally guaranteed" within the meaning of Section 149(b) of the Internal Revenue Code of 1986, as amended (the "Code").

16. Assessments. The City has heretofore levied special assessments pursuant to the Prior Resolution, which have been pledged to the payment of the principal and interest on the

Prior Bonds. All uncollected special assessments are now pledged to the payment of principal of and interest on the Bonds. The balance of the special assessments shall be payable in equal, consecutive, annual installments with general taxes for the years shown below and with interest on the declining balance of all such installments as follows:

| <u>Improvement Designations</u> | <u>Levy Years</u> | <u>Collection Years</u> | <u>Amount</u> | <u>Rate</u> |
|---------------------------------|-------------------|-------------------------|---------------|-------------|
|---------------------------------|-------------------|-------------------------|---------------|-------------|

17. Tax Levy; Coverage Test. To provide moneys for payment of the principal and interest on the Bonds there is hereby levied upon all of the taxable property in the City a direct annual ad valorem tax which shall be spread upon the tax rolls and collected with and as part of other general property taxes in the City for the years and in the amounts as follows:

| <u>Levy Years</u> | <u>Collection Years</u> | <u>Amount</u> |
|-------------------|-------------------------|---------------|
|-------------------|-------------------------|---------------|

See attached schedule

The tax levies are such that if collected in full they, together with estimated collections of special assessments herein pledged for the payment of the Bonds, will produce at least five percent in excess of the amount needed to meet when due the principal and interest payments on the Bonds. The tax levies shall be irrevocable so long as any of the Bonds are outstanding and unpaid, provided that the City reserves the right and power to reduce the levies in the manner and to the extent permitted by Minnesota Statutes, Section 475.61, Subdivision 3.

Upon payment of the Refunded Bonds, the taxes levied by the Prior Resolution in the years 20\_\_ to 20\_\_ shall be canceled.

18. General Obligation Pledge. For the prompt and full payment of the principal and interest on the Bonds, as the same respectively become due, the full faith, credit and taxing powers of the City shall be and are hereby irrevocably pledged. If the balance in the Debt Service Account is ever insufficient to pay all principal and interest then due on the Bonds and any other bonds payable therefrom, the deficiency shall be promptly paid out of any other funds of the City which are available for such purpose, and such other funds may be reimbursed with or without interest from the Debt Service Account when a sufficient balance is available therein.

19. Prior Bonds; Security and Prepayment. Until retirement of the Prior Bonds, all provisions for the security thereof shall be observed by the City and all of its officers and agents. The Refunded Bonds shall be redeemed and prepaid on the Call Date in accordance with the terms and conditions set forth in the Notice of Call for Redemption attached hereto as Exhibit A, which terms and conditions are hereby approved and incorporated herein by reference.

20. Supplemental Resolution. The Prior Resolution authorizing the issuance of the Prior Bonds is hereby supplemented to the extent necessary to give effect to the provisions hereof.

21. Certificate of Registration. The Manager is hereby directed to file a certified copy of this resolution with the County Auditor of Ramsey County, Minnesota, together with such

other information as the County Auditor shall require, and to obtain the County Auditor's certificate that the Bonds have been entered in the County Auditor's Bond Register and that the tax levy required by law has been made.

22. Records and Certificates. The officers of the City are hereby authorized and directed to prepare and furnish to the Purchaser, and to the attorneys approving the legality of the issuance of the Bonds, certified copies of all proceedings and records of the City relating to the Bonds and to the financial condition and affairs of the City, and such other affidavits, certificates and information as are required to show the facts relating to the legality and marketability of the Bonds as the same appear from the books and records under their custody and control or as otherwise known to them, and all such certified copies, certificates and affidavits, including any heretofore furnished, shall be deemed representations of the City as to the facts recited therein.

23. Continuing Disclosure. The City is the sole obligated person with respect to the Bonds. The City hereby agrees, in accordance with the provisions of Rule 15c2-12 (the "Rule"), promulgated by the Securities and Exchange Commission (the "Commission") pursuant to the Securities Exchange Act of 1934, as amended, and a Continuing Disclosure Undertaking (the "Undertaking") hereinafter described to:

(a) Provide or cause to be provided to the Municipal Securities Rule Making Board (the "MSRB") by filing at [www.emma.msrb.org](http://www.emma.msrb.org) in accordance with the Undertaking, certain annual financial information and operating data in accordance with the Undertaking. The City reserves the right to modify from time to time the terms of the Undertaking as provided therein.

(b) Provide or cause to be provided, in a timely manner, to the MSRB notice of the occurrence of certain material events with respect to the Bonds in accordance with the Undertaking.

(c) Provide or cause to be provided, in a timely manner, to the MSRB notice of a failure by the City to provide the annual financial information with respect to the City described in the Undertaking.

(d) The City agrees that its covenants pursuant to the Rule set forth in this paragraph and in the Undertaking is intended to be for the benefit of the Holders of the Bonds and shall be enforceable on behalf of such Holders; provided that the right to enforce the provisions of these covenants shall be limited to a right to obtain specific enforcement of the City's obligations under the covenants.

The Mayor and Manager or any other officer of the City authorized to act in their place are hereby authorized and directed to execute on behalf of the City the Undertaking in substantially the form presented to the City Council subject to such modifications thereof or additions thereto as are (i) consistent with the requirements under the Rule, (ii) required by the Purchaser of the Bonds, and (iii) acceptable to the Mayor and Clerk.

24. Negative Covenant as to Use of Bond Proceeds and Project. The City hereby covenants not to use the proceeds of the Bonds or to use the improvements refinanced by the Prior Bonds (the "Project"), or to cause or permit them to be used, or to enter into any deferred

payment arrangements for the cost of the Project, in such a manner as to cause the Bonds to be "private activity bonds" within the meaning of Sections 103 and 141 through 150 of the Code.

25. Tax-Exempt Status of the Bonds; Rebate. The City shall comply with requirements necessary under the Code to establish and maintain the exclusion from gross income under Section 103 of the Code of the interest on the Bonds, including without limitation (1) requirements relating to temporary periods for investments, (2) limitations on amounts invested at a yield greater than the yield on the Bonds, and (3) the rebate of excess investment earnings to the United States if the Bonds (together with other obligations reasonably expected to be issued and outstanding at one time in this calendar year) exceed the small issuer exception amount of \$5,000,000.

For purposes of qualifying for the exception to the federal arbitrage rebate requirements for governmental units issuing \$5,000,000 or less of bonds, the City hereby finds, determines and declares that:

- (a) the Bonds are issued by a governmental unit with general taxing powers;
- (b) no Bond is a private activity bond;
- (c) ninety-five percent or more of the net proceeds of the Bonds are to be used for local governmental activities of the City (or of a governmental unit the jurisdiction of which is entirely within the jurisdiction of the City); and
- (d) the aggregate face amount of all tax exempt bonds (other than private activity bonds) issued by the City (and all subordinate entities thereof, and all entities treated as one issuer with the City) during the calendar year in which the Bonds are issued and outstanding at one time is not reasonably expected to exceed \$5,000,000, all within the meaning of Section 148(f)(4)(D) of the Code.

Furthermore:

- (e) there shall not be taken into account for purposes of said \$5,000,000 limit any bond issued to refund (other than to advance refund) any bond to the extent the amount of the refunding bond does not exceed the outstanding amount of the refunded bond;
- (f) the aggregate face amount of the Bonds does not exceed \$5,000,000;
- (g) each of the Refunded Bonds was issued as part of an issue which was treated as meeting the rebate requirements by reason of the exception for governmental units issuing \$5,000,000 or less of bonds;
- (h) the average maturity of the Bonds does not exceed the average maturity of the Refunded Bonds; and
- (i) no part of the Bonds has a maturity date which is later than the date which is thirty years after the dates the Refunded Bonds were issued.

26. Designation of Qualified Tax-Exempt Obligations. In order to qualify the Bonds as "qualified tax-exempt obligations" within the meaning of Section 265(b)(3) of the Code, the City hereby makes the following factual statements and representations:

- (a) the Bonds are issued after August 7, 1986;
- (b) the Bonds are not "private activity bonds" as defined in Section 141 of the Code;
- (c) the City hereby designates the Bonds as "qualified tax exempt obligations" for purposes of Section 265(b)(3) of the Code;
- (d) the reasonably anticipated amount of tax exempt obligations (other than private activity bonds, treating qualified 501(c)(3) bonds as not being private activity bonds) which will be issued by the City (and all entities treated as one issuer with the City, and all subordinate entities whose obligations are treated as issued by the City) during this calendar year 2009 will not exceed \$30,000,000;
- (e) not more than \$30,000,000 of obligations issued by the City during this calendar year 2009 have been designated for purposes of Section 265(b)(3) of the Code; and
- (f) the aggregate face amount of the Bonds does not exceed \$30,000,000.

Furthermore:

- (g) each of the Refunded Bonds was designated as a "qualified tax exempt obligation" for purposes of Section 265(b)(3) of the Code;
- (h) the aggregate face amount of the Bonds does not exceed \$30,000,000;
- (i) the average maturity of the Bonds does not exceed the remaining average maturity of the Refunded Bonds;
- (j) no part of the Bonds has a maturity date which is later than the date which is thirty years after the date the Refunded Bonds were issued; and
- (k) the Bonds are issued to refund, and not to "advance refund" the Prior Bonds within the meaning of Section 149(d)(5) of the Code, and shall not be taken into account under the \$30,000,000 issuance limit to the extent the Bonds do not exceed the outstanding amount of the Prior Bonds.

The City shall use its best efforts to comply with any federal procedural requirements which may apply in order to effectuate the designation made by this paragraph.

27. Defeasance. When all Bonds have been discharged as provided in this paragraph, all pledges, covenants and other rights granted by this resolution to the registered holders of the Bonds shall, to the extent permitted by law, cease. The City may discharge its obligations with respect to any Bonds which are due on any date by irrevocably depositing with the Bond Registrar on or before that date a sum sufficient for the payment thereof in full; or if any Bond

should not be paid when due, it may nevertheless be discharged by depositing with the Bond Registrar a sum sufficient for the payment thereof in full with interest accrued to the date of such deposit. The City may also at any time discharge its obligations with respect to any Bonds, subject to the provisions of law now or hereafter authorizing and regulating such action, by depositing irrevocably in escrow, with a suitable banking institution qualified by law as an escrow agent for this purpose, cash or securities described in Minnesota Statutes, Section 475.67, Subdivision 8, bearing interest payable at such times and at such rates and maturing on such dates as shall be required, without regard to sale and/or reinvestment, to pay all amounts to become due thereon to maturity or, if notice of redemption as herein required has been duly provided for, to such earlier redemption date.

28. Severability. If any section, paragraph or provision of this resolution shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this resolution.

29. Headings. Headings in this resolution are included for convenience of reference only and are not a part hereof, and shall not limit or define the meaning of any provision hereof.

The motion for the adoption of the foregoing resolution was duly seconded by member \_\_\_\_\_ and, after a full discussion thereof and upon a vote being taken thereon, the following voted in favor thereof:

and the following voted against the same:

Whereupon the resolution was declared duly passed and adopted.

STATE OF MINNESOTA  
COUNTY OF RAMSEY  
CITY OF ROSEVILLE

I, the undersigned, being the duly qualified City Manager of the City of Roseville, Minnesota, DO HEREBY CERTIFY that I have compared the attached and foregoing extract of minutes with the original thereof on file in my office, and that the same is a full, true and complete transcript of the minutes of a meeting of the City Council of the City, duly called and held on the date therein indicated, insofar as such minutes relate to considering proposals and awarding the sale of \$1,105,000 General Obligation Refunding Improvement Bonds, Series 2009B.

WITNESS my hand on July \_\_, 2009.

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City Manager

EXHIBIT A

NOTICE OF CALL FOR REDEMPTION  
GENERAL OBLIGATION IMPROVEMENT BONDS, SERIES 25  
CITY OF ROSEVILLE, RAMSEY COUNTY, MINNESOTA

NOTICE IS HEREBY GIVEN that by order of the City Council of the City of Roseville, Ramsey County, Minnesota, there have been called for redemption and prepayment on

October 1, 2009

those outstanding bonds of the City designated as General Obligation Improvement Bonds, Series 25, dated as of February 16, 1999, subject to mandatory redemption or having stated maturity dates in the years 2010 through 2014, inclusive, and totaling \$1,045,000 in principal in principal amount and having CUSIP numbers listed below:

| <u>Year</u> | <u>CUSIP</u> |
|-------------|--------------|
| 2010        |              |
| 2011        |              |
| 2012        |              |
| 2013        |              |
| 2014        |              |

The bonds are being called at a price of par plus accrued interest to October 1, 2009, on which date all interest on the bonds will cease to accrue. Holders of the bonds hereby called for redemption are requested to present their bonds for payment, at the office of the Finance Director of the City of Roseville, Minnesota.

Dated: July 20, 2009

BY ORDER OF THE CITY COUNCIL

/s/ \_\_\_\_\_, Manager

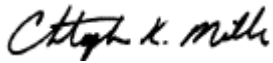
\*The City shall not be responsible for the selection of or use of the CUSIP numbers, nor is any representation made as to their correctness indicated in the notice. They are included solely for the convenience of the holders.

  
**REQUEST FOR COUNCIL ACTION**

Date: 07/20/09  
Item No.: 12.c

Department Approval

City Manager Approval



Item Description: Award the Sale of the City's 2009 Housing Revenue Bonds for Westwood Village I Townhomes

**BACKGROUND**

On June 8, 2009, the City Council established a date of sale for the issuance of the City's 2009 Housing Revenue Bonds. Bids on these bonds will be received on the morning of July 20, 2009, with an award taking place later that evening at the City Council meeting.

Previously, the City Council established a Housing Improvement Area for the purposes of facilitating common-area housing improvements for the Westwood Village I townhomes. Because the Townhome Association lacked the means to secure financing for these improvements, the City Council agreed to issue housing revenue bonds on behalf of the Association to be repaid with individual townhome unit assessments.

Final legal agreements between the City and the Association have been entered into. Therefore it is appropriate to move forward in awarding the bond sale date.

**POLICY OBJECTIVE**

The issuance of housing revenue bonds is consistent with prior Council actions and will be necessary to obtain the financing needed to make common-area improvements at the Westwood Village I townhomes.

**FINANCIAL IMPACTS**

Not applicable. While the City is providing the up-front financing, individual townhome unit assessments will repay the debt service. A Development Agreement between the City and the Association will further guarantee that Westwood Village I will pay additional monies in the event that the assessments are insufficient to repay the debt.

**STAFF RECOMMENDATION**

Staff recommends the Council approve the attached resolution awarding the sale of the City's 2009 Housing Revenue Bonds for the purposes of financing common-area improvements at Westwood Village I townhomes.

**REQUESTED COUNCIL ACTION**

Motion to approve the attached resolution awarding the sale of the City's 2009 Housing Revenue Bonds for

28 the purposes of financing common-area improvements at Westwood Village I townhomes.

29

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Prepared by: Chris Miller, Finance Director

Attachments: A: Resolution awarding the sale of the City's 2009 Housing Revenue Bonds for Westwood Village I.

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EXTRACT OF MINUTES OF A MEETING OF THE  
CITY COUNCIL OF THE  
CITY OF ROSEVILLE, MINNESOTA

HELD: July 20, 2009

Pursuant to due call and notice thereof, a regular or special meeting of the City Council of the City of Roseville, Ramsey County, Minnesota, was duly called and held at the City Hall on July 20, 2009, at 7:00 P.M., for the purpose, in part, of considering proposals and awarding the competitive negotiated sale of \$1,155,000 (reduced from \$1,660,000) Taxable General Obligation Housing Improvement Bonds, Series 2009A.

The following members were present:

and the following were absent:

The City Manager presented proposals on \$1,155,000 Taxable General Obligation Housing Improvement Bonds, Series 2009A, for which proposals were to be received, opened and tabulated by the City Manager, or designee, this same day, in accordance with the resolution adopted by the City Council on June 8, 2009.

The following proposals were received, opened and tabulated at 10:30 A.M., central time, at the offices of Springsted Incorporated, in the presence of the City Manager, or designee, on this same day:

Bidder

Interest Rate

True Interest Cost

See attached Exhibit A

The Council then proceeded to consider and discuss the proposals, after which member \_\_\_\_\_ introduced the following resolution and moved its adoption:

RESOLUTION NO \_\_\_\_  
RESOLUTION ACCEPTING PROPOSAL ON  
THE COMPETITIVE NEGOTIATED SALE OF  
\$1,155,000 TAXABLE GENERAL OBLIGATION HOUSING  
IMPROVEMENT BONDS, SERIES 2009A  
AND PLEDGING FOR THE SECURITY THEREOF TAX INCREMENTS

A. WHEREAS, the City Council of the City of Roseville, Minnesota (the "City"), has heretofore established the Westwood Village I Housing Improvement Area (the "Housing Improvement Area") pursuant to the provisions of Minnesota Statutes, Sections 428A.11 through 428A.21, (the "Housing Improvement Area Law") in order to effect certain housing improvements (the "Housing Improvements") to the Housing Improvement Area; and

B. WHEREAS, the Council also heretofore proposed and established a housing improvement fee (the "Housing Fees") to be collected for improvements and repairs to the housing units within the Housing Improvement Area; and

C. WHEREAS, the City Council hereby determines and declares that it is necessary and expedient to issue Taxable General Obligation Housing Improvement Bonds, Series 2009A in the amount of \$1,155,000 (the "Bonds" or individually a "Bond"), pursuant to the Housing Improvement Area Law and Minnesota Statutes, Chapter 475, to finance the Housing Improvements; and

D. WHEREAS, it is in the best interests of the City that the Bonds be issued in book-entry form as hereinafter provided; and

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

1. Acceptance of Proposal. The proposal of \_\_\_\_\_ (the "Purchaser"), to purchase the Bonds, in accordance with the Terms of Proposal, at the rates of interest hereinafter set forth, and to pay therefor the sum of \$\_\_\_\_\_, plus interest accrued to settlement, is hereby found, determined and declared to be the most favorable proposal received and is hereby accepted, and the Bonds are hereby awarded to the Purchaser. The Manager is directed to retain the deposit of the Purchaser and to forthwith return to the unsuccessful bidders their good faith checks and Financial Surety Bonds.

2. Bond Terms.

(a) Title; Original Issue Date; Denominations; Maturities. The Bonds shall be titled "Taxable General Obligation Housing Improvement Bonds, Series 2009A", shall be dated August 1, 2009, as the date of original issue, shall be issued forthwith on or after such date in fully registered form, shall be numbered from R-1 upward in the denomination of \$5,000 each or

in any integral multiple thereof of a single maturity (the "Authorized Denominations") and shall mature on March 1 in the years and amounts as follows:

| <u>Year</u> | <u>Amount</u> |
|-------------|---------------|
| 2011        | \$            |
| 2012        |               |
| 2013        |               |
| 2014        |               |
| 2015        |               |
| 2016        |               |
| 2017        |               |
| 2018        |               |
| 2019        |               |
| 2020        |               |
| 2021        |               |
| 2022        |               |
| 2023        |               |
| 2024        |               |
| 2025        |               |

As may be requested by the Purchaser, one or more term Bonds may be issued having mandatory sinking fund redemption and final maturity amounts conforming to the foregoing principal repayment schedule, and corresponding additions may be made to the provisions of the applicable Bond(s).

(b) Book Entry Only System. The Depository Trust Company, a limited purpose trust company organized under the laws of the State of New York or any of its successors or its successors to its functions hereunder (the "Depository") will act as securities depository for the Bonds, and to this end:

(i) The Bonds shall be initially issued and, so long as they remain in book entry form only (the "Book Entry Only Period"), shall at all times be in the form of a separate single fully registered Bond for each maturity of the Bonds; and for purposes of complying with this requirement under paragraphs 5 and 10 Authorized Denominations for any Bond shall be deemed to be limited during the Book Entry Only Period to the outstanding principal amount of that Bond.

(ii) Upon initial issuance, ownership of the Bonds shall be registered in a bond register maintained by the Bond Registrar (as hereinafter defined) in the name of CEDE & CO., as the nominee (it or any nominee of the existing or a successor Depository, the "Nominee").

(iii) With respect to the Bonds neither the City nor the Bond Registrar shall have any responsibility or obligation to any broker, dealer, bank, or any other financial institution for which the Depository holds Bonds as securities depository (the "Participant") or the person for which a Participant holds an interest in the Bonds shown

on the books and records of the Participant (the "Beneficial Owner"). Without limiting the immediately preceding sentence, neither the City, nor the Bond Registrar, shall have any such responsibility or obligation with respect to (A) the accuracy of the records of the Depository, the Nominee or any Participant with respect to any ownership interest in the Bonds, or (B) the delivery to any Participant, any Owner or any other person, other than the Depository, of any notice with respect to the Bonds, including any notice of redemption, or (C) the payment to any Participant, any Beneficial Owner or any other person, other than the Depository, of any amount with respect to the principal of or premium, if any, or interest on the Bonds, or (D) the consent given or other action taken by the Depository as the Registered Holder of any Bonds (the "Holder"). For purposes of securing the vote or consent of any Holder under this Resolution, the City may, however, rely upon an omnibus proxy under which the Depository assigns its consenting or voting rights to certain Participants to whose accounts the Bonds are credited on the record date identified in a listing attached to the omnibus proxy.

(iv) The City and the Bond Registrar may treat as and deem the Depository to be the absolute owner of the Bonds for the purpose of payment of the principal of and premium, if any, and interest on the Bonds, for the purpose of giving notices of redemption and other matters with respect to the Bonds, for the purpose of obtaining any consent or other action to be taken by Holders for the purpose of registering transfers with respect to such Bonds, and for all purpose whatsoever. The Bond Registrar, as paying agent hereunder, shall pay all principal of and premium, if any, and interest on the Bonds only to the Holder or the Holders of the Bonds as shown on the bond register, and all such payments shall be valid and effective to fully satisfy and discharge the City's obligations with respect to the principal of and premium, if any, and interest on the Bonds to the extent of the sum or sums so paid.

(v) Upon delivery by the Depository to the Bond Registrar of written notice to the effect that the Depository has determined to substitute a new Nominee in place of the existing Nominee, and subject to the transfer provisions in paragraph 10 hereof, references to the Nominee hereunder shall refer to such new Nominee.

(vi) So long as any Bond is registered in the name of a Nominee, all payments with respect to the principal of and premium, if any, and interest on such Bond and all notices with respect to such Bond shall be made and given, respectively, by the Bond Registrar or City, as the case may be, to the Depository as provided in the Letter of Representations to the Depository required by the Depository as a condition to its acting as book-entry Depository for the Bonds (said Letter of Representations, together with any replacement thereof or amendment or substitute thereto, including any standard procedures or policies referenced therein or applicable thereto respecting the procedures and other matters relating to the Depository's role as book-entry Depository for the Bonds, collectively hereinafter referred to as the "Letter of Representations").

(vii) All transfers of beneficial ownership interests in each Bond issued in book-entry form shall be limited in principal amount to Authorized Denominations and shall be effected by procedures by the Depository with the Participants for recording and transferring the ownership of beneficial interests in such Bonds.

(viii) In connection with any notice or other communication to be provided to the Holders pursuant to this Resolution by the City or Bond Registrar with respect to any consent or other action to be taken by Holders, the Depository shall consider the date of receipt of notice requesting such consent or other action as the record date for such consent or other action; provided, that the City or the Bond Registrar may establish a special record date for such consent or other action. The City or the Bond Registrar shall, to the extent possible, give the Depository notice of such special record date not less than 15 calendar days in advance of such special record date to the extent possible.

(ix) Any successor Bond Registrar in its written acceptance of its duties under this Resolution and any paying agency/bond registrar agreement, shall agree to take any actions necessary from time to time to comply with the requirements of the Letter of Representations.

(c) Termination of Book-Entry Only System. Discontinuance of a particular Depository's services and termination of the book-entry only system may be effected as follows:

(i) The Depository may determine to discontinue providing its services with respect to the Bonds at any time by giving written notice to the City and discharging its responsibilities with respect thereto under applicable law. The City may terminate the services of the Depository with respect to the Bond if it determines that the Depository is no longer able to carry out its functions as securities depository or the continuation of the system of book-entry transfers through the Depository is not in the best interests of the City or the Beneficial Owners.

(ii) Upon termination of the services of the Depository as provided in the preceding paragraph, and if no substitute securities depository is willing to undertake the functions of the Depository hereunder can be found which, in the opinion of the City, is willing and able to assume such functions upon reasonable or customary terms, or if the City determines that it is in the best interests of the City or the Beneficial Owners of the Bond that the Beneficial Owners be able to obtain certificates for the Bonds, the Bonds shall no longer be registered as being registered in the bond register in the name of the Nominee, but may be registered in whatever name or names the Holder of the Bonds shall designate at that time, in accordance with paragraph 10 hereof. To the extent that the Beneficial Owners are designated as the transferee by the Holders, in accordance with paragraph 10 hereof, the Bonds will be delivered to the Beneficial Owners.

(iii) Nothing in this subparagraph (c) shall limit or restrict the provisions of paragraph 10.

(d) Letter of Representations. The provisions in the Letter of Representations are incorporated herein by reference and made a part of the resolution, and if and to the extent any such provisions are inconsistent with the other provisions of this resolution, the provisions in the Letter of Representations shall control.

3. Purpose. The Bonds shall provide funds to finance the Housing Improvements within the Housing Improvement Area, payable primarily from fees derived from property

within the Housing Improvement Area (the "Fees"), which fees have been pledged to the payment of the Bonds and interest thereon. The total cost of the Housing Improvements, which shall include all costs enumerated in Minnesota Statutes, Section 475.65, is estimated to be at least equal to the amount of the Bonds. Work on the Housing Improvements shall proceed with due diligence to completion. The City covenants that it shall do all things and perform all acts required of it to assure that work on the Housing Improvements proceeds with due diligence to completion and that any and all permits and studies required under law for the Housing Improvements are obtained.

4. Interest. The Bonds shall bear interest payable semiannually on March 1 and September 1 of each year (each, an "Interest Payment Date"), commencing March 1, 2010, calculated on the basis of a 360-day year of twelve 30-day months, at the respective rates per annum set forth opposite the maturity years as follows:

| <u>Maturity Year</u> | <u>Interest Rate</u> |
|----------------------|----------------------|
| 2011                 |                      |
| 2012                 |                      |
| 2013                 |                      |
| 2014                 |                      |
| 2015                 |                      |
| 2016                 |                      |
| 2017                 |                      |
| 2018                 |                      |
| 2019                 |                      |
| 2020                 |                      |
| 2021                 |                      |
| 2022                 |                      |
| 2023                 |                      |
| 2024                 |                      |
| 2025                 |                      |

5. Redemption. All Bonds maturing on March 1, 2020, and thereafter, shall be subject to redemption and prepayment at the option of the City on March 1, 2019, and on any date thereafter at a price of par plus accrued interest. Redemption may be in whole or in part of the Bonds subject to prepayment. If redemption is in part, the maturities and the principal amounts within each maturity to be redeemed shall be determined by the City; and if only part of the Bonds having a common maturity date are called for prepayment, the specific Bonds to be prepaid shall be chosen by lot by the Bond Registrar. Bonds or portions thereof called for redemption shall be due and payable on the redemption date, and interest thereon shall cease to accrue from and after the redemption date. Mailed notice of redemption shall be given to the paying agent and to each affected registered holder of the Bonds.

To effect a partial redemption of Bonds having a common maturity date, the Bond Registrar prior to giving notice of redemption shall assign to each Bond having a common maturity date a distinctive number for each \$5,000 of the principal amount of such Bond. The Bond Registrar shall then select by lot, using such method of selection as it shall deem proper in

its discretion, from the numbers so assigned to such Bonds, as many numbers as, at \$5,000 for each number, shall equal the principal amount of such Bonds to be redeemed. The Bonds to be redeemed shall be the Bonds to which were assigned numbers so selected; provided, however, that only so much of the principal amount of each such Bond of a denomination of more than \$5,000 shall be redeemed as shall equal \$5,000 for each number assigned to it and so selected. If a Bond is to be redeemed only in part, it shall be surrendered to the Bond Registrar (with, if the City or Bond Registrar so requires, a written instrument of transfer in form satisfactory to the City and Bond Registrar duly executed by the Holder thereof or the Holder's attorney duly authorized in writing) and the City shall execute (if necessary) and the Bond Registrar shall authenticate and deliver to the Holder of the Bond, without service charge, a new Bond or Bonds having the same stated maturity and interest rate and of any Authorized Denomination or Denominations, as requested by the Holder, in aggregate principal amount equal to and in exchange for the unredeemed portion of the principal of the Bond so surrendered.

6. Bond Registrar. The Finance Director of the City is appointed to act as bond registrar and transfer agent with respect to the Bonds (the "Bond Registrar"), and shall do so unless and until a successor Bond Registrar is duly appointed, all pursuant to any contract the City and Bond Registrar shall execute which is consistent herewith. The Bond Registrar shall also serve as paying agent unless and until a successor paying agent is duly appointed. Principal and interest on the Bonds shall be paid to the registered holders (or record holders) of the Bonds in the manner set forth in the form of Bond and paragraph 12.

7. Form of Bond. The Bonds, together with the Bond Registrar's Certificate of Authentication, the form of Assignment and the registration information thereon, shall be in substantially the following form:

UNITED STATES OF AMERICA  
STATE OF MINNESOTA  
RAMSEY COUNTY  
CITY OF ROSEVILLE

R-\_\_\_\_\_ \$\_\_\_\_\_

TAXABLE GENERAL OBLIGATION HOUSING IMPROVEMENT BOND, SERIES 2009A

| <u>Interest Rate</u> | <u>Maturity Date</u> | <u>Date of Original Issue</u> | <u>CUSIP</u> |
|----------------------|----------------------|-------------------------------|--------------|
| %                    | March 1, ____        | August 1, 2009                |              |

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: \_\_\_\_\_ DOLLARS

THE CITY OF ROSEVILLE, RAMSEY COUNTY, MINNESOTA (the "Issuer"), certifies that it is indebted and for value received promises to pay to the registered owner specified above, or registered assigns, in the manner hereinafter set forth, the principal amount specified above, on the maturity date specified above, unless called for prior redemption, and to pay interest thereon semiannually on March 1 and September 1 of each year (each, an "Interest Payment Date"), commencing March 1, 2010, at the rate per annum specified above (calculated on the basis of a 360-day year of twelve 30-day months) until the principal sum is paid or has been provided for. This Bond will bear interest from the most recent Interest Payment Date to which interest has been paid or, if no interest has been paid, from the date of original issue hereof. The principal of and premium, if any, on this Bond are payable upon presentation and surrender hereof at the principal office of the Finance Director of the Issuer (the "Bond Registrar"), acting as paying agent, or any successor paying agent duly appointed by the Issuer. Interest on this Bond will be paid on each Interest Payment Date by check or draft mailed to the person in whose name this Bond is registered (the "Holder" or "Bondholder") on the registration books of the Issuer maintained by the Bond Registrar and at the address appearing thereon at the close of business on the fifteenth day of the calendar month next preceding such Interest Payment Date (the "Regular Record Date"). Any interest not so timely paid shall cease to be payable to the person who is the Holder hereof as of the Regular Record Date, and shall be payable to the person who is the Holder hereof at the close of business on a date (the "Special Record Date") fixed by the Bond Registrar whenever money becomes available for payment of the defaulted interest. Notice of the Special Record Date shall be given to Bondholders not less than ten days prior to the Special Record Date. The principal of and premium, if any, and interest on this Bond are payable in lawful money of the United States of America. So long as this Bond is registered in the name of the Depository or its Nominee as provided in the Resolution hereinafter described, and as those terms are defined therein, payment of principal of, premium, if any, and interest on this Bond and notice with respect thereto shall be made as provided in the Letter of Representations, as defined in the Resolution. Until termination of the book-entry only system pursuant to the Resolution, Bonds may only be registered in the name of the Depository or its Nominee.

Redemption. The Bonds of this issue (the "Bonds") maturing on March 1, 2020, and thereafter, are subject to redemption and prepayment at the option of the Issuer on March 1, 2019, and on any date thereafter at a price of par plus accrued interest. Redemption may be in whole or in part of the Bonds subject to prepayment. If redemption is in part, the maturities and the principal amounts within each maturity to be redeemed shall be determined by the Issuer; and if only part of the Bonds having a common maturity date are called for prepayment, the specific Bonds to be prepaid shall be chosen by lot by the Bond Registrar. Bonds or portions thereof called for redemption shall be due and payable on the redemption date, and interest thereon shall cease to accrue from and after the redemption date. Mailed notice of redemption shall be given to the paying agent and to each affected Holder of the Bonds.

Selection of Bonds for Redemption; Partial Redemption. To effect a partial redemption of Bonds having a common maturity date, the Bond Registrar shall assign to each Bond having a common maturity date a distinctive number for each \$5,000 of the principal amount of such Bond. The Bond Registrar shall then select by lot, using such method of selection as it shall deem proper in its discretion, from the numbers assigned to the Bonds, as many numbers as, at \$5,000 for each number, shall equal the principal amount of such Bonds to be redeemed. The Bonds to be redeemed shall be the Bonds to which were assigned numbers so selected; provided, however, that only so much of the principal amount of such Bond of a denomination of more than \$5,000 shall be redeemed as shall equal \$5,000 for each number assigned to it and so selected. If a Bond is to be redeemed only in part, it shall be surrendered to the Bond Registrar (with, if the Issuer or Bond Registrar so requires, a written instrument of transfer in form satisfactory to the Issuer and Bond Registrar duly executed by the Holder thereof or the Holder's attorney duly authorized in writing) and the Issuer shall execute (if necessary) and the Bond Registrar shall authenticate and deliver to the Holder of the Bond, without service charge, a new Bond or Bonds having the same stated maturity and interest rate and of any Authorized Denomination or Denominations, as requested by the Holder, in aggregate principal amount equal to and in exchange for the unredeemed portion of the principal of the Bond so surrendered.

Issuance; Purpose; General Obligation. This Bond is one of an issue in the total principal amount of \$1,155,000, all of like date of original issue and tenor, except as to number, maturity, interest rate and denomination, issued pursuant to and in full conformity with the Constitution and laws of the State of Minnesota and pursuant to a resolution adopted by the City Council on July 20, 2009 (the "Resolution"), for the purpose of providing funds to finance certain housing improvements within a housing improvement area of the Issuer. This Bond is payable out of the Taxable General Obligation Housing Improvement Bonds, Series 2009A Fund. This Bond constitutes a general obligation of the Issuer, and to provide moneys for the prompt and full payment of its principal, premium, if any, and interest when the same become due, the full faith and credit and taxing powers of the Issuer have been and are hereby irrevocably pledged.

Denominations; Exchange; Resolution. The Bonds are issuable solely in fully registered form in Authorized Denominations (as defined in the Resolution) and are exchangeable for fully registered Bonds of other Authorized Denominations in equal aggregate principal amounts at the principal office of the Bond Registrar, but only in the manner and subject to the limitations provided in the Resolution. Reference is hereby made to the Resolution for a description of the rights and duties of the Bond Registrar. Copies of the Resolution are on file in the principal office of the Bond Registrar.

Transfer. This Bond is transferable by the Holder in person or by the Holder's attorney duly authorized in writing at the principal office of the Bond Registrar upon presentation and surrender hereof to the Bond Registrar, all subject to the terms and conditions provided in the Resolution and to reasonable regulations of the Issuer contained in any agreement with the Bond Registrar. Thereupon the Issuer shall execute and the Bond Registrar shall authenticate and deliver, in exchange for this Bond, one or more new fully registered Bonds in the name of the transferee (but not registered in blank or to "bearer" or similar designation), of an Authorized Denomination or Denominations, in aggregate principal amount equal to the principal amount of this Bond, of the same maturity and bearing interest at the same rate.

Fees upon Transfer or Loss. The Bond Registrar may require payment of a sum sufficient to cover any tax or other governmental charge payable in connection with the transfer or exchange of this Bond and any legal or unusual costs regarding transfers and lost Bonds.

Treatment of Registered Owners. The Issuer and Bond Registrar may treat the person in whose name this Bond is registered as the owner hereof for the purpose of receiving payment as herein provided (except as otherwise provided herein with respect to the Record Date) and for all other purposes, whether or not this Bond shall be overdue, and neither the Issuer nor the Bond Registrar shall be affected by notice to the contrary.

Authentication. This Bond shall not be valid or become obligatory for any purpose or be entitled to any security unless the Certificate of Authentication hereon shall have been executed by the Bond Registrar.

Taxable Interest. The interest on this Bond is included in the gross income of the owner hereof for purposes of United States income tax and to the same extent in both gross income and taxable net income for purposes of State of Minnesota income tax.

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 happen and to be performed, precedent to and in the issuance of this Bond, have been done, have happened and have been performed, in regular and due form, time and manner as required by law, and that this Bond, together with all other debts of the Issuer outstanding on the date of original issue hereof and the date of its issuance and delivery to the original purchaser, does not exceed any constitutional or statutory limitation of indebtedness.

IN WITNESS WHEREOF, the City of Roseville, Ramsey County, Minnesota, by its City Council has caused this Bond to be executed on its behalf by the facsimile signatures of its Mayor and its Manager, the corporate seal of the Issuer having been intentionally omitted as permitted by law.

Date of Registration:

\_\_\_\_\_

Registrable by: FINANCE DIRECTOR  
CITY OF ROSEVILLE, MINNESOTA  
Payable at: FINANCE DIRECTOR  
CITY OF ROSEVILLE, MINNESOTA

BOND REGISTRAR'S  
CERTIFICATE OF  
AUTHENTICATION

CITY OF ROSEVILLE,  
RAMSEY COUNTY, MINNESOTA

This Bond is one of the Bonds  
described in the Resolution  
mentioned within.

/s/ Facsimile  
Mayor

FINANCE DIRECTOR  
CITY OF ROSEVILLE,  
MINNESOTA  
Bond Registrar

/s/ Facsimile  
Manager

By \_\_\_\_\_  
Authorized Signature

## ABBREVIATIONS

The following abbreviations, when used in the inscription on the face of this Bond, shall be construed as though they were written out in full according to applicable laws or regulations:

TEN COM - as tenants in common

TEN ENT - as tenants by the entireties

JT TEN - as joint tenants with right of survivorship and not as tenants in common

UTMA - \_\_\_\_\_ as custodian for \_\_\_\_\_

(Cust) (Minor)  
under the \_\_\_\_\_ Uniform Transfers to Minors Act  
(State)

Additional abbreviations may also be used though not in the above list.

\_\_\_\_\_

## ASSIGNMENT

For value received, the undersigned hereby sells, assigns and transfers unto \_\_\_\_\_ the within Bond and does hereby irrevocably constitute and appoint \_\_\_\_\_ attorney to transfer the Bond on the books kept for the registration thereof, with full power of substitution in the premises.

Dated: \_\_\_\_\_

Notice: The assignor's signature to this assignment must correspond with the name as it appears upon the face of the within Bond in every particular, without alteration or any change whatever.

Signature Guaranteed:

\_\_\_\_\_

Signature(s) must be guaranteed by a national bank or trust company or by a brokerage firm having a membership in one of the major stock exchanges or any other "Eligible Guarantor Institution" as defined in 17 CFR 240.17 Ad-15(a)(2).

The Bond Registrar will not effect transfer of this Bond unless the information concerning the transferee requested below is provided.

Name and Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

PREPAYMENT SCHEDULE

This Bond has been prepaid in part on the date(s) and in the amount(s) as follows:

| <u>DATE</u> | <u>AMOUNT</u> | AUTHORIZED<br>SIGNATURE<br><u>OF HOLDER</u> |
|-------------|---------------|---------------------------------------------|
|             |               |                                             |
|             |               |                                             |
|             |               |                                             |
|             |               |                                             |
|             |               |                                             |
|             |               |                                             |
|             |               |                                             |
|             |               |                                             |

8. Execution; Temporary Bonds. The Bonds shall be printed (or, at the request of the Purchaser, typewritten) and shall be executed on behalf of the City by the signatures of its Mayor and Manager and be sealed with the seal of the City; provided, however, that the seal of the City may be a printed (or, at the request of the Purchaser, photocopied) facsimile and the corporate seal may be omitted on the Bonds as permitted by law. In the event of disability or resignation or other absence of either such officer, the Bonds may be signed by the manual or facsimile signature of that officer who may act on behalf of such absent or disabled officer. In case either such officer whose signature or facsimile of whose signature shall appear on the Bonds shall cease to be such officer before the delivery of the Bonds, such signature or facsimile shall nevertheless be valid and sufficient for all purposes, the same as if he or she had remained in office until delivery. The City may elect to deliver, in lieu of printed definitive bonds, one or more typewritten temporary bonds in substantially the form set forth above, with such changes as may be necessary to reflect more than one maturity in a single temporary bond. Such temporary bonds may be executed with photocopied facsimile signatures of the Mayor and Manager. Such temporary bonds shall, upon the printing of the definitive bonds and the execution thereof, be exchanged therefor and canceled.

9. Authentication. No Bond shall be valid or obligatory for any purpose or be entitled to any security or benefit under this resolution unless a Certificate of Authentication on such Bond, substantially in the form hereinabove set forth, shall have been duly executed by an authorized representative of the Bond Registrar. Certificates of Authentication on different Bonds need not be signed by the same person. The Bond Registrar shall authenticate the signatures of officers of the City on each Bond by execution of the Certificate of Authentication on the Bond and by inserting as the date of registration in the space provided the date on which the Bond is authenticated, except that for purposes of delivering the original Bonds to the Purchaser, the Bond Registrar shall insert as a date of registration the date of original issue, August 1, 2009. The Certificate of Authentication so executed on each Bond shall be conclusive evidence that it has been authenticated and delivered under this resolution.

10. Registration; Transfer; Exchange. The City will cause to be kept at the principal office of the Bond Registrar a bond register in which, subject to such reasonable regulations as the Bond Registrar may prescribe, the Bond Registrar shall provide for the registration of Bonds and the registration of transfers of Bonds entitled to be registered or transferred as herein provided.

Upon surrender for transfer of any Bond at the principal office of the Bond Registrar, the City shall execute (if necessary), and the Bond Registrar shall authenticate, insert the date of registration (as provided in paragraph 9) of, and deliver, in the name of the designated transferee or transferees, one or more new Bonds of any Authorized Denomination or Denominations of a like aggregate principal amount, having the same stated maturity and interest rate, as requested by the transferor; provided, however, that no Bond may be registered in blank or in the name of "bearer" or similar designation.

At the option of the Holder, Bonds may be exchanged for Bonds of any Authorized Denomination or Denominations of a like aggregate principal amount and stated maturity, upon surrender of the Bonds to be exchanged at the principal office of the Bond Registrar. Whenever any Bonds are so surrendered for exchange, the City shall execute (if necessary), and the Bond

Registrar shall authenticate, insert the date of registration of, and deliver the Bonds which the Holder making the exchange is entitled to receive.

All Bonds surrendered upon any exchange or transfer provided for in this resolution shall be promptly canceled by the Bond Registrar and thereafter disposed of as directed by the City.

All Bonds delivered in exchange for or upon transfer of Bonds shall be valid general obligations of the City evidencing the same debt, and entitled to the same benefits under this resolution, as the Bonds surrendered for such exchange or transfer.

Every Bond presented or surrendered for transfer or exchange shall be duly endorsed or be accompanied by a written instrument of transfer, in form satisfactory to the Bond Registrar, duly executed by the Holder thereof or the Holder's attorney duly authorized in writing.

The Bond Registrar may require payment of a sum sufficient to cover any tax or other governmental charge payable in connection with the transfer or exchange of any Bond and any legal or unusual costs regarding transfers and lost Bonds.

Transfers shall also be subject to reasonable regulations of the City contained in any agreement with the Bond Registrar, including regulations which permit the Bond Registrar to close its transfer books between record dates and payment dates. The Clerk is hereby authorized to negotiate and execute the terms of said agreement.

11. Rights Upon Transfer or Exchange. Each Bond delivered upon transfer of or in exchange for or in lieu of any other Bond shall carry all the rights to interest accrued and unpaid, and to accrue, which were carried by such other Bond.

12. Interest Payment; Record Date. Interest on any Bond shall be paid on each Interest Payment Date by check or draft mailed to the person in whose name the Bond is registered (the "Holder") on the registration books of the City maintained by the Bond Registrar and at the address appearing thereon at the close of business on the fifteenth day of the calendar month next preceding such Interest Payment Date (the "Regular Record Date"). Any such interest not so timely paid shall cease to be payable to the person who is the Holder thereof as of the Regular Record Date, and shall be payable to the person who is the Holder thereof at the close of business on a date (the "Special Record Date") fixed by the Bond Registrar whenever money becomes available for payment of the defaulted interest. Notice of the Special Record Date shall be given by the Bond Registrar to the Holders not less than ten days prior to the Special Record Date.

13. Treatment of Registered Owner. The City and Bond Registrar may treat the person in whose name any Bond is registered as the owner of such Bond for the purpose of receiving payment of principal of and premium, if any, and interest (subject to the payment provisions in paragraph 12) on, such Bond and for all other purposes whatsoever whether or not such Bond shall be overdue, and neither the City nor the Bond Registrar shall be affected by notice to the contrary.

14. Delivery; Application of Proceeds. The Bonds when so prepared and executed shall be delivered by the Finance Director to the Purchaser upon receipt of the purchase price, and the Purchaser shall not be obliged to see to the proper application thereof.

15. Fund and Accounts. There is hereby created a special fund to be designated the "Taxable General Obligation Housing Improvement Bonds, Series 2009A Fund" (the "Fund") to be administered and maintained by the Finance Director as a bookkeeping account separate and apart from all other funds maintained in the official financial records of the City. The Fund shall be maintained in the manner herein specified until all of the Bonds and the interest thereon have been fully paid. There shall be maintained in the Fund the following separate accounts:

(a) Project Fund. The Project Fund, into which fund will be deposited proceeds of the Bonds in the amount of \$\_\_\_\_\_. Upon issuance of the Bonds, the City shall also deposit into the Project Fund prepaid Housing Fees in the amount of \$\_\_\_\_\_, which Housing Fees were levied on property within the Housing Improvement Area and were prepaid pursuant to the resolution levying the Housing Fees. Of the total amount deposited in the Project Fund, \$\_\_\_\_\_ will be disbursed to the City to pay the administrative costs of the Housing Improvement Area. The balance of funds in the Project Fund shall be disbursed to pay the costs of the Housing Improvements in accordance with the terms of the Development Agreement, between the City and Westwood Village Association (the "Association"), dated as of June 8, 2009 (the "Development Agreement"), and the Disbursing Agreement between the City, the Association and Commercial Partners Title, LLC, dated as of June 23, 2009. Interest earnings from moneys in the Project Fund shall be credited to the Project Fund.

(b) Administration Fund. The Administration Fund, into which fund will be deposited proceeds of the Bonds in the amount of \$\_\_\_\_\_, which amount will be used solely for the purpose of paying costs of issuance of the Bonds. Any balance remaining in the Administration Fund after all disbursements for administrative and issuance expenses shall be transferred to the Project Fund. Interest earnings from moneys in the Administration Fund shall be credited to the Surplus Fund hereafter created.

(c) Debt Service Fund. The Debt Service Fund, into which fund will be deposited from Bond proceeds \$\_\_\_\_\_, which represents capitalized interest through \_\_\_\_\_, 20\_\_, together with Housing Fees and any deficiency payments received by the City pursuant to Section 6.6 of the Development Agreement in the amount necessary to pay when due the principal and interest on the Bonds. Interest earnings from moneys in the Debt Service Fund shall be credited to the Debt Service Fund.

(d) Contingency Fund. The Contingency Fund, into which fund will be deposited proceeds of the Bonds in the amount of \$265,889.36. Amounts in the Contingency Fund shall be applied and disbursed in accordance with the Development Agreement.

(e) Surplus Fund. The Surplus Fund, into which fund will be deposited all Housing Fees in excess of the amounts required to be deposited into the Debt Service Fund and the Project Fund under this Section. Amounts in the Surplus Fund shall be applied and disbursed in accordance with the Development Agreement. Interest earnings from moneys in the Surplus Fund shall be credited to the Surplus Fund.

16. Deposit of Funds. Money in the funds and accounts created by this Resolution will be kept separate from other municipal funds and deposited only in a bank or banks which are members of the Federal Deposit Insurance Corporation ("FDIC"). Deposits which cause the aggregate deposits of the City in any one bank to be in excess of the amount insured by FDIC must be continuously secured in the manner provided by law for the investment of municipal funds. In the event excess moneys are held in any of the funds created pursuant to Section 15 of this Resolution, such excess moneys shall be applied and disbursed in accordance with the Development Agreement.

17. Covenants Regarding Housing Improvements. The City hereby covenants with the holders from time to time of the Bonds as follows:

(a) The City has caused or will cause the Housing Fees for the Housing Improvements in the Housing Improvement Area to be promptly levied against housing units in such Area so that the first installment will be collectible not later than 2010 and will take all steps necessary to assure prompt collection. The City Council will cause to be taken with due diligence all further actions that are required under the Development Agreement for the construction of the Housing Improvements financed wholly or partly from the proceeds of the Bonds, and will take all further actions necessary for the final and valid levy of the Housing Fees and the appropriation of any other funds needed to pay the Bonds and interest thereon when due.

(b) In the event of any current or anticipated deficiency in Housing Fees (after taking into account any revenues collected or anticipated to be collected under the Development Agreement), the City Council will levy ad valorem taxes in the amount of the current or anticipated deficiency.

(c) The City will keep complete and accurate books and records showing receipts and disbursements in connection with the Housing Improvements, Housing Fees levied therefor and other funds appropriated for their payment, collections thereof and disbursements therefrom, and monies on hand.

18. Coverage Test. The estimated collections of Housing Fees are such that if collected in full they, together with estimated collections of other revenues herein pledged for the payment of the Bonds, will produce at least five percent in excess of the amount needed to meet when due the principal and interest payments on the Bonds. Consequently, no taxes are levied at the present time.

19. Defeasance. When all Bonds have been discharged as provided in this paragraph, all pledges, covenants and other rights granted by this resolution to the registered holders of the Bonds shall, to the extent permitted by law, cease. The City may discharge its obligations with respect to any Bonds which are due on any date by irrevocably depositing with the Bond Registrar on or before that date a sum sufficient for the payment thereof in full; or if any Bond should not be paid when due, it may nevertheless be discharged by depositing with the Bond Registrar a sum sufficient for the payment thereof in full with interest accrued to the date of such deposit. The City may also discharge its obligations with respect to any prepayable Bonds called for redemption on any date when they are prepayable according to their terms, by depositing with the Bond Registrar on or before that date a sum sufficient for the payment thereof in full,

provided that notice of redemption thereof has been duly given. The City may also at any time discharge its obligations with respect to any Bonds, subject to the provisions of law now or hereafter authorizing and regulating such action, by depositing irrevocably in escrow, with a suitable banking institution qualified by law as an escrow agent for this purpose, cash or securities described in Minnesota Statutes, Section 475.67, Subdivision 8, bearing interest payable at such times and at such rates and maturing on such dates as shall be required, without regard to sale and/or reinvestment, to pay all amounts to become due thereon to maturity or, if notice of redemption as herein required has been duly provided for, to such earlier redemption date.

20. Continuing Disclosure. The City is the sole obligated person with respect to the Bonds. The City hereby agrees, in accordance with the provisions of Rule 15c2-12 (the "Rule"), promulgated by the Securities and Exchange Commission (the "Commission") pursuant to the Securities Exchange Act of 1934, as amended, and a Continuing Disclosure Undertaking (the "Undertaking") hereinafter described to:

(a) Provide or cause to be provided to the Municipal Securities Rule Making Board (the "MSRB") by filing at [www.emma.msrb.org](http://www.emma.msrb.org) in accordance with the Undertaking, certain annual financial information and operating data in accordance with the Undertaking. The City reserves the right to modify from time to time the terms of the Undertaking as provided therein.

(b) Provide or cause to be provided, in a timely manner, to the MSRB notice of the occurrence of certain material events with respect to the Bonds in accordance with the Undertaking.

(c) Provide or cause to be provided, in a timely manner, to the MSRB notice of a failure by the City to provide the annual financial information with respect to the City described in the Undertaking.

(d) The City agrees that its covenants pursuant to the Rule set forth in this paragraph and in the Undertaking is intended to be for the benefit of the Holders of the Bonds and shall be enforceable on behalf of such Holders; provided that the right to enforce the provisions of these covenants shall be limited to a right to obtain specific enforcement of the City's obligations under the covenants.

The Mayor and Manager or any other officer of the City authorized to act in their place are hereby authorized and directed to execute on behalf of the City the Undertaking in substantially the form presented to the City Council subject to such modifications thereof or additions thereto as are (i) consistent with the requirements under the Rule, (ii) required by the Purchaser of the Bonds, and (iii) acceptable to the Mayor and Clerk.

21. General Obligation Pledge. For the prompt and full payment of the principal of and interest on the Bonds as the same respectively become due, the full faith, credit and taxing powers of the City shall be and are hereby irrevocably pledged. If the balance in the Debt Service Account is ever insufficient to pay all principal and interest then due on the Bonds payable therefrom, the deficiency shall be promptly paid out of any other accounts of the City

which are available for such purpose, and such other funds may be reimbursed without interest from the Debt Service Account when a sufficient balance is available therein.

22. Taxable Status of the Bonds. The City does not qualify the Bonds as tax-exempt under the Internal Revenue Code of 1986, as amended. It is hereby determined that the Bonds are to be issued as fully taxable obligations, and all interest received on the Bonds is to be included in the gross income of the Holder of any Bond for federal income taxation purposes and, to the same extent, in both gross income and taxable net income for state income taxation purposes.

23. Certificate of Registration. The Manager is hereby directed to file a certified copy of this resolution with the County Auditors of Ramsey County, Minnesota, together with such other information as such County Auditors shall require, and to obtain from each County Auditor a certificate that the Bonds have been entered in each of the County Auditor's Bond Registers.

24. Records and Certificates. The officers of the City are hereby authorized and directed to prepare and furnish to the Purchaser, and to the attorneys approving the legality of the issuance of the Bonds, certified copies of all proceedings and records of the City relating to the Bonds and to the financial condition and affairs of the City, and such other affidavits, certificates and information as are required to show the facts relating to the legality and marketability of the Bonds as the same appear from the books and records under their custody and control or as otherwise known to them, and all such certified copies, certificates and affidavits, including any heretofore furnished, shall be deemed representations of the City as to the facts recited therein.

25. Severability. If any section, paragraph or provision of this resolution shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this resolution.

26. Headings. Headings in this resolution are included for convenience of reference only and are not a part hereof, and shall not limit or define the meaning of any provision hereof.

The motion for the adoption of the foregoing resolution was duly seconded by member \_\_\_\_\_ and, after a full discussion thereof and upon a vote being taken thereon, the following voted in favor thereof:

and the following voted against the same:

Whereupon the resolution was declared duly passed and adopted.

STATE OF MINNESOTA  
COUNTY OF RAMSEY  
CITY OF ROSEVILLE

I, the undersigned, being the duly qualified and acting Manager of the City of Roseville, Minnesota, DO HEREBY CERTIFY that I have compared the attached and foregoing extract of minutes with the original thereof on file in my office, and that the same is a full, true and complete transcript of the minutes of a meeting of the City Council, duly called and held on the date therein indicated, insofar as such minutes relate to providing for the issuance and sale of \$1,155,000 Taxable General Obligation Housing Improvement Bonds, Series 2009A.

WITNESS my hand on \_\_\_\_\_, 2009.

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Manager

**ROSEVILLE**  
**REQUEST FOR COUNCIL ACTION**

Date: 7/20/09  
Item No.: 13.a

Department Approval

City Manager Approval

*Christopher K. Miller*

*W. J. Mahinen*

Item Description: Update on the 2010 Budgeting Process

**BACKGROUND**

On April 13, 2009 the City Council authorized the hiring of Springsted Financial Advisors to calculate the true costs of all property tax-supported programs as precursor to an eventual budget priority setting process. Springsted is nearing the completion of their work and expects to report back to the Council in mid-August.

At this same meeting, the Council also authorized the scheduling of several community meetings for the purposes of sharing program and budget impact information and to solicit citizen preferences. Four community meetings have been scheduled and will take place over the next two weeks. The input received at these meetings will be compiled and shared with the Council at the conclusion of those meetings.

Looking ahead, it is suggested that the Council schedule a separate budget priority setting meeting(s) for the purposes of reviewing citizen responses and to determine where funding ought to be allocated for 2010.

It is suggested that this meeting take place in mid-August to allow sufficient time for the preparation of the City Manager Recommended Budget, which would reflect the Council and Community's priorities. This Recommended Budget and accompanying tax levy request would serve as the basis for the 2010 Preliminary Tax Levy and Budget that is scheduled to be adopted on September 14, 2009.

The Council is reminded that a preliminary tax levy must be set no later than September 15<sup>th</sup> of each year and once the preliminary levy is set, it generally cannot be increased (although there are some exceptions).

**POLICY OBJECTIVE**

Establishing a budget process that aligns resources with desired outcomes is consistent with governmental best practices, provides greater transparency of program costs, and ensures that budget dollars are allocated in the manner that creates the greatest value.

**FINANCIAL IMPACTS**

Not applicable.

**STAFF RECOMMENDATION**

Staff recommends that the Council establish a budget priority meeting(s) for the purposes of reviewing citizen input and to determine where resources ought to be allocated for 2010.

29 **REQUESTED COUNCIL ACTION**

30 Establish a budget priority meeting(s) for the purposes of reviewing citizen input and to determine where  
31 resources ought to be allocated for 2010.

32

Prepared by: Chris Miller, Finance Director

Attachments: A: N/A

**ROSEVILLE**  
**REQUEST FOR COUNCIL ACTION**

Date: July 20, 2009  
Item No.: 13.b

Department Approval



City Manager Approval



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Item Description: Discussion of Environmental Cost Recovery within the Twin Lakes Area

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**BACKGROUND**

The City Council received a memorandum from Attorney Larry Espel in December 2007 that described federal and state laws that allow for third parties to seek reimbursement for environmental assessment and remediation activities from the parties responsible for causing the contamination, discussed practical considerations that Council might take prior to moving forward on this path, and identified a potential series of next steps. (See Attachment A: Espel Memorandum to review this document.)

City council members requested discussion of possible environmental cost recovery for environmental activities within the Twin Lakes area. On May 11, 2009, this item was brought forward and discussed. During the conversation, the Council requested that staff provide them with previous materials on this topic. (See Attachment B to review the discussion from this meeting.) Staff reviewed the City's files and records and did not find any additional information on cost recover beyond the Espel memorandum.

To date, the City has expended very limited amounts of City dollars on environmental activities within this area. The work that was undertaken in the early 2000s was funded through U.S. EPA grants and a Metropolitan Council grant paid for assessment activities conducted in 2006 on the Xtra Lease and Old Dominion parcels. As part of the roadway project, the City will spend some funds on environmental assessment, planning, and cleanup, which will were funded by tax increment balances and did not come from the general fund; staff will be seeking grant reimbursement for some of these costs through available regional and state grants.

**STAFF DISCUSSION**

**Barriers to Seeking Environmental Cost Recovery**

There are several barriers to the City moving forward with attempting to recover environmental costs from potentially responsible parties. The following is a summary of these barriers.

Limited Understanding of Environmental Conditions: Over the last decade, there have been extensive environmental assessment activities within the Twin Lakes redevelopment area. Initiated by both the City and the private sector, these studies have identified widespread petroleum-related contamination and areas of hazardous substances. Unfortunately, these studies only provide a general overview of environmental conditions of the overall area and have never

33 delved into identifying the extent of contamination or found the source material for the  
34 groundwater contamination. In order to determine remedial actions and an associated cleanup  
35 amount, the City would first need to engage an environmental consultant to complete the  
36 necessary assessment activities.

37  
38 Privately Owned Properties: Beyond the land associated with public infrastructure and Langton  
39 Lake Park, the land within this area is privately owned. The City cannot require environmental  
40 assessment on private property and these properties have not been identified as an immediate  
41 threat by the federal and state regulatory agencies (U.S. Environmental Protection Agency or  
42 MN Pollution Control Agency). To complete necessary environmental assessment and remedial  
43 planning activities, the City would either need to purchase the land or get access agreements  
44 from the property owners to allow for this activity. Private property owners may not be willing  
45 to grant access if the outcome will lead to the City going after them to recapture the costs for the  
46 cleanup.

47  
48 Number of Past Users: This area is contaminated by very general contaminants, such as gasoline-  
49 range organic compounds, diesel-range organic compounds, and cleaning solvents, that could  
50 have been generated by any number of users over time. Many of the parcels have had numerous  
51 users that could have contributed to the release of these materials. Attributing them to any one  
52 user may be challenging. If the City can attribute them to a specific business or group of  
53 businesses, the next step would be to determine if these businesses still exist or have any viable  
54 assets.

55  
56 Cost of Seeking Damages: At this point, the City has invested very little of its own funds in  
57 environmental assessment, planning, and cleanup activities within this area. Engaging an  
58 attorney and environmental consultant, estimated by Mr. Espel to costs between \$35,000 and  
59 \$70,000, to undertake the necessary work to initiate the cost-recovery process will be very  
60 expensive and, ultimately, may be fruitless as there is no guarantee that the City will ever  
61 recuperate its costs.

## 62 **REQUESTED COUNCIL ACTION**

63 Discuss the potential of seeking environmental cost recovery for environmental assessment and  
64 cleanup costs within the Twin Lakes redevelopment area.

Prepared by: Jamie Radel, Economic Development Associate

Attachments: A: Espel Memorandum dated December 17, 2007  
B: Extract of City Council Meeting Minutes from May 18, 2009

**GREENE ESPEL MEMORANDUM**

PROFESSIONAL LIMITED LIABILITY PARTNERSHIP

SUITE 1200

200 SOUTH SIXTH STREET

MINNEAPOLIS, MINNESOTA 55402

(612) 373-0830 FAX (612) 373-0929

**PRIVILEGED AND CONFIDENTIAL**

TO: Roseville City Council

FROM: Larry D. Espel, Greene Espel PLLP

DATE: December 17, 2007

RE: *Environmental Cost Recovery*

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**Introduction**

We have been requested to prepare, for the benefit of the Roseville City Council, an introductory summary describing the process by which the City could attempt to have current and/or previous property owners pay for any environmental contamination that they may have caused in the Roseville Twin Lakes Redevelopment Area.

The principal available options include various statutory or common law claims that can support private cost recovery, declaratory relief or injunctive relief. In some circumstances, federal or state agencies will take steps to mandate response actions by private parties. The following memorandum will outline the various alternatives.

**RCRA**

Under the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. §§ 6971, *et seq.*, the City could pursue injunctive relief (not cost recovery) against past or current generators or operators who contributed to environmental problems. Under 42 U.S.C. § 6972(a)(1)(B), "any person may commence a civil action on his own behalf \* \* \* against any person, including any past or present generator . . . or past or present owner or operator of a treatment, storage, or disposal facility, who has contributed . . . to the past or present handling, storage, treatment, transportation, or disposal of any solid or hazardous waste which may present an imminent and substantial endangerment to health or the environment." RCRA allows injunctive relief to compel the past or present owner or operator to cease disposal or to take such other action as may be necessary. This is not a cost recovery remedy. However, courts can order responsible persons to pay future response costs.

As noted, RCRA claims depend upon an imminent and substantial endangerment to health or the environment. This entails a showing of a threat, and may be shown even if the impact will not be felt until later. The Eighth Circuit Court of Appeals has said that RCRA is limited to situations in which the potential for harm is great, but this is a fact-specific analysis that leaves room for interpretation. If remedies have already been performed, RCRA injunctions are generally not available and prior costs cannot be recovered. Conversely, in at least one Seventh Circuit case, a claim for an injunction under RCRA failed where the risks of off-site contamination would not materialize unless or until excavation was performed and there was no showing that the excavation was imminent.

Remedies under RCRA can be any form of injunctive relief necessary to prevent ongoing releases. RCRA remedies may not support clean-up of the offending site itself.

RCRA can reach any type of hazardous waste and there is no petroleum exclusion under RCRA.

Before a citizen (or any other person, such as the City) may bring a RCRA action, notice must be given to the EPA, the state and the alleged violator. RCRA actions will not be allowed to proceed if there is already a response action underway at the instigation of the federal or state authorities.

RCRA allows the recovery of attorneys' fees or other costs to the prevailing party.

### **CERCLA**

Under the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. §§ 9601 to 9675, the City can pursue a cost recovery claim against owners, operators or transporters who are responsible for sites or facilities from which there is a release, or a threatened release, which causes the incurrence of response costs for a hazardous substance. The cost recovery statute is set forth at 42 U.S.C. § 9607. The plaintiff can recover any "necessary costs of response ... consistent with the national contingency plan." *Id.*

CERCLA claims are available for "hazardous substances," which are defined somewhat differently than RCRA's "hazardous wastes." In some respects, CERCLA's reach is broader than RCRA's but in other respects CERCLA is more limited. A significant difference is that CERCLA does not reach petroleum spills.

In contrast to RCRA, which is primarily a preventative statute, CERCLA is designed to address situations in which harm has already occurred in addition to preventing threats. The remedy in CERCLA is, in the first instance, cost recovery. This means that parties seek to recover sums that have already been expended on the recovery. However, courts have also coupled cost recovery awards with additional relief such declaratory relief and injunctions addressing ongoing or future obligations. CERCLA does not allow recovery of attorneys' fees for the prosecution of cost recovery claims (although fees can be recovered if incurred as part of the response action itself).

Private cost recovery (including claims by parties such as the City) depend upon a showing that the sums expended were necessary and consistent with the National Contingency Plan ("NCP").

The NCP has certain requirements for action. Those requirements depend upon whether a response action is a “removal” action or a “remedial” action.

For a removal action, the steps included are limited and expeditious. They include a Removal Site Evaluation (400 CFR 300.410) and a Removal Action (400 CFR 300.415). A removal site evaluation consists of a removal preliminary assessment and, if warranted, a removal site inspection. 400 CFR 300.410(a). A removal site evaluation shall be undertaken “as promptly as possible.” 400 CFR 300.410(b). The removal preliminary assessment shall be based on readily available information. If removal action is not required,<sup>1</sup> but remedial action under 300.430 may be necessary, a remedial site evaluation shall be initiated. 400 CFR 300.410(i).

Removal actions are to “begin as soon as possible to abate, prevent, minimize, stabilize, mitigate, or eliminate the threat to public health or welfare of the United States or the environment.” 400 CFR 300.415(b)(3).<sup>2</sup> Under 400 CFR 300.415(b)(5), removal actions shall be terminated after \$2 million has been obligated for the action or 12 months have elapsed from the date that removal activities begin on-site, unless there is a determination that (i) there is an immediate risk to public health or the environment; and continued response actions are immediately required to prevent, limit, or mitigate an emergency, and such assistance will not otherwise be provided; or (ii) continued response action is otherwise appropriate and consistent with the remedial action to be taken. Under 40 CFR 300.415(g), if a removal action will not fully address the threat and the release may require remedial action, there shall be an orderly transition from removal to remedial response activities.

In contrast to the relatively expeditious and preliminary nature of a removal assessment, an investigation for a remedial action includes many more formal and fully developed investigation, planning and implementation steps. These include a Remedial Preliminary Assessment (PA) (40 CFR 300.420(b)), a Remedial Site Inspection (SI) (40 CFR 300.420(c)) and a Remedial Investigation/Feasibility Study (RI/FS) (40 CFR 300.430). “Remedial actions are to be

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<sup>1</sup> The NCP provides a listing of factors to be considered in determining the appropriateness of a removal action. 400 CFR 300.415(b)(1). These include:

- Exposure to nearby human populations, animals or the food chain
- Contamination of drinking water supplies or sensitive ecosystems
- Hazardous substances in drums, barrels, tanks, or other bulk storage containers, that may pose a threat of release
- High levels of hazardous substances largely near the surface
- Weather conditions that may cause migration or releases
- Threat of fire or explosion
- Availability of other mechanisms to respond
- Other situations or factors that may pose threats

<sup>2</sup> A list of removal actions is provided at (e)(1)-(8), such as fences, drainage controls, stabilization of berms, capping to reduce migration, using chemicals to retard or mitigate spread, excavation or removal of highly contaminated soils from drainage areas to reduce spread or direct contact,

implemented as soon as site data and information make it possible to do so.” 40 CFR 300.430(a)(1). The NCP provides program management principles, including: “Sites should generally be remediated in operable units when early actions are necessary or appropriate to achieve significant risk reduction quickly, when phased analysis and response is necessary or appropriate to achieve significant risk reduction quickly, when phased analysis and response is necessary or appropriate given the size or complexity of the site, or to expedite the completion of the total site cleanup.” 40 CFR 300.430(a)(1)(ii).

Extensive guidance is given for remedial investigations and related work. “The purpose of the remedial investigation/feasibility study (RI/FS) is to assess site conditions and evaluate alternatives to the extent necessary to select a remedy.” 40 CFR 300.430(a)(2). An RI/FS generally includes project scoping, data collection, risk assessment, treatability studies, and analysis of alternatives. *Id.* The NCP addresses numerous topics for an RI/FS, including Project Scoping (40 CFR 300.430(b)), Community Relations (40 CFR 300.430(c)), Remedial Investigations (RI) (40 CFR 300.430(d)) and Feasibility Studies (40 CFR 300.430(e)). The Remedial Design/Remedial Action (RD/RA) stage includes the development of the actual design of the selected remedy and the implementation of the remedy through construction. A period of operation and maintenance may follow the Remedial Action activities. 40 CFR 300.435(a).<sup>3</sup>

## MERLA

Minnesota has its own cost recovery statute, the Minnesota Environmental Response and Liability Act (“MERLA”), found at Minn. Stat. §§ 115B.01, *et seq.* MERLA is similar to CERCLA in some respects although there are many differences. MERLA allows cost recovery for response actions necessary as a result of releases or threatened releases of hazardous substances, but also allows recovery of lost profits and other damages in certain circumstances. MERLA allows a prevailing plaintiff to recover attorneys’ fees. However, MERLA is subject to certain defenses on retroactivity depending upon the date of the releases of hazardous substances. But, the City is in a better position than private parties to pursue claims for historical releases. Also, the City is allowed to recover any “reasonable and necessary response costs,” whereas private parties could recover only removal costs. Minn. Stat. § 115B.04, subd. 1.

Under Minn. Stat. § 115B.04, subd. 1, “any person” who is responsible for a release or threatened release of a hazardous substance from a facility is strictly liable, joint and severally, for, among other things, “all reasonable and necessary response costs incurred by the state, a political subdivision of the state or the United States” and “all reasonable and necessary removal costs incurred by any person.” Minn. Stat. § 115B.04, subd. 1(1) and (2). A responsible person (RP), however, may assert as a defense against such claims that the hazardous substance released from the facility in question was placed or came to be located in or on the facility before April 1, 1982 and

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<sup>3</sup> In addition to the provisions presented in the NCP, the EPA has provided a library full of other guidance documents addressing removal actions, remedial actions, and the types of documents one needs to prepare to address different steps in either type of process. In general, the EPA tends to refer to removal actions as immediate, short-term responses, whereas remedial actions are long term actions.

that the MPCA did not authorize the response action(s) taken by the political subdivision or the private person pursuant to Minn. Stat. § 115B.04, subd. 6.

### **MERA**

Minnesota also has a Minnesota Environmental Rights Act (“MERA”), Minn. Stat. §§ 116B.01, *et seq.* This statute allows “civil action in the district court for declaratory or equitable relief in the name of the state of Minnesota against any person, for the protection of the air, water, land, or other natural resources located within the state, whether publicly or privately owned, from pollution, impairment, or destruction.” Minn. Stat. § 116B.03. A claim under MERA depends upon a showing of actual or threatened pollution, impairment or destruction. The statute allows injunctive relief, but not damages, and does not provide for recovery of attorneys’ fees.

### **Common Law Claims**

Various common law claims can be invoked in some circumstances. Typical claims include claims for nuisance, trespass, negligence, strict liability for ultrahazardous activities, contribution or indemnity. These common law claims do not materially augment the available claims or remedies and are largely superseded by the statutory claims mentioned above. However, if there is litigation, parties customarily invoke such claims in addition to the statutory claims mentioned above.

### **Statutes of Limitation**

We have not looked closely enough at the facts to evaluate the application of potential statutes of limitation. However, we do not believe that most available claims would be cut-off.

In general, if there is an ongoing imminent and substantial endangerment, RCRA claims will be available, because the statute of limitations will not cut off ongoing claims.

CERCLA claims are likewise generally available where the response actions remain incomplete. Claims for a removal action are to be brought within 3 years after completion of the removal action and claims for a remedial action must be brought within 6 years after initiation of physical on-site construction of the remedial action. It does not appear, from information we have received, that the City has conducted a removal action or initiated a remedial action. So, the statute of limitations is unlikely to have expired.

MERLA claims for cost recovery are probably available. A 1998 amendment to Minn. Stat. § 115B.11, specifies:

Subd. 2. Action for recovery of costs.

(a) An action for recovery of response costs under section 115B.04 \* \* \* may be commenced any time after costs and expenses have been incurred but must be commenced no later than six years after initiation of physical on-site construction of a response action.”

(b) A party prevailing in an action commenced within the time required under paragraph (a) shall be entitled to a declaratory judgment of liability for all future reasonable and necessary costs incurred by that party to respond to the release or threatened release \* \* \*.

The availability of the tort-style damages available under Section 115B.05 depend upon the time of placement. Under Minn. Stat. § 115B.06, “Section 115B.05 does not apply to any claim for damages arising out of the release of a hazardous substance which was placed or came to be located in or on the facility wholly before July 1, 1983.”

There are other provisions limiting the retroactivity of MERLA. For example, Section 115B.15 provides:

Sections 115B.01 to 115B.14 apply to any release or threatened release of a hazardous substance occurring on or after July 1, 1983, including any release which began before July 1, 1983, and continued after that date. Sections 115B.01 to 115B.14 do not apply to a release or threatened release which occurred wholly before July 1, 1983, regardless of the date of discovery of any injury or loss caused by the release or threatened release.

Similarly, Section 115B.04, subd. 6, states:

Defense to certain claims by political subdivisions and private persons. It is a defense to a claim by a \* \* \* private person for recover of the costs of its response actions under this section that the hazardous substance released from the facility was placed or came to be located in or on the facility before April 1, 1982, and that the response actions of the political subdivision or private person were not authorized by the agency as provided in section 115B.17, subdivision 12. This defense applies only to response costs incurred on or after July 1, 1983.

Minn. Stat. § 115B.17, subd. 12 states that the MPCA may authorize a political subdivision to undertake a response action or a private party to undertake a removal action with respect to a pre-April 1, 1982 hazardous substance release if the action qualifies for authorization under rules developed under Minn. Stat. § 115B.17, subd. 13. The MPCA’s authorization must be consistent with this authorization criteria established under subdivision 13. Subdivision 12 does not prohibit a political subdivision or a private person from undertaking a removal or remedial action without MPCA authorization. Presumably, however, such action would be done without the ability to recover the costs from an RP.

The MPCA, under Minn. Stat. § 115B.17, subd. 13, is required to maintain rules “establishing state criteria for determining priorities among releases and threatened releases.” In addition to promulgating the criteria for determining priorities, the MPCA is also to maintain a Permanent List of Priorities (PLP) which reflects “priorities among releases or threatened releases for the purpose of taking remedial action and, to the extent practicable consistent with the urgency of the action, for taking removal action” under Minn. Stat. § 115B.17. The MPCA is to modify the PLP

“from time to time, according to the criteria set forth in the rules.” The list of priorities and the rules promulgated pursuant to this subdivision:

shall be based upon the relative risk or danger to public health or welfare or the environment, taking into account to the extent possible the population at risk, the hazardous potential of the hazardous substances at the facilities, the potential for contamination of drinking water supplies, the potential for direct human contact, the potential for destruction of sensitive ecosystems, the administrative and financial capabilities of the [MPCA], and other appropriate factors.

Minn. R. Ch. 7044 includes the MPCA rules created pursuant to Minn. Stat. § 115B.17, subd. 13. As will be seen, however, while Chapter 7044 establishes how it is that the MPCA will create and maintain the PLP, it is silent in terms of explaining exactly how it is that the MPCA uses these rules (if at all) to “authorize” pre-April 1, 1982 response actions under Minn. Stat. § 115B.17, subd. 12. Indeed, Minn. R. 7044.0100 (“Scope”) says nothing about providing guidance for such authorizations. Instead, the “scope” of the Chapter 7044 rules is to establish release classifications, to describe the procedures for the creation and maintenance of the state’s Permanent List of Priorities and Project List, to establish funding priorities for the Project List and to specify a ranking system to be used in scoring sites. Minn. R. 7044.0100. Furthermore, the rules leave many gaps about, e.g., what the MPCA does with a site’s HRS ranking and what criteria it uses to classify releases or threatened releases.

The MPCA does not have any objective standards that it uses when it considers a cleanup authorization under subdivision 12. The few MPCA subdivision 12 authorizations that exist typically lack a lot of detail or rationale.

### **Practical Considerations**

Any consideration of efforts to compel past or current parties to pay for historical or ongoing contamination is tied to the ability to identify past or current polluters who have viable assets or funding. The information provided to us suggests that Indianhead Trucking was a prior owner for a significant portion of the Roseville Twin Lakes Redevelopment Area. We have not checked into the historical records closely, but we believe that Indianhead has long ago filed for bankruptcy and is defunct. We are unaware that Indianhead has any viable successors who assumed Indianhead’s liability. Thus, evidence that might tie existing contamination to prior activities of Indianhead will not, as a practical matter, support claims either for cost recovery or injunctive relief.

On the other hand, where various hazardous substances or wastes have become commingled, one party can be called upon to pay jointly and severally for an entire liability, unless the polluter can establish the divisibility of its own releases. So, if the evidence establishes that there are viable parties who are responsible for past or ongoing releases, those parties might be called upon to pay far more than their share of liability. A long-standing debate in environmental law relates to responsibility for “orphan shares,” that is, those shares attributable to defunct parties. There are some cases that suggest that a plaintiff bears responsibility for such shares, but there has been considerable re-shuffling of the case law by recent United States Supreme Court cases and those cases could lead to re-examination of the “orphan share” allocation.

The first steps in any formal program to compel others to address contamination include the following:

1. An environmental consultant should be engaged to examine available reports with the specific charge of identifying
  - a. Reasonable and necessary response actions associated with imminent and substantial threats or releases, and
  - b. Responsible persons, past and present (viable or not).
  - c. Without checking with any consultants, but based upon the general nature of the existing available reports, we anticipate that the costs for this analysis would be in the \$20-\$40,000 range.
2. An attorney should be engaged to evaluate the viability of any specific claims against identified responsible persons.
  - a. In general, the costs associated with this analysis would be in the \$15-30,000 range.
3. The attorney and consultant should work with the City to develop a plan relating to
  - a. A specific plan to identify any work that the City considers necessary and reasonable under applicable environmental standards, including a timetable and rationale for when the steps need to be taken;
  - b. A plan for communications with the MPCA (or, less likely, the EPA) to see if the MPCA will prompt actions by the responsible persons or will authorize the City to take any response actions with anticipated cost recovery;
  - c. Ensuring that any steps taken in which the City would advance costs would comply with the NCP to ensure eligibility for cost recovery;
  - d. Attending to any notices to EPA, the State and responsible parties if any injunctive relief is contemplated under RCRA.
  - e. It is premature to estimate costs associated with the costs of work or implementation of this plan. These costs could be better identified in connection with the work that is outlined in steps 1 and 2.

As noted above, it is possible that the costs incurred in connection with this work would be recoverable from responsible parties. However, this would depend upon a valid showing that potentially responsible parties have caused or contributed to past or ongoing releases of hazardous wastes or hazardous materials and that the relief proposed is consistent with one or more of the applicable statutes that allow such recoveries.

## **Extract of the Meeting Minutes from the May 18, 2009 Roseville City Council Meeting**

### **a. Discuss Recovery of Environmental Clean-up Costs at Twin Lakes**

Community Development Director Patrick Trudgeon provided information, as detailed in the Request for Council Action dated May 1, 2009, related to recovery of environmental clean-up costs at Twin Lakes. Mr. Trudgeon provided a memorandum previously prepared by Larry Espel of Greene Espel Law Firm, dated December 17, 2007, and discussing laws regarding environmental cost recovery, procedures, and estimate on costs to implement such a process.

Discussion included whether a Request for Qualifications (RFQ) or Request for Proposals (RFP) was indicated; threshold for services under \$50,000 not requiring an RFP; law firms specializing in this type of environmental law and a short list of those firms; whether upfront costs were tax increment financing (TIF) eligible expenses; and actual and practical steps in the process.

Further discussion included determining what the prospects of recovery may be prior to initiating recovery procedures; and staff researching previous firms and information related to this environmental issue, to present to the City Council again for their review and discussion.

City Manager Malinen advised that the Greene Espel firm had been engaged by the City in defense of the Northwestern College environmental litigation; and had provided this information at the request of staff prior to seeking RFQ's or RFP's. City Manager Malinen suggested there may be other firms specializing in this type of law, whose names could be provided by the League of Minnesota Cities Insurance Trust (LMCIT).

Councilmembers concurred that staff provide previously-researched materials to the City Council prior to proceeding or seeking additional firms.

  
**REQUEST FOR COUNCIL ACTION**

Date: 07/20/2009  
Item No.: 13.c

Department Approval

City Manager Approval



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Item Description: **Discussion regarding Hazardous Building Law.**

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**BACKGROUND**

At the June 29, 2009 City Council, Councilmember Ihlan requested that information regarding the State of Minnesota's Hazardous Building Law be brought forward to the City Council for discussion. Staff has attached a memo regarding the law prepared by Jay Squires, City Attorney, dated April 3, 2009 and has attached information from the League of Minnesota Cities regarding hazardous buildings.

**POLICY OBJECTIVE**

The City goals within the Comprehensive Plan are to protect and improve property values (Goal 3, 4, and 5; page 6 and, Section 3) and to adhere to performance standards which protect the integrity of neighborhoods (Policy 6, page 8, Section 3).

**FINANCIAL IMPACTS**

Under the Hazardous Building Law, cities would declare a building hazardous and order the building to be repaired or torn down. The costs for the work are ultimately are collected from the affected property owners. However, initially, the City would be required to carry the costs.

**STAFF RECOMMENDATION**

This item is being brought for discussion purposes at this time.

**REQUESTED COUNCIL ACTION**

Will be based on discussion.

Prepared by: Patrick Trudgeon, Community Development Director (651) 792-7071

Attachments: A: Letter dated April 3, 2009 from Jay Squires  
B: Information from the League of Minnesota Cities regarding the Hazardous Building Law

Jay T. Squires  
Direct Fax: (612) 225-6834  
jts@ratwiklaw.com

April 3, 2009

Mr. Bill Malinen  
City Manager  
City of Roseville  
2660 Civic Center Drive  
Roseville, MN 55113-1899

Mr. Pat Trudgeon  
Community Development Director  
City of Roseville  
2660 Civic Center Drive  
Roseville, MN 55113-1899

RE: *Condemnation of Buildings*  
Our File No. 4002(1)-0001

Dear Bill and Pat:

I understand the Council on March 30 discussed dilapidated structures in Twin Lake. The Council requested general information on options available to the City to deal with the same.

Option One is to deal with the building as a nuisance under Chapter 407 of City Code. Under this chapter, buildings that are in poor condition can be addressed through the nuisance process. While this process is more common for residential properties, it has been utilized for commercial properties, ie the former Anderson Steakhouse next to Fuddrucker's at Snelling and County Road C.

Option Two is to deal with the property under the Hazardous Building Law, Minn. Stat. §§ 463.15-.23. Under this law, the City may seek court permission to raze a structure if the structure meets the definition of "hazardous building," which is defined as:

Any building or property, which because of inadequate maintenance, dilapidation, physical damage, unsatisfactory

Mr. Bill Malinen  
Mr. Pat Trudgeon  
April 3, 2009  
Page 2

conditions, or abandonment, constitutes a fire hazard or a hazard to public safety or health.

Minn. Stat. § 462.15.

The Hazardous Building Law process is a judicial process involving the district court. Ultimately, if the court approves the removal or abatement of the hazardous building, the costs of removal may be assessed against the property (along with attorneys' fees).

Option Three would involve an outright condemnation of the property. Given the likely nature of such an action in Twin Lakes, an outright condemnation would presumably require the City to demonstrate that the conditions of "blight" existed, or that the building was "structurally substandard" as these terms are defined in Minn. Stat. § 117.025.

I hope this at least preliminarily addresses the questions raised by the Council. Let us know if you need further information.

Regards,

Jay T. Squires

JTS/sem

RRM: #129812

Minn. Stat. § 145A.01-.12.

Under the “Local Public Health Act,” a board of health may take actions to remove and abate these public health nuisances. The governing board of a city or county may establish a board of health. However, most cities do not have their own board of health. Therefore, dealing with garbage houses is often up to the county board of health and not the city.

Minn. Stat. § 145A.04, subd. 8(a); Minn. Stat. § 145A.02.

One of the board’s duties is to deal with threats to public health. If there is a threat to the public health, such as a public health nuisance (e.g., any activity or failure to act that adversely affects the public health), a source of filth, or a cause of sickness found on any property, the board of health (or its agent) must order the owner or occupant of the property to remove or abate the threat. Generally, if the owner, occupant, or agent does not comply with the requirements of the notice, then the board of health (or its agent) must remove or abate the nuisance, source of filth, or cause of sickness described in the notice.

## A. Local ordinances

Minn. Stat. § 145A.05, subds. 1, 7.

Both the county and the city have some authority to adopt ordinances related to public health. The county board may adopt ordinances for all or part of its jurisdiction to regulate actual or potential threats to the public health, including ordinances to define public health nuisances and provide for their prevention or abatement. However, these ordinances cannot be preempted by, be in conflict with, or be less restrictive than standards set out in state laws or rules. The city council may also adopt ordinances relating to the public health authorized by law or by an agreement with the commissioner of health. The ordinances cannot conflict with or be less restrictive than ordinances adopted by the county board or state law.

Minn. Stat. § 145A.05, subd. 9

Minn. Stat. § 145A.10, subd. 9

If there is a community health board in place of a board of health, it may recommend local ordinances pertaining to community health services to the city council or county board within its jurisdiction.

## VIII. Hazardous buildings

Minn. Stat. §§ 463.15-.261.

Minnesota law provides authority and a process to deal with hazardous buildings. This process allows the city to order a property owner to repair or remove a hazardous condition, or in extreme cases, to raze the building. If the owner does not do the work, the city may do so and charge the costs against the property as a special assessment. The law requires that the court oversee or be involved during most of the process. As such, it is very important to work with the city attorney. The city attorney will be needed to draft documents, file court papers, appear in court, and provide specific legal advice throughout the process.

Minn. R. 1300.0180; Minn. R. 1311.0206

Where applicable, the Minnesota State Building Code requires that all unsafe buildings and structures must be repaired, rehabilitated, demolished, or removed according to the statutory hazardous building provisions.

Minn. Stat. § 463.26  
*City of Minneapolis v. Meldahl,*

Hazardous building laws are supplementary to other statutory and charter provisions. This means cities may enact and enforce ordinances on the same

607 N.W.2d 168, 171  
(Minn.App.2000).

subject. Any ordinance that is passed must allow for due process and cannot contradict state law. The city should seek advice from the city attorney if it wishes to adopt this type of ordinance.

## **A. Characteristics of a hazardous building**

Minn. Stat. § 463.15, subds. 2,3

State law defines a hazardous building or hazardous property as “any building or property which because of inadequate maintenance, dilapidation, physical damage, unsanitary condition, or abandonment constitutes a fire hazard or a hazard to public safety or health.” A building is defined as “any structure or part of a structure.” For purposes of this memo, the phrase hazardous building will be used to include hazardous property and structures.

*Ukkonen v. City of Minneapolis*,  
160 N.W.2d 249, 250 (1968).

Determining whether a building is hazardous depends on the particular facts of each situation. For example, in one opinion where the Minnesota supreme court upheld a city’s order to raze a hazardous building, the court described the building in question as having the following conditions:

- Unoccupied.
- Badly deteriorated sections of concrete block foundation.
- Decayed and rotted wooden foundation sills.
- Broken, deteriorating, and falling siding.
- Rotted and collapsing roof cornice.
- Large holes in asphalt roof covering.
- Evidence of roof leaks.
- Large holes in the plaster finish of walls and ceilings.
- Many broken window lights.
- Damaged or destroyed window sashes.
- Dry water traps in wash basin and water closet resulting in open sewers.
- Paper, lumber, wood lath, plaster, and debris littering interior of building.

These are not the only conditions that would cause a building to be considered “hazardous.” Rather, these are examples of the types of things that might be present in a hazardous building. While this example shows that there were many problems with this building, there is no formula to determine how many problems make a building hazardous. Again, that depends on the particular situation.

## **B. Identifying a hazardous building**

If the city believes there is a building that may be hazardous, it is a good idea for the city to gather and document information about the building. An

See Section II *Entering private property*.

LMC information memo,  
*Meetings of City Councils*.

*Rostamkhani v. City of St. Paul*,  
645 N.W.2d 479 (Minn. Ct. App.  
2002).

Minn. Stat. § 463.15

*Rostamkhani v. City of St. Paul*,  
645 N.W.2d 479, 484-85 (Minn.  
Ct. App. 2002); *CUP Foods, Inc.*  
*v. City of Minneapolis*, 633  
N.W.2d 557, 562  
(Minn.App.2001); *Tessmer v.*  
*City of St. Paul*, No. A07-2349,  
2008 WL 5215938 (Minn. Ct.  
App. Dec. 16, 2008)  
(unpublished opinion)

LMCIT risk management  
information memo, *Exercising*  
*Discretion: Keeping Records to*  
*Support Immunity*.

See Section III *Due process*.

inspection of the property may provide information that may help the council determine if the building is hazardous. While inspecting the property, it is helpful to take detailed notes and photographs of what was observed. Because there are constitutional limitations on entering private property, the city should consider how it will lawfully enter the property to make the inspection.

Before the council orders a hazardous condition to be repaired or removed, the council must first make a determination that the building is hazardous. This must be done during an open city council meeting. At the meeting, it is advisable that the city council consider all the relevant evidence it has, such as any inspection notes or reports, photographs of the property, code violations, and any other information related to the property, including any information provided by the property owner or occupant. It is also advisable to keep in mind the statutory definition and consider how the evidence relates to this definition.

The decision to repair or remove a hazardous condition, or to raze a building, must not be arbitrary or capricious. A decision is arbitrary or capricious if it is unreasoned and does not consider the facts and circumstances of the situation. Said another way, the city's decision must be reasoned and supported by substantial evidence. It is a good idea for the council to keep a detailed record of the discussion, the evidence considered, and the ultimate decision that was reached based on the evidence considered. This record will help the city defend its decision if it is later challenged in court.

Although the law does not explicitly require the property owner to be notified of the council consideration of the property, it is advisable to take steps to ensure the property owner's due process rights are respected. One way to do this may be to notify the property owner that the issue will be discussed and to allow the owner a chance to speak with the council and provide any evidence or information that he or she may have. Notice to tenants as well as lien-holders may also be advisable. Notice may also lead to self-remedy of the hazardous conditions.

## C. Removal or repair by consent

Minn. Stat. § 463.151

Minn. Stat. § 463.15, subd. 4

Minn. Stat. § 463.151; Minn.  
Stat. § 463.21; Minn. Stat. §§

One method of dealing with a hazardous condition or building is to approach the property owner to ask him or her to voluntarily repair or remove the hazardous condition or to raze the hazardous building. If the owner will not or cannot voluntarily repair or remove the hazardous condition, the city may obtain written consent of all owners of record, occupying tenants, and all lien-holders of record that allows the city to make the repair or remove the hazardous condition. The "owner," "owner of record," and "lien-holder of record" are persons that have a right or interest in the property and have recorded their interest with the county recorder or registrar of titles in the county where the property is located.

If the city does the work, the costs that the city incurs in repairing or

429.061-.081.

See Section V D 4 *Recovering costs*.

LMC information memo, *Special Assessment Guide*.

See Section VIII D *Removal or repair by order*.

removing the hazardous condition are charged against the property as a lien against the real estate. This lien is levied and collected as a special assessment. The city council may provide that the assessment may be paid in five or fewer equal annual installments with interest at 8 percent per year. As an alternative to the lien, the city can recover the costs by obtaining a court judgment against the owner of the real estate.

If the property owner voluntarily remedies the problem, or if the city obtains consent and remedies the problem, the city may be able to avoid the lengthy process used when there is no consent. However, neither of these options is required by law. The city may choose not to use these options, but rather proceed straight to removal or repair by order. Similarly, if the city's attempts to use these two methods fail, the city may proceed by ordering the repair or removal.

## D. Removal or repair by order

*Village of Zumbrota v. Johnson*, 161 N.W.2d 626 (Minn. 1968).

*City of Wells v. Swehla*, No. C3-00-319, 2000 WL 1577087 (Minn. Ct. App. Oct. 17, 2000) (unpublished decision); *In the Matter of a Hazardous Building Located at 303-5th Ave. NE, in the City of Cambridge*, No. C3-99-1382, 2000 WL 136017 (Minn. Ct. App. Feb. 8, 2000) (unpublished decision).

The Minnesota supreme court has said that a city should use its authority under the hazardous building process prudently in order to avoid unnecessary infringement on the property owner's rights. The city must be especially cautious when ordering a hazardous building to be razed. Minnesota courts have further stated that, although the statute gives the city the discretion to decide whether a building should be removed or repaired, destruction of a hazardous building should not be authorized unless it can be shown that the hazardous conditions cannot be removed or repaired. Therefore, the property owner should be given reasonable amount of time to repair or remove the hazardous conditions; failure to make repairs or remove hazardous conditions may be grounds to allow the city to demolish the building.

### 1. The order to remove or repair

Minn. Stat. § 463.16; Minn. Stat. § 463.17, subd. 1.

Model Resolution Ordering the Repair or Removal of Hazardous Conditions; Model Resolution Ordering the Razing of a Hazardous Building.

If the council determines that a building is hazardous, the council may adopt an order declaring the building to be hazardous and ordering the owner to repair or remove the condition or raze the building. The order is usually done by resolution. The order to repair or remove a hazardous condition or to raze a hazardous building must be in writing and must:

- Recite the grounds or basis for the order.
- Specify the necessary repairs, if any, and provide a reasonable time to comply with the order.
- State that a motion for summary enforcement of the order will be made to the district court of the county in which the hazardous building or property is situated unless corrective action is taken, or unless an answer is filed within the time specified in section 463.18, which is 20 days.

Minn. Stat. § 463.18

*In the Matter of a Hazardous Building Located at 303-5th Ave. NE, in the City of Cambridge*, No. C3-99-1382, 2000 WL 136017 (Minn. Ct. App. Feb. 8,

In preparing the order, it is important that the city take care to specify the necessary repairs. The order must be specific enough to give the property owner notice of the alleged hazardous conditions. One way to do this is to list the hazardous conditions individually in an explanatory manner. A

2000) (unpublished decision);  
*Village of Zumbrota v. Johnson*,  
161 N.W.2d 626 (Minn. 1968).

Minn. Stat. § 463.17, subd. 2

Minn. Stat. § 463.15, subd. 4

Minn. Stat. § 463.17, subd. 2

LMC information memo,  
*Newspaper Publication*.

Minn. Stat. § 469.201-.207.

general statement that the owner “must eliminate hazardous conditions” is likely not specific enough.

The council’s order must be served upon the property owner of record, or the owner’s agent if an agent is in charge of the building, any occupying tenants, and all lien-holders of record. (“Owner,” “owner of record,” and “lien-holder of record” are any people that have a right or interest in the property and evidence of this interest is recorded in the office of the county recorder or registrar of titles in the county where the property is situated.) The service of the order must be done in the same manner as the service of a summons in a civil court action. To make sure the order is properly served, the city may hire a professional process server.

If the owner cannot be found, the order is served by posting it at the main entrance to the building. In addition to posting, the order must be published for four weeks in the official city newspaper; if there is no official city newspaper, then the order is published in a legal newspaper in the county.

A city with a Targeted Neighborhood Revitalization Program may assess a penalty of up to 1 percent of the market value of the real property for any building in the city that the city determines to be hazardous. Because there are statutory requirements that must be met in order to do so, the city should work with its city attorney.

### **a. Removal of personal property and fixtures**

Minn. Stat. § 463.24

If personal property or fixtures are in the building, the city may address these items in the order. Personal property is anything that is subject to ownership that is not classified as real property; some examples of personal property are furniture, clothing, and televisions. A fixture is an item of personal property that is attached to the property or building and is considered part of the building; some examples of fixtures are built-in appliances, water heaters, and cabinets.

Minn. Stat. § 463.24; Minn. Stat.  
§ 463.21

If personal property or fixtures will unreasonably interfere with the work to be done, or if the razing or removal makes removal of the property necessary, the order may direct the removal of the personal property or fixtures within a reasonable amount of time. If the property or fixtures are not removed in the specified timeframe and the council enforces the order, the council may sell any valuable personal property, fixtures, or salvage at a public auction after three days posted notice. If the items do not have any appreciable value, the council may have them destroyed.

## **2. Responding to the order**

Minn. Stat. § 463.18; Minn. Stat.  
§ 463.20

Once the order is served on the appropriate people, any one of those people may contest the order. This is done by “answering” the order. The answer must specifically deny the facts in the order that are disputed. The answer to the order must be served within 20 days from the date the order was served. The answer is served in the manner provided for the service of an answer in a civil court action. When an answer is filed, the court will become involved like any other law suit. This situation is called a “contested case.”

Minn. Stat. § 463.19

If no one answers the order, the proceedings are a “default case.” Although there may be no answer to the order, the city must still seek a court judgment to enforce the order.

### **a. Court judgment: Contested case**

Minn. Stat. § 463.20

Where an answer to the order is filed, the proceedings are treated like any other civil action, except this type of action has priority over all other pending civil actions. A contested case has the attributes of a civil law suit, such as filing documents with the court, gathering evidence, and a trial.

Minn. Stat. § 557.02

Because this type of case deals with a person’s interest in his or her real property, it is a good idea for the city to file a “lis pendens” with the county recorder at the start of the case. The lis pendens filing gives potential purchasers notice about the hazardous building proceedings. A lis pendens must include the names of the parties in the suit, the object of the law suit, and a description of the real property involved. At the end of the proceeding, it is a good idea to file a notice that the lis pendens is discharged.

Minn. Stat. § 463.20; *In the Matter of a Hazardous Building Located at 303-5th Ave. NE, in the City of Cambridge*, No. C3-99-1382, 2000 WL 136017 (Minn. Ct. App. Feb. 8, 2000) (unpublished decision) ; *City of Wells v. Swehla*, 2000 WL 1577087 (Minn. App. Oct 17, 2000) (unpublished decision)

After a trial, the court may or may not uphold the order issued by the city. The court may modify the order, including adding other hazardous conditions that need to be repaired or removed, so long as there is evidence to support the change. When considering the city’s order, the district court must consider the possibility of repairing the building.

Minn. Stat. § 463.20.

If the court upholds the order, with or without modification, the court enters judgment in favor of the city. The court also sets a time in which the hazardous condition must be repaired or removed or the building must be razed in compliance with the order. If the court does not uphold the order, the court annuls the order and sets it aside. Either way, the court administrator must mail a copy of the judgment to everyone originally served with the order.

Minn. Stat. § 463.161

If the court issues an opinion that gives the property owner a specified amount of time to fix or remove the hazardous conditions, the city generally cannot take action in that time period unless the order so authorizes. The city may ask the court to require the property owner to provide the city with ongoing access to inspect the progress and work. Generally, if at the end of the time period the owner has not fixed or removed the hazardous conditions, the city may repair or remove the hazardous condition or raze the hazardous building. Consult the city attorney to determine if any additional court orders are necessary.

### **b. Court judgment: Default case**

Minn. Stat. § 463.19

Minn. Stat. § 463.17, subd.3

If no one files an answer to the city’s order, it becomes a default case. The city still needs to ask the court to enforce the city’s order; this is done by a motion to enforce the order. A motion is a type of court hearing where the city asks the court to do something. At least five days before filing the motion to enforce the order, the city must file a copy of the order and proof

of service with the court administrator of the district court of the county where the hazardous building is located.

Minn. Stat. § 463.17, subd. 3

Minn. Stat. § 557.02

At the time of filing the order and proof of service with the district court, the city must also file a lis pendens notice with the county recorder or registrar of titles. This is called a “lis pendens.” The notice should also include the names of the parties and the purpose of the action. If the city abandons the hazardous building order proceeding, it must file a notice to that effect with the county recorder within 10 days. At the end of the proceeding, the city should file a notice that the lis pendens is discharged.

Minn. Stat. § 463.19

There will be a court hearing on the motion to enforce the order. The city will present any evidence that the court requires. The court may then affirm or modify the order and enter judgment accordingly. The court will also set a time after which the council may enforce the order. The court administrator will mail a copy of the judgment to all people who were served with the original order.

### 3. Doing the work

If the city is authorized by the court to remove or repair a hazardous condition or to raze a hazardous building, the city council will need to determine the best way to get the work done. In some circumstances, city employees may be able to do the work. In other situations, the city council may need to hire someone to do the work. Depending on the work to be done, the competitive bidding laws may apply.

Minn. Stat. § 471.345

Minn. Stat. § 463.21; Minn. Stat. § 463.24

When doing the work to remove or repair a hazardous condition or raze a hazardous building, there may be personal property or fixtures that need to be removed. If the original order included a provision ordering the property owner or tenant to remove personal property or fixtures, and the owner did not comply with the provisions in the order, the city may remove the property and fixtures. It is a good idea to keep an inventory of all items removed from the property so that the city has a record if questions arise later about what was removed. The city may also sell any salvage materials at the public auction. The auction must be posted for three days prior to the auction. If the items have no appreciable value, the city may destroy them.

Model Notice for Public Auction.

### 4. Recovering costs

Throughout the hazardous building process, the city must keep an accurate account of the expenses it incurs in carrying out and enforcing the order. At a minimum, this account must include the following expenses:

Minn. Stat. § 463.22

Model Resolution Adopting Expense Report.

- Filing fees.
- Service fees.
- Publication fees.
- Attorney’s fees.
- Appraisers’ fees.

- Witness fees, including expert witness fees.
- Traveling expenses incurred by the municipality from the time the order was originally made.

Minn. Stat. § 463.22

This is not an exhaustive list of expenses, so other expenses incurred by the city should also be included. The city must credit the account with the amount received, if any, from the sale of the salvage, building, or structure.

Minn. Stat. § 463.22

*City of Delano v. Abene*, No. C0-01-983, 2001 WL 1570961 (Minn. Ct. App. Dec. 11, 2001)(unpublished decision); *City of Litchfield v. Schwanke*, 530 N.W.2d 580 (Minn. Ct. App. 1995).

The city must report any actions it has taken under the order, including a statement of money received and expenses incurred, to the court for approval and allowance. Upon examination, the court may correct the expenses and determine the amount the city is entitled to receive. The court may also determine the reasonableness of the expenses. Then the court allows the expense account. Even where a court has significantly modified the original city order, the city may be awarded expenses.

Minn. Stat. § 463.22

Minn. Stat. § 463.161, subd. 3; Minn. Stat. § 463.21; Minn. Stat. §§ 429.061-.081.

LMC information memo, *Special Assessment Guide*.

*Gadey v. City of Minneapolis*, 517 N.W.2d 344 (Minn. Ct. App. 1994).

If the amount received from the sale of salvage or property does not equal or exceed the amount of expenses allowed by the court, the court's judgment will certify the deficiency to the city clerk for collection. The owner or another interested party must pay the deficiency amount by October 1. The city cannot add on a penalty to this amount. If the payment is not made by October 1, the clerk must certify the amount of the deficiency amount to the county auditor to be entered on the county tax lists as a special assessment against the property. The deficiency is collected in the same manner as other taxes. The amount collected by the county must be paid into the city treasury. The city council may provide that the assessment may be paid in five or fewer equal annual installments with interest at 8 percent per year.

Minn. Stat. § 463.21

An alternative to using a special assessment against the property is to recover the costs by obtaining a court judgment against the property owner.

Minn. Stat. § 463.22

If the amount received for the sale of the salvage or the building exceeds the allowed expenses incurred by the city, and there are delinquent taxes against the property, the court will direct that the excess shall be paid to the county treasurer to be applied to the delinquent taxes. If there are no delinquent taxes, the court will direct the surplus to be paid to the owner.

Minn. Stat. § 463.23

The net proceeds of any sales of property, fixtures, or salvage must be paid to the persons designated in the judgment in proportion to their interest. Accepting this payment waives all objections to the payment and the proceedings. If any party to whom a payment of damages is made is not a resident of the state, or the place of residence is not known, the party is an infant or under a legal disability, refuses to accept payment, or if it is doubtful to whom the payment should be made, the city may pay the amount to the clerk of courts to be paid out under the direction of the court. Unless there is an appeal to the payment, the deposit with the clerk is considered a payment of the award.

  
**REQUEST FOR COUNCIL ACTION**

Date: 07/20/2009  
Item No.: 13.d

Department Approval

City Manager Approval



Item Description: **Discussion regarding appraisals for property purchased from Roseville Acquisitions for Twin Lakes Phase I infrastructure**

**BACKGROUND**

At the June 29, 2009 City Council meeting, Councilmember Ihlan requested that information regarding the purchase of portions of property located at 2690 Cleveland Ave. and 1947 County Rd. C be discussed at the July 13, 2009 City Council meeting. The property, owned by Roseville Acquisitions LLC, was needed to construct Phase I of the Twin Lakes infrastructure project. The City Council approved the purchase of the property and the acquisition of temporary construction and demolition easements on June 15, 2009 in the amount of \$2,107,700.00. The City closed on the property on June 30<sup>th</sup>.

For the Phase I Twin Lakes infrastructure project, the City purchased portions of two properties, 2690 Cleveland Ave. (Parcel 2) and 1947 Cleveland Ave. (Parcel 8). In March of 2009, the City received appraisals for the needed property purchases. The portions of Parcel 2 needed for the project was appraised at \$1,031,200 for the purchase of 62,245 square feet plus nearly 44,000 square feet needed for temporary construction and demolition easements. The portions of Parcel 8 needed for the project was appraised at \$1,051,500 for the purchase of 105,725 square feet plus 50,000 square feet needed for temporary construction and demolition easements. The appraised value of both properties needed for the Phase I Twin Lakes infrastructure project included temporary construction and building demolition easements was \$2,082,700.00.

| Parcel   | Value of purchased land | Value of building | Value of misc. improvements | Value of temp. construction easement | Value of temp. demolition easement | Total       |
|----------|-------------------------|-------------------|-----------------------------|--------------------------------------|------------------------------------|-------------|
| Parcel 2 | \$802,600               | \$165,000         | \$52,400                    | \$7,400                              | \$3,800                            | \$1,031,200 |
| Parcel 8 | \$1,037,500             | \$0               | \$10,200                    | \$3,300                              | \$500                              | \$1,051,500 |

Total

**\$2,082,700**

It should be noted that as part of the transaction, the City purchased two buildings since they were within the right-of-way needed for the project. Parcel 2 contained the Cummings Diesel building valued at \$1,113,300 for 2009 tax purposes (the City paid \$165,000 for the building as part of the recent transaction). On Parcel 8, the City needed to purchase the Indianhead accessory building located on the northside of the property. The building was determined to have no value as part of the appraisal and the City did not pay anything to acquire it.

24 Both properties were discounted \$2.50 per square foot due to the environmental issues contained on site. For Parcel  
25 2, the purchase of the parcel was discounted \$155,612 due to environmental concerns. Parcel 8 was discounted  
26 \$264,312 due to environmental concerns. Therefore, a the overall property purchase was discounted a total of  
27 \$419,924 due to existing environmental conditions.

28 The final agreed upon settlement for the purchase of both properties was \$2,107,700 or \$25,000 more than the  
29 combined appraisals.

30 Staff and the City Attorney has estimated that if the City did not settle with Roseville Acquisitions and received the  
31 property thru the eminent domain action begun in March, it would have cost the City anywhere from \$50,000 up to  
32 \$142,000 plus the final settlement amount determined by the court appointed commissioners. The breakdown is as  
33 follows:

34  
35 Attorneys fees....\$7,500-30,000 (assumes two day hearing and possible appeal);  
36 Appraiser costs...\$3,000-7,000(prepare/testimony);  
37 Commissioner comp./landowner appraisal...\$3,000-5,000;  
38 Interest due on award...\$40,000-100,000(assumes 4% from date of taking to final resolution)  
39

40 Staff has not attempted to quantify the amount of an actual award by the commissioners as it would be  
41 speculative. However, staff's and the City Attorney's experience has shown that the final settlement is usually  
42 somewhere between the City's appraisal and the landowner's appraisal.  
43

44 Staff has included several documents related to the purchase of the properties including an executive summary of  
45 the appraisals as well as the pertinent section regarding the environmental contamination adjustment to the price.  
46

#### 47 **POLICY OBJECTIVE**

48 The purchase of the property allows for the construction of infrastructure in the Twin Lakes redevelopment area.  
49 Twin Lakes has long been identified in the Roseville Comprehensive Plan as an important redevelopment area  
50 for the City.

#### 51 **BUDGET IMPLICATIONS**

52 The costs for the acquisition of 2690 Cleveland Ave. and 1947 County Road C is initially funded from the  
53 existing balances of Twin Lakes TIF District #17. As the property within Twin Lakes redevelops, property  
54 owners will pay their prorated share of the infrastructure costs as outlined in the Twin Lakes Infrastructure  
55 Study.

#### 56 **STAFF RECOMMENDATION**

57 This item is being brought for discussion purposes at this time.

#### 58 **REQUESTED COUNCIL ACTION**

59  
60 None requested

Prepared by: Patrick Trudgeon, Community Development Director (651) 792-7071

Attachments: A: Executed Purchase Agreement between City and Roseville Acquisitions  
B: Letters between the City of Roseville and Roseville Acquisitions regarding transaction  
C: Executive Summary of Appraisal for 2690 Cleveland Ave. (Parcel 2) &  
1947 County Road C (Parcel 8)  
D: Page from Parcel 2 appraisal regarding environmental contamination adjustment to value  
E: Page from Parcel 8 appraisal regarding environmental contamination adjustment to value  
F: Memo from City Attorney regarding issues related to the purchase  
G: Staff Memo to City Council dated June 3, 2009

## **SETTLEMENT AGREEMENT IN LIEU OF CONDEMNATION**

**THIS AGREEMENT** is made as of June 23, 2009 between Roseville Acquisitions, LLC, ("Seller"), and the City of Roseville, a Minnesota municipal corporation ("Buyer").

### **RECITALS:**

A. Seller is the fee owner of property located in Roseville, Ramsey County, Minnesota ("Property"), the legal description of which is depicted on Exhibit A, attached hereto.

B. Seller wishes to convey, and Buyer wishes to purchase the Property, together with all rights, privileges, easements, and appurtenances belonging thereto.

C. Seller also wishes to convey, and Buyer wishes to purchase a Temporary Construction Easement ("Construction Easement"), as set forth in Exhibit B, and a Building Demolition Easement ("Demolition Easement"), as set forth in Exhibit C.

### **AGREEMENT:**

In consideration of the mutual covenants and agreements herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

**1. Purchase of Property in Lieu of Condemnation.** This Agreement is entered into in lieu of condemnation by Buyer. Seller hereby agrees to sell and Buyer hereby agrees to purchase the Property including all easements and rights of every kind and nature benefiting or appurtenant to the Property, subject to the Permitted Encumbrances as provided herein.

**2. Purchase Price and Manner of Payment.** The total purchase price ("Purchase Price") to be paid by Buyer to Seller for the Property, Construction Easement, and Demolition Easement shall be \$2,107,700, and shall be paid to Seller on the Closing Date in a City draft or other immediately available funds.

**3. Temporary Easements.** As further consideration for the Purchase Price, Seller agrees to grant Buyer a temporary Construction Easement for the construction of roadway improvements and a temporary building Demolition Easement for purposes of demolishing buildings. Seller agrees to grant the Easements, attached hereto as Exhibit B and Exhibit C, to the Buyer at the Closing. Buyer agrees to demolish the buildings

located on the property that is the subject of the Demolition Easement. The Buyer shall pay for all costs for the demolition and removal of the buildings.

**4. Vacation of Mount Ridge Road.** City staff has determined that from a transportation and traffic circulation perspective, the Mount Ridge right-of-way as it goes through Seller's property south of future Twin Lakes Parkway is not needed. City staff shall recommend that Mount Ridge Road be vacated and upon such vacation, ownership of the Mount Ridge Road shall be in the name of the Seller. Buyer makes no representation that the City Council will approve the vacation of Mount Ridge Road.

**5. Government Grant Funds.** Buyer will continue to pursue government grant funding to assist in the construction of the infrastructure and remediation of environmental issues within the Twin Lakes Area. Buyer anticipates that it will, on an annual basis, adjust the Twin Lakes Infrastructure Improvement Study to reflect any grants that it receives to reduce the cost of constructing the infrastructure and any inflationary or construction cost increases. Costs to a property owner/developer are locked in at the time of the approval of the development. Any later adjustments made to the allocation will not be charged to or rebated back to the property owner/developer. Any such adjustments have no impact on this Agreement.

**6. Buyer Contingencies.** The obligations of Buyer under this Agreement are contingent upon each of the following:

- a. Representation and Warranties.** The representations and warranties of Seller contained in this Agreement must be accurate in all material respects now and on the Closing Date as if made on the Closing Date.
- b. Title.** Title shall have been found marketable, or been made marketable, in accordance with the requirements and terms of Section 9 below.
- c. Performance of Seller's Obligations.** Seller shall have performed all of the obligations required to be performed by Seller under this Agreement as and when required by this Agreement.

If any contingency set forth above has not been satisfied on or before the Closing Date, then this Agreement may be terminated, at Buyer's option, by written notice from Buyer to Seller. Upon such termination, neither party will have any further rights or obligations regarding this Agreement or the Property. All the contingencies set forth in this Section are for the sole and exclusive benefit of the Buyer and the Buyer shall have the right to waive any contingency by written notice to Seller.

**7. Closing.** The closing of the purchase and sale contemplated by this Agreement ("Closing") shall be held at such place as may be agreed upon by the parties, on or before

June 30, 2009, unless a different date is mutually agreed to by both parties ("Closing Date"). At the Closing, Buyer shall pay the Purchase Price to Seller and the following closing documents shall be executed and delivered.

- a. Seller shall deliver a warranty deed conveying the Property to Buyer, free and clear of all encumbrances, except the following "Permitted Encumbrances":
  - (1) Property taxes and special assessments to be paid in accordance with this Agreement; and
  - (2) Right-of-way easements of record in favor of Ramsey County and the State of Minnesota; and
  - (3) Building codes and laws and ordinances relating to zoning and land use.
- b. Executed Easements, as depicted in Exhibits B and C.
- c. Partial Release of Restrictive Covenant from Anchor Bank Saint Paul, N.A.
- d. A title insurance policy, or a suitably marked-up commitment for title insurance initialed by the Title Insurer, in the form required by this Agreement.
- e. A Corporation Affidavit by Seller on Miller-Davis Form 117-M indicating no adverse matters.
- f. A closing statement detailing the financial terms of the closing.
- g. All other documents necessary to transfer the Property to Buyer free and clear of all encumbrances except the Permitted Encumbrances.

**8. Costs and Prorations.** Seller and Buyer agree to the following prorations and allocations of costs:

- a. **Title Insurance and Closing Fee.** Buyer will pay all costs of issuing the title insurance commitment. Buyer will pay all title insurance premiums and surcharges required for the issuance of any title insurance policy. Buyer will pay all reasonable and customary closing fees charged by the Title Insurer.

- b. **Documentary Taxes.** Buyer shall pay all state tax for the deed to be delivered by Seller under this Agreement.
- c. **Real Estate Taxes and Levied and Pending Assessments.** General real estate taxes due and payable in 2009 shall be prorated by Seller and Buyer to the Closing Date based upon a calendar fiscal year. Seller shall be responsible for any green acre charges due on the property as a result of the closing of this transaction. Seller shall pay all special assessments levied or pending against the Property as of the date of this Agreement.
- d. **Attorney's Fees.** Each party will pay its own attorney's fees.

9. **Title.**

- a. **Quality of Title.** Seller shall convey good and marketable fee title to the Property to Buyer, subject to no liens, easements, encumbrances, conditions, reservations or restrictions other than the Permitted Encumbrances.
- b. **Title Evidence.** Within ten days after the date of this Agreement, Buyer shall obtain a commitment ("Title Commitment") for the most current form of ALTA owner's policy of insurance in the amount of the Purchase Price insuring title to the Property subject only to the Permitted Encumbrances.
- c. **Buyer's objections.** Within ten days after receiving the last of the Title Evidence, Buyer shall make written objections ("Objections") to the form and or contents of the Title Commitment. Buyer's failure to make Objections within such time period will constitute waiver of Objections. Any matter shown on such Title Commitment and not objected to by Buyer shall be deemed an additional "Permitted Encumbrance" hereunder. Seller shall have twenty days after receipt of the Objections to cure the Objections, during which period the Closing will be postponed as necessary. Seller shall use its best efforts to correct any Objections. If the Objections are not cured within such 20-day period, Buyer will, in addition to any other remedy available at law or under this Agreement, have the option to do either of the following:
  - (1) Terminate this Agreement; or
  - (2) Waive the objections and proceed to close, in which case such matters shall be deemed Permitted Encumbrances hereunder.

- d. **Title Policy.** The Title Insurer shall deliver to Buyer at the closing a title policy issued pursuant to the commitment, or a suitably marked-up commitment initialed by the Title Insurer undertaking to issue such a title policy in the form required by the commitment as approved by Buyer.

**10. Representations and Warranties by Seller.** Seller represents and warrants to Buyer as follows:

- a. **Authority.** Seller has the requisite power and authority to enter into and perform this Agreement.
- b. **Title to Property.** Seller owns the Property free and clear of all encumbrances except the Permitted Encumbrances.
- c. **Rights of Others to Purchase Property.** Seller has not entered into any other contracts for the sale of the Property.
- d. **FIRPTA.** Seller is not a “foreign person,” “foreign partnership,” “foreign trust” or “foreign state” as those terms are defined in § 1445 of the Internal Revenue Code.
- e. **Proceedings.** To the best knowledge of Seller, there is no action, litigation, investigation, condemnation or proceeding of any kind pending or threatened against Seller or the Property.
- f. **Labor or Material Liens.** Seller warrants that there has been no labor or material furnished to the Property for which payment has not been made.
- g. **Wells and Septic Systems.** Seller shall provide Buyer with a well disclosure statement and a septic system disclosure statement, which disclosure statements are incorporated in this Section by reference.

Seller will defend, indemnify and hold harmless Buyer from and against any expenses or damages, including reasonable attorney’s fees, that Buyer incurs because of the breach of any of the above representations and warranties. Each of the representations and warranties contained herein shall survive the Closing.

**11. Representations and Warranties by Buyer.** Buyer has the requisite power and authority to enter into and perform this Agreement.

**12. Condition of Property.** The Property is being sold “as is.” Seller makes no representations concerning the condition of the Property, environmental matters, or the suitability of the Property for Buyer’s intended uses. Until the Date of Closing, Seller

shall have full responsibility and the entire liability for any and all damages or injuries of any kind whatsoever to the Property, to any and all persons, whether employees or otherwise, and to any other property from and connected to the Property, except liability arising from the negligence or willful acts of Buyer, its agents, contractors, or employees.

**13. Broker's Commission.** Seller and Buyer represent and warrant to each other that they have dealt with no broker, finder or other person entitled to a commission, finder's fee or similar fee in connection with this transaction.

**14. Survival.** All of the terms of this Agreement will survive and be enforceable after the Closing.

**15. Notices.** Any notice required or permitted to be given by any party to the other shall be given in writing, and shall be (i) hand delivered to the specified addressee, or (ii) mailed in a sealed wrapper by United States registered or certified mail, return receipt requested, postage prepaid, or (iii) properly deposited with a nationally recognized, reputable overnight courier, properly addressed as follows:

|               |                                                                                                                                                 |
|---------------|-------------------------------------------------------------------------------------------------------------------------------------------------|
| If to Seller: | Roseville Acquisitions, LLC<br>Chief Manager Daniel P. Commers<br>2575 Fairview Avenue North<br>Suite 250<br>Roseville, MN 55113                |
| With copy to: | Leonard, O'Brien, Spencer, Gale & Sayre, Ltd.<br>Attention: Grover C. Sayre, III<br>100 South Fifth Street, Suite 2500<br>Minneapolis, MN 55402 |
| If to Buyer:  | City of Roseville<br>Attention: Community Development Director<br>2660 Civic Center Drive<br>Roseville, MN 55113                                |
| With copy to: | Ratwik, Roszak & Maloney, P.A.<br>Attention: Eric J. Quiring<br>300 U.S. Trust Building<br>730 Second Avenue South<br>Minneapolis, MN 55402     |

Notices shall be deemed effective on the earlier of the date of receipt, or in the case of such deposit in the mail or with an overnight courier, on the first business day following

such deposit. Any party may change its address for the service of notice by giving written notice of such change to the other party.

**16. Captions.** The captions appearing in this Agreement are for convenience only, are not a part of this Agreement and are not to be considered in interpreting this Agreement.

**17. Entire Agreement.** This written Agreement constitutes the complete agreement between the parties and supersedes any and all other oral or written agreements, negotiations, understandings and representations between the parties regarding the Property.

**18. Amendment; Waiver.** No amendment of this Agreement, and no waiver of any provision of this Agreement, shall be effective unless set forth in a writing expressing the intent to so amend or waive, and the exact nature of such amendment or waiver, and signed by both parties (in the case of amendment) or the waiving party (in the case of waiver). No waiver of a right in any one instance shall operate as a waiver of any other right, nor as a waiver of such right in a later or separate instance.

**19. Governing Law.** This Agreement is made and executed under and in all respects is to be governed and construed under the laws of the State of Minnesota.

**20. Binding Effect.** This Agreement binds and benefits the parties and their respective successors and assigns.

**21. Specific Performance.** This Agreement may be specifically enforced by the parties, provided that any action for specific enforcement is brought within six months after the date of the alleged breach. This paragraph is not intended to create an exclusive remedy for breach of this agreement; the parties reserve all other remedies available at law or in equity.

*[Signatures begin on next page]*

IN WITNESS WHEREOF, the parties have executed this Agreement as of the above date.

**SELLER: ROSEVILLE ACQUISITIONS, LLC**

By:   
Its: \_\_\_\_\_

Date: 6/10/09

**BUYER: CITY OF ROSEVILLE**

By:   
Mayor

Date: 6/15/09

By:   
City Manager

Date: 6/23/09

**EXHIBITS:**

- A Legal Description
- B Construction Easement
- C Demolition Easement

RRM: 131955  
403065

## **EXHIBIT A**

### **Legal Description of Property**

That part of the following described tract of land in the City of Roseville:

#### **Parcel 2**

Lots 6, 7, 14 and 15 and the North Half of Lot 13 and the North Half of Lot 8, Block B, Twin View, according to the recorded plat thereof, Ramsey County, Minnesota. Except that part deeded to the City of Roseville per Document No. 1511814, dated June 7, 1960, and also except that part of the Final Certificate, per Document No. 1698540, dated May 17, 1967.

Which lies within the following fee acquisition areas:

That part of Parcel 2 which lies northerly and westerly of the following described line: Commencing at the intersection of a line drawn parallel with and distant 10.00 feet west of the east lines of Lots 6 and 7, Block B, Twin View, according to said plat on file and of record in the office of the County Recorder, Ramsey County, Minnesota, and the north line of said Lot 6; thence South 01 degrees 12 minutes 09 seconds East, assumed bearing along said lines drawn parallel with and distant 10.00 feet west of the east lines of Lots 6 and 7, 84.35 feet, to the point of beginning of said line to be hereinafter described; thence westerly, 114.74 feet, along a non tangential curve, concave to the north, having a radius of 388.16 feet and a central angle of 16 degrees 56 minutes 12 seconds, the chord of said curve bears South 80 degrees 56 minutes 57 seconds West; thence South 89 degrees 25 minutes 03 seconds West, tangent to the last described curve, 419.04 feet; thence South 36 degrees 22 minutes 37 seconds West, 22.00 feet; thence South 01 degrees 32 minutes 34 seconds East, 193.22 feet; thence South 05 degrees 25 minutes 16 seconds West, 4.05 feet, to the south line of the North Half of Lot 13, said Block B, and said line there terminating.

AND

That part of the following described tract of land in the City of Roseville:

#### **Parcel 8**

Lots 1, 2, 3, 4 and 5, Block C, Twin View, except the West 10 feet thereof, and all that part of the South 833 feet of the West 1/2 of the Southwest 1/4 of Section 4, Township 29, Range 23, lying East and North of the above described lots, and East of the northerly extension of the East line of said West 10 feet of said lots, and North of County Road "C", except the East 30 feet of the aforescribed part

of the Southwest 1/4 and except property conveyed by Deed Document No. 1604588, situate in Ramsey County, Minnesota.

Which lies within the following fee acquisition areas:

That part of Parcel 8 described as follows: Beginning at the intersection of a line drawn parallel with and distant 30.00 feet west of the east line of the Southwest Quarter of the Southwest Quarter of Section 4, Township 29, Range 23, Ramsey County, Minnesota, and the north line of the south 833.00 feet of said Southwest Quarter of the Southwest Quarter; thence South 01 degrees 10 minutes 50 seconds East, assumed bearing along said line drawn parallel with and distant 30.00 feet west of said east line of the Southwest Quarter of the Southwest Quarter, 401.36 feet; thence North 07 degrees 28 minutes 45 seconds West, along a line to be hereinafter referred to as reference line "A", 227.30 feet, and said reference line "A" there terminating; thence North 57 degrees 42 minutes 34 seconds West, along a line to be hereinafter referred to as reference line "B", 88.57 feet, and said reference line "B" there terminating; thence South 83 degrees 51 minutes 35 seconds West, along a line to be hereinafter referred to as reference line "C", 96.54 feet; thence North 89 degrees 06 minutes 18 seconds West, 136.85 feet; thence westerly and southwesterly, 171.52 feet, along a tangential curve, concave to the southeast, having a radius of 275.00 feet and a central angle of 35 degrees 44 minutes 09 seconds, and said reference line "C" there terminating; thence South 30 degrees 14 minutes 26 seconds West, not tangent to the last described line, along a line to be hereinafter referred to as reference line "D", 49.57 feet and said reference line "D" there terminating; thence South 01 degrees 03 minutes 53 seconds East, 121.67 feet; thence South 89 degrees 39 minutes 20 seconds West, 71.08 feet, to the east line of the west 10.00 feet of Lot 2, Block C, Twin View, according to the recorded plat thereof, Ramsey County, Minnesota; thence North 01 degrees 12 minutes 09 seconds West, along the east lines of Lots 1 and 2 said Block C, and its northerly extension thereof, 355.60 feet, to said north line of the south 833.00 feet of the Southwest Quarter of the Southwest Quarter; thence North 89 degrees 24 minutes 36 seconds East, along said north line of the south 833.00 feet of the Southwest Quarter of the Southwest Quarter, 17.62 feet; thence South 25 degrees 40 minutes 30 seconds East, along a line to be hereinafter referred to as reference line "E", 75.96 feet, and said reference line "E" there terminating; thence South 81 degrees 44 minutes 22 seconds East, along a line to be hereinafter referred to as reference line "F", 38.77 feet, and said reference line "F" there terminating; thence easterly, 159.47 feet, along a non-tangential curve, concave to the southeast, having a radius of 401.40 feet and a central angle of 22 degrees 45 minutes 46 seconds; thence North 89 degrees 13 minutes 50 seconds East, tangent to the last describe curve 269.18 feet; thence North 59 degrees 04 minutes 33 seconds

East, 83.49 feet, to said north line of the south 833.00 feet of the Southwest Quarter of the Southwest Quarter; thence North 89 degrees 24 minutes 36 seconds East, along said north line of the south 833.00 feet of the Southwest Quarter of the Southwest Quarter, 13.37 feet, to the point of beginning.

AND

That part of the South 833 feet of the West 1/2 of the Southwest 1/4 of Section 4, Township 29, Range 23, Ramsey County, Minnesota, described as follows: Commencing at the intersection of the northerly extension of the east line of the west 10.00 feet of Lots 1 and 2, Block C, Twin View, according to the recorded plat thereof, Ramsey County, Minnesota, and the north line of the south 833.00 feet of the Southwest Quarter of the Southwest Quarter, Section 4, Township 29, Range 23, Ramsey County, Minnesota; thence North 89 degrees 24 minutes 36 seconds East, along said north line of the south 833.00 feet of the Southwest Quarter of the Southwest Quarter, 17.62 feet, to the point of beginning; thence South 25 degrees 40 minutes 30 seconds East, 75.96 feet; thence South 81 degrees 44 minutes 22 seconds East, 38.77 feet; thence easterly, 159.47 feet, along a non-tangential curve, concave to the southeast, having a radius of 401.40 feet and a central angle of 22 degrees 45 minutes 46 seconds; thence North 89 degrees 13 minutes 50 seconds East, tangent to the last describe curve, 269.18 feet; thence North 59 degrees 04 minutes 33 seconds East, 83.49 feet, to said north line of the south 833.00 feet of the Southwest Quarter of the Southwest Quarter; thence South 89 degrees 24 minutes 36 seconds West, along said north line of the south 833.00 feet of the Southwest Quarter of the Southwest Quarter, 555.18 feet, to the point of beginning.

## **EXHIBIT B**

### Temporary Construction Easement

THIS EASEMENT, made and entered into this 23<sup>rd</sup> day of June, 2009, by and between Roseville Acquisitions, LLC, ("Grantor"), and the City of Roseville, Minnesota, a Minnesota municipal corporation ("Grantee").

### Terms of Easement

1. Grant of Temporary Construction Easement. Grantor hereby grants and conveys to Grantee a temporary construction easement ("Construction Easement") for construction purposes over, under, across and through the following:

That part of the following described tract of land in the City of Roseville:

(Parcel 2)

Lots 6, 7, 14 and 15 and the North Half of Lot 13 and the North Half of Lot 8, Block B, Twin View, according to the recorded plat thereof, Ramsey County, Minnesota. Except that part deeded to the City of Roseville per Document No. 1511814, dated June 7, 1960, and also except that part of the Final Certificate, per Document No. 1698540, dated May 17, 1967.

Also which lies within the following temporary easement for construction purposes:

That part of (Parcel 2) which lies southerly and easterly of the above described fee acquisition for right of way purposes and northerly of the following described line: Commencing at the intersection of a line drawn parallel with and distant 10.00 feet west of said east lines of Lots 6 and 7, Block B, Twin View, and the north line of said Lot 6; thence South 01 degrees 12 minutes 09 seconds East, assumed bearing along said lines drawn parallel with and distant 10.00 feet west of the east lines of Lots 6 and 7, 94.76 feet, to the point of beginning of said line to be hereinafter described; thence westerly, 114.80 feet, along a non tangential curve, concave to the north, having a radius of 398.16 feet and a central angle of 16 degrees 31 minutes 12 seconds, the chord of said curve bears South 81 degrees 09 minutes 26 seconds West; thence South 89 degrees 25 minutes 03 seconds West, tangent to the last described curve, 315.86 feet; thence South 00 degrees 25 minutes 26 seconds East, 8.00 feet; thence South 89 degrees 25 minutes 03 seconds West, 116.38 feet, to the easterly line of the above described permanent easement for right of way purposes, and said line there terminating.

AND

That part of the following described tract of land in the City of Roseville:

(Parcel 8)

Lots 1, 2, 3, 4 and 5, Block C, Twin View, except the West 10 feet thereof, and all that part of the South 833 feet of the West 1/2 of the Southwest 1/4 of Section 4, Township 29, Range 23, lying East and North of the above described lots, and East of the northerly extension of the East line of said West 10 feet of said lots, and North of County Road "C", except the East 30 feet of the aforescribed part of the Southwest 1/4 and except property conveyed by Deed Document No. 1604588, situate in Ramsey County, Minnesota.

Also which lies within the following temporary easements for construction purposes:

A strip of land 5.00 feet in width over that part of (Parcel 8), the easterly line of which is contiguous with said line drawn parallel with and distant 30.00 feet west of the east line of the Southwest Quarter of the Southwest Quarter.

Said strip of land is to extend by its full width from the northerly right of way line of County Road C, to said above reference line "A".

And also a strip of land 5.00 feet in width over that part of (Parcel 8), the northerly and northwesterly line of which are contiguous with said above reference line "C".

Said strip of land is to extend by its full width from said above reference line "B", to said above reference line "D".

And also a strip of land 10.00 feet in width over that part of (Parcel 8), the southwesterly line of which is contiguous with said above reference line "E".

Said strip of land is to extend by its full width from said north line of the south 833.00 feet of the Southwest Quarter of the Southwest Quarter, to said above reference line "F".

2. Warranty of Title. Grantor covenants that it is the owner of the property underlying the Construction Easement and has the authority to grant this Construction Easement.

3. Duration. This Construction Easement and the rights granted hereunder shall commence on June 16, 2009 and expire on June 15, 2010 with no further rights to either party. Upon expiration of this Construction Easement, the Grantee shall remove any

temporary structures which were constructed during the term of this Construction Easement, and shall restore the property to the same condition as existed prior to the construction on the property.

4. Scope of Easement. The Construction Easement granted herein includes the right of the Grantee, its contractors, agents, and employees to enter the premises at all reasonable times for the purposes of construction, grading, sloping, and restoration purposes, and all purposes ancillary thereto, together with the right to remove trees, shrubs, or other vegetation in the easement area, as well as the right to deposit earthen materials within the Construction Easement area and to move, store, and remove equipment and supplies, and to perform any other work necessary and incident to the project.

Grantee shall have the right to keep the Construction Easement area clear of all buildings, structures, fences, trees, shrubbery, undergrowth and other obstructions that may interfere with or endanger the right of construction access.

5. Rights of Public. Grantor does not intend that the public should have any interest in the above described land by virtue of this Construction Easement or otherwise, except as herein set forth. It is expressly agreed by and between the parties hereto that the Grantor retains ownership of the property and all incidents of ownership not specifically herein granted to the Grantee. Grantor does not intend that the public should have any interest in the land or right to trespass thereon by virtue of this Construction Easement or otherwise, except as herein set forth.

6. Binding Effect. All provisions herein shall run with the land and shall extend to and bind the heirs, successors, representatives, and assigns of Grantor. This Construction Easement may not be assigned by Grantee without the prior written consent of Grantor. The parties agree that this Construction Easement will not be recorded.

IN WITNESS WHEREOF, the Parties have hereunto set their hands the day and year first above written.

**GRANTOR: ROSEVILLE  
ACQUISITIONS, LLC**

By: \_\_\_\_\_  
Its: \_\_\_\_\_

*Paul J. Cornean*  
*Chief Manager*

**GRANTEE: CITY OF ROSEVILLE**

By: \_\_\_\_\_

Mayor

By: \_\_\_\_\_

City Manager

*Craig D. Klumpp*  
*Wynn Malinen*

## EXHIBIT C

### Temporary Building Demolition Easement

THIS EASEMENT, made and entered into this 23<sup>rd</sup> day of June, 2009, by and between Roseville Acquisitions, LLC, ("Grantor"), and the City of Roseville, Minnesota, a Minnesota municipal corporation ("Grantee").

### Terms of Easement

1. Grant of Temporary Building Demolition Easement. Grantor hereby grants and conveys to Grantee a temporary easement for building demolition purposes ("Demolition Easement") over and across the following:

That part of the following described tract of land in the City of Roseville:

(Parcel 2)

Lots 6, 7, 14 and 15 and the North Half of Lot 13 and the North Half of Lot 8, Block B, Twin View, according to the recorded plat thereof, Ramsey County, Minnesota. Except that part deeded to the City of Roseville per Document No. 1511814, dated June 7, 1960, and also except that part of the Final Certificate, per Document No. 1698540, dated May 17, 1967.

Also which lies within the following temporary easement for building demolition purposes:

That part of (Parcel 2) described as follows: Commencing at the intersection of a line drawn parallel with and distant 10.00 feet west of the east lines of Lots 6 and 7, Block B, Twin View, according to said plat on file and of record in the office of the County Recorder, Ramsey County, Minnesota, and the north line of said Lot 6; thence South 89 degrees 23 minutes 00 seconds West, assumed bearing along said north line of Lot 6, 229.79 feet; thence South 00 degrees 13 minutes 48 seconds East, 77.95 feet, to the point of beginning; thence continuing South 00 degrees 13 minutes 48 seconds East, 161.22 feet; thence South 89 degrees 27 minutes 27 seconds West, 293.30 feet; thence North 00 degrees 13 minutes 48 seconds West, 161.22 feet; thence South 89 degrees 27 minutes 27 seconds West, 293.30 feet, to the point of beginning.

AND

That part of the following described tract of land in the City of Roseville:

(Parcel 8)

Lots 1, 2, 3, 4 and 5, Block C, Twin View, except the West 10 feet thereof, and all that part of the South 833 feet of the West 1/2 of the Southwest 1/4 of Section 4, Township 29, Range 23, lying East and North of the above described lots, and East of the northerly extension of the East line of said West 10 feet of said lots, and North of County Road "C", except the East 30 feet of the aforescribed part of the Southwest 1/4 and except property conveyed by Deed Document No. 1604588, situate in Ramsey County, Minnesota.

Also which lies within the following temporary easement for building demolition purposes:

That part of (Parcel 8) described as follows: Commencing at the intersection of said line drawn parallel with and distant 30.00 feet west of the east line of the Southwest Quarter of the Southwest Quarter, and the north line of the south 833.00 feet of said Southwest Quarter of the Southwest Quarter; thence South 89 degrees 24 minutes 36 seconds West, assumed bearing along said north line of the south 833.00 feet of the Southwest Quarter of the Southwest Quarter, 310.71 feet; thence South 01 degrees 40 minutes 09 seconds East, 10.46 feet, to the point of beginning; thence continuing South 01 degrees 40 minutes 09 seconds East, 210.00 feet, thence South 88 degrees 19 minutes 51 seconds West, 119.65 feet; thence North 01 degrees 40 minutes 09 seconds West, 210.00 feet; thence North 88 degrees 19 minutes 51 seconds East, 119.65 feet, to the point of beginning.

2. Warranty of Title. Grantor covenants that it is the owner of the property underlying the Demolition Easement and has the authority to grant this Demolition Easement.

3. Duration. This Demolition Easement and the rights granted hereunder shall commence on July 1, 2009 and expire on July 31, 2009 with no further rights to either party. Upon expiration of this Demolition Easement, the Grantee shall restore the property to the same condition as existed prior to the demolition on the property.

4. Scope of Easement. The Demolition Easement granted herein includes the right of the Grantee, its contractors, agents, and employees to enter the premises at all reasonable times for building demolition purposes, and all purposes ancillary thereto, together with the right to remove trees, shrubs, or other vegetation in the easement area, as well as the right to deposit earthen materials within the easement area and to move, store, and

remove equipment and supplies, and to perform any other work necessary and incident to the project.

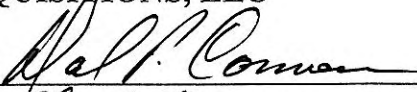
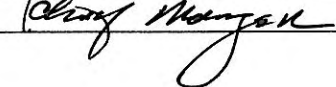
Grantee shall have the right to keep the Demolition Easement area clear of all buildings, structures, fences, trees, shrubbery, undergrowth and other obstructions that may interfere with or endanger the right of demolition access.

5. Rights of Public. Grantor does not intend that the public should have any interest in the above described land by virtue of this Demolition Easement or otherwise, except as herein set forth. It is expressly agreed by and between the parties hereto that the Grantor retains ownership of the property and all incidents of ownership not specifically herein granted to the Grantee. Grantor does not intend that the public should have any interest in the land or right to trespass thereon by virtue of this Demolition Easement or otherwise, except as herein set forth.

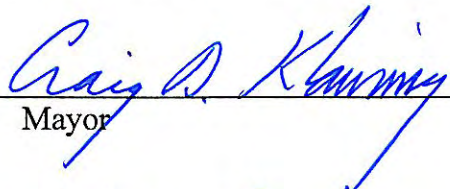
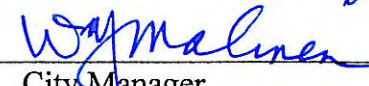
6. Binding Effect. All provisions herein shall run with the land and shall extend to and bind the heirs, successors, representatives, and assigns of Grantor. This Demolition Easement may not be assigned by Grantee without the prior written consent of Grantor. The parties agree that this Demolition Easement will not be recorded.

IN WITNESS WHEREOF, the Parties have hereunto set their hands the day and year first above written.

**GRANTOR: ROSEVILLE  
ACQUISITIONS, LLC**

By:   
Its: 

**GRANTEE: CITY OF ROSEVILLE**

By:   
Mayor  
By:   
City Manager



April 8, 2009

Daniel P. Commers, Chief Manager  
Roseville Acquisitions Three, LLC  
2575 Fairview Ave. N., Suite 250  
Roseville, MN 55113

Re: Offer of Just Compensation – Parcel 2  
Twin Lakes Infrastructure Improvements – Phase I  
WSB Project # 1814-00

Dear Mr. Commers:

The City of Roseville is planning to construct Phase I of the Twin Lakes Infrastructure Improvements this upcoming summer and fall. This letter constitutes the City of Roseville's formal Offer to Purchase the necessary and project specific land rights that you own or are claimed through your ownership. The City of Roseville hereby offers all parties who may have an interest in the real estate rights to be acquired the sum of **\$1,031,200.00**. This offer is based on an independent appraisal by Dahlen, Dwyer and Foley, Inc. and a copy of the complete appraisal accompanies this letter. The City's offer is summarized on the attached document and a parcel sketch has been enclosed for your reference. The City has hired WSB & Associates, Inc. to aid in the acquisition of right of way for this project which includes presenting this offer to you. Please contact our agent at WSB & Associates, Inc. with any questions you may have regarding this information.

You will have a reasonable length of time to consider the offer. To aid in your decision you may wish to secure your own appraisal. Minnesota law provides reimbursement in an amount not to exceed \$5,000.00 for the actual costs of an appraisal for your property. Reimbursement cannot be made without receipt of the information necessary for reimbursement, including a copy of the landowner's appraisal, at least five days before a condemnation commissioners' hearing. In all cases it is important to know that a *review* of the enclosed appraisal, provided by another appraiser, is not eligible for reimbursement.

If you accept the offer, the parcel will be acquired by direct purchase and you will be paid upon satisfactory evidence of marketable title. In the worst case scenario that a mutually acceptable agreement cannot be arrived at in a timely manner, the property may be acquired in an eminent domain proceeding. This offer is being extended to you by City staff. It is subject to City Council approval of the terms and conditions.

Your signature at the end of this document is only for the verification that such an offer has been given to you. You also acknowledge that you have received a copy of the appraisal and an "Acquisition Information for Property Owners" brochure. Your signature below does not affect your right to have the final amount determined through eminent domain proceedings in the event the direct purchase method of acquisition is unsuccessful.

On behalf of the City of Roseville, I wish to thank you for your cooperation and assistance and

we look forward to working with you toward a mutually satisfactory completion of the acquisition process.

**IF THIS OFFER TO PURCHASE IS ACCEPTABLE**

PLEASE INDICATE BY SIGNING AND DATING THE ACCEPTANCE LINES BELOW

I certify that on \_\_\_\_\_, 2009, I accept the Offer to Purchase above for the indicated amount. I also certify that I have received copies of the appraisal, a three page handout titled "Acquisition Information for Property Owners", Acquisition and Appraisal Summary and the parcel sketch mentioned above.

Signature: \_\_\_\_\_ the \_\_\_\_\_ of Roseville Acquisitions  
Three, LLC

\_\_\_\_\_  
Printed name

**IF YOU WOULD LIKE MORE TIME TO CONSIDER THE OFFER OR MORE  
INFORMATION BEFORE ACCEPTING THIS OFFER TO PURCHASE, PLEASE  
INDICATE BY SIGNING AND DATING BELOW THAT YOU RECEIVED AN OFFER  
TO PURCHASE WITH ATTACHMENTS.**

I certify that on \_\_\_\_\_, 2009, I received the Offer to Purchase above for the indicated amount. I also certify that I have received copies of the appraisal, a three page handout titled "Acquisition Information for Property Owners", Acquisition and Appraisal Summary and the parcel sketch mentioned above. My signature below only indicates receipt of this offer and does not indicate acceptance of the offer at this time.

Signature: \_\_\_\_\_ the \_\_\_\_\_ of Roseville Acquisitions  
Three, LLC

\_\_\_\_\_  
Printed name

Sincerely,



William J. Malinen  
City Manager

Attachments: Appraisal and Parcel sketch  
Acquisition Information for Property Owners  
Acquisition and Appraisal Summary  
Legal documents related to the acquisition  
Copy of this letter for your records



April 8, 2009

Daniel P. Commers, Chief Manager  
Roseville Acquisitions, LLC  
2575 Fairview Ave. N., Suite 250  
Roseville, MN 55113

Re: Offer of Just Compensation – Parcel 8  
Twin Lakes Infrastructure Improvements – Phase I  
WSB Project # 1814-00

Dear Mr. Commers:

The City of Roseville is planning to construct Phase I of the Twin Lakes Infrastructure Improvements this upcoming summer and fall. This letter constitutes the City of Roseville's formal Offer to Purchase the necessary and project specific land rights that you own or are claimed through your ownership. The City of Roseville hereby offers all parties who may have an interest in the real estate rights to be acquired the sum of **\$1,051,500.00**. This offer is based on an independent appraisal by Dahlen, Dwyer and Foley, Inc. and a copy of the complete appraisal accompanies this letter. The City's offer is summarized on the attached document and a parcel sketch has been enclosed for your reference. The City has hired WSB & Associates, Inc. to aid in the acquisition of right of way for this project which includes presenting this offer to you. Please contact our agent at WSB & Associates, Inc. with any questions you may have regarding this information.

You will have a reasonable length of time to consider the offer. To aid in your decision you may wish to secure your own appraisal. Minnesota law provides reimbursement in an amount not to exceed \$5,000.00 for the actual costs of an appraisal for your property. Reimbursement cannot be made without receipt of the information necessary for reimbursement, including a copy of the landowner's appraisal, at least five days before a condemnation commissioners' hearing. In all cases it is important to know that a *review* of the enclosed appraisal, provided by another appraiser, is not eligible for reimbursement.

If you accept the offer, the parcel will be acquired by direct purchase and you will be paid upon satisfactory evidence of marketable title. In the worst case scenario that a mutually acceptable agreement cannot be arrived at in a timely manner, the property may be acquired in an eminent domain proceeding. This offer is being extended to you by City staff. It is subject to City Council approval of the terms and conditions.

Your signature at the end of this document is only for the verification that such an offer has been given to you. You also acknowledge that you have received a copy of the appraisal and an "Acquisition Information for Property Owners" brochure. Your signature below does not affect your right to have the final amount determined through eminent domain proceedings in the event the direct purchase method of acquisition is unsuccessful.

On behalf of the City of Roseville, I wish to thank you for your cooperation and assistance and we look forward to working with you toward a mutually satisfactory completion of the acquisition process.

**IF THIS OFFER TO PURCHASE IS ACCEPTABLE**

PLEASE INDICATE BY SIGNING AND DATING THE ACCEPTANCE LINES BELOW

I certify that on \_\_\_\_\_, 2009, I accept the Offer to Purchase above for the indicated amount. I also certify that I have received copies of the appraisal, a three page handout titled "Acquisition Information for Property Owners", Acquisition and Appraisal Summary and the parcel sketch mentioned above.

Signature: \_\_\_\_\_ the \_\_\_\_\_ of Roseville Acquisitions, LLC

\_\_\_\_\_  
Printed name

**IF YOU WOULD LIKE MORE TIME TO CONSIDER THE OFFER OR MORE INFORMATION BEFORE ACCEPTING THIS OFFER TO PURCHASE, PLEASE INDICATE BY SIGNING AND DATING BELOW THAT YOU RECEIVED AN OFFER TO PURCHASE WITH ATTACHMENTS.**

I certify that on \_\_\_\_\_, 2009, I received the Offer to Purchase above for the indicated amount. I also certify that I have received copies of the appraisal, a three page handout titled "Acquisition Information for Property Owners", Acquisition and Appraisal Summary and the parcel sketch mentioned above. My signature below only indicates receipt of this offer and does not indicate acceptance of the offer at this time.

Signature: \_\_\_\_\_ the \_\_\_\_\_ of Roseville Acquisitions, LLC

\_\_\_\_\_  
Printed name

Sincerely,



William J. Malinen  
City Manager

Attachments: Appraisal  
Acquisition Information for Property Owners  
Acquisition and Appraisal Summary  
Parcel sketch  
Legal documents related to the acquisition  
Copy of this letter for your records

Roseville Acquisitions Three, LLC  
2575 Fairview Avenue North, Suite 250  
Roseville, Minnesota 55113

April 24, 2009

City of Roseville  
Attn: William J. Malinen, City Manager  
2660 Civic Center Drive  
Roseville, Minnesota 55113

Re: 2690 Cleveland Avenue N - Former Cummins Diesel Property  
Offer of Just Compensation - Parcel 2  
Twin Lakes Infrastructure Improvements - Phase I  
WSB Project #1814-00

Dr. Mr. Malinen:

This letter will confirm that on April 22, 2009, Roseville Acquisitions Three, LLC received from the City of Roseville a letter dated April 8, 2009 together with an Offer to Purchase a portion of the property located at 2690 Cleveland Avenue N (Former Cummins Diesel Property) (the "Property"), a copy of an appraisal performed by Dahlen, Dwyer and Foley, Inc., a three page handout titled "Acquisition Information for Property Owners," Acquisition and Appraisal Summary showing a value of \$1,031,200 and a parcel sketch. We are pleased to accept your offer referenced in the April 8, 2009 letter, subject to the following clarifications and/or modifications:

1. Demolition. The City of Roseville agrees to pay all costs necessary to completely demolish and remove all buildings located immediately adjacent to the Property to be conveyed to the City (the "**Future Right of Way**") on or before June 1, 2009.
2. Mount Ridge Road. The City of Roseville agrees at its sole cost and expense to take all necessary action (including, without limitation, vacation proceedings, written conveyance, termination of rights) to, on or before June 1, 2009, (i) vacate the portion of Mount Ridge Road and any easements located therein which abut the Property and (ii) cause ownership of one half of such road to be vested in fee simple in the name of the adjacent property owners located to the east and west of the road. Fee simple ownership in Mount Ridge Road will be transferred to the adjacent property owners without any requirement of payment to the City of Roseville.
3. Condition of the Property. The City of Roseville agrees that it is acquiring the Future Right of Way "as is" and in its current condition without any representation whatsoever as to the condition of such property or its fitness for any intended use of such property by the City of Roseville.
4. Government Grant Funds. In the event the Property is to be assessed or has been assessed for the cost to construct roadways or for the cost to construct the infrastructure or remediate contaminated

soil for such roadways, and a city, state and/or federal government grant is received to pay for part or all of such costs, whether the grant is received before or after construction of such roadways, infrastructure or remediation of soil, the amount of the assessment against the Property will be reduced by a prorata portion of any such grant or grants.

Please acknowledge your acceptance of the foregoing changes and/or modifications.

Very truly yours,

**Roseville Acquisitions Three, LLC**  
(A Minnesota limited liability company)

By: *David P. Comer*  
Its: *Margaret Parker*

Acknowledged, Agreed and Accepted:

**The City of Roseville**

By: \_\_\_\_\_

Its: \_\_\_\_\_

And By: \_\_\_\_\_

Its: \_\_\_\_\_

400106.2

Roseville Acquisitions, LLC  
2575 Fairview Avenue North, Suite 250  
Roseville, Minnesota 55113

April 24, 2009

City of Roseville  
Attn: William J. Malinen, City Manager  
2660 Civic Center Drive  
Roseville, Minnesota 55113

Re: 1947 County Road C W - Former Indianhead Trucking Property  
Offer of Just Compensation - Parcel 8  
Twin Lakes Infrastructure Improvements - Phase I  
WSB Project #1814-00

Dr. Mr. Malinen:

This letter will confirm that on April 22, 2009, Roseville Acquisitions, LLC received from the City of Roseville a letter dated April 8, 2009 together with an Offer to Purchase a portion of the property located at 1947 County Road C W (Former Indianhead Trucking Property) (the "Property"), a copy of an appraisal performed by Dahlen, Dwyer and Foley, Inc., a three page handout titled "Acquisition Information for Property Owners," Acquisition and Appraisal Summary showing a value of \$1,051,500 and a parcel sketch. We are pleased to accept your offer referenced in the April 8, 2009 letter, subject to the following clarifications and/or modifications:

1. Demolition. The City of Roseville agrees to pay all costs necessary to completely demolish and remove the building located within the portion of the Property to be conveyed to the City (the "**Future Right of Way**") on or before June 1, 2009.
2. Mount Ridge Road. The City of Roseville agrees at its sole cost and expense to take all necessary action (including, without limitation, vacation proceedings, written conveyance, termination of rights) to, on or before June 1, 2009, vacate the portion of Mount Ridge Road and any easements located therein which abut the Property and (ii) cause ownership of one-half of such road to be vested in fee simple in the name of the adjacent property owners located to the east and west of the road. Fee simple ownership in Mount Ridge Road will be transferred to the adjacent property owners without any requirement of payment to the City of Roseville.
3. Pond. The City of Roseville agrees to grant and convey to the owner of the Property a perpetual easement for drainage of storm water from the portion of the Property that is designated to drain to Langton Lake into any retention pond or ponds constructed on the property located to the east of the Property by or at the direction of the City of Roseville. The pond easement shall be in recordable form and shall be in a form and content acceptable to the owner of the Property and

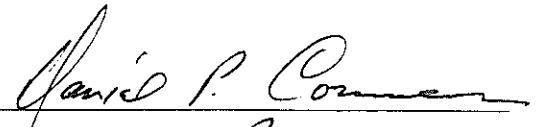
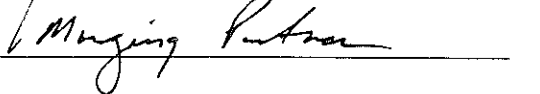
shall be granted at the City's sole cost and expense, and without any requirement of payment to the City of Roseville.

4. Roundabout. The City of Roseville agrees that it is open to discussions with Roseville Acquisitions regarding the final design of any "roundabout" roadways to be constructed in the area.
5. Condition of the Property. The City of Roseville agrees that it is acquiring the Future Right of Way "as is" and in its current condition without any representation whatsoever as to the condition of such property or its fitness for any intended use of such property by the City of Roseville.
6. Government Grant Funds. In the event the Property is to be assessed or has been assessed for the cost to construct roadways or for the cost to construct the infrastructure or remediate contaminated soil for such roadways, and a city, state and/or federal government grant is received to pay for part or all of such costs, whether the grant is received before or after construction of such roadways, infrastructure or remediation of soil, the amount of the assessment against the Property will be reduced by a prorata portion of any such grant or grants.

Please acknowledge your acceptance of the foregoing changes and/or modifications.

Very truly yours,

**Roseville Acquisitions, LLC**  
(A Minnesota limited liability company)

By:   
Its: 

Acknowledged, Agreed and Accepted:

**The City of Roseville**

By: \_\_\_\_\_

Its: \_\_\_\_\_

And By: \_\_\_\_\_

Its: \_\_\_\_\_



May 1, 2009

Roseville Acquisitions, LLC  
2575 Fairview Ave. N  
Suite 250  
Roseville, MN 55113

Dear Mr. Commers:

We are in receipt of your letters dated April 24, 2009 detailing your acceptance, with conditions, of the City's offer to purchase portions of your property for road purposes in the Twin Lakes redevelopment area. We appreciate your willingness to work with the City on this matter and are encouraged by the productive discussions that have taken place.

In direct response to the points raised in the April 24<sup>th</sup> letters, I offer the following comments:

1. Demolition: The City will agree to pay for all costs for the demolition and removal of the buildings (Cummins Diesel and the Indianhead accessory building) that need to be removed due to the construction of Twin Lakes Parkway. We have anticipated this cost as part of the road construction. It should be noted that the Twin Lakes Infrastructure Improvement Study, which requires property owners to pay for their proportionate share of infrastructure costs at the time of development, has demolition costs factored in as part of the overall road costs. The road costs (and thus the demolition costs) will be paid by all property owners/developers (including your properties) based on the number of networked trips each property generates.
2. Mount Ridge Road: Staff has reviewed your request for the vacation of the Mount Ridge right-of-way as it goes through your property south of future Twin Lakes Parkway and has determined that from a transportation and traffic circulation perspective, a public road is not needed. Staff has also determined that the majority of the road was originally dedicated as part of the Twin View plat in the 1920s and a small portion was obtained by a quit claim deed in 1959. Therefore, the City did not purchase the land for the right-of-way. Based on these facts, staff is supportive of vacating the right-of-way as you request. It should be noted that the vacation of right-of-way will need to follow a process ending with the City Council officially approving the vacation. As staff we cannot guarantee that the City Council will vacate the right-of-way, as that decision is ultimately theirs. However, as stated above,

staff will be recommending that the Mt. Ridge right-of-way be vacated as there is not a transportation reason for the City to keep it. If the Mount Ridge right-of-way is vacated, the property will revert to adjacent property owners pursuant to Minnesota State Statutes 462.358(7). Below is a proposed schedule for the vacation of the Mt. Ridge right-of-way:

- Public Hearing Notice in Official Newspaper – May 19, 2009
- Planning Comm. Pub. Hearing/Recommendation – June 3, 2009
- City Council Consideration – June 8, 2009

3. Condition of Property: The City agrees to take the property “as is” and will undertake the necessary environmental remediation and pay for those costs. At this point, environmental remediation costs for the road construction have not been factored into the Twin Lakes Infrastructure Improvement Study. The City may, in the future at their discretion, consider amending the Twin Lakes Infrastructure Improvement Study to include the environmental remediation costs for the right-of-way. If that occurs, the environmental remediation costs will be paid by all property owners/developers (including your properties) based on the number of networked trips each property generates.

Government Grant Funds: The City will continue to pursue county, state, and federal grant dollars to assist in the construction of infrastructure and the remediation of environmental issues within the Twin Lakes area. It is anticipated that, on an annual basis, as the City receives grants that reduce to the cost of constructing the infrastructure as defined by the Twin Lakes Infrastructure Improvement Study and expends those grant dollars, the Twin Lakes Infrastructure Improvement Study would be adjusted to reflect the outside funding. In the same manner, the city will annually review the cost assumptions contained in the Twin Lakes Infrastructure Improvement Study to determine if they need to be increased due to inflationary or construction cost increases. Therefore, as the Twin Lakes Infrastructure Improvement Study is annually adjusted, the actual amount owed by a developer/property owner will change based on the above mentioned variables. It should be noted that a property owner/developer is effectively “locked into” a cost based on their development at the time of the approval of that development. Any adjustments made to the allocation agreement after the payment amount is agreed to between the City and property owner will not be rebated back ( in the case the project costs go down) nor will additional funds be collected from the developer (in the case the project costs go up). However, in the spirit of leveraging other funds in order to make the project more financially feasible, the City, as individual property owners come forward with specific development proposals, will continue to work with the property owner/developer and address in a mutually agreeable manner any expected or pending grant funds as part of the specific development agreement.

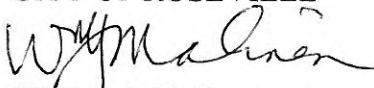
4. Pond: The City does not plan on using the remnant parcel for drainage purposes. The City explored that option and found it to be too cost prohibitive due to the environmental contamination. If you would like to utilize the remnant parcel for your property's storm water or for future development, we would be willing to not purchase it.
5. Roundabout: The City is willing to discuss the layout and final design of the roundabouts proposed in Twin Lakes. The Phase I Improvements are near ready for bid. Any concerns with the design of the first roundabout should be discussed with the City by May 8, 2009.

As you know, the City has aggressively committed to this project and has established a very tight timeline in order to get the project completed this year. You have requested that the conditions contained in your April 24<sup>th</sup> letters would need to be part of a stipulation to allow us early access to the property. As I indicated above, there is general agreement to the requests that you made, but several of them will need to be approved by the City Council at the appropriate time. The City Council approvals are not obtainable prior to advertising the project for bids. It is anticipated that the best bids will be submitted by contractors if access to your property is assured prior to advertising for bids. A signed stipulation will provide guaranteed access to the contractor for the roadway construction and demolition of the buildings. It is my hope that the above responses have provided you the level of comfort required for you to agree to sign the stipulation. Additionally, waiting to sign the actual conveyance documents until after the City Council approval of the vacation of Mount Ridge Road may provide you with additional peace of mind..

I look forward to continuing our discussions on this matter and am confident that we will be able to reach a mutually agreeable resolution and settlement.

Respectfully,

CITY OF ROSEVILLE



William J. Malinen  
City Manager

C: Patrick Trudgeon, Community Development Director  
Duane Schwartz, Public Works Director  
Chris Miller, Finance Director

# ROSEVILLE PROPERTIES

MANAGEMENT   BROKERAGE   DEVELOPMENT

May 20, 2009

Sonya Henning, P.E.  
Right of Way Services Manager  
WSB & ASSOCIATES  
701 Xenia Avenue South, Suite 300  
Minneapolis, MN 55416

Re: Agreement to Terms of Purchase – Roseville Acquisitions Properties

Sonya:

Please accept this letter as confirmation of our agreement to sell our land as described in the Stipulation Agreement dated May 5, 2009, under the terms and considerations listed in the Stipulation and letter from William Malinen, Roseville City Manager, dated May 1, 2009, for an amount of \$2,107,700.

This counter offer reflects the understanding reached at our City Hall meeting on May 1, 2009, and considerations offered by the City in the May 1, 2009 letter, and for our administrative, legal and professional services costs associated with this transaction.

Please forward the appropriate purchase documents.

Very truly yours,



Daniel P. Commers, Chief Manager  
ROSEVILLE ACQUISITIONS, LLC

Cc: Pat Trudgeon, City of Roseville

**A "BEFORE" AND "AFTER"  
SUMMARY APPRAISAL REPORT  
OF**

**The Former Cummins Diesel Property  
2690 Cleveland Avenue N  
Roseville, MN**

**A "BEFORE" AND "AFTER"  
SUMMARY APPRAISAL REPORT**

**OF**

**The Former Cummins Diesel Property  
A Truck Sales, Rental and Service Facility**

**LOCATED AT**

**2690 Cleveland Avenue N  
Roseville, Minnesota**

**FOR**

**Mr. Patrick Trudgeon, AICP  
Community Development Director  
City of Roseville  
2660 Civic Center Drive  
Roseville, MN 55113**

**AS OF**

**March 3, 2009**

**BY**

**Daniel E. Dwyer  
Certified General Real Property Appraiser  
MN License #4001170**

**DAHLEN, DWYER & FOLEY, INC.  
55 East 5<sup>th</sup> Street; Suite 1350  
St. Paul, MN 55101**

# Dahlen, Dwyer & Foley, Inc.

55 EAST 5TH STREET • SUITE 1350 • ST. PAUL, MINNESOTA 55101 • (651) 224-1381 • FAX (651) 223-5736

DWIGHT W. DAHLEN, MAI, SREA  
DANIEL E. DWYER  
SEAN M. FOLEY  
JEFFREY A. DAHLEN  
JANE E. HAMMES  
MICHAEL T. TINKER

March 9, 2009

Mr. Patrick Trudgeon, AICP  
Community Development Director  
City of Roseville  
2660 Civic Center Drive  
Roseville, MN 55113

RE: Former Cummins Diesel Property  
A Truck Sales, Rental and Service Facility  
2690 Cleveland Avenue N  
Roseville, MN 55113

Dear Mr. Trudgeon:

In accordance with your request, I have prepared a ***"Complete Summary Appraisal"*** on the property located at 2690 Cleveland Avenue N in Roseville, Minnesota. The property is the former Cummins Diesel facility which, on the date of appraisal, was vacant and in the state of disrepair. The building has a GBA of 38,730 SF and is located on a 4.082 acre site zoned I2 or General Industrial District. The Roseville Comprehensive Plan has the subject property guided BP or Business Park.

The purpose of this appraisal is to determine the loss in market value to the property due to the City of Roseville's Twin Lakes Roadway Project. This project includes taking of road right-of-way and temporary easements. Additionally, in the opinion of your appraiser, the improvements will have to be razed as in the "after" situation as the functional utility is greatly diminished.

This appraisal has been prepared in conformance with ***MnDOT's "Right-of-Way Manual"*** dated September 2007 and ***US DOT's 49 CFR Part 24***. Based upon my inspection of the property, and in consideration of the City of Roseville's takings for the Twin Lakes Roadway Project, I have developed the following opinions of value for the property as of March 3, 2009:

|                                         |                    |
|-----------------------------------------|--------------------|
| VALUE "BEFORE" THE TAKING: .....        | \$2,650,000        |
| VALUE "AFTER" THE TAKING: .....         | <u>\$1,630,000</u> |
| DAMAGES DUE TO TAKING: .....            | \$1,020,000        |
| VALUE OF TEMPORARY EASEMENTS: .....     | <u>\$11,200</u>    |
| TOTAL DAMAGES DUE PROPERTY OWNER: ..... | \$1,031,200        |

The damages are allocated as follows:

|                                                           |                |
|-----------------------------------------------------------|----------------|
| VALUE OF UNENCUMBERED ROAD RIGHT-OF-WAY: .....            | \$787,000      |
| VALUE OF ROAD RIGHT-OF-WAY ENCUMBERED BY WATERMAIN: ..... | \$13,900       |
| VALUE OF ROAD RIGHT-OF-WAY ENCUMBERED BY HIGHWAY: .....   | \$1,700        |
| VALUE OF BUILDING TO BE RAZED: .....                      | \$165,000      |
| VALUE OF SITE IMPROVEMENTS: .....                         | \$52,400       |
| VALUE OF TEMPORARY CONSTRUCTION EASEMENT: .....           | \$7,400        |
| VALUE OF TEMPORARY BUILDING REMOVAL EASEMENT: .....       | <u>\$3,800</u> |
| TOTAL DAMAGES DUE PROPERTY OWNER: .....                   | \$1,031,200    |

The preferred way to determine damages accruing to a property due to a taking is the "before" and "after" method. Under this method, which is usually the simplest approach, the value of the property is estimated "before" and "after" the taking(s), the difference between the two being the damages accruing to the property as a result of the taking including damages to the remainder, if any. The measure of damages to the subject property is the comparative market values of the property "before" and "after" the taking by the City of Roseville for road right-of-way, temporary easements, and the razing of the improvements.

This appraisal report has been made in conformity with the following:

- The "Uniform Standards of Professional Appraisal Practice" of the Appraisal Foundation as mandated by the Financial Institution's Reform, Recovery and Enforcement Act of 1989 (FIRREA).

- The "Standards of Professional Practice and Conduct" of the Appraisal Institute.
- All terms specified in conversations with Mr. Patrick Trudgeon of the City of Roseville.
- This appraisal assignment has not been based on a requested minimum valuation, specific valuation or the approval of a loan. The estimate of market value contained herein was developed independent of any undue influence.
- No part of the appraiser's compensation was, is, or will be directly or indirectly related to the opinions of market value reported herein.
- MnDOT's Right-of-Way Manual dated September 2007, Section 5-491.202.
- US DOT's **49 CFR Part 24.**

This appraisal has been made subject to certain limiting conditions and assumptions as hereinafter expressed. Such facts and information as contained herein were obtained from sources that I considered reliable and are true to the best of my knowledge and belief.

Neither my engagement to make this appraisal (or any future appraisals for this particular client), nor any compensation therefore, are contingent upon the reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value estimate, the attainment of a stipulated result, or the occurrence of subsequent event.

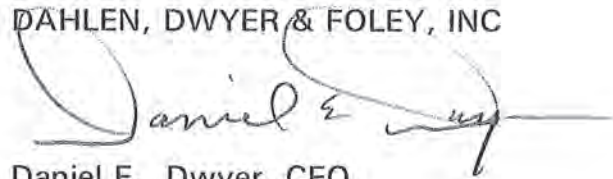
Dahlen, Dwyer, & Foley, Inc. does not have a business or personal relationship with the property's owner(s); is not an owner or lessee in the property; and has no management, leasing or sales responsibility for the property.

Information in this report was gathered from sources believed to be reliable but it is not guaranteed. Possession of this report, or copy thereof, does not carry with it the right of publication nor may it be used for any purpose, except that for which it was requested without the previous written consent of the appraiser and, in any event, only with proper qualification.

The following report describes my method of approach, contains data gathered in my investigation, and demonstrates my analysis in arriving at the estimate of market value for the subject property.

Respectfully submitted,

DAHLEN, DWYER & FOLEY, INC

A handwritten signature in black ink, appearing to read "Daniel E. Dwyer", with a long horizontal flourish extending to the right.

Daniel E. Dwyer, CEO  
Certified General Real Property Appraiser  
MN License # 4001170

DED/jh  
DD&F File #:9073

**A "BEFORE" AND "AFTER"  
SUMMARY APPRAISAL REPORT  
OF**

**The Former Indianhead Trucking Property  
1947 County Road C W  
Roseville, MN**

**A "BEFORE" AND "AFTER"  
SUMMARY APPRAISAL REPORT**

**OF**

**The Former Indianhead Trucking Property**

**LOCATED AT**

**1947 County Road C W  
Roseville, Minnesota**

**FOR**

**Mr. Patrick Trudgeon, AICP  
Community Development Director  
City of Roseville  
2660 Civic Center Drive  
Roseville, MN 55113**

**AS OF**

**March 17, 2009**

**BY**

**Daniel E. Dwyer  
Certified General Real Property Appraiser  
MN License #4001170**

**DAHLEN, DWYER & FOLEY, INC.  
55 East 5<sup>th</sup> Street; Suite 1350  
St. Paul, MN 55101**

# Dahlen, Dwyer & Foley, Inc.

55 EAST 5TH STREET • SUITE 1350 • ST. PAUL, MINNESOTA 55101 • (651) 224-1381 • FAX (651) 223-5736

DWIGHT W. DAHLEN, MAI, SREA  
DANIEL E. DWYER  
SEAN M. FOLEY  
JEFFREY A. DAHLEN  
JANE E. HAMMES  
MICHAEL T. TINKER

April 6, 2009

Mr. Patrick Trudgeon, AICP  
Community Development Director  
City of Roseville  
2660 Civic Center Drive  
Roseville, MN 55113

RE: Former Indianhead Trucking Property  
1947 County Road C W  
Roseville, MN 55113

Dear Mr. Trudgeon:

In accordance with your request, I have prepared a *"Complete Summary Appraisal"* on the property located at 1947 County Road C W in Roseville, Minnesota. The property is the former Indianhead Trucking property which, on the date of appraisal, was vacant with the buildings in the state of disrepair. The main building, constructed in 1954, has a total GBA of 35,520 SF while the smaller building located in the NWC has a total GBA of 13,760 SF. The site contains a total of 9.77 acres and is slightly irregular in shape. Zoning is B-4 or Retail Office Service according to the January 12, 2009 Roseville Zoning Map.

The purpose of this appraisal is to determine the loss in market value to the subject property due to the City of Roseville's Twin Lakes Roadway Project. This project includes taking of road right-of-way along with temporary easements. As a result of the taking a remnant parcel will be created which the City of Roseville will acquire as it will be severed from the remainder parcel and have no value. The taking for road right-of-way will run through the truck distribution building located in the NWC of the property and this building will have to be razed. The building basically has no value and therefore there is no compensation due the property owner.

This appraisal has been prepared in conformance with *MnDOT's "Right-of-Way Manual"* dated September 2007 and *US DOT's 49 CFR Part 24*. Based upon my inspection of the property, and in consideration of the City of Roseville's takings for the Twin Lakes Roadway Project, I have developed the following opinions of value for the property as of March 17, 2009:

|                                         |                    |
|-----------------------------------------|--------------------|
| VALUE "BEFORE" THE TAKING: .....        | \$4,255,000        |
| VALUE "AFTER" THE TAKING: .....         | <u>\$3,217,500</u> |
| DAMAGES DUE TO TAKING: .....            | \$1,037,500        |
| VALUE OF ALL TEMPORARY EASEMENTS: ..... | \$3,800            |
| VALUE OF SITE IMPROVEMENTS: .....       | <u>\$10,200</u>    |
| TOTAL DAMAGES DUE PROPERTY OWNER: ..... | \$1,051,500        |

The damages are allocated as follows:

|                                                         |                 |
|---------------------------------------------------------|-----------------|
| VALUE OF UNENCUMBERED ROAD RIGHT-OF-WAY: .....          | \$725,000       |
| VALUE OF ENCUMBERED (DRAINTILE ESMT) RD RIGHT-OF-WAY: . | \$61,000        |
| VALUE OF REMNANT PARCEL: .....                          | \$251,500       |
| VALUE OF TEMPORARY CONSTRUCTION EASEMENTS: .....        | \$3,300         |
| VALUE OF TEMPORARY BUILDING REMOVAL EASEMENT: .....     | \$500           |
| VALUE OF SITE IMPROVEMENTS: .....                       | <u>\$10,200</u> |
| TOTAL DAMAGES DUE PROPERTY OWNER: .....                 | \$1,051,500     |

The preferred way to determine damages accruing to a property due to a taking is the "before" and "after" method. Under this method, which is usually the simplest approach, the value of the property is estimated "before" and "after" the taking(s), the difference between the two being the damages accruing to the property as a result of the taking including damages to the remainder, if any. The measure of damages to the subject property is the comparative market values of the property "before" and "after" the taking by the City of Roseville for road right-of-way, temporary easements, the taking of a remnant parcel, and the taking of site improvements.

This appraisal report has been made in conformity with the following:

- The "Uniform Standards of Professional Appraisal Practice" of the Appraisal Foundation as mandated by the Financial Institution's Reform, Recovery and Enforcement Act of 1989 (FIRREA).

- The "Standards of Professional Practice and Conduct" of the Appraisal Institute.
- All terms specified in conversations with Mr. Patrick Trudgeon of the City of Roseville.
- This appraisal assignment has not been based on a requested minimum valuation, specific valuation or the approval of a loan. The estimate of market value contained herein was developed independent of any undue influence.
- No part of the appraiser's compensation was, is, or will be directly or indirectly related to the opinions of market value reported herein.
- MnDOT's Right-of-Way Manual dated September 2007, Section 5-491.202.
- US DOT's 49 CFR Part 24.

This appraisal has been made subject to certain limiting conditions and assumptions as hereinafter expressed. Such facts and information as contained herein were obtained from sources that I considered reliable and are true to the best of my knowledge and belief.

Neither my engagement to make this appraisal (or any future appraisals for this particular client), nor any compensation therefore, are contingent upon the reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value estimate, the attainment of a stipulated result, or the occurrence of subsequent event.

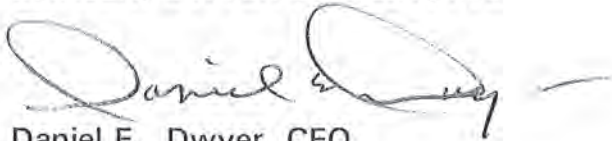
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The following report describes my method of approach, contains data gathered in my investigation, and demonstrates my analysis in arriving at the estimate of market value for the subject property.

Respectfully submitted,

DAHLEN, DWYER & FOLEY, INC

A handwritten signature in black ink, appearing to read "Daniel E. Dwyer", followed by a horizontal line.

Daniel E. Dwyer, CEO  
Certified General Real Property Appraiser  
MN License # 4001170

DED/jh  
DD&F File #:9096

Size/Utility

Adjustments for size have been made on the basis that a smaller parcel will sell for a higher value/SF than a larger parcel and conversely a larger parcel will sell for a lower value/SF than a smaller parcel. Adjustments for utility were made on the basis that a parcel which is very irregular in shape or is long and narrow has below average functional utility and less demand in the marketplace than a parcel which is more rectangular in shape. This also takes into consideration topography and development costs.

Zoning

Zoning considerations are weighted when making adjustments. Zoning determines uses to which a property can be put and contributes to its value. All of the sales with the exception of Sale #4 had similar zonings to that of the subject. Sale #4, located in Roseville, was zoned B-1 necessitating a slight downward adjustment.

Utilities

This adjustment considers the availability of city water, sanitary sewer, storm sewer, gas, electricity, etc. All sales, similar to the subject, had all services and utilities available.

Other

The adjustment for "other" is a catch-all for relevant adjustments that cannot be categorized in the previous adjustments. The major adjustment made under this line item reflects environmental remediation costs for the subject property of approximately \$2.50/SF based on American Engineering Testing, Inc. report dated February 16, 2005. This clean-up would be performed in accordance with a risk-based approach based on proposed property use in the Twin Lakes area. Clean-up for commercial/industrial development would be less expensive than clean-up for any type of residential development. Soil remediation would likely include excavation and disposal of the more impacted soils at an appropriate off-site disposal facility. The less impacted soils in the area could be re-used on the site below structure and pavement surfaces. This assumes that the maximum site coverage allowable would be 30% or approximately 53,350 SF for the subject property.

Size/Utility

Adjustments for size have been made on the basis that a smaller parcel will sell for a higher value/SF than a larger parcel and conversely a larger parcel will sell for a lower value/SF than a smaller parcel. Adjustments for utility were made on the basis that a parcel which is very irregular in shape or is long and narrow has below average functional utility and less demand in the marketplace than a parcel which is more rectangular in shape. This also takes into consideration topography and development costs.

Zoning

Zoning considerations are weighted when making adjustments. Zoning determines uses to which a property can be put and contributes to its value. All of the sales had similar zonings to that of the subject.

Utilities

This adjustment considers the availability of city water, sanitary sewer, storm sewer, gas, electricity, etc. All sales, similar to the subject, had all services and utilities available.

Other

The adjustment for "other" is a catch-all for relevant adjustments that cannot be categorized in the previous adjustments. The major adjustment made under this line item reflects environmental remediation costs for the subject property of approximately \$2.50/SF based on American Engineering Testing, Inc. report dated February 16, 2005. This clean-up would be performed in accordance with a risk-based approach based on proposed property use in the Twin Lakes area. Clean-up for commercial/industrial development would be less expensive than clean-up for any type of residential development. Soil remediation would likely include excavation and disposal of the more impacted soils at an appropriate off-site disposal facility. The less impacted soils in the area could be re-used on the site below structure and pavement surfaces. This assumes that the maximum site coverage allowable would be 30% or approximately 127,600 SF for the subject property. Indicated remediation costs would then be a little over \$300,000.

Eric J. Quiring  
ejq@ratwiklaw.com



Ratwik, Roszak & Maloney, P.A.

June 11, 2009

Mr. Bill Malinen  
City Manager  
City of Roseville  
2660 Civic Center Drive  
Roseville, MN 55113-1899

Mr. Pat Trudgeon  
Community Development Director  
City of Roseville  
2660 Civic Center Drive  
Roseville, MN 55113-1899

RE: Non-Retainer/Twin Lakes Pkwy. and Mt. Ridge Road Condemnation  
Our File No. 4002(2)-0050

Dear Mr. Malinen and Mr. Trudgeon:

This letter is in response to a number of questions that were raised by the Council during its discussion of the proposed settlement with Roseville Acquisitions. We provide the following information in response to those questions.

1. How does the acquisition of the Roseville Acquisitions properties on an "as is" basis affect the City's interests?

Purchasing the property in "as is" condition rather than taking the property through eminent domain results in no difference in the City's interest in the property. Minnesota law authorizes cities to take property by eminent domain. Minn. Stat. § 412.211. When taking property for public use, the right, interest, or estate in the property proposed to be taken must be specifically described in the proceedings. Minn. Stat. § 117.215. Cities may take an easement in the property or fee simple absolute. Id. However, once an interest in property is taken by eminent domain, the city possesses that exact interest in the property. When taking property in fee simple, which allows a city to control, use, and transfer the property at will, the previous property owner's interests are completely extinguished. Most significantly, the previous property owner is no longer responsible for the condition of the property.

---

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\* Also admitted in WI  
\*\* Civil Trial Specialist  
Certified by the MN  
State Bar Association  
† Real Property Specialist  
Certified by the MN  
State Bar Association

Minnesota law does not provide a condemning authority with any ongoing environmental protections once it has acquired property. See Minn. Statutes Chapter 117. In essence, if a city wants to take fee title to private property, it must take the property "as is." As a result, the City's acceptance of the Roseville Acquisitions property on an "as is" basis is no different than if the City were to proceed through eminent domain proceedings to acquire the property, which would also be on an "as is" basis.

The legislature has acknowledged the risk of taking property "as is" by providing cities with authority to enter property that may need to be acquired by eminent domain for the purposes of investigation, monitoring, testing, surveying, boring, or other similar activities necessary or appropriate to identify the existence or threat of release of a hazardous substance, pollutant, or contaminant. Minn. Stat. § 117.041, subd. 2. Cities are granted the authority to investigate the condition of the property before committing to the eminent domain process to acquire the property because once the property is taken, the city is stuck with the property regardless of its condition. There are no refunds. It is important to note that the City is aware of the environmental condition of the Roseville Acquisitions property, but the condition does not prevent the City's proposed use of the property. In fact, the environmental condition of the property was factored into the City's appraisal to determine the value of the property.

While we would generally recommend securing warranties and representations regarding the environmental condition of property to be acquired by the City through direct purchase, those protections are not available when acquiring property through eminent domain. Accepting the property on an "as is" basis through a direct purchase in lieu of condemnation results in no difference in the City's environmental protections or authority to address environmental remediation as part of the infrastructure project.

## 2. Who is responsible for demolition costs?

As discussed above, a city acquiring fee title to property through eminent domain acquires the property as it exists. That includes any buildings or other improvements located on the property. Minnesota law does not impose the obligation on property owners to demolish buildings or remove all improvements from their property if it is being taken by eminent domain. The condemning authority takes the property with all improvements. If it desires to demolish any buildings, it must do so at its own cost.

A city and private property owner can certainly agree to apportion the value of the property and any necessary demolition costs as they see fit. However, if the property is acquired through eminent domain, the property owner will have no obligation to pay for any demolition costs. Again, by agreeing to pay for the cost of building demolition, the City is no worse off than it would be if it acquired the property through eminent domain.

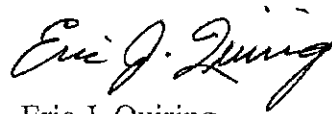
3. Can the City charge a property owner for the vacation of a right-of-way?

As a general rule, a city has no proprietary interest in a public right-of-way, but rather holds the right-of-way in trust for the public. See City of St. Paul v. Chicago, M. & St. F. Ry. Co., 63 N.W. 267 (Minn. 1895). By statute, cities are authorized to vacate "any street, alley, public grounds, public way, or any part thereof." Minn. Stat. § 412.851. No vacation shall be made unless it "appears in the interest of the public to do so" after published notice and a public hearing. Id. Pursuant to the statute, the authority of a city to vacate a street arises only by reason of the council's motion or a petition of a majority of the owners of land abutting the street. Id.

Upon vacation, title to the property reverts to the owner of the fee underlying the street. Steenerson v. Fontaine, 119 N.W. 400 (Minn. 1908). Because title automatically reverts, the vacating city possesses no interest to convey. The City does not have authority to require payment of consideration when it acts to vacate a public right-of-way. See Minn. Op. Atty. Gen. 396g-16 (September 9, 1965). In addition, the Minnesota Attorney General has also opined that a city cannot condition a vacation upon the payment of special assessments to be subsequently levied. Id. As a result, the City cannot charge Roseville Acquisitions for the vacation of Mount Ridge Road.

If you have any questions or concerns, please do not hesitate to contact our office.

Very truly yours,

  
Eric J. Quiring



## Community Development Department

# Memo

**To:** Mayor, City Council  
**cc:** Bill Malinen, City Manager  
**From:** Patrick Trudgeon, Community Development Director  
**Date:** June 3, 2009  
**Re:** Consideration of purchasing property for the Twin Lakes Infrastructure Project and proposed settlement of eminent domain action for properties located at 2690 Cleveland Ave. and 1947 County Road C.

---

The purpose of the closed executive session is to discuss the purchase of portions of property located at 2690 Cleveland Ave. and 1947 County Road C, City of Roseville for road and construction purposes as part of the Twin Lakes Phase I Infrastructure Project. The properties are owned by Roseville Acquisitions LLC (Roseville Properties).

On April 8, 2008, City staff sent out offer letters to property owners within the Twin Lakes redevelopment area for the purchase of land and temporary construction easements for the Twin Lakes Phase I infrastructure project based on City Council action taken at the March 23, 2009 City Council meeting.

The City sent two offer letters to Daniel Commers of Roseville Acquisitions, LLC. The offer amounts, which were based on appraisals, were \$1,031,200.00 for 2690 Cleveland Ave. and \$1,051,500.00 for 1947 County Road C. The grand total that was offered to Roseville Acquisitions, LLC was \$2,082,700.00.

In response to the City's offer, Roseville Acquisitions LLC sent a letter dated April 24, 2009 to the City with their comments on the offer. City staff and Roseville Acquisitions met on May 1<sup>st</sup> to discuss the offer and review their comments. As a result of the meeting, City Manager Malinen sent Roseville Acquisitions, LLC a letter dated May 1, 2009 responding to Roseville Acquisitions letter of April 24, 2009.

On May 20, 2009, the City received a letter from Roseville Acquisitions LLC stating that they would agree to settle on the terms for purchasing the needed property with the understandings discussed in the May 1, 2009 letter from City Manager Bill Malinen and in the settlement amount of \$2,107,700.00

The proposed settlement amount is \$25,000.00 more than the appraised value. Staff has reviewed the proposed settlement and recommends that the City Council authorize staff to enter into a settlement agreement with Roseville Acquisitions based on the terms identified in the May 1, 2009 letter from the City and in the amount of \$2,107,700.00.

Staff feels that this action would lead to a fair settlement for the purchase of needed right-of-way for the Phase I Twin Lakes infrastructure project and would allow the City to acquire a significant piece of property needed for the Phase I Twin Lakes infrastructure project.

If the City Council does not find this offer acceptable, the next step would be to continue with the eminent domain action and set a hearing with the commissioners for a final determination on the compensation owed to the property owners. Moving to this process will raise the costs for the City thru additional legal and professional services costs as well as paying for commissioner and staff time. In addition, interest will be accruing on the proposed settlement from the date of the taking (June 15<sup>th</sup>). This amount alone could quickly exceed \$25,000. Of course, if the commissioners award the property owner a higher settlement amount for the property (which the City would be obligated to pay) the costs would increase as well.

The City Council is aware that the costs for acquisition of the property was factored into the Twin Lakes Infrastructure study and will be paid by the developers of the property as development occurs. In the short term, the amount paid to Roseville Acquisitions will be paid from TIF #17 (Twin Lakes).

Staff has prepared a case for consideration at the regular meeting of June 8, 2009 for the City Council to take official action on this matter.

In the meantime, if you have any questions, please feel free to contact me at (651) 792-7071.

**ROSEVILLE**  
**REQUEST FOR COUNCIL ACTION**

Date: 07/20/09

Item No.: 13.e

Department Approval



City Manager Approval



Item Description: Discussion on Liquor License Presumptive Penalty

**BACKGROUND**

On August 18, 2007, Davanni's Restaurant failed a routine alcohol compliance check, due to previous failures in 2001 and 2005, and after a City Council Hearing on August 13, 2007, received the presumptive penalty of a one day suspension and a \$500.00 fine. The Police Chief made the determination the suspension of Davanni's liquor license would be November 2, 2007.

On November 2, 2007, a plain clothed officer entered Davanni's Restaurant and was sold a beer in violation of their one day suspension. The employee, who was an assistant manager, stated she had forgotten about the suspension.

On February 11, 2008, the Council, as part of a Council Meeting, was asked to allow staff to administer the presumptive penalty for serving alcohol during a suspension which is a revocation of the liquor license. City Attorney Scott Anderson provided Council with guidance indicating Minnesota Statutes, Section 340A.402 provides that a person who has had his or her liquor license revoked is not eligible to be given a license for a period of five years following the revocation. Further, per Scott Anderson, while a license holder would have to reapply for a license once a revocation occurs, he or she may not do so for five years.

On February 11, 2008, the Council, after conducting a public meeting, authorized staff to administer a (60) day alcohol license suspension and a \$2,000 fine to Davanni's for alcohol sales during suspension. The Police Department conducted seven compliance checks during the suspension period and Davanni's staff refused to sell alcohol.

During this public meeting at least one Council Member expressed interest in future Council discussion include reconsideration of ordinance language related to this penalty.

On June 30, 2009, City Attorney Jay Squires provided the attached letter which listed a number of theoretical options available to the Council.

**POLICY OBJECTIVE**

Council discussion on ordinance language related to alcohol sale during a license suspension.

**BUDGET IMPLICATIONS**

No Budget Implications at this time.

Jay T. Squires  
Direct Fax: (612) 225-6834  
jts@ratwiklaw.com



June 30, 2009

Lt. Rick Mathwig  
City of Roseville  
2660 Civic Center Drive  
Roseville, MN 55113-1899

RE: *Possible Liquor Code Revisions*  
Our File No. 4002(1)-0356

Dear Rick:

The other day we visited and walked through Chapter 302 of City Code dealing with liquor violations. You asked me to present options for possible Code changes, particularly in light of the City's experience with the Davanni license suspension, and the serving of liquor during a suspension period.

Section 302.15 of City Code is the section that establishes penalties for Code violations. Subpart A of this section codifies the language of Minn. Stat. § 340A.402, subd. 2. Specifically, it indicates, in a general way, that violations can result in a suspension of up to 60 days, a revocation, and/or a civil fine of up to \$2,000.

From my experience, many city codes simply contain general penalty language such as that in Subpart A, and punishment for violations is determined on a case-by-case basis. The Roseville Code, however, goes on in Subpart B to establish a schedule of "presumptive penalties" for specific violations. The language of Subpart B indicates that:

...these penalties are presumed to be appropriate for every case;  
however, the Council may deviate in an individual case when the  
Council finds that there exist extenuating or aggravating

---

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\* Also admitted in WI  
\*\* Civil Trial Specialist  
Certified by the MN  
State Bar Association  
† Real Property Specialist  
Certified by the MN  
State Bar Association

circumstances...when deviating from these standards, the Council will provide written findings that support the penalty selected.

It is my understanding that there were some concerns, in the Davanni context, that a revocation would be too harsh, particularly when a licensee cannot reapply for a license for a five-year period. This five-year period is established by state law, and cannot be modified. Therefore, it is simply a fact that the Council needs to understand the implications of a license revocation for any licensee.

With respect to the Davanni circumstances, there are a number of theoretical options available as follows:

1.     **Leave the Code as is.**  
      \*The Council already has the freedom to depart from a presumptive penalty of revocation. In other words, recognizing the implication of a revocation, the Council could choose not to impose a revocation in a given case.
2.     **Remove the sale of alcoholic beverages during suspension offense from the presumptive revocation list.**  
      \*This would mean such a violation would fall into the second category of offenses, where a violation might only warrant a presumptive penalty of a written warning, or a small fine and short suspension.
3.     **Create a new intermediate class of violations.**  
      \*This might be considered if the Council believes a presumptive revocation is too severe for certain offenses. For example, the Council might indicate that the presumptive penalty for selling alcoholic beverages during a suspension is disqualification from reapplying for a liquor license for the subsequent license period (one year).
4.     **Modify Subpart B of Code to read:**

The following violations are presumed to require revocation or a significant suspension of the license on the first violation....

Lt. Rick Mathwig

June 30, 2009

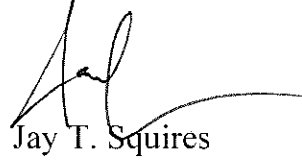
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**5. Eliminate Presumptive Penalties.**

\*The downside is that there is no schedule available to provide guidance and encourage consistency in assessing penalties.

I hope this helps in moving things forward. Let me know if you have questions.

Regards,

A handwritten signature in black ink, appearing to read 'Jay T. Squires', with a long horizontal flourish extending to the right.

JTS/sem

cc: Bill Malinen, City Manager

RRM: #132026