



**RICHFIELD MUNICIPAL CENTER, COUNCIL CHAMBERS  
AUGUST 24, 2021  
5:30 PM**

Call to order

Pledge of Allegiance

**AGENDA APPROVAL**

1. **Consent Calendar contains several separate items, which are acted upon by the City Council in one motion. Once the Consent Calendar has been approved, the individual items and recommended actions have also been approved. No further Council action on these items is necessary. However, any Council Member may request that an item be removed from the Consent Calendar and placed on the regular agenda for Council discussion and action. All items listed on the Consent Calendar are recommended for approval.**
  - A. Consider the approval of a resolution authorizing the City of Richfield to enter into a Local Road Improvement Program grant agreement with the Minnesota Department of Transportation (MnDOT Agreement No. 1047188) for \$11,690,000 to be used for construction of the 77th Street and Trunk Highway 77 Improvements Project.

Staff Report No. 122
  - B. Consider the approval of a site license agreement between the City and C.S. McCrossan Construction, Inc., for construction staging for the 77<sup>th</sup> Street and Trunk Highway 77 Improvements Project.

Staff Report No. 123

2. Consideration of items, if any, removed from Consent Calendar

**PROPOSED ORDINANCES**

3. Consider the first reading of an ordinance repealing and replacing Section 601 of the Richfield Code of Ordinances pertaining to solid waste disposal, collection, and hauling.

Staff Report No. 124

**OTHER BUSINESS**

4. Consider the Transportation Commission's request for a joint meeting to discuss concerns about the Minnesota Department of Transportation's plans for the I-494 and Penn Avenue Interchange as related to the I-494: Airport to 169 Project.

Staff Report No. 125

**CITY MANAGER'S REPORT**

5. City Manager's Report
6. Adjournment

**Auxiliary aids for individuals with disabilities are available upon request. Requests must be made at least 96 hours in advance to the City Clerk at 612-861-9738.**



**STAFF REPORT NO. 122**  
**CITY COUNCIL MEETING**  
**8/24/2021**

REPORT PREPARED BY: Scott Kulzer, Administrative Aide/Analyst

DEPARTMENT DIRECTOR REVIEW: Kristin Asher, Public Works Director  
8/17/2021

OTHER DEPARTMENT REVIEW:

CITY MANAGER REVIEW: Katie Rodriguez, City Manager  
8/19/2021

**ITEM FOR COUNCIL CONSIDERATION:**

**Consider the approval of a resolution authorizing the City of Richfield to enter into a Local Road Improvement Program grant agreement with the Minnesota Department of Transportation (MnDOT Agreement No. 1047188) for \$11,690,000 to be used for construction of the 77th Street and Trunk Highway 77 Improvements Project.**

**EXECUTIVE SUMMARY:**

In 2015 the City was awarded \$10,000,000 in Local Road Improvement Program (LRIP) funds by the State Legislature to be used towards right-of-way acquisition and construction of the 77th Street and Trunk Highway 77 Improvements Project. In 2019, the City used \$4,310,000 of this sum for right-of-way acquisition which left the remaining \$5,690,000 available for future construction of the project.

In 2020, the City was awarded another \$6,000,000 in LRIP funds by the State Legislature via the 2020 bonding bill for construction of the project. Together, these two LRIP grants amount to \$11,690,000 available for construction of the project. The LRIP is administered by the Minnesota Department of Transportation (MnDOT) and requires a grant agreement as part of the process to release funds. Once the LRIP grant agreement is in place, the funds will become available to the City for designated construction purposes.

**RECOMMENDED ACTION:**

**By Motion: Approve the resolution authorizing the City of Richfield to enter into a Local Road Improvement Program grant agreement with the Minnesota Department of Transportation (MnDOT Agreement No. 1047188) for \$11,690,000 to be used for construction of the 77th Street and Trunk Highway 77 Improvements Project.**

**BASIS OF RECOMMENDATION:**

**A. HISTORICAL CONTEXT**

Consistent with City Council direction, the Capital Improvement Plan (CIP), and the City's Comprehensive Plan, staff worked for many years towards the construction of the 77th Street and Trunk Highway 77 Improvements Project. The project officially broke ground in July 2021 and staff have been ensuring the timely execution of all remaining agreements related to the project.

The 77th Street and Trunk Highway 77 Improvements Project will connect 77th Street east and west of Trunk Highway 77 via an underpass to accommodate access reconfiguration along the I-494 corridor and eliminating a gap in the minor reliever network and addressing regional traffic issues on the I-494 corridor through Richfield and Bloomington.

**B. POLICIES (resolutions, ordinances, regulations, statutes, etc):**

- The LRIP grant agreement between the City and MnDOT is required to be fully executed before the City can access the funds appropriated by the State Legislature for the project.
- Minnesota Statutes, section 465.03 requires every acceptance of a grant or devise of real personal property on terms prescribed by the grantor be made by resolution by a two-thirds majority of the City Council.

**C. CRITICAL TIMING ISSUES:**

Timely execution of the grant agreement will ensure the funds are accessible to use for authorized expenses when they are incurred.

**D. FINANCIAL IMPACT:**

- There is no financial impact related to the approval of this LRIP grant agreement.
- These LRIP funds have been accounted for as a piece of the overall funding package for the project.

**E. LEGAL CONSIDERATION:**

The City Attorney has reviewed the grant agreement and will be available for questions.

**ALTERNATIVE RECOMMENDATION(S):**

None

**PRINCIPAL PARTIES EXPECTED AT MEETING:**

None

**ATTACHMENTS:**

Description	Type
▣ LRIP Grant Agreement	Contract/Agreement
▣ LRIP Grant Agreement Resolution	Resolution Letter

**LOCAL ROAD IMPROVEMENT PROGRAM (LRIP)  
GRANT AGREEMENT**

**This Agreement** between the Minnesota Department of Transportation (“MnDOT”) and the Grantee named below is made pursuant to Minnesota Statutes Section 174.52, pursuant to Minn. Laws 2015, 1<sup>st</sup> Special Session, Chapter 5- H.F. 2, and pursuant to Minn. Laws 2020, 5th Special Session, Chapter 3- H.F. 1. The provisions in that section and the Exhibits attached hereto and incorporated by reference constitute this Agreement and the persons signing below agree to fully comply with all of the requirements of this Agreement. This Agreement will be effective on the date State obtains all required signatures under Minnesota Statutes §16C.05, subdivision 2.

1. Public Entity (Grantee) name, address and contact person:

City of Richfield  
6700 Portland Ave S  
Richfield, MN 55423  
  
Contact: Kristin Asher, P.E.

2. Project(s):

Name of Project & Project Number (See Exhibit C for location)	Amount of LRIP Funds	Amount of Required Matching Funds	Completion Date
77 <sup>th</sup> Street and TH 77 Improvements Project (SP# 157-594-003; 157-108-035; 2758-82)	\$11,690,000	\$10,570,863.88	December 31, 2024

3. Total Amount of LRIP Grant for all projects under this Agreement: \$ 11,690,000
4. The following Exhibits for each project are attached and incorporated by reference as part of this Agreement:

Exhibit A	Completed Sources and Uses of Funds Schedule
Exhibit B	Project Completion Schedule
Exhibit C	Bond Financed Property Certification
Exhibit D	Grant Application
Exhibit E	Grantee Resolution Approving Grant Agreement
Exhibit F	General Terms and Conditions

5. Additional requirements, if any:
  
6. Any modification of this Agreement must be in writing and signed by both parties.

*(The remaining portion of this page was intentionally left blank.)*

**PUBLIC ENTITY (GRANTEE)**

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

Title: Mayor

Date: August 24, 2021

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

Title: City Manager

Date: August 24, 2021

**DEPARTMENT OF TRANSPORTATION**

*Approval and Certifying Encumbrance*

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

Title: State Aid Programs Engineer

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

**Office of Financial Management, Grant Unit**

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

Agency Grant Supervisor

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

**OFFICE OF CONTRACT MANAGEMENT**

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

Contract Administrator

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

**EXHIBIT A**

**SOURCES AND USES OF FUNDS SCHEDULE**

<b>SOURCES OF FUNDS</b>		<b>USES OF FUNDS</b>	
<b>Entity Supplying Funds</b>	<b>Amount</b>	<b>Expenses</b>	<b>Amount</b>
<b>State Funds:</b>		<b>Items Paid for with LRIP Grant Funds:</b>	
LRIP Grant (acct 282)	\$5,690,000.00	Roadway, curb and gutter, storm sewer	\$12,490,000.00
LRIP Grant (acct 342)	\$6,000,000.00		\$
Other:			\$
State TH Funds	\$800,000.00		\$
	\$		\$
	\$		\$
<b>Subtotal</b>	<b>\$12,490,000.00</b>	<b>Subtotal</b>	<b>\$12,490,000.00</b>
<b>Public Entity Funds:</b>		<b>Items paid for with Non-LRIP Grant Funds:</b>	
Matching Funds	\$	Roadway, curb and gutter, storm sewer	\$9,770,863.88
Federal Funds (Richfield)	\$5,099,608.54		\$
Federal Funds (MnDOT)	\$3,200,000.00		\$
DEMO Federal Funds	\$25,691.36		
Local Match	\$1,445,563.98		
<b>Subtotal</b>	<b>\$9,770,863.88</b>	<b>Subtotal</b>	<b>\$9,770,863.88</b>
<b>TOTAL FUNDS</b>	<b>\$22,260,863.88</b>	<b>TOTAL PROJECT COSTS</b>	<b>\$22,260,863.88</b>



**EXHIBIT B**

**PROJECT COMPLETION SCHEDULE**

Completion Date for this project is December 31, 2024

**EXHIBIT C**

**BOND FINANCED PROPERTY CERTIFICATION**

State of Minnesota  
General Obligation Bond Financed Property

The undersigned states that it has a fee simple, leasehold and/or easement interest in the real property located in the County of Hennepin, State of Minnesota that is generally described or illustrated graphically in **Attachment 1** attached hereto and all improvements thereon (the "Restricted Property") and acknowledges that the Restricted Property is or may become State bond-financed property. To the extent that the Restricted Property is or becomes State bond-financed property, the undersigned acknowledges that:

- A. The Restricted Property is State bond-financed property under Minn. Stat. Sec. 16A.695, is subject to the requirements imposed by that statute, and cannot be sold, mortgaged, encumbered or otherwise disposed of without the approval of the Commissioner of Minnesota Management and Budget; and
- B. The Restricted Property is subject to the provisions of the Local Road Improvement Program Grant Agreement between the Minnesota Department of Transportation and the undersigned dated \_\_\_\_\_, 20\_\_\_\_; and
- C. The Restricted Property shall continue to be deemed State bond-financed property for 37.5 years or until the Restricted Property is sold with the written approval of the Commissioner of Minnesota Management and Budget.

Date: \_\_\_\_\_, 20\_\_\_\_

City of Richfield, Minnesota, a political  
subdivision of the State of Minnesota

By: \_\_\_\_\_  
Name: Maria Regan Gonzalez  
Title: Mayor

By: \_\_\_\_\_  
Name: Katie Rodriguez  
Title: City Manager

**Attachment 1 to Exhibit C**

**LEGAL DESCRIPTION OF RESTRICTED PROPERTY**

See Attachment 2 to Exhibit C for depiction of the restricted property.



# 77th Street Improvements Roadway

S.P. 157-108-035 (77TH STREET)  
S.P. 2758-82 (TH 77)  
DATE: February 2021

MnDOT Agreement No. 1047188

SP No. 157-594-003, 157-108-035, 2758-82

## Attachment 2 to Exhibit C

METROPOLITAN  
AIRPORTS  
COMMISSION

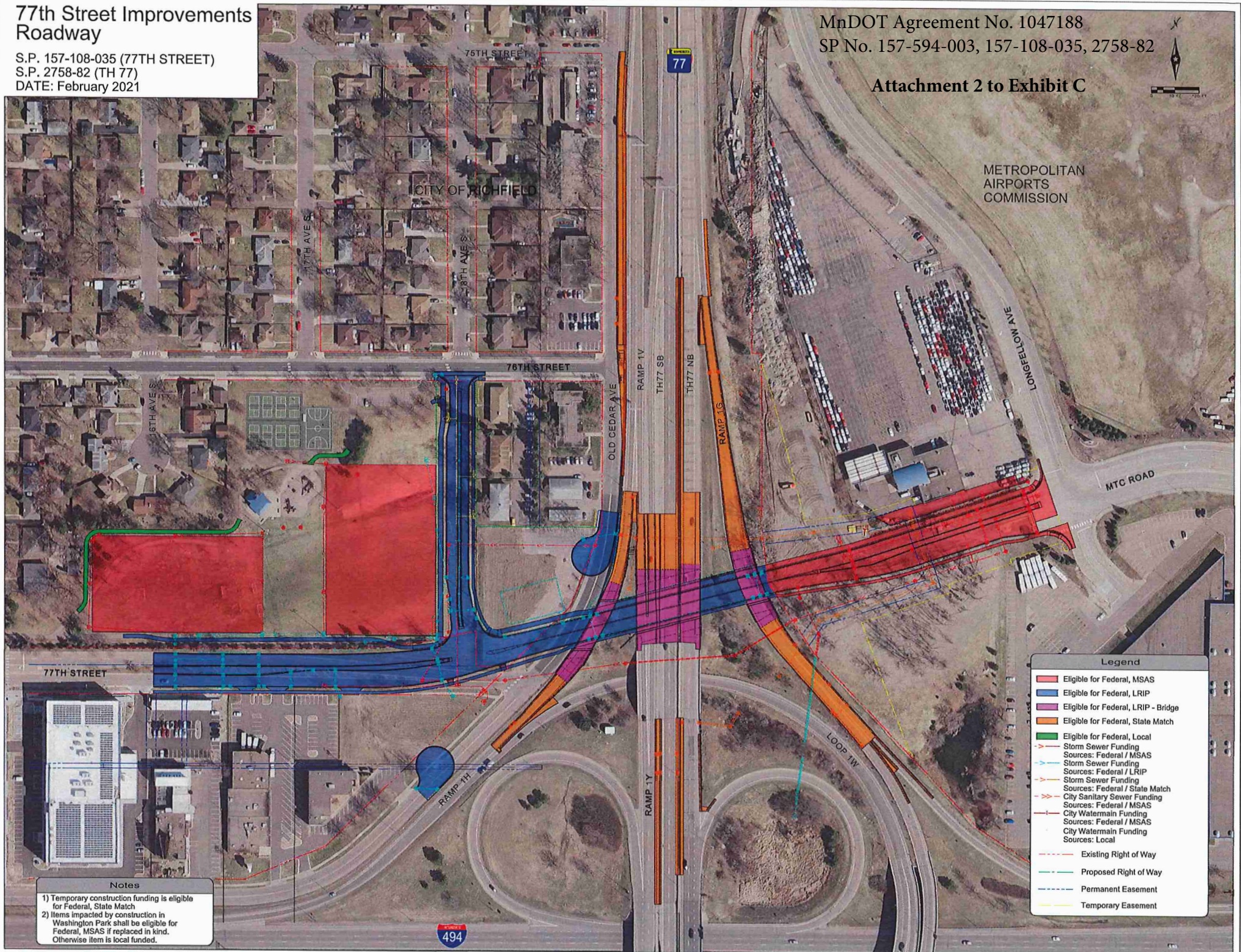
MTC ROAD

### Legend

- Eligible for Federal, MSAS
- Eligible for Federal, LRIP
- Eligible for Federal, LRIP - Bridge
- Eligible for Federal, State Match
- Eligible for Federal, Local
- Storm Sewer Funding Sources: Federal / MSAS
- Storm Sewer Funding Sources: Federal / LRIP
- Storm Sewer Funding Sources: Federal / State Match
- City Sanitary Sewer Funding Sources: Federal / MSAS
- City Watermain Funding Sources: Federal / MSAS
- City Watermain Funding Sources: Local
- Existing Right of Way
- Proposed Right of Way
- Permanent Easement
- Temporary Easement

### Notes

- 1) Temporary construction funding is eligible for Federal, State Match
- 2) Items impacted by construction in Washington Park shall be eligible for Federal, MSAS if replaced in kind. Otherwise item is local funded.





**EXHIBIT D**

**GRANT APPLICATION**

Attach the grant application for the project

<b>A. Applicant Information</b>		
1. Name (First & Last):	2. Phone Number:	
3. E-mail:	4. Agency Type:	
5. Agency Name:		
6. Street Address:		
7. City:	8. State: MN	9. Zip Code:
10. Sponsoring County and County Engineer name <b>(required if applicant is small city or township)</b>		

<b>B. Project Location</b>	
1. MnDOT District:	2. County:
3. City:	4. Township:
5. Name of Road:	6. Type of Road:
7. Road Authority Type <i>(which agency owns and has jurisdiction of the road)</i> :	
8. Project Termini: From	9. To:

<b>C. Project Description</b>
1. Type of Project.
2. Select the LRIP Account requested for funding.
3. Provide a summary of the proposed project and the transportation deficiencies that will be eliminated, including a description of operational and general safety benefits of the project. Projects seeking funding from the Rural Road Safety Account will need to provide a more detailed description of safety issues and benefits under Section D3.

## **D. LRIP Account Considerations and Eligibility**

### *D1. Trunk Highway Corridor Account Considerations and Eligibility*

1. Describe the state trunk highway project and how the local road(s) will be impacted by the trunk highway project. Funds from this account are for local road improvements impacted by trunk highway projects where local agencies have cost responsibility. It is not intended to be used for improvements or projects on the trunk highway or within the trunk highway corridor right of way that require local cost sharing per MnDOT's Cost Participation Policy.

### *D2. Routes of Regional Significance Account Considerations and Eligibility*

1. For Routes of Regional Significance projects, which of the following criteria does your project meet (select all that apply)?

- |   |  |
|---|--|
| <input type="checkbox"/> Farm to Market route   | <input type="checkbox"/> Part of a 10-ton route network  |
| <input type="checkbox"/> Part of an economic development plan   | <input type="checkbox"/> Connect to regional tourist destination                                 |
| <input type="checkbox"/> Provides capacity or congestion relief to a parallel trunk highway system or county road | <input type="checkbox"/> Is a connection to the regional system, trunk highway, or a county road |

2. Describe the number of persons and potential multiple local agencies that will be positively impacted by the project and how they will benefit.

*D2. Routes of Regional Significance Account Considerations and Eligibility*

3. Describe the project contribution to the local, regional or state economy, and economic development or redevelopment efforts.

*D3. Rural Road Safety Account Considerations and Eligibility (Only County State Aid Highways are eligible)*

1. Is this project on a County State Aid Highway?

2. Is this project or components of this project identified in a County Road Safety Plan?

3. Identify the appropriate focus area that your project/safety strategy aligns with in the [Minnesota Strategic Highway Safety Plan](#).



*D3. Rural Road Safety Account Considerations and Eligibility (Only County State Aid Highways are eligible)*

4. Identify the type of crash or safety hazard this project is trying to address. Respond even if project is in a county safety plan or the Minnesota Strategic Highway Safety Plan.

5. Describe how this project improves safety, reduce traffic crashes, fatalities, injuries, and property damages. Respond even if project is in a county safety plan or the Minnesota Strategic Highway Safety Plan.

### **E. Project Readiness and Ability to Maintain**

1. Estimated Construction Year:

2. Are there railroad impacts (RR xing or RR tracks within 600' of the project)?

3. What is the status of the engineering and design work on the project?

4. Has this project been selected for federal funding, and if so what year in the STIP?

5. Is right of way acquisition required? If so, describe the status of these efforts.

6. Describe the local agency's ability to adequately provide for the safe operation and maintenance of the facility upon completion.

### **F. Multimodal/Complete Streets**

Identify infrastructure improvements for non-motorized and/or transit users on this project.

## G. Estimated Project Cost

### Source of Funding

1. LRIP Request:
2. Federal Funds:
3. State Aid Funds:
4. Local/Other Funds:
5. MnDOT Trunk Highway Funds:
6. Total Project Cost:

## H. Attachments

- ☐ At least one project location map with routes and project termini labeled
- ☐ Engineer's Estimate with an itemized breakdown
- ☐ Project schedule
- ☐ Local agency resolution
- ☐ Resolution of support from sponsoring county agreeing to be sponsor and agreeing to perform sponsor tasks as identified above in section "Project Selection" (required for applications by townships and cities under 5,000 population)
- ☐ Other letters of concurrence or support

When you are ready to submit the application, save the application form with LRIP, agency and road in the name of the document; e.g. LRIP\_RamseyCounty\_CSAH30.pdf.

The application and attachments are due by 4:00 p.m. on **March 3, 2021**. Applications and attachments should be submitted electronically to [saltirhelp.dot@state.mn.us](mailto:saltirhelp.dot@state.mn.us). Please limit the file size transmitted via email to no more than 10 MB. State Aid will send a reply acknowledging receipt of the application. If you haven't received a reply from State Aid within a few days of submittal, send an email to [saltirhelp.dot@state.mn.us](mailto:saltirhelp.dot@state.mn.us) to inquire about the status of the application.

More information is available at:

- LRIP website at: <http://www.dot.state.mn.us/stateaid/lrip.html>.
- PowerPoint on LRIP at: <http://www.dot.state.mn.us/stateaid/training/lrip.pptx>

If you have questions regarding this solicitation, contact Marc Brieese at 651-366-3802 or [marc.brieese@state.mn.us](mailto:marc.brieese@state.mn.us).

**EXHIBIT E**

**GRANTEE RESOLUTION APPROVING GRANT AGREEMENT**

**RESOLUTION NO.  
EXHIBIT E FOR GRANT AGREEMENT TO STATE  
TRANSPORTATION FUND LOCAL ROAD IMPROVEMENT  
PROGRAM GRANT TERMS AND CONDITIONS FOR  
CONSTRUCTION OF THE 77TH STREET AND TRUNK  
HIGHWAY 77 IMPROVEMENTS PROJECT (SP 157-594-  
003; SP 157-108-035; & SP 2758-82)**

**WHEREAS**, the City of Richfield has applied to the Commissioner of Transportation for a grant from the Minnesota State Transportation Fund for Local Road Improvement; and

**WHEREAS**, the Commissioner of Transportation has given notice that funding for this project is available; and

**WHEREAS**, the amount of the grant has been determined to be \$11,690,000 by reason of the lowest responsible bid.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Richfield, that the City of Richfield does hereby agree to the terms and conditions of the grant consistent with Minnesota Statutes, section 174.52 and will pay any additional amount by which the cost exceeds the estimate, and will return to the Minnesota State Transportation Fund any amount appropriated for the project but not required. The Mayor and City Manager are hereby authorized to execute a grant agreement and any amendments thereto with the Commissioner of Transportation concerning the above-referenced grant.

Adopted by the City Council of the City of Richfield, Minnesota, this 24th day of August, 2021.

\_\_\_\_\_  
Maria Regan Gonzalez, Mayor

ATTEST:

\_\_\_\_\_  
Kari Sinning, City Clerk

## **EXHIBIT F**

### **GENERAL TERMS AND CONDITIONS FOR LOCAL ROAD IMPROVEMENT PROGRAM (LRIP) GRANTS**

#### **Article I DEFINITIONS**

Section 1.01 **Defined Terms.** The following terms shall have the meanings set out respectively after each such term (the meanings to be equally applicable to both the singular and plural forms of the terms defined) unless the context specifically indicates otherwise:

“Advance(s)” - means an advance made or to be made by MnDOT to the Public Entity and disbursed in accordance with the provisions contained in Article VI hereof.

“Agreement” - means the Local Road Improvement Program Grant Agreement between the Public Entity and the Minnesota Department of Transportation to which this Exhibit is attached.

“Certification” - means the certification, in the form attached as **Exhibit C**, in which the Public Entity acknowledges that its interest in the Real Property is bond financed property within the meaning of Minn. Stat. Sec. 16A.695 and is subject to certain restrictions imposed thereby.

“Code” - means the Internal Revenue Code of 1986, as amended, and all treasury regulations, revenue procedures and revenue rulings issued pursuant thereto.

“Commissioner” - means the Commissioner of Minnesota Management & Budget.

“Commissioner’s Order” - means the “Fourth Order Amending Order of the Commissioner of Minnesota Management & Budget Relating to Use and Sale of State Bond Financed Property” dated July 30, 2012, as it may be amended or supplemented.

“Completion Date” - means the projected date for completion of the Project as indicated in the Agreement.

“Construction Contract Documents” - means the document or documents, in form and substance acceptable to MnDOT, including but not limited to any construction plans and specifications and any exhibits, amendments, change orders, modifications thereof or supplements thereto, which collectively form the contract between the Public Entity and the Contractor(s) for the completion of the Construction Items on or before the Completion Date for either a fixed price or a guaranteed maximum price.

“Construction Items” - means the work to be performed under the Construction Contract Documents.

“Contractor” - means any person engaged to work on or to furnish materials and supplies for the Construction Items including, if applicable, a general contractor.

“Draw Requisition” - means a draw requisition that the Public Entity, or its designee, submits to MnDOT when an Advance is requested, as referred to in Section 4.02.

“G.O. Bonds” - means the state general obligation bonds issued under the authority granted in Article XI, Sec. 5(a) of the Minnesota Constitution, the proceeds of which are used to fund the LRIP Grant, and any bonds issued to refund or replace such bonds.

“Grant Application” - means the grant application that the Public Entity submitted to MnDOT which is attached as **Exhibit D**.

“LRIP Grant” - means a grant from MnDOT to the Public Entity under the LRIP in the amount specified in the Agreement, as such amount may be modified under the provisions hereof.

“LRIP” - means the Local Road Improvement Program pursuant to Minn. Stat. Sec. 174.52 and rules relating thereto.

“MnDOT” - means the Minnesota Department of Transportation.

“Outstanding Balance of the LRIP Grant” - means the portion of the LRIP Grant that has been disbursed to the Public Entity minus any amounts returned to the Commissioner.

“Project” - means the Project identified in the Agreement to be totally or partially funded with a LRIP grant.

“Public Entity” - means the grantee of the LRIP Grant and identified as the Public Entity in the Agreement.

“Real Property” - means the real property identified in the Agreement on which the Project is located.

## **Article II**

### **GRANT**

Section 2.01 **Grant of Monies.** MnDOT shall make the LRIP Grant to the Public Entity, and disburse the proceeds in accordance with the terms and conditions herein.

Section 2.02 **Public Ownership.** The Public Entity acknowledges and agrees that the LRIP Grant is being funded with the proceeds of G.O. Bonds, and as a result all of the Real Property must be owned by one or more public entities. The Public Entity represents and warrants to MnDOT that it has one or more of the following ownership interests in the Real Property: (i) fee simple ownership, (ii) an easement that is for a term that extends beyond the date that is 37.5 years from the Agreement effective date, or such shorter term as authorized by statute, and which cannot be modified or terminated early without the prior written consent of MnDOT and the Commissioner; and/or (iii) a prescriptive easement for a term that extends beyond the date that is 37.5 years from the Agreement effective date.

Section 2.03 **Use of Grant Proceeds.** The Public Entity shall use the LRIP Grant solely to reimburse itself for expenditures it has already made, or will make, to pay the costs of one of the following applicable activities: (i) preliminary, final construction and engineering and administration (ii) constructing or reconstructing city streets, county highways, or town roads with statewide or regional significance that have not been fully funded through other state, federal, or local funding sources; or (iii) capital improvement projects on county state-aid highways that are intended primarily to reduce traffic crashes, deaths, injuries, and property damage. The Public Entity shall not use the LRIP Grant for any other purpose, including but not limited to, any work to be done on a state trunk highway or within a trunk highway easement.

**Section 2.04 Operation of the Real Property.** The Real Property must be used by the Public Entity in conjunction with or for the operation of a county highway, county state-aid highway, town road, or city street and for other uses customarily associated therewith, such as trails and utility corridors, and for no other purposes or uses. The Public Entity shall have no intention on the effective date of the Agreement to use the Real Property as a trunk highway or any part of a trunk highway. The Public Entity must annually determine that the Real Property is being used for the purposes specified in this Section and, upon written request by either MnDOT or the Commissioner, shall supply a notarized statement to that effect.

**Section 2.05 Sale or Lease of Real Property.** The Public Entity shall not (i) sell or transfer any part of its ownership interest in the Real Property, or (ii) lease out or enter into any contract that would allow another entity to use or operate the Real Property without the written consent of both MnDOT and the Commissioner. The sale or transfer of any part of the Public Entity's ownership interest in the Real Property, or any lease or contract that would allow another entity to use or operate the Real Property, must comply with the requirements imposed by Minn. Stat. Sec. 16A.695 and the Commissioner's Order regarding such sale or lease.

**Section 2.06 Public Entity's Representations and Warranties.** The Public Entity represents and warrants to MnDOT that:

- A. It has legal authority to execute, deliver and perform the Agreement and all documents referred to therein, and it has taken all actions necessary to its execution and delivery of such documents.
- B. It has the ability and a plan to fund the operation of the Real Property for the purposes specified in Section 2.04, and will include in its annual budget all funds necessary for the operation of the Real Property for such purposes.
- C. The Agreement and all other documents referred to therein are the legal, valid and binding obligations of the Public Entity enforceable against the Public Entity in accordance with their respective terms.
- D. It will comply with all of the provisions of Minn. Stat. Sec. 16A.695, the Commissioner's Order and the LRIP. It has legal authority to use the G.O. Grant for the purpose or purposes described in this Agreement.
- E. All of the information it has submitted or will submit to MnDOT or the Commissioner relating to the LRIP Grant or the disbursement of the LRIP Grant is and will be true and correct.
- F. It is not in violation of any provisions of its charter or of the laws of the State of Minnesota, and there are no actions or proceedings pending, or to its knowledge threatened, before any judicial body or governmental authority against or affecting it relating to the Real Property, or its ownership interest therein, and it is not in default with respect to any order, writ, injunction, decree, or demand of any court or any governmental authority which would impair its ability to enter into the Agreement or any document referred to herein, or to perform any of the acts required of it in such documents.
- G. Neither the execution and delivery of the Agreement or any document referred to herein nor compliance with any of the provisions or requirements of any of such documents is prevented



- by, is a breach of, or will result in a breach of, any provision of any agreement or document to which it is now a party or by which it is bound.
- H. The contemplated use of the Real Property will not violate any applicable zoning or use statute, ordinance, building code, rule or regulation, or any covenant or agreement of record relating thereto.
  - I. The Project will be completed and the Real Property will be operated in full compliance with all applicable laws, rules, ordinances, and regulations of any federal, state, or local political subdivision having jurisdiction over the Project and the Real Property.
  - J. All applicable licenses, permits and bonds required for the performance and completion of the Project and for the operation of the Real Property as specified in Section 2.04 have been, or will be, obtained.
  - K. It reasonably expects to possess its ownership interest in the Real Property described in Section 2.02 for at least 37.5 years, and it does not expect to sell such ownership interest.
  - L. It does not expect to lease out or enter into any contract that would allow another entity to use or operate the Real Property.
  - M. It will supply whatever funds are needed in addition to the LRIP Grant to complete and fully pay for the Project.
  - N. The Construction Items will be completed substantially in accordance with the Construction Contract Documents by the Completion Date and all such items will be situated entirely on the Real Property.
  - O. It will require the Contractor or Contractors to comply with all rules, regulations, ordinances, and laws bearing on its performance under the Construction Contract Documents.
  - P. It shall furnish such satisfactory evidence regarding the representations and warranties described herein as may be required and requested by either MnDOT or the Commissioner.
  - Q. It has made no material false statement or misstatement of fact in connection with its receipt of the G.O. Grant, and all the information it has submitted or will submit to the State Entity or Commissioner of MMB relating to the G.O. Grant or the disbursement of any of the G.O. Grant is and will be true and correct.

Section 2.07 **Event(s) of Default.** The following events shall, unless waived in writing by MnDOT and the Commissioner, constitute an Event of Default under the Agreement upon either MnDOT or the Commissioner giving the Public Entity 30 days' written notice of such event and the Public Entity's failure to cure such event during such 30-day time period for those Events of Default that can be cured within 30 days or within whatever time period is needed to cure those Events of Default that cannot be cured within 30 days as long as the Public Entity is using its best efforts to cure and is making reasonable progress in curing such Events of Default; however, in no event shall the time period to cure any Event of Default exceed six (6) months unless otherwise consented to, in writing, by MnDOT and the Commissioner.

- A. If any representation, covenant, or warranty made by the Public Entity herein or in any other document furnished pursuant to the Agreement, or to induce MnDOT to disburse the LRIP

Grant, shall prove to have been untrue or incorrect in any material respect or materially misleading as of the time such representation, covenant, or warranty was made.

- B. If the Public Entity fails to fully comply with any provision, covenant, or warranty contained herein.
- C. If the Public Entity fails to fully comply with any provision, covenant or warranty contained in Minn. Stat. Sec. 16A.695, the Commissioner's Order, or Minn. Stat. Sec. 174.52 and all rules related thereto.
- D. If the Public Entity fails to use the proceeds of the LRIP Grant for the purposes set forth in Section 2.03, the Grant Application, and in accordance with the LRIP.
- E. If the Public Entity fails to operate the Real Property for the purposes specified in Section 2.04.
- F. If the Public Entity fails to complete the Project by the Completion Date.
- G. If the Public Entity sells or transfers any portion of its ownership interest in the Real Property without first obtaining the written consent of both MnDOT and the Commissioner.
- H. If the Public Entity fails to provide any additional funds needed to fully pay for the Project.
- I. If the Public Entity fails to supply the funds needed to operate the Real Property in the manner specified in Section 2.04.

Notwithstanding the foregoing, any of the above events that cannot be cured shall, unless waived in writing by MnDOT and the Commissioner, constitute an Event of Default under the Agreement immediately upon either MnDOT or the Commissioner giving the Public Entity written notice of such event.

Section 2.08 **Remedies.** Upon the occurrence of an Event of Default and at any time thereafter until such Event of Default is cured to the satisfaction of MnDOT, MnDOT or the Commissioner may enforce any or all of the following remedies.

- A. MnDOT may refrain from disbursing the LRIP Grant; provided, however, MnDOT may make such disbursements after the occurrence of an Event of Default without waiving its rights and remedies hereunder.
- B. If the Event of Default involves a sale of the Public Entity's interest in the Real Property in violation of Minn. Stat. Sec. 16A.695 or the Commissioner's Order, the Commissioner, as a third party beneficiary of the Agreement, may require that the Public Entity pay the amounts that would have been paid if there had been compliance with such provisions. For other Events of Default, the Commissioner may require that the Outstanding Balance of the LRIP Grant be returned to it.
- C. Either MnDOT or the Commissioner, as a third party beneficiary of the Agreement, may enforce any additional remedies it may have in law or equity.

The rights and remedies specified herein are cumulative and not exclusive of any rights or remedies that MnDOT or the Commissioner would otherwise possess.

If the Public Entity does not repay the amounts required to be paid under this Section or under any other provision contained herein within 30 days of demand by the Commissioner, or any amount ordered by a court of competent jurisdiction within 30 days of entry of judgment against the Public Entity and in favor of MnDOT and/or the Commissioner, then such amount may, unless precluded by law, be offset against any aids or other monies that the Public Entity is entitled to receive from the State of Minnesota.

**Section 2.09 Notification of Event of Default.** The Public Entity shall furnish to MnDOT and the Commissioner, as soon as possible and in any event within seven (7) days after it has obtained knowledge of the occurrence of each Event of Default, a statement setting forth details of each Event of Default and the action which the Public Entity proposes to take with respect thereto.

**Section 2.10 Effect of Event of Default.** The Agreement shall survive Events of Default and remain in full force and effect, even upon full disbursement of the LRIP Grant, and shall only be terminated under the circumstances set forth in Section 2.11.

**Section 2.11 Termination of Agreement and Modification of LRIP Grant.**

A. If the Project is not started within five (5) years after the effective date of the Agreement or the LRIP Grant has not been disbursed within four (4) years after the date the Project was started, MnDOT's obligation to fund the LRIP Grant shall terminate. In such event, (i) if none of the LRIP Grant has been disbursed by such date, MnDOT shall have no obligation to fund the LRIP Grant and the Agreement will terminate, and (ii) if some but not all of the LRIP Grant has been disbursed by such date, MnDOT shall have no further obligation to provide any additional funding for the LRIP Grant and the Agreement shall remain in force but shall be modified to reflect the amount of the LRIP Grant that was actually disbursed and the Public Entity is still obligated to complete the Project by the Completion Date.

B. The Agreement shall terminate upon the Public Entity's sale of its interest in the Real Property and transmittal of the required portion of the proceeds of the sale to the Commissioner in compliance with Minn. Stat. Sec. 16A.695 and the Commissioner's Order, or upon the termination of the Public Entity's ownership interest in the Real Property if such ownership interest is an easement.

**Section 2.12 Excess Funds.** If the full amount of the G.O. Grant and any matching funds referred to in Section 5.13 are not needed to complete the Project, then, unless language in the G.O. Bonding Legislation indicates otherwise, the G.O. Grant shall be reduced by the amount not needed.

**Article III**

**COMPLIANCE WITH MINNESOTA STATUTE, SEC. 16A.695  
AND THE COMMISSIONER'S ORDER**

**Section 3.01 State Bond Financed Property.** The Public Entity acknowledges that its interest in the Real Property is, or when acquired by it will be, "state bond financed property", as such term is used in Minn. Stat. Sec. 16A.695 and the Commissioner's Order and, therefore, the provisions contained in such statute and order apply, or will apply, to its interest in the Real Property, even if the LRIP Grant will only pay for a portion of the Project.

**Section 3.02 Preservation of Tax Exempt Status.** In order to preserve the tax-exempt status of the G.O. Bonds, the Public Entity agrees as follows:

- A. It will not use the Real Property or use or invest the LRIP Grant or any other sums treated as “bond proceeds” under Section 148 of the Code (including “investment proceeds,” “invested sinking funds” and “replacement proceeds”) in such a manner as to cause the G.O. Bonds to be classified as “arbitrage bonds” under Code Section 148.
- B. It will deposit and hold the LRIP Grant in a segregated non-interest-bearing account until such funds are used for payments for the Project.
- C. It will, upon written request, provide the Commissioner all information required to satisfy the informational requirements set forth in the Code, including Sections 103 and 148, with respect to the G.O. Bonds.
- D. It will, upon the occurrence of any act or omission by the Public Entity that could cause the interest on the G.O. Bonds to no longer be tax exempt and upon direction from the Commissioner, take such actions and furnish such documents as the Commissioner determines to be necessary to ensure that the interest to be paid on the G.O. Bonds is exempt from federal taxation, which such action may include: (i) compliance with proceedings intended to classify the G.O. Bonds as a “qualified bond” within the meaning of Code Section 141(e), or (ii) changing the nature of the use of the Real Property so that none of the net proceeds of the G.O. Bonds will be deemed to be used, directly or indirectly, in an “unrelated trade or business” or for any “private business use” within the meaning of Code Sections 141(b) and 145(a).
- E. It will not otherwise use any of the LRIP Grant or take, permit or cause to be taken, or omit to take, any action that would adversely affect the exemption from federal income taxation of the interest on the G.O. Bonds, and if it should take, permit or cause to be taken, or omit to take, as appropriate, any such action, it shall take all lawful actions necessary to correct such actions or omissions promptly upon obtaining knowledge thereof.

Section 3.03 **Changes to G.O. Compliance Legislation or the Commissioner’s Order.** If Minn. Stat. Sec. 16A.695 or the Commissioner’s Order is amended in a manner that reduces any requirement imposed against the Public Entity, or if the Public Entity’s interest in the Real Property becomes exempted from Minn. Stat. Sec. 16A.695 and the Commissioner’s Order, then upon written request by the Public Entity, MnDOT shall execute an amendment to the Agreement to implement such amendment or exempt the Public Entity’s interest in the Real Property from Minn. Stat. Sec. 16A.695 and the Commissioner’s Order.

#### **Article IV DISBURSEMENT OF GRANT PROCEEDS**

Section 4.01 **The Advances.** MnDOT agrees, on the terms and subject to the conditions set forth herein, to make Advances of the LRIP Grant to the Public Entity from time to time in an aggregate total amount not to exceed the amount of the LRIP Grant. If the amount of LRIP Grant that MnDOT cumulatively disburses hereunder to the Public Entity is less than the amount of the LRIP Grant delineated in Section 1.01, then MnDOT and the Public Entity shall enter into and execute whatever documents MnDOT may request in order to amend or modify this Agreement to reduce the amount of the LRIP Grant to the amount actually disbursed. Provided, however, in accordance with the provisions contained in Section 2.11, MnDOT’s obligation to make Advances shall terminate as of the dates specified in Section 2.11 even if the entire LRIP Grant has not been disbursed by such dates.

Advances shall only be for expenses that (i) are for those items of a capital nature delineated in

Source and Use of Funds that is attached as **Exhibit A**, (ii) accrued no earlier than the effective date of the legislation that appropriated the funds that are used to fund the LRIP Grant, or (iii) have otherwise been consented to, in writing, by the Commissioner.

It is the intent of the parties hereto that the rate of disbursement of the Advances shall not exceed the rate of completion of the Project or the rate of disbursement of the matching funds required, if any, under Section 5.13. Therefore, the cumulative amount of all Advances disbursed by the State Entity at any point in time shall not exceed the portion of the Project that has been completed and the percentage of the matching funds required, if any, under Section 5.13 that have been disbursed as of such point in time. This requirement is expressed by way of the following two formulas:

Formula #1:

Cumulative Advances  $\leq$  (Program Grant)  $\times$  (percentage of matching funds, if any, required under Section 5.13 that have been disbursed)

Formula #2:

Cumulative Advances  $\leq$  (Program Grant)  $\times$  (percentage of Project completed)

**Section 4.02 Draw Requisitions.** Whenever the Public Entity desires a disbursement of a portion of the LRIP Grant the Public Entity shall submit to MnDOT a Draw Requisition duly executed on behalf of the Public Entity or its designee. Each Draw Requisition with respect to construction items shall be limited to amounts equal to: (i) the total value of the classes of the work by percentage of completion as approved by the Public Entity and MnDOT, plus (ii) the value of materials and equipment not incorporated in the Project but delivered and suitably stored on or off the Real Property in a manner acceptable to MnDOT, less (iii) any applicable retainage, and less (iv) all prior Advances.

Notwithstanding anything herein to the contrary, no Advances for materials stored on or off the Real Property will be made by MnDOT unless the Public Entity shall advise MnDOT, in writing, of its intention to so store materials prior to their delivery and MnDOT has not objected thereto.

At the time of submission of each Draw Requisition, other than the final Draw Requisition, the Public Entity shall submit to MnDOT such supporting evidence as may be requested by MnDOT to substantiate all payments which are to be made out of the relevant Draw Requisition or to substantiate all payments then made with respect to the Project.

The final Draw Requisition shall not be submitted before completion of the Project, including any correction of material defects in workmanship or materials (other than the completion of punch list items). At the time of submission of the final Draw Requisition the Public Entity shall submit to MnDOT: (I) such supporting evidence as may be requested by MnDOT to substantiate all payments which are to be made out of the final Draw Requisition or to substantiate all payments then made with respect to the Project, and (ii) satisfactory evidence that all work requiring inspection by municipal or other governmental authorities having jurisdiction has been duly inspected and approved by such authorities and that all requisite certificates and other approvals have been issued.

If on the date an Advance is desired the Public Entity has complied with all requirements of this Agreement and MnDOT approves the relevant Draw Requisition, then MnDOT shall disburse the amount of the requested Advance to the Public Entity.

**Section 4.03 Additional Funds.** If MnDOT shall at any time in good faith determine that the sum of the undisbursed amount of the LRIP Grant plus the amount of all other funds committed to the Project is less than the amount required to pay all costs and expenses of any kind which reasonably may be

anticipated in connection with the Project, then MnDOT may send written notice thereof to the Public Entity specifying the amount which must be supplied in order to provide sufficient funds to complete the Project. The Public Entity agrees that it will, within 10 calendar days of receipt of any such notice, supply or have some other entity supply the amount of funds specified in MnDOT's notice.

Section 4.04 **Condition Precedent to Any Advance.** The obligation of MnDOT to make any Advance hereunder (including the initial Advance) shall be subject to the following conditions precedent:

- A. MnDOT shall have received a Draw Requisition for such Advance specifying the amount of funds being requested, which such amount when added to all prior requests for an Advance shall not exceed the amount of the LRIP Grant set forth in Section 1.01.
- B. No Event of Default under this Agreement or event which would constitute an Event of Default but for the requirement that notice be given or that a period of grace or time elapse shall have occurred and be continuing.
- C. No determination shall have been made by MnDOT that the amount of funds committed to the Project is less than the amount required to pay all costs and expenses of any kind that may reasonably be anticipated in connection with the Project, or if such a determination has been made and notice thereof sent to the Public Entity under Section 4.03, then the Public Entity has supplied, or has caused some other entity to supply, the necessary funds in accordance with such section or has provided evidence acceptable to MnDOT that sufficient funds are available.
- D. The State Entity shall have received evidence, in form and substance acceptable to the State Entity, that the Public Entity has sufficient funds to fully and completely pay for the Project and all other expenses that may occur in conjunction therewith.
- E. The Public Entity has supplied to the State Entity all other items that the State Entity may reasonably require

Section 4.05 **Processing and Disbursement of Advances.** The Public Entity acknowledges and agrees as follows:

- A. Advances are not made prior to completion of work performed on the Project.
- B. All Advances are processed on a reimbursement basis.
- C. The Public Entity must first document expenditures to obtain an Advance.
- D. Reimbursement requests are made on a partial payment basis or when the Project is completed.
- E. All payments are made following the "Delegated Contract Process or State Aid Payment Request" as requested and approved by the appropriate district state aid engineer.

Section 4.06 **Construction Inspections.** The Public Entity shall be responsible for making its own inspections and observations regarding the completion of the Project, and shall determine to its own satisfaction that all work done or materials supplied have been properly done or supplied in accordance with all contracts that the Public Entity has entered into regarding the completion of the Project.

## Article V MISCELLANEOUS

Section 5.01 **Insurance.** If the Public Entity elects to maintain general comprehensive liability insurance regarding the Real Property, then the Public Entity shall have MnDOT named as an additional named insured therein.

Section 5.02 **Condemnation.** If, after the Public Entity has acquired the ownership interest set forth in Section 2.02, all or any portion of the Real Property is condemned to an extent that the Public Entity can no longer comply with Section 2.04, then the Public Entity shall, at its sole option, either: (i) use the condemnation proceeds to acquire an interest in additional real property needed for the Public Entity to continue to comply with Section 2.04 and to provide whatever additional funds that may be needed for such purposes, or (ii) submit a request to MnDOT and the Commissioner to allow it to sell the remaining portion of its interest in the Real Property. Any condemnation proceeds which are not used to acquire an interest in additional real property shall be applied in accordance with Minn. Stat. Sec. 16A.695 and the Commissioner's Order as if the Public Entity's interest in the Real Property had been sold. If the Public Entity elects to sell its interest in the portion of the Real Property that remains after the condemnation, such sale must occur within a reasonable time period after the date the condemnation occurred and the cumulative sum of the condemnation and sale proceeds applied in accordance with Minn. Stat. Sec. 16A.695 and the Commissioner's Order.

If MnDOT receives any condemnation proceeds referred to herein, MnDOT agrees to or pay over to the Public Entity all of such condemnation proceeds so that the Public Entity can comply with the requirements of this Section.

Section 5.03 **Use, Maintenance, Repair and Alterations.** The Public Entity shall not, without the written consent of MnDOT and the Commissioner, (i) permit or allow the use of any of the Real Property for any purpose other than the purposes specified in Section 2.04, (ii) substantially alter any of the Real Property except such alterations as may be required by laws, ordinances or regulations, or such other alterations as may improve the Real Property by increasing its value or which improve its ability to be used for the purposes set forth in Section 2.04, (iii) take any action which would unduly impair or depreciate the value of the Real Property, (iv) abandon the Real Property, or (v) commit or permit any act to be done in or on the Real Property in violation of any law, ordinance or regulation.

If the Public Entity fails to maintain the Real Property in accordance with this Section, MnDOT may perform whatever acts and expend whatever funds necessary to so maintain the Real Property, and the Public Entity irrevocably authorizes MnDOT to enter upon the Real Property to perform such acts as may be necessary to so maintain the Real Property. Any actions taken or funds expended by MnDOT shall be at its sole discretion, and nothing contained herein shall require MnDOT to take any action or incur any expense and MnDOT shall not be responsible, or liable to the Public Entity or any other entity, for any such acts that are performed in good faith and not in a negligent manner. Any funds expended by MnDOT pursuant to this Section shall be due and payable on demand by MnDOT and will bear interest from the date of payment by MnDOT at a rate equal to the lesser of the maximum interest rate allowed by law or 18% per year based upon a 365-day year.

Section 5.04 **Recordkeeping and Reporting.** The Public Entity shall maintain books and records pertaining to Project costs and expenses needed to comply with the requirements contained herein, Minn. Stat. Sec. 16A.695, the Commissioner's Order, and Minn. Stat. Sec. 174.52 and all rules related thereto, and upon request shall allow MnDOT, its auditors, the Legislative Auditor for the State of Minnesota, or the State Auditor for the State of Minnesota, to inspect, audit, copy, or abstract all of such items. The

Public Entity shall use generally accepted accounting principles in the maintenance of such items, and shall retain all of such books and records for a period of six years after the date that the Project is fully completed and placed into operation.

Section 5.05 **Inspections by MnDOT.** The Public Entity shall allow MnDOT to inspect the Real Property upon reasonable request by MnDOT and without interfering with the normal use of the Real Property.

Section 5.06 **Liability.** The Public Entity and MnDOT agree that each will be responsible for its own acts and the results thereof to the extent authorized by law, and neither shall be responsible for the acts of the other party and the results thereof. The liability of MnDOT and the Commissioner is governed by the provisions of Minn. Stat. Sec. 3.736. If the Public Entity is a “municipality” as that term is used in Minn. Stat. Chapter 466, then the liability of the Public Entity is governed by the provisions of Chapter 466. The Public Entity’s liability hereunder shall not be limited to the extent of insurance carried by or provided by the Public Entity, or subject to any exclusion from coverage in any insurance policy.

Section 5.07 **Relationship of the Parties.** Nothing contained in the Agreement is to be construed as establishing a relationship of co-partners or joint venture among the Public Entity, MnDOT, or the Commissioner, nor shall the Public Entity be considered to be an agent, representative, or employee of MnDOT, the Commissioner, or the State of Minnesota in the performance of the Agreement or the Project.

No employee of the Public Entity or other person engaging in the performance of the Agreement or the Project shall be deemed have any contractual relationship with MnDOT, the Commissioner, or the State of Minnesota and shall not be considered an employee of any of those entities. Any claims that may arise on behalf of said employees or other persons out of employment or alleged employment, including claims under the Workers’ Compensation Act of the State of Minnesota, claims of discrimination against the Public Entity or its officers, agents, contractors, or employees shall in no way be the responsibility of MnDOT, the Commissioner, or the State of Minnesota. Such employees or other persons shall not require nor be entitled to any compensation, rights or benefits of any kind whatsoever from MnDOT, the Commissioner, or the State of Minnesota, including tenure rights, medical and hospital care, sick and vacation leave, disability benefits, severance pay and retirement benefits.

Section 5.08 **Notices.** In addition to any notice required under applicable law to be given in another manner, any notices required hereunder must be in writing and personally served or sent by prepaid, registered, or certified mail (return receipt requested), to the address of the party specified below or to such different address as may in the future be specified by a party by written notice to the others:

To the Public Entity: At the address indicated on the first page of the Agreement.

To MnDOT at: Minnesota Department of Transportation  
Office of State Aid  
395 John Ireland Blvd., MS 500  
Saint Paul, MN 55155  
Attention: Marc Briesse, State Aid Programs Engineer

To the Commissioner at: Minnesota Management & Budget  
400 Centennial Office Bldg.  
658 Cedar St.  
St. Paul, MN 55155  
Attention: Commissioner



Section 5.09 **Assignment or Modification.** Neither the Public Entity nor MnDOT may assign any of its rights or obligations under the Agreement without the prior written consent of the other party.

Section 5.10 **Waiver.** Neither the failure by the Public Entity, MnDOT, or the Commissioner, as a third party beneficiary of the Agreement, in one or more instances to insist upon the complete observance or performance of any provision hereof, nor the failure of the Public Entity, MnDOT, or the Commissioner to exercise any right or remedy conferred hereunder or afforded by law shall be construed as waiving any breach of such provision or the right to exercise such right or remedy thereafter. In addition, no delay by any of the Public Entity, MnDOT, or the Commissioner in exercising any right or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right or remedy preclude other or further exercise thereof or the exercise of any other right or remedy.

Section 5.11 **Choice of Law and Venue.** All matters relating to the validity, interpretation, performance, or enforcement of the Agreement shall be determined in accordance with the laws of the State of Minnesota. All legal actions arising from any provision of the Agreement shall be initiated and venued in the State of Minnesota District Court located in St. Paul, Minnesota.

Section 5.12 **Severability.** If any provision of the Agreement is finally judged by any court to be invalid, then the remaining provisions shall remain in full force and effect and they shall be interpreted, performed, and enforced as if the invalid provision did not appear herein.

Section 5.13 **Matching Funds.** Any matching funds as shown on Page 1 of the Grant Agreement that are required to be obtained and supplied by the Public Entity must either be in the form of (i) cash monies, (ii) legally binding commitments for money, or (iii) equivalent funds or contributions, including equity, which have been or will be used to pay for the Project. The Public Entity shall supply to MnDOT whatever documentation MnDOT may request to substantiate the availability and source of any matching funds.

Section 5.14 **Sources and Uses of Funds.** The Public Entity represents to MnDOT and the Commissioner that the Sources and Uses of Funds Schedule attached as **Exhibit A** accurately shows the total cost of the Project and all of the funds that are available for the completion of the Project. The Public Entity will supply any other information and documentation that MnDOT or the Commissioner may request to support or explain any of the information contained in the Sources and Uses of Funds Schedule. If any of the funds shown in the Sources and Uses of Funds Schedule have conditions precedent to the release of such funds, the Public Entity must provide to MnDOT a detailed description of such conditions and what is being done to satisfy such conditions.

Section 5.15 **Project Completion Schedule.** The Public Entity represents to MnDOT and the Commissioner that the Project Completion Schedule attached as **Exhibit B** correctly and accurately sets forth the projected schedule for the completion of the Project.

Section 5.16 **Third-Party Beneficiary.** The Governmental Program will benefit the State of Minnesota and the provisions and requirements contained herein are for the benefit of both the State Entity and the State of Minnesota. Therefore, the State of Minnesota, by and through its Commissioner of MMB, is and shall be a third-party beneficiary of this Agreement.

Section 5.17 **Public Entity Tasks.** Any tasks that the Agreement imposes upon the Public Entity may be performed by such other entity as the Public Entity may select or designate, provided that the failure of such other entity to perform said tasks shall be deemed to be a failure to perform by the Public Entity.

Section 5.18 **Data Practices.** The Public Entity agrees with respect to any data that it possesses regarding the G.O. Grant or the Project to comply with all of the provisions and restrictions contained in the Minnesota Government Data Practices Act contained in Minnesota Statutes Chapter 13, as such may subsequently be amended or replaced from time to time.

Section 5.19 **Non-Discrimination.** The Public Entity agrees to not engage in discriminatory employment practices regarding the Project and it shall fully comply with all of the provisions contained in Minnesota Statutes Chapters 363A and 181, as such may subsequently be amended or replaced from time to time.

Section 5.20 **Worker's Compensation.** The Public Entity agrees to comply with all of the provisions relating to worker's compensation contained in Minn. Stat. Secs. 176.181 subd. 2 and 176.182, as they may be amended or replaced from time to time with respect to the Project.

Section 5.21 **Antitrust Claims.** The Public Entity hereby assigns to MnDOT and the Commissioner of MMB all claims it may have for over charges as to goods or services provided with respect to the Project that arise under the antitrust laws of the State of Minnesota or of the United States of America.

Section 5.22 **Prevailing Wages.** The Public Entity agrees to comply with all of the applicable provisions contained in Minnesota Statutes Chapter 177, and specifically those provisions contained in Minn. Stat. §. 177.41 through 177.435 as they may be amended or replaced from time to time with respect to the Project. By agreeing to this provision, the Public Entity is not acknowledging or agreeing that the cited provisions apply to the Project.

Section 5.23 **Entire Agreement.** The Agreement and all of the exhibits attached thereto embody the entire agreement between the Public Entity and MnDOT, and there are no other agreements, either oral or written, between the Public Entity and MnDOT on the subject matter hereof.

Section 5.24 **E-Verification.** The Public Entity agrees and acknowledges that it is aware of Minn.Stat. § 16C.075 regarding e-verification of employment of all newly hired employees to confirm that such employees are legally entitled to work in the United States, and that it will, if and when applicable, fully comply with such order.

Section 5.25 **Telecommunications Certification.** If federal funds are included in Exhibit A, by signing this agreement, Contractor certifies that, consistent with Section 889 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. 115-232 (Aug. 13, 2018), and 2 CFR 200.216, Contractor will not use funding covered by this agreement to procure or obtain, or to extend, renew, or enter into any contract to procure or obtain, any equipment, system, or service that uses "covered telecommunications equipment or services" (as that term is defined in Section 889 of the Act) as a substantial or essential component of any system or as critical technology as part of any system. Contractor will include this certification as a flow down clause in any contract related to this agreement.

Section 5.26 **Title VI/Non-discrimination Assurances.** Public Entity agrees to comply with all applicable US DOT Standard Title VI/Non-Discrimination Assurances contained in DOT Order No. 1050.2A, and in particular Appendices A and E, which can be found at: [https://edocs-public.dot.state.mn.us/edocs\\_public/DMResultSet/download?docId=11149035](https://edocs-public.dot.state.mn.us/edocs_public/DMResultSet/download?docId=11149035). Public Entity will ensure the appendices and solicitation language within the assurances are inserted into contracts as required. MnDOT may conduct a review of the Public Entity's compliance with this provision. The Public Entity must cooperate with MnDOT throughout the review process by supplying all requested information and

documentation to MnDOT, making Public Entity staff and officials available for meetings as requested, and correcting any areas of non-compliance as determined by MnDOT.

**RESOLUTION NO.  
EXHIBIT E FOR GRANT AGREEMENT TO STATE  
TRANSPORTATION FUND LOCAL ROAD IMPROVEMENT  
PROGRAM GRANT TERMS AND CONDITIONS FOR  
CONSTRUCTION OF THE 77TH STREET AND TRUNK  
HIGHWAY 77 IMPROVEMENTS PROJECT (SP 157-594-  
003; SP 157-108-035; & SP 2758-82)**

**WHEREAS**, the City of Richfield has applied to the Commissioner of Transportation for a grant from the Minnesota State Transportation Fund for Local Road Improvement; and

**WHEREAS**, the Commissioner of Transportation has given notice that funding for this project is available; and

**WHEREAS**, the amount of the grant has been determined to be \$11,690,000 by reason of the lowest responsible bid.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Richfield, that the City of Richfield does hereby agree to the terms and conditions of the grant consistent with Minnesota Statutes, section 174.52 and will pay any additional amount by which the cost exceeds the estimate, and will return to the Minnesota State Transportation Fund any amount appropriated for the project but not required. The Mayor and City Manager are hereby authorized to execute a grant agreement and any amendments thereto with the Commissioner of Transportation concerning the above-referenced grant.

Adopted by the City Council of the City of Richfield, Minnesota, this 24th day of August, 2021.

\_\_\_\_\_  
Maria Regan Gonzalez, Mayor

ATTEST:

\_\_\_\_\_  
Kari Sinning, City Clerk



**STAFF REPORT NO. 123**  
**CITY COUNCIL MEETING**  
**8/24/2021**

REPORT PREPARED BY: Scott Kulzer, Administrative Aide/Analyst

DEPARTMENT DIRECTOR REVIEW: Kristin Asher, Public Works Director  
8/17/2021

OTHER DEPARTMENT REVIEW: Melissa Poehlman, Assistant Community Development Director

CITY MANAGER REVIEW: Katie Rodriguez, City Manager  
8/19/2021

**ITEM FOR COUNCIL CONSIDERATION:**

**Consider the approval of a site license agreement between the City and C.S. McCrossan Construction, Inc., for construction staging for the 77<sup>th</sup> Street and Trunk Highway 77 Improvements Project.**

**EXECUTIVE SUMMARY:**

As part of the 77<sup>th</sup> Street and Trunk Highway 77 Improvements Project, the City has authorized C.S. McCrossan Construction, Inc., to make use of the vacant City owned parcel at 1710 78<sup>th</sup> Street East adjacent to the Metro Sales property for construction staging and the siting of project headquarters and job trailers.

The site license agreement up for approval is a standard agreement that sets out the terms and conditions for use of the site. The agreement allows the contractor use of the site until December 1, 2023, but the City may require the contractor to vacate and restore the site to its original condition with a 60 day notice at any time.

**RECOMMENDED ACTION:**

**By Motion: Approve the site license agreement between the City and C.S. McCrossan Construction, Inc., for construction staging for the 77<sup>th</sup> Street and Trunk Highway 77 Improvements Project.**

**BASIS OF RECOMMENDATION:**

**A. HISTORICAL CONTEXT**

See executive summary.

**B. POLICIES (resolutions, ordinances, regulations, statutes, etc):**

None

**C. CRITICAL TIMING ISSUES:**

- The contractor has been authorized to make use of the site in advance of the approval of this site license agreement.
- Adoption of this site license agreement will formalize the agreed upon terms that govern the contractor's use of the site.

**D. FINANCIAL IMPACT:**

None

**E. LEGAL CONSIDERATION:**

The City Attorney has reviewed the agreement and will be available to answer questions.

**ALTERNATIVE RECOMMENDATION(S):**

None

**PRINCIPAL PARTIES EXPECTED AT MEETING:**

None

**ATTACHMENTS:**

Description	Type
□ Site License Agreement	Contract/Agreement

## **LICENSE AGREEMENT**

THIS AGREEMENT made and entered into as of this \_\_\_\_ day of \_\_\_\_\_, 2021, by and between CITY OF RICHFIELD, a Minnesota municipal corporation (hereinafter referred to as "Grantor"), and C.S. MCCROSSAN CONSTRUCTION, INC, (hereinafter referred to as "Grantee").

**WITNESSETH:**

### ***BACKGROUND***

Grantor is the owner of the real property located at 1710 78th Street East, Richfield, Minnesota, Hennepin County, Minnesota (the "Property"). The legal description of the Property is set forth in Exhibit A. Grantee desires to make use of the Property as shown on the attached Exhibit A (the "Licensed Premises"), on a temporary basis, in connection with the 77<sup>th</sup> Street and Trunk Highway 77 Improvements Project (the "Project"). Grantor and Grantee hereby enter into this License Agreement for that purpose.

### ***ARTICLE I - GRANT, TERM, FEE; TERMINATION***

1.1 LICENSED PREMISES. In consideration of the covenants and agreements herein, Grantor does hereby license to Grantee the Licensed Premises for use as a construction office and associated parking, for outdoor storage of a laboratory trailer, materials and supplies, and for use as a staging area by Grantee and its authorized employees, agents, contractors, and subcontractors in connection with the Project.

1.2 TERM. The term of this License will commence on the date that this agreement is executed by the parties, and will expire on December 1, 2023, unless earlier terminated under sections 4.1, 7.2 or 8.1 of this License. Upon termination of this License Agreement, the Grantee agrees to vacate the Property and deliver the same to the Grantor, or to Grantor's successor or assign.

1.3 LICENSE FEE. The Grantee shall make payment in the form of demolition of the construction office and leave the site graded and in a condition acceptable to the City Engineer.

### ***ARTICLE II - USE OF PROPERTY***

2.1 GRANTEE'S USE. During the term of this License, the Licensed Premises may be used only for the purposes identified in section 1.1. Grantee shall not use the Licensed Premises in connection with any construction project other than the Project.

2.2 MAINTENANCE. The Grantee accepts the Licensed Premises AS IS, and

WHERE IS with all faults and defects. Grantee will be responsible, at its cost and expense to maintain the Licensed Premises during the term of this Agreement. Grantee acknowledges that the Grantor will have no obligation of any nature to Grantee to maintain, preserve or repair the Licensed Premises.

2.3. HAZARDOUS MATERIALS. Grantee shall not cause or permit any Hazardous Material (defined below) to be brought upon, transported through, stored, kept, used, discharged or disposed in or about the Licensed Premises by Grantee, its agents, employees, contractors or subcontractors. Grantee shall notify Grantor immediately of the presence of or disposal of Hazardous Material on or near the Licensed Premises, and of any notice by a party alleging the presence of Hazardous Material on or near the Licensed Premises. However, Hazardous Materials brought upon, transported, used, kept or stored in or about the Licensed Premises which are necessary for the Project shall be brought upon, transported, used, kept and stored only in the quantities necessary for the usual and customary operation of Grantee's business and in a manner that complies with: (i) all laws, rules, regulations, ordinances, codes or any other governmental restriction or requirement of all federal, state and local governmental authorities having jurisdiction and regulating the Hazardous Material; (ii) permits (which Licensee shall obtain prior to bringing the Hazardous Material in, on or about the Property) issued for the Hazardous Material; and (iii) all producers' and manufacturers' instructions and recommendations, to the extent they are stricter than laws, rules, regulations, ordinances, codes or permits. If Grantee, its agents, employees, contractors, or subcontractors, in any way breaches the obligations in the preceding sentence; or if the presence of Hazardous Material on the Licensed Premises caused or permitted by Grantee results in the release or threatened release of Hazardous Material on, from or under the Licensed Premises, or if the presence on, from or under the Licensed Premises of Hazardous Material otherwise arises out of the operation of Grantee's use then, without limitation of any other rights or remedies available to Grantor under this License or at law or in equity, Grantee shall indemnify, defend, protect and hold harmless Grantor, its officers, employees, or successors (collectively "Indemnity") from any and all claims, sums paid in settlement of claims, judgments, damages, clean-up costs, penalties, fines, costs, liabilities, losses or expenses (including, without limitation, attorneys', consultants' and experts' fees and any fees by Grantor to enforce the Indemnity) which arise during or after the term of this License as a result of Grantee's breach of the obligations or the release or contamination of the Licensed Premises, including, without limitation: diminution in value of the Property; damages for the loss of, or the restriction on the use of, rentable or usable space or any amenity of the Property; damages arising from any adverse impact on the sale or lease of the Property; and damage and diminution in value to the Property or other properties, whether owned by Grantor or by third parties. This Indemnity includes, without limitation, costs incurred in connection with any investigation of site conditions or any clean-up, remedial, removal or restoration work required by any federal, state or local governmental agency or political subdivision because of Hazardous Material present in the soil or groundwater on, under or originating from the Property. Without limiting the foregoing, if the presence of Hazardous Material on the Property caused or permitted by Grantee results in the contamination, release or threatened release of Hazardous Material on, from or under the Property or other properties, Grantee shall promptly take all actions at its sole cost and expense which are necessary to return the Property and other properties to the condition existing prior to the introduction of the Hazardous Material; provided that Grantor's written approval of the actions shall be obtained



first (which approval shall not be unreasonably withheld) and so long as such actions do not have or would not potentially have any material, adverse long-term or short-term effect on Grantor or on the Property or other properties. This Indemnity shall survive the termination of this License and shall survive any transfer of Grantor's interest in the Property. "Hazardous Material" means any hazardous, radioactive or toxic substance, material or waste, including, but not limited to, those substances, materials and wastes (whether or not mixed, commingled or otherwise combined with other substances, materials or wastes) listed in the United States Department of Transportation Hazardous Materials Table (49 CFR 172.101) or by the Environmental Protection Agency as hazardous substances (40 CFR Part 302) and amendments thereto, or substances, materials and wastes which are or become regulated under any applicable local, state or federal law including, without limitation, any material, waste or substance which is (i) a petroleum product, crude oil or any fraction thereof, (ii) asbestos, (iii) polychlorinated biphenyls, (iv) designated as a "hazardous substance" pursuant to Section 311 of the Clean Water Act, 33 U.S.C. Section 1321, et seq. or listed pursuant to Section 307 of the Clean Water Act (33 U.S.C. Section 1317), (v) defined as a "hazardous waste" pursuant to Section 1004 of the Resource Conservation and Recovery Act, 42 U.S.C. Section 6903, et seq. or (vi) defined as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. Section 9601, et seq.

### ***ARTICLE III - UTILITIES***

3.1 CHARGES. Grantee shall pay for all utility services provided to the Licensed Premises during the term of the License.

### ***ARTICLE IV - DESTRUCTION AND RESTORATION***

4.1 DAMAGED. If all or part of the Licensed Premises is damaged by any casualty, or is affected by any Act of God, whether insured or uninsured, the Grantor will have no obligation to repair or rebuild. Grantee will have the option, but not the obligation, to rebuild or repair or to terminate this License by exercise of written notice to Grantor.

### ***ARTICLE V – INSURANCE; LIABILITY***

5.1 GRANTEE'S INSURANCE. Grantee shall, during the entire term hereof, keep in full force and effect a policy of commercial liability insurance, in an amount of not less than \$2,000,000, naming the City as an additional insured thereon. The policy shall provide that the same shall not be cancelled, allowed to expire, or reduced in amount or coverage without at least thirty (30) days prior written notice to Grantor. Grantee must also have workers compensation insurance for all of its employees in accordance with the statutory requirements of the State of Minnesota. Grantee is also responsible for obtaining pollution liability coverage and insurance against loss of or damage to Grantee's personal property located on the Licensed Premises. Grantee shall provide proof of the required insurance coverage, including a certificate of insurance, naming the City as an additional insured, to Grantor prior to using the Licensed Premises.

5.2 INDEMNIFICATION; RELEASE. Except for claims arising out of the willful or

grossly negligent act of the Grantor or its employees, Grantee will indemnify and defend the Grantor, against all claims, expenses and liabilities incurred, including reasonable attorneys' fees, in connection with loss of life, personal injury, or property damage arising out of any occurrence in, upon or at the Licensed Premises, or the occupancy or use thereof by Grantee, or occasioned wholly or in part by any act or omission of Grantee, its agents, employees, contractors or subcontractors. Grantee releases and holds harmless Grantor from all claims in connection with loss of life, personal injury, or property damages arising out of any occurrence in, upon or at the Licensed Premises, or the occupancy or use thereof by Grantee, including claims occasioned by the negligent acts or omissions of Grantor, its agents, employees or contractors.

## ***ARTICLE VI - ASSIGNMENT AND SUBLICENSING***

6.1 NO ASSIGNMENT BY GRANTEE. Grantee may not assign its interest under this License or sublicense the Licensed Premises, or any part thereof without the prior consent of the Grantor. This section does not prevent Grantee from allowing its authorized agents, contractors or subcontractors to use portions of the Licensed Premises in connection with the Project.

## ***ARTICLE VII - GRANTEE'S DEFAULT***

7.1 EVENTS OF DEFAULT. The following events are deemed to be events of default by Grantee under this License:

- (a) Grantee or its contractors do, or permit to be done, anything which creates a lien of record upon the Property; and do not cause said lien to be released within ten (10) days after written notice from Grantor; or
- (b) Grantee or its contractors fail to comply with any other provision of this License and have not cured any failure within thirty (30) days, or such longer period of time as may be reasonably required to cure such default, after Grantor, by written notice, has informed Grantee of such noncompliance.

7.2 GRANTOR'S REMEDIES. Upon the occurrence of any of the above events of default, Grantor may, without providing a notice of termination, or without affording Grantee an opportunity to cure (except as to matters for which the right to cure is specifically given in this Agreement), immediately notify Grantee of such default and retake possession of the Licensed Premises.

## ***ARTICLE VIII – TERMINATION***

8.1 Grantor may terminate this Agreement for any reason upon 60 days' written notice to Grantee.

## **ARTICLE IX - MISCELLANEOUS PROVISIONS**

9.1 COVENANT OF QUIET ENJOYMENT. Grantee, subject to the terms and provisions of this License, on observing, keeping and performing all of the terms and provisions of this License on its part to be observed, kept and performed, will lawfully, peaceably and quietly have, hold occupy and enjoy the Licensed Premises during the term without hindrance or objection by Grantor.

9.2 SURRENDER OF PROPERTY. At the expiration or termination of this License, Grantee shall demolish the construction office and leave the site graded and in a condition acceptable to the City Engineer. The Grantee shall remove all personal property placed on the Property by Grantee, its contractors, subcontractors, agents, or employees.

9.3 LIENS; TAXES. Grantee agrees not to suffer or allow any liens to be placed against the Licensed Premises as a result of Grantee's activities during the term of this Agreement; including, without limitation any liens for labor or materials provided for any repair, maintenance, modification, alteration or construction of the Licensed Premises. Grantee shall be responsible for any personal property taxes, if any, that become due and payable as a result of Grantee's use of the Licensed Premises. The provisions of this section shall survive termination of this License.

9.4 NO PROPERTY INTEREST. This instrument is not a lease, creates no landlord-tenant relationship, and nothing in this Agreement will be deemed to create any property interest other than as expressed in this Agreement.

9.5 GOVERNING LAW. The laws of the State of Minnesota will govern the validity and interpretation of this Agreement.

9.6 NOTICES. Any notice which is required under this License will be deemed "given" upon hand delivery or three (3) days after prepaid posting in the U. S. Mail whichever will first occur.

IN WITNESS WHEREOF, the parties hereto have affixed their signatures the day and year first above written.

*(Remainder of this page intentionally left blank)*

**GRANTOR:**  
CITY OF RICHFIELD

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

By: \_\_\_\_\_  
Its: City Manager

**GRANTEE:**  
C.S. MCCROSSAN CONSTRUCTION, INC.

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

**Exhibit A**  
Legal Description of Property and Licensed Premises

Legal Description of Property

That part of the North 180.26 feet of the South Half of the Southeast Quarter of the Southeast Quarter of Section 35, Township 28, Range 24, lying East of the West 722 feet thereof; Except that portion thereof contained in the following described tract: Beginning at a point in the East line of said Section 35, distant 383 feet North of the Southeast corner of said Section 35; thence West parallel with the South line of said Section 35 distant 158 feet; thence North parallel with the East line of said Section 35 distant 150 feet; thence East parallel with the South line of said Section 35 distant 158 feet; thence South along the East line of said Section 35 distant 150 feet to the point of beginning.

Licensed Premises





**STAFF REPORT NO. 124**  
**CITY COUNCIL MEETING**  
**8/24/2021**

REPORT PREPARED BY: Rachel Lindholm, Sustainability Specialist

DEPARTMENT DIRECTOR REVIEW: Amy Markle, Recreation Services Director  
8/19/2021

OTHER DEPARTMENT REVIEW:

CITY MANAGER REVIEW: Katie Rodriguez, City Manager  
8/19/2021

**ITEM FOR COUNCIL CONSIDERATION:**

**Consider the first reading of an ordinance repealing and replacing Section 601 of the Richfield Code of Ordinances pertaining to solid waste disposal, collection, and hauling.**

**EXECUTIVE SUMMARY:**

This section of code has not been thoroughly revised in many years, if at all, and needed significant revisions to bring it up to date and in alignment with the City's new organized collection system. Staff determined that repealing the whole section and rewriting it was the best course of action. The section sets requirements for residents, businesses, waste haulers, and others regarding the proper storage, disposal, and collection of solid waste.

**RECOMMENDED ACTION:**

**By Motion: Approve the first reading of an ordinance repealing and replacing Section 601 of the Richfield City Code pertaining to solid waste disposal, collection, and hauling.**

**BASIS OF RECOMMENDATION:**

**A. HISTORICAL CONTEXT**

Staff have been working on the new organized collection system for over a year, part of which is introducing new service options for residents. Several of them, including every other week trash collection, would have been unallowable under the existing city code. Additionally, the existing code included outdated language and references to state laws and regulations that no longer exist.

**B. POLICIES (resolutions, ordinances, regulations, statutes, etc):**

- Various statutory definitions are referenced in the code section. Additionally, Minnesota Statutes Section 115A.94 pertains to the organization of solid waste collection for municipalities.
- The City Charter requires a first and second reading of ordinances.

**C. CRITICAL TIMING ISSUES:**

The proposed code changes need to be read and approved to go into effect for the new organized collection system.

**D. FINANCIAL IMPACT:**

None

E. **LEGAL CONSIDERATION:**

The City Attorney has reviewed the ordinance and approves of its contents.

**ALTERNATIVE RECOMMENDATION(S):**

None

**PRINCIPAL PARTIES EXPECTED AT MEETING:**

**ATTACHMENTS:**

Description	Type
▣ Richfield City Code Section 601	Ordinance

**ORDINANCE NO. \_\_\_\_\_**  
**AN ORDINANCE REPEALING AND REPLACING SECTION 601 OF THE**  
**RICHFIELD CODE OF ORDINANCES PERTAINING TO**  
**SOLID WASTE DISPOSAL, COLLECTION, AND HAULING**

**THE CITY OF RICHFIELD DOES ORDAIN:**

**Section 1.** Section 601 of the Richfield Code of Ordinances is hereby repealed in its entirety.

**Section 2.** The Richfield Code of Ordinances is hereby amended by adding a new Section 601 as follows:

**SECTION 601: SOLID WASTE DISPOSAL, COLLECTION, AND HAULING**

**601.01 - DEFINITIONS.**

The following terms, as used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

**Subdivision 1. ADDITIONAL COLLECTION SERVICES .** Solid waste collection services available to all RDUs above the base level solid waste collection services that may include, but are not limited to: overflow trash; yard waste; bulky waste; electronic waste; organics; walk-up service collection; late set-out collection; holiday tree collection; cart size changes (RDUs will be charged for the second or more cart size changes per calendar year per RDU); extra cart delivery; and extra collections of trash, recyclables, bulky waste, and electronic waste. Each of these additional collection services will be provided at an additional charge billed to the RDU. All additional collection services are optional, however RDUs will be charged for organics regardless of participation in the organics service.

**Subd. 2. BASE LEVEL SOLID WASTE COLLECTION SERVICES.** Solid waste collection services for trash and recyclables that are common to all RDUs. This includes collection of one trash cart, with disposal of solid waste as directed by the City, and recyclables collection services. Base level solid waste collection services are paid for by the RDU to their assigned hauler.

**Subd. 3. BULKY WASTE.** Large items from that may not be placed into carts including, but not limited to: stoves, refrigerators, water heaters, washing machines, bicycles, lawn mowers, lawn chairs, furniture, and other such materials.

**Subd. 4. CARTS.** The wheeled and lidded trash, recyclables, organics, and/or yard waste containers in which materials can be stored and rolled out for curbside collection on the designated collection day.

**Subd. 5. COLLECTION HOURS.** The time period during which collection of solid waste,, is authorized by the City. The Collection Hours shall be 7:00 a.m. to 10:00 p.m. Monday through Friday or a Saturday immediately following an observed Holiday.



**Subd. 6. COMPOSTING or COMPOST.** A microbial process that converts plant materials such as grass clippings and leaves to a usable organic soil amendment or mulch by providing adequate aeration, moisture, particle size, and fertilizer and lime.

**Subd. 7. COMPOSTABLE BAGS.** Paper kraft bags or bags that meet ASTM Standard Certification for Compostable Plastics (D6400) within a composting operation, as required by Minnesota Statutes, section 115A.931, subdivision (c) and Minnesota Statutes, section 325E.046, for collection of any organics and yard waste that is not contained in an organics or yard waste cart.

**Subd. 8. CONSTRUCTION DEBRIS.** Has the same meaning prescribed by Minnesota Statutes, section 115A.03, subdivision 7.

**Subd. 9. CURBSIDE.** That portion of the right-of-way adjacent to the paved or traveled city, county, or state roadways, including alleys.

**Subd. 10. CURBSIDE COLLECTION.** The collection of all solid waste, including trash, recyclables, yard waste, organics, bulky waste, electronic waste, and other additional collection services.

**Subd. 11. ELECTRONIC WASTE.** Has the same meaning prescribed for “covered electronic device” by Minnesota Statutes, section 115A.1310, subdivision 7.

**Subd. 12. EXTRA COLLECTION.** The collection of all base level solid waste collection services and other additional collection services collected in addition to or outside of the regular collection day for each RDU.

**Subd. 13. HAULER.** A company or person licensed by both the City and the county in accordance with this Section.

**Subd. 14. HAULING DISTRICT.** The geographic area within the City that designates the day of the week for the collection of all solid waste.

**Subd. 15. HOUSEHOLD HAZARDOUS WASTE.** Has the same meaning prescribed by Minnesota Statutes, 115A.94, subdivision 1(b).

**Subd. 16. HOLIDAY TREE COLLECTION.** The seasonal annual collection of naturally-grown holiday trees. This additional collection service is collected and disposed of like yard waste and will be serviced in addition to and outside of yard waste collection for a separate fee.

**Subd. 17. LATE SET-OUT COLLECTION.** The collection of solid waste following the failure of an RDU to properly set out any solid waste for base level solid waste collection services or additional collection services for collection. RDUs will be required to set out carts no later than 7:00 A.M. on their hauling district’s collection day. RDUs that do not have carts set out timely or properly (according to Cart set out guidelines shared with RDUs) will be subject to a late set-out collection fee.

**Subd. 18. OCCUPANT.** A person or entity that is living in or using a building, premise, or other property as a lessee, tenant, or owner.

**Subd. 19. ORGANICS OR ORGANICS MATERIAL.** Has the same meaning prescribed for “source-separated organic material” by Minnesota Administrative Rules, section 7035.0300, subpart 105a; however, the term organic material does not include yard waste for purposes of this Section.

**Subd. 20. OVERFLOW TRASH.** Extra trash that is either set out next to the trash cart or if the trash cart lid is propped open more than 6 inches by excess trash..

**Subd. 21. NON-RESIDENTIAL DWELLING UNIT or "NON-RDU".** Properties other than RDUs consisting of multi-family residential buildings, residential dwellings in homeowners associations, and commercial, industrial, and institutional establishments that contract directly for their own solid waste collection services, and properties owned by persons or occupants who have received City approval to opt-out of base level solid waste collection services.

**Subd. 22. RECYCLABLES.** Materials listed by the City as appropriate for recycling collection, including but not limited to: newspapers (including advertising inserts), household office paper and mail, copy paper, computer paper, greeting cards, school papers, phone books, magazines, catalogues, boxboard (including cereal, cake, chip and cracker boxes) corrugated cardboard, food and beverage glass jars and bottles, aluminum cans and foil (including pie tins and trays), steel bimetal ("tin") cans, all rigid plastic containers (including lids, caps, non-bottle tubs, cups, clam shells), and aseptic juice and milk cartons.

**Subd. 23. RESIDENTIAL DWELLING UNIT or "RDU".** Any dwelling unit in a one-, two-, or three-unit building within the City occupied by a person or group of persons, and other dwellings expressly agreed upon in writing by the City and the haulers within the corporate limits of the City that are eligible for solid waste collection services.

**Subd. 24. SOLID WASTE.** All solid waste, as that term is prescribed by Minnesota Statutes, Section 116.06, subdivision 22, which normally results from the operation of a residential, commercial, or other building. Solid waste may also include trash, recyclables, yard waste, organics, bulky waste, and electronic waste as defined in this Section. Solid waste does not include household hazardous waste or unacceptable materials as defined in this Section.

**Subd. 25. SOLID WASTE COLLECTION SERVICES.** The purchase and distribution of all carts and/or bags as specified for aggregation and the collection of any or all solid waste which normally results from the operation of a residential, commercial, or other buildings, and all related reporting, other administration, customer service, and public education responsibilities.

**Subd. 26. TRASH.** Has the same meaning prescribed for "mixed municipal solid waste" by Minnesota Statutes, section 115A.03, subdivision 21.

**Subd. 27. UNACCEPTABLE MATERIALS.** Prohibited items from any of the specific solid waste streams (e.g. trash, recyclables, yard waste, bulky waste, electronic waste, organics) that are not allowed because they may contaminate the specific solid waste stream, result in unsafe handling or management, or otherwise may harm the environment, as defined by applicable laws, regulations, or agreed upon by the City and haulers.

**Subd. 28. WALK-UP SERVICE COLLECTION.** The collection of solid waste from an area adjacent to the RDU by a hauler in lieu of curbside collection, as authorized by the City as an accommodation to the residents.

**Subd. 29. YARD WASTE.** Has the meaning prescribed by Minnesota Statutes, section 115A.03, subdivision 36. Yard Waste does not include Organics.

**Subd. 30. YARD WASTE COLLECTION.** The pick-up and transportation of yard waste accumulated in a yard waste cart, and/or in a compostable bag or bundle in accordance with City guidelines.

### **601.03 - CITY HAULING LICENSE REQUIRED FOR RDUS AND NON-RDUS.**

No person shall engage in the business of solid waste collection services for RDUs or non-RDUs in the City unless all federal, state, county, or City requirements are met and all necessary approvals, permits, and licenses are secured.

### **601.05 - CONTRACT REQUIRED FOR HAULING SOLID WASTE FROM RDUS.**

All solid waste collected, conveyed, and disposed of by haulers for RDUs shall be pursuant to a written contract with the City that shall specify the hauling districts, base level solid waste collection services, collection hours, additional collection services for residents, extended leave or 'snowbird' policies, cart ownership, organics collection, overflow trash policies, and any other details required by the City for any and all solid waste collection services. No person or entity shall engage in the business of solid waste collection services for RDUs in the City unless it is pursuant to a contract with the City. All previous private contracts between solid waste haulers and RDUs shall be considered null and void on October 4, 2021.

### **601.07 - DUTIES OF RDUs AND NON-RDUS GENERALLY.**

It shall be the joint and several responsibility of every occupant of an RDU and non-RDU to perform the following duties:

- (1) Deposit solid waste in approved carts for collection at least once every other week and as often as once each business day if necessary to protect the public health.
- (2) Bag and keep solid waste in the appropriate cart for each form of solid waste. Carts shall be maintained and cleaned, and kept in a state that will prevent leakage. Overflow bags shall be kept inside a building until put out for collection.
- (3) Keep all solid waste not placed in a cart in an enclosed building until placed in a cart for collection. This requirement does not apply to dumpsters used for construction debris. This requirement does not apply to yard waste subject to the private composting requirements in this Section.
- (4) Set out yard waste in either a compostable bag or yard waste cart at curbside for collection by a hauler, self-hauled, or removed by a lawn or landscape business. If yard waste is self-hauled, it shall be taken in a sanitary manner to a county- or City-approved site. If yard waste is kept on the site of an RDU or non-RDU, it is subject to the private composting requirements in this Section.
- (5) Make certain that recycling carts placed out for collection do not contain trash.
- (6) Make certain that no unacceptable materials are placed out for collection.
- (7) Perform all other applicable duties as required by this Section.

### **601.09 - SPECIFIC DUTIES OF RDU OCCUPANTS.**




In addition to the duties described in subsection 601.07, it shall be the joint and several responsibility of every occupant of an RDU to perform the following duties:

(1) Utilize the base level solid waste collection services from a solid waste hauler as contracted by the City. No occupant of an RDU shall dispose of solid waste in a cart that is not on their property. If an occupant of an RDU wishes to self-haul, the occupant shall first obtain approval from the City using the process and form provided by the City to apply for permission to self-haul any solid waste. The form shall require proof to the City of the regular disposal of solid waste at a disposal facility or facilities approved by the City and the county.

(2) Follow the City's and hauler's guidelines and instructions for storing, disposing of, and setting out all solid waste, including placement of trash and recyclables in appropriate carts for each type of solid waste with the lid fully closed. Carts must be placed for curbside collection adjacent to the street or alley, unless the RDU has been approved for walk-up service collection. Solid waste shall be set out at ground-level and not obstruct the roadway. All solid waste must be set out and collected such that no solid waste is left adjacent to the street or alley after collection.

(3) Except when set out for collection, store carts within an enclosed structure or in the rear or side yard of the property immediately adjacent to a principal or accessory structure. Carts may not be stored in front of any part of the principal building on the property. The following depictions demonstrate guidelines for cart storage:

### Legend

-  Allowed
-  Prohibited
-  Property Line

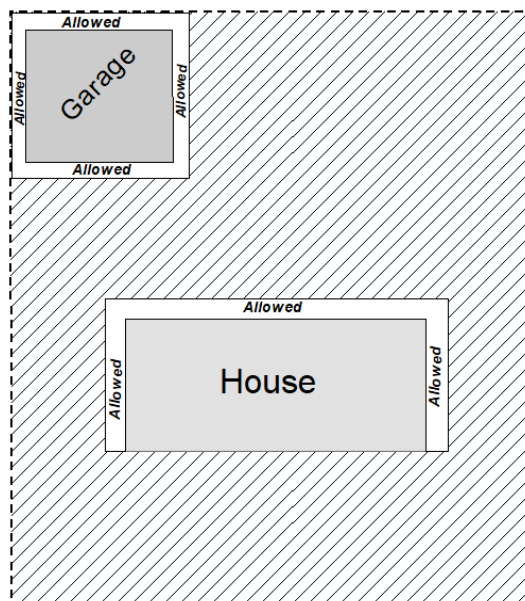


Figure 1.

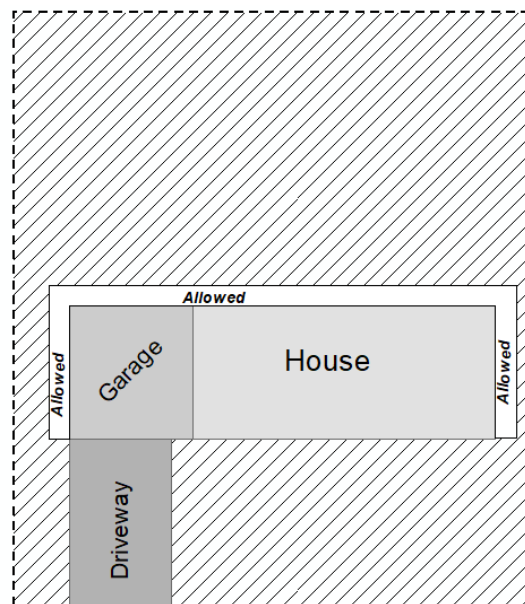


Figure 2.

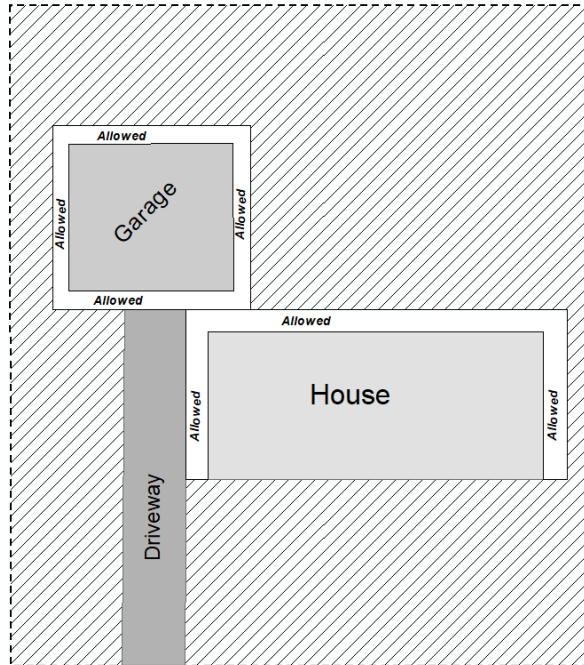


Figure 3.

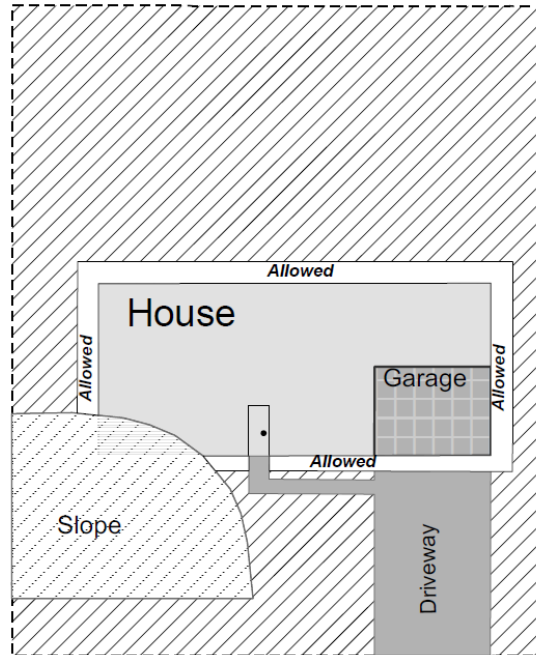


Figure 4. \*Garage is under the house\*

(4) Place carts and any overflow bags at curbside no more than 12 hours before, but no later than, the onset of the collection hours on the assigned collection day and remove the carts no later than the end of the scheduled collection day or the designated day for any missed collections.

(5) Place carts, bulky items, and yard waste on the boulevard or driveway, no more than three feet from the curb or alley, and not in the street or alley. Carts shall not be placed alongside any fixed objects or structures, including garages. There shall be no less than three feet between carts to ensure safe and efficient service.

(6) Make certain that no yard waste is placed out for collection unless the RDU has a subscription for yard waste collection service, either through the seasonal or "pay-per-bag" options.

(7) Make certain that no bulky waste or electronic waste is placed out for collection unless an order is properly placed with the hauler.

(8) Provide at least one week's advance-notice to the hauler that the RDU will not require services for at least four consecutive weeks because of an extended leave.

(9) Provide payment to the hauler on or before the due date on the bill for all solid waste collection services, including any additional collection services provided to the RDU. Failure to pay for services shall result in a monthly late fee. Failure to pay for services may also result in the special assessment of the costs of those services, along with any applicable fees, penalties or administrative costs against the real property on which the RDU is situated for collection as described in subsection 601.37.

## 601.11 - SPECIFIC DUTIES OF NON-RDU OCCUPANTS.

In addition to the duties described in subsection 601.07, it shall be the joint and several responsibility of every occupant of a non-RDU to perform the following duties:

(1) Arrange for the collection of solid waste by a hauler pursuant to a private contract that provides for at least weekly collection of the same in an approved disposal facility that has been approved by the City and the county. The City may permit bi-weekly trash collection only if the property also has organics collection services.

(2) Follow the City's guidelines and instructions for RDUs related to storing, disposing of, and setting out all solid waste, including placement of solid waste in suitable and sufficient carts or receptacles with tight fitting covers and with the lid fully closed.

(3) Place carts or containers at curbside no more than 12 hours before, but no later than, the onset of the collection hours on collection day and remove the containers by the end of collection day.

### **601.13 - PRIVATE COMPOSTING REQUIREMENTS.**

Composting is permitted for occupants of RDUs and non-RDUs in residential zoning districts or for residential uses located in non-residential zoning districts, provided that such occupants comply with the following requirements:

(a) Composting shall be conducted within an enclosed compost structure, not to exceed 300 cubic feet. Compost structures must be of a durable material such as wood, brick, concrete, or sturdy metal fencing material, and must be neat in appearance and capable of securing compost materials. Three-bin and barrel composter methods may also be utilized.

(b) The structure shall only be located in the rear yard of the property and set back at least three feet from any side lot line, rear lot line, dwelling unit, or structure. If a rear yard location is unavailable or impractical, the compost structure may be placed in another location approved by the Director of Public Safety or their authorized designee.

(c) Only organic materials, such as grass clippings, leaves, flowers, dried weeds, sawdust, wood ash, plant trimmings, straw, vegetable and fruit scraps, coffee grounds, and commercially-available compost ingredients, may be placed in the compost structure.

(d) The following materials shall not be placed in compost structures: meat, bones, fat, oils, whole eggs, dairy products, whole branches or logs, plastics, synthetic fibers, human or pet wastes, diseased plants, or non-compostable papers.

(e) Compost shall be regularly turned over and mixed within the compost structure in order to keep the material aerated, to minimize odor generation, and promote effective decomposition of the compost material such that it will not create a public nuisance or health hazard.

### **601.15 - PROHIBITION ON INCINERATION.**

No solid waste, construction demolition debris, or hazardous waste shall be disposed of by burning. Commercial incinerators are only allowed as prescribed by Minnesota Administrative Rules, section 7011.1220.

#### **601.17 - RDU RESIDENTIAL HAULING DISTRICT BOUNDARIES.**

Hauling of all solid waste for RDUs, except bulky waste and electronic waste, shall be conducted on the collection day that corresponds to the residential hauling district specified by this sub-section.

<u>Collection Day</u>	<u>Residential Hauling District Boundaries</u>
Monday	Cedar Avenue to 10th Avenue
Tuesday	10th Avenue to 3rd Avenue
Wednesday	3rd Avenue to Lyndale Avenue
Thursday	Lyndale Avenue to Newton Avenue
Friday	Newton Avenue to Xerxes Avenue

No hauler or any other person shall collect solid waste from any RDU on any day other than the day specified for collection in the residential hauling district except to collect a missed collection, collection related to an additional collection service, or when a holiday falls on a regular collection day and service is delayed.

#### **601.19 - COLLECTION VEHICLES USED FOR HAULING.**

All haulers shall collect solid waste from RDUs and non-RDUs in appropriate vehicles approved by the City and shall be equipped to meet all federal, state, county, and City laws, statutes, regulations, ordinances, policies, and contracts concerning vehicles used on City streets and alleys and maintained to meet those standards.

#### **601.21 - HAULING LICENSE APPLICATION AND RENEWAL.**

**Subdivision 1.** A City license is required for all haulers of solid waste operating in the City for RDUs and non-RDUs.

**Subd. 2.** The initial and renewal applications for a City license to haul or collect solid waste shall be in writing on a form provided by the City. Each initial and renewal application must be filed with the City. All initial and renewal licenses shall expire on December 31st of each year.

**Subd. 3.** The initial and renewal applications shall include the following information:

- (1) The name, address, and contact information of the applicant;
- (2) A true copy of the certificate of incorporation or, if a foreign corporation, a certificate of authority, as described Minnesota Statutes, section 303.03. A true copy of the certificate of good standing will be required for renewal;

- (3) A true copy of the certificate of assumed name under Minnesota Statutes, Section 333.02;
- (4) Tax ID information, as described in Minnesota Statutes, section 270C.72;
- (5) Proof of workers compensation insurance coverage, as described in Minnesota Statutes, section 176.182;
- (6) The proposed charges for hauling services;
- (7) Description of the services to be rendered, including cart size and collection days;
- (8) List of vehicle identification numbers for vehicles used to transport solid waste in the City;
- (9) A record of household recycling participation rates consistent with Hennepin County requirements;
- (10) Verifiable volume or tonnage summaries of trash, yard waste, recyclables, and organics materials collected in Richfield during the previous year; and
- (11) Any other information required by the City.

#### **601.23 - HAULING LICENSE FEE.**

The annual license fee for haulers shall be as set forth in Appendix D of this code.

#### **601.25 - BOND AND INSURANCE.**

**Subdivision 1.** For haulers that are licensed to provide service to RDUs, no license shall be issued or continued in operation unless a performance and payment bond has been furnished pursuant to Minnesota Statutes, sections 574.26 through 574.32. Haulers must show proof of the continuation of the performance and payment bond annually prior to renewal of a license.

**Subd. 2.** For haulers that are licensed to provide service to either RDUs or non-RDUs, no license shall be issued or continued in operation unless such hauler has, in full force and effect for all vehicles operating in the City, a business automotive liability insurance policy with a minimum limit of \$1,000,000 for bodily injury to any one person, or in any amount required by contract; with a minimum limit of \$1,000,000 for injuries to more than one person which are sustained in the same accident, or in an amount required by contract; and with a minimum limit of \$1,000,000 for property damage resulting from any one accident, or in an amount required by contract. Said insurance shall inure to the benefit of any person who shall be injured or who shall sustain damage to property proximately caused by the negligence of a hauler, or its employees or agents.

**Subd. 3.** For haulers that are licensed to provide service to either RDUs or non-RDUs, no license shall be issued or continued in operation unless such hauler has, in full force and effect, a commercial general liability insurance policy with a minimum limit of \$1,000,000 per occurrence, and \$2,000,000 annual aggregate, or in amounts required by contract. Said insurance shall inure to the benefit of any person who shall be injured or who shall sustain damage to property proximately caused by the negligence of a hauler, or its employees or agents .



**Subd. 4.** Certificates of said insurance evidencing all of the coverages listed above, as well as evidence that the City has been named as an additional insured on the policies, shall be provided to the City by each Hauler. Haulers shall not allow any subcontractor to commence work until all insurance has been obtained and certificates of insurance have been filed and accepted by the City. Each Hauler shall maintain a valid certificate of insurance referencing the limits above on file with the City.

#### **601.27 - HAULER SERVICE AND REPORTING REQUIREMENTS.**

**Subdivision 1.** Every hauler shall provide recycling service to each RDU or non-RDU from whom solid waste is collected.

**Subd. 2.** Every hauler shall report to the City's Sustainability Specialist, within 30 days after the end of each calendar year, all weight receipts received from the county for solid waste collected from non-RDUs in the City.

**Subd. 3.** No hauler shall dispose of solid waste upon any lands in the City, except at an approved disposal site, such as a transfer station, county and City approved site, or waste processing facility. An approved disposal site in the City is a site for disposal of solid waste approved by the City, licensed by the county in accordance with Minnesota Statutes, section 473.811, subdivision 5a and operated and conducted in accordance with all federal, state, county, and city requirements. This Section shall not be construed as limiting the disposal of solid waste to sites only within the City or the county.

**Subd. 4.** Every hauler shall comply with all requirements of this Section.

**Subd. 5.** Every hauler for RDUs shall comply with all federal, state, county, and City laws, statutes, regulations, ordinances, policies, and contracts.

#### **601.29 - SUSPENSION AND REVOCATION OF HAULING LICENSE.**

Any hauler license may be revoked by the City Council without notice in the case of the conviction in a court of competent jurisdiction of the hauler licensee on a complaint alleging the violation of this Section or alleging the violation of the provisions of the Richfield Code of Ordinances or the laws of the state regarding public health. Any hauler license may be suspended or revoked at any time by the City Council for a violation of any provision of the Richfield Code of Ordinances or the laws of the state, upon a hearing, provided that the hauler licensee shall be given at least thirty days' written notice of such hearing. At the suspension or revocation hearing, the hauler licensee shall have an opportunity to appear in person, or by agent or attorney, and present evidence relative to the matter under consideration.

#### **601.31 - NO VESTED RIGHT.**

No hauler licensed pursuant to this Section shall gain a vested right in a license. The City may, upon finding that public necessity requires, determine to establish another means of solid waste collection.

### **601.33 - PENALTY.**

Violation of any provision of this Section shall be a misdemeanor. Civil penalties may also be issued pursuant to Section 12.15 of the City Charter and Section 1.19 of this Richfield Code of Ordinances. Nothing in this Section shall be constructed to limit the City's other available legal remedies for any violation of the law, including without limitation, criminal, civil and injunctive actions.

### **601.35 - PAYMENT OF CHARGES.**

Solid waste bills shall be invoiced directly to each RDU and non-RDU by the respective hauler of the RDU and non-RDU.

### **601.37 - DELINQUENT RDU ACCOUNTS.**

**Subdivision 1.** Each RDU owner or its duly authorized property manager paying for collection of solid waste and for other collection services, must pay the total amount set forth in the bill on or before the due date listed on the bill. Failure to make payment by the due date listed on the bill will result in a late fee assessment of five percent (5%) per month of the total amount due and owing.

**Subd. 2.** Accounts shall be considered delinquent when any portion of the balance due exceeds thirty (30) days past the original due date.

**Subd. 3.** By August 1<sup>st</sup> of each year, haulers must submit all unpaid RDU balances greater than one hundred dollars (\$100) to the City, along with documentation of the hauler's efforts to collect. City staff will verify the accuracy of the unpaid balance and send the unpaid balances list to the City Finance Department for processing. If any RDU makes payment on a delinquent account after August 1 and before the City sends assessment letters in September, the hauler will notify the City of the amounts paid.

**Subd. 4.** The Finance Department will prepare an assessment roll for the delinquent amounts and will schedule a public hearing with the City Council in October of each year for adoption of the assessment roll.

**Subd. 5.** If, prior to the public hearing, any hauler receives payment on any delinquent RDU account, the hauler will notify the City of the amounts paid.

**Subd. 6.** After the public hearing in October, the City will reimburse the haulers for their respective total of delinquent amounts to be assessed by the City. After the public hearing, any payments received by the haulers on delinquent accounts must be submitted to the City.

**Subd. 7.** The City Finance Department will accept payments on delinquent accounts up until November 15 of each year. Thereafter, the City will certify all remaining delinquent charges to Hennepin County for assessment and collection along with property taxes.

**Subd. 8.** The City reserves the right to change its assessment procedure described in this Section. The City will communicate any changes in its assessment procedure to the haulers in advance of the changes.

**601.39 - SEVERABILITY.**

In the event that any subsection, sentence, clause or phrase of this Section is for any reason held to be invalid by a court of competent jurisdiction, the invalidity shall extend only to the subsection, sentence, clause or phrase affected, and shall not affect the validity of the remaining portions of this Section.

**Section 3.** This ordinance will be effective in accordance with Section 3.09 of the City Charter.

Adopted by the City of Richfield this \_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Maria Regan Gonzalez, Mayor

ATTEST:

\_\_\_\_\_  
Kari Sinning, City Clerk



**STAFF REPORT NO. 125**  
**CITY COUNCIL MEETING**  
**8/24/2021**

REPORT PREPARED BY: Scott Kulzer, Administrative Aide/Analyst

DEPARTMENT DIRECTOR REVIEW: Kristin Asher, Public Works Director  
8/19/2021

OTHER DEPARTMENT REVIEW:

CITY MANAGER REVIEW: Katie Rodriguez, City Manager  
8/19/2021

**ITEM FOR COUNCIL CONSIDERATION:**

**Consider the Transportation Commission's request for a joint meeting to discuss concerns about the Minnesota Department of Transportation's plans for the I-494 and Penn Avenue Interchange as related to the I-494: Airport to 169 Project.**

**EXECUTIVE SUMMARY:**

At the August 11, 2021 Transportation Commission meeting, the I-494: Airport to 169 project was not a specific item for discussion. However, Commissioner Ken Severson reiterated many of his previously voiced concerns related to the future design of the I-494/35W interchange and its related changes to Penn Avenue access at I-494. Following the group's discussion of the subject, a motion was made requesting a joint meeting with the City Council to address continued concerns about MnDOT's plans for the I-494 and Penn Avenue Interchange. Of the 6 Commissioners present, 5 voted in favor of the request for the joint meeting and 1 abstained from voting. Unfortunately, no City Council liaison was present at the meeting. Discussion included the desire to have a MnDOT representative attend the meeting if the City Council accepts the request to have a joint meeting.

**RECOMMENDED ACTION:**

**By Motion: Accept or decline the Transportation Commission's request for a joint meeting to discuss concerns about the Minnesota Department of Transportation's plans for the I-494 and Penn Avenue Interchange as related to the I-494: Airport to 169 Project.**

**BASIS OF RECOMMENDATION:**

**A. HISTORICAL CONTEXT**

The I-494: Airport to 169 Project has been a topic before the Transportation Commission (TC) on many occasions, even if only as a brief project update. As far back as the January 8th, 2020 TC meeting, the group discussed the merits of the "I-494 Vision" and in particular their concerns with the proposed changes at the I-494/35W interchange (1/8/2020 TC minutes attached).

Following that meeting, staff compiled the TC's concerns and questions and sent them to MnDOT for feedback. MnDOT responded to the concerns raised by the TC and the responses were covered at the August 5, 2020 TC meeting (TC questions/MnDOT responses & 8/5/2020 TC minutes attached).

At the 2/24/2020 I-494 Policy Advisory Committee (PAC) meeting, the PAC approved the turbine interchange at I-494/35W, including the Penn Ave changes as part of the project vision unanimously (2/24/2020 PAC minutes attached).

At the 2/23/2021 meeting, the PAC approved the Vision Implementation Plan. The Vision Implementation Plan lays out the general sequence of projects that comprise the I-494 Vision.

Following the 8/5/2020 meeting, the TC didn't focus specifically on the I-494/35W interchange until MnDOT held their listening sessions in April 2021. Concerns were again raised about the I-494/35W interchange during those virtual meetings but some Commissioners feel their comments weren't genuinely considered. In Late July 2021, Commissioner Ken Severson reached out directly to the MnDOT project team with his specific concerns about the I-494/35W interchange and MnDOT responded to the questions and provided a document further explaining the logic behind the Penn Ave preferred design (MnDOT response to Commissioner Severson & Penn Ave document attached).

**B. POLICIES (resolutions, ordinances, regulations, statutes, etc):**

None

**C. CRITICAL TIMING ISSUES:**

- The design elements and features of "Project 1" have largely been decided, however, the City Council will be tasked with approving the project via municipal consent in late 2021.
- Environmental review for the project as designed is underway and will continue through 2022.
- Any changes to the I-494/3W interchange design as proposed would very likely delay the project which is currently expected to break ground in late summer 2023.
- If the Council chooses to hold a special meeting with the Transportation Commission, the Wednesday, September 1st regular meeting time is available, but the TC is amenable to meeting at another time.

**D. FINANCIAL IMPACT:**

A redesign of the I-494/35W interchange to accommodate access to Penn from 35W NB and 35W SB would add costs related to design changes and right-of-way acquisition.

**E. LEGAL CONSIDERATION:**

None as it pertains to the consideration of a joint meeting with the Transportation Commission.

**ALTERNATIVE RECOMMENDATION(S):**

None

**PRINCIPAL PARTIES EXPECTED AT MEETING:**

Various Transportation Commissioners may be present.

**ATTACHMENTS:**

Description	Type
☐ 1-8-2020 TC Minutes	Exhibit
☐ MnDOT Responses to Bloomington and Richfield Concerns	Exhibit
☐ 8-5-2020 TC Minutes	Exhibit
☐ 2-24-2020 PAC Minutes	Exhibit
☐ 2-23-2021 PAC Minutes	Exhibit
☐ MnDOT Response to Severson Email	Exhibit
☐ Penn Ave Access document	Exhibit

**Richfield Transportation Commission  
January 8th, 2020 - Meeting Minutes**

**Attachment #1**

7:00 p.m. | Richfield Municipal Center – Bartholomew Room

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**Commission members:** Wes Dunser (chair), Ted Weidenbach, Paul Chillman, Ken Severson, Dan Edgerton, Jeffrey Walz, Husniyah Bradley

**Commission members not in attendance:** Gerry Charnitz

**Liaisons:** Sean Hayford Oleary, Mary Supple

**Liaisons not in attendance:** Sarah Musgrave, Art Felgate

**City Staff Liaison:** Jack Broz

**Other City Staff:** Joe Powers, Scott Kulzer

**I. Call meeting to Order**

*Commissioner Dunser called the meeting to order at 7:01 pm.*

**II. Approval of Agenda**

*Motion by Commissioner Weidenbach to approve the agenda, s/Severson. Motion carried.*

**III. Review & Approve minutes for December 4th, 2019 meeting**

*Commissioner Edgerton and Commissioner Bradley requested two technical amendments to the minutes. Motion made by Commissioner Chillman to approve the amended December 4th, 2019 meeting minutes, s/Weidenbach. Motion carried.*

**IV. I-494/I-35W Interchange Vision & History**

Staff Liaison/Richfield Transportation Engineer Jack Broz presented the I-494/I-35W Interchange Vision & History. Broz detailed MnDOT's three-phase process as it relates to the I-494 corridor "Vision" and the future actual funded I-494 corridor projects. Broz noted how we are presently at the mid-point of phase two, evaluating the I-494/I-35W interchange alternatives. Broz presented the "base" and "full" interchange alternatives. The "base" alternative would not change the cloverleaf interchange but would add a MnPass lane in each direction on 494. The "full" alternative would redesign the interchange into a "turbine" model with a MnPass lane in each direction and would restrict access in certain directions. Broz then went on to highlight the various criteria the MnDOT used to evaluate each alternative.

Following Broz' presentation the commissioners shared their comments and thoughts on the interchange alternatives. Commissioner Weidenbach noted that the "full" alternative seemed like it would increase traffic on the local streets. Broz agreed that would be the case to an extent and reminded the commission MnDOT is evaluating this from the perspective of fixing the I-494/35W interchange. Commissioner Edgerton mentioned his concern about this alternative helping regional traffic users/the interchange at the expense of local traffic users and surrounding businesses and employers in "the Box". Commissioner Walz raised concerns with environmental impacts and said it seemed like the "full" alternative meant more cars on local streets sitting at stoplights idling and polluting in Richfield and Bloomington. Commissioner Bradley questioned the merits of a Mnpass lane altogether suggesting it makes congestion worse for most while benefitting the few. Commissioner Weidenbach asked how Best Buy feels about this proposal as it would make access to their site more difficult. Commissioner Severson raised concerns with the design and provided some suggestions he thought could improve its impact to the local traffic in "the Box" and also noted his concern that the local traffic impacts would stretch beyond "the Box" onto other critical streets in Richfield and Bloomington as people

work to avoid that area. Chair Dunser expressed general frustration with both this “full” design alternative and the MnDOT process as a whole related to this project.

Broz noted the I-494 Policy Advisory Committee (PAC) would be voting to move forward with one of the interchange alternatives at its February 2020 meeting (date TBD). Mayor Regan Gonzalez and Councilmember Trautmann are voting members on the PAC. Broz stated staff would draft up the comments expressed and would be providing them to MnDOT and the City Council at the forthcoming January 14<sup>th</sup> I-494 Work Session.

**V. Portland Ave Bike Gap & Roundabout Restripe**

Broz provided the commission an update on the Hennepin County proposal to modify the lanes with striping at the Roundabout at 66th Street and Portland Avenue. The changes are intended to improve safety for pedestrians and vehicles by reducing the number of lanes in the roundabout with their mill and overlay project. The southbound lanes on Portland will remain unchanged from their present layout. The other three legs will still have two lanes entering the roundabout, except the right lane can only turn right, and the inside lane will be for straight or left vehicle movement. The project will also convert Portland from 4-lanes to 3-lanes from 67th Street to Highway 62. Hennepin County is anticipating construction to begin later in 2020 and will be completed in 2021.

**VI. Updates**

Broz gave a brief update on the Lyndale project. Chair Dunser asked what staff has been hearing regarding Lyndale now that it has been open for a while. Broz and Kulzer stated it has been surprising quiet lately now that people seem to have experienced the new road layout and had time to interact with it.

Broz shared that the grant funded Safe Routes to School coordinator was getting settled in the new role, pursuing other grant opportunities for the City and to expect more on this in the future.

**VII. Thank you to outgoing commissioners!**

Commissioners were thanked for their service. Those with terms expiring were going to reapply and were expected to be reappointed.

**VIII. Upcoming events/meeting(s)**

The next scheduled commission meeting is February 5<sup>th</sup>, 2020.

**IX. Adjournment**

*Motion made by Chair Dunser to adjourn meeting, s/Walz. Motion carried. Adjourned at 8:45 pm.*

## SP 2785-424 I494: US 169 to Airport

### Responses to Cities of Bloomington and Richfield

This document contains the responses to questions asked by the Bloomington City Council in January 2020 as well as the Richfield Transportation Commission in January 2020. The questions and responses are categorized by subject.

#### **Turbine Interchange and Box**

##### *Interstate Access within Box*

**Question 1:** Look at adding an exit from turbine to Penn in the WB direction on 494. Is this a practical option?

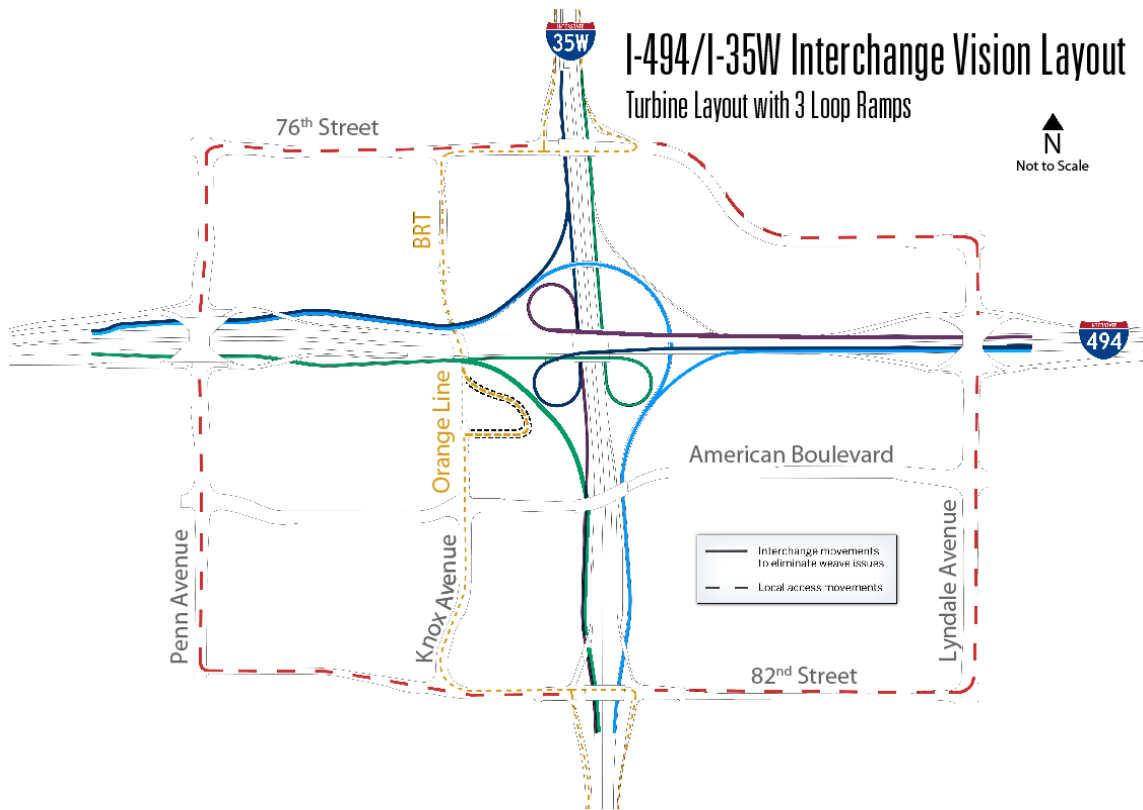
**Question 2:** Look at access from NB 35W to 76<sup>th</sup> Street. Is there a viable way to add a freeway exit here for NB traffic?

**Question 3:** Suggest the NE cloverleaf remain as a ramp solely for access to Penn Avenue from Northbound I-35W (similar to the NB77 to WB I-494/12th/Portland). Allowing this movement will limit the impacts to local routes in the “Box”.

**Question 4:** Could the I-494 EB On-ramp from Penn split into 2 ramps providing access to I-494 EB and the I-35W SB ramp which would also serve to alleviate traffic going all the way down Penn to 82nd minimizing local impacts.

**Response 1, 2, 3, 4:** The cities’ council members and commissions will have access to all of the information through their TAC and PAC representatives.





The primary goals of the current corridor study is to recommend solutions that reduce congestion, improve safety and improve travel time reliability on this stretch of highway. The safety analysis and traffic operations studies performed to date are showing the major causes of poor operations in this corridor are the freeway entrance and exit weave sections in a couple of areas including the on and off ramps at 35W/494 interchange area, Penn Avenue, etc.

The proposed directional ramp, which is part of the turbine design, removes the weave sections. This will reduce bottlenecks and backups which reduces the risk of crashes and thus improves safety, reduces congestion and improves travel times.

Adding an exit from the turbine to Penn from WB 494; geometrically, this option can be attained and has been considered in previous studies (2001 FEIS, 2010 & 2014 Interchange studies). Some of the key reasons why it was dropped from further consideration are: this alternative would reintroduce/shift poor traffic operations to the new ramp, this alternative adds to right of way impacts on Best Buy's property, the proposed capacity increase on mainline will improve operations on the arterial system, 'the box', and therefore patrons to the businesses at Penn Avenue will realize faster travel times to their destinations via the local system.

Adding a new exit from NB I35W to 76<sup>th</sup> Street has quite a few trade-offs. A portion of the Seven Hills Preparatory Academy property and building will need to be acquired to accommodate the exit ramp to 76<sup>th</sup> Street which would require the school to move. The new exit ramp to 76<sup>th</sup> Street from NB I35W and the existing NB 76<sup>th</sup> Street ramp to NB I35W will need to be shifted so that both ramps align at one intersection. The new exit ramp from NB I35W to 76<sup>th</sup> Street will also need to be grade separated from the existing WB 494 to NB I35W ramp. Other impacts will need to be analyzed at this location including social, environmental, economic, constructability, staging, etc.

Similar to adding a Penn Avenue slip ramp from the new directional ramp, keeping the loop in the NE quadrant of the I494/I35W interchange does have trade-offs. This will re-introduce two weave segments (between NB I35W to WB I494 and WB I494 to SB I35W) and will increase congestion in the area which will reduce the level of service of operations, thereby increasing the risk of crashes

The 2001 FEIS removed the NE cloverleaf movement to improve mobility, reduce congestion, and improve safety.

Re-introducing the movement to allow vehicles to access SB I35W from Penn will result in a merge condition that isn't in the current draft layout. This ramp will have to be evaluated for right of way impacts and will influence the current design of the EB to SB ramp.

### *Traffic Impacts on Local System*

**Question 5:** What is the traffic volume from NB 35W to 82<sup>nd</sup> to Penn in the AM peak heading to Best Buy? This will help quantify the issue.

**Question 6:** What are the impacts to the ring road including the volumes and level of service with the access changes?

**Question 7:** Concerns about the local impacts the "Box" would have for residents and businesses in both Richfield and Bloomington due to increased volumes. Struggles with the idea of being a good neighbor vs. being a good regional partner—the City's priority is the former.

**Question 8:** It appears the area along Penn to 82nd and then to I-35W looked like it would become untenable or a nightmare traffic-wise, suggesting it's already terrible to get around in that area. They suggested this area might be most negatively affected.

**Question 9:** Concerns that increased traffic volumes in the "Box" might cause more traffic to seep out and further onto local streets.

**Question 10:** The intersection analysis for the "Box" only indicates 12 of the 19 signalized intersections along those roadways. Much discussion, concern, and confusion as to the reasoning why they all weren't included.

### **Response 5, 6, 7, 8, 9, 10:**

During the process of selecting the recommended corridor vision, MnDOT had to consider all viable alternatives and compare/weigh them against each other on how each affected traffic operations including safety on the local system, impacts to commercial and residential right of way, effects to social, economic and environmental impacts, and then capital costs for each of the alternatives.

The traffic modeling completed to date shows the local system will realize a benefit in traffic operations due to the capacity increase on mainline 494. More traffic is projected to remain on the highway versus using the arterial system. With the reduction in volumes on the local system, both vehicular and pedestrian safety is improved, and travel delays are reduced. For reference are Level of Service (LOS) and traffic diversion volume maps that were developed and have been used in the stakeholder engagement efforts.

MnDOT pulled an excerpt of travel time runs from the 2040 VISSIM model comparing Full Vision to No Build on the box for Northbound AM and Southbound PM. In both cases, the Build condition is faster, by over 3 minutes in AM and by almost 1 minute in the PM. This demonstrates that even having to use the arterial system in the Build condition is faster than taking the congested freeway under a No Build condition. The only condition that isn't faster in the Build condition is trying to go Southbound in the AM. This makes a lot of sense as the signals are giving priority to the other direction, and SB I-35W doesn't have congestion in the AM.

## 76<sup>th</sup> Street

**Question 11:** Concerns that the 76th Street intersection with the ramp to Northbound I-35W has been dropped entirely from the vision of the corridor. This intersection is a safety concern for the TRPD regional trail, school access, Orange Line BRT operations, operations of the "Box", operations of the "Ring Route" and local traffic mobility.

**Response 11:** Subsequent area studies including the 2001 FEIS, 2010 & 2014 interchange studies, multi-modal planning, and traffic modeling revised the highway corridor vision of this area. The biggest driver of the flyover ramp vision from 76<sup>th</sup> St to NB 35W was an inline Buss Rapid Transit station on 35W and 76<sup>th</sup> St. This would have been similar to the one on 35W & 46<sup>th</sup> St or the 35W & Lake St station under construction. In the 2014 Interchange study, Metro Transit revised their Orange Line BRT station to an offline concept and it's currently under construction at Knox Avenue by Best Buy Campus. This eliminated the flyover ramp vision from 76<sup>th</sup> St to NB 35W.

In studying current traffic operations levels at this location, MnDOT freeway operations unit reviewed crash data safety between 2015 and 2019. See table below for reference.

**I-35W at 76th Street Crash Summary (2015-2019)**

Location	Fatal	Serious Injury	Minor Injury	Possible Injury	Property Damage	Total
I-35W (East Ramp) at 76th St W/ Girard Ave S	0	1	0	1	3	5
I-35W (West Ramp) at 76th St W	0	0	2	3	5	10

There has been one bicycle and one pedestrian minor injury crashes on 76 St east of 35W in the past 5 years.

### **Bicycle Crash** (right on red from NB Girard to EB 76<sup>th</sup> St Ave)

On 6-6-2017 at 2118hrs, Unit #1 had just left the Minnesota School of Business at 1401 W. 76th Street and pulled up to the intersection of 76th and Girard at the red light waiting to make a right hand turn onto 76th street...as Unit #1 was looking to the left to make sure it was safe to make the right hand turn, the driver of Unit #1 pulled slightly ahead, not looking to the right, and at that time struck a bicyclist who was travelling westbound legally through the crosswalk. Both person(s) involved in the crash drove to the Richfield Police station to file a MN crash report. The bicyclist reported minor injuries to his legs and approximately \$500-\$700 damage to his 15 speed Nishika bicycle. No injuries to the driver of Unit #1.

### **Pedestrian Crash** (right on red from EB 76<sup>th</sup> St to SB Girard Ave):

Unit 1 was traveling eastbound on 76th approaching Girard Ave S. Unit 2 was working as a cross guard standing on the southwest corner of the intersection at 76th St W and Girard Ave S. Unit 2 stepped into the crosswalk with his flag to allow other students to walk across Girard. As Unit 2 stepped into the crosswalk, Unit 1 collided with Unit 2 as Unit 1 began to turn right to go southbound of Girard. Unit 1 made contact with the left side of Unit 2's body. Unit 2 dropped to the ground later causing pain to his right knee.

In promoting bicycle and pedestrian safety at this location; MnDOT has a project this summer that will add Actuated Pedestrian Signals (APS) at Gerald Avenue, replace the ADA ramps, reconstruct the curb median on the west bound movement on 76<sup>th</sup> St, to calm/reduce traffic speeds to the NB on ramp to 35W. These measures will improve safety for the regional trail users.

### *Engagement*

**Question 12:** Meet with businesses and residents in the area that will have access modifications with the Turbine design. There was no public involvement process with the 2014 revisions so information and input is important at this stage.

**Question 13:** Concerns about Best Buy and how they might feel about this proposal noting they are a huge employer in the area and need easy access for employees and business clients that fly in from around the world. In 2014 Best Buy was not pleased with this idea locally, but understood the bigger picture of the project regionally.

**Question 14:** There is interest in hearing from businesses in this area, specifically Best Buy and Target, about their opinions and acceptance of the proposed traffic changes.

**Response 12, 13, 14:** MnDOT conducted public engagement during the 2014 study similarly to the current study process. MnDOT agrees that input in the process is very important. MnDOT will be meeting with Best Buy and other businesses at a business listening session for the businesses in the area to comment on the access changes of the turbine design. Also MnDOT will be meeting with Best Buy, Target, and other interested businesses separately and will continue to engage them throughout the study and into vision implementation. There will also be more outreach this spring to businesses and residents to educate them and get feedback on the turbine design. The TAC and PAC will be presented with all public engagement input when available. The cities' council members and commissions will have access to all of the information through their TAC and PAC representatives. Please visit the project website for more information on the turbine design and access modifications:

<http://www.dot.state.mn.us/metro/projects/i494-airport-hwy169/>

### *Environmental Impacts*

**Question 15:** Concerns with environmental impacts, namely, more cars on local routes, more cars idling at stop lights in the "Box" vs. moving (however slowly) on the highways. Also concerns that those that would bear the brunt of these impacts could very likely be low-income/minority as identified in the "environmental justice" slide from the TAC presentation.

**Response 15:** As part of the I-494 project, an in-depth air quality analysis will occur during the environmental process. Detailed modeling will be performed to verify that air quality standards are not exceeded. In Minnesota (and all other States) there are maximum concentrations of different pollutants that are set by the Environmental Protection Agency (EPA). MnDOT is also committed to working with other state and local agencies to address concerns about localized air pollution and carbon emissions, especially when our roadways are within low-income/minority communities. MnDOT has created the Office of Sustainability and Health and a Sustainable Transportation Advisory Council to make recommendations that will help the agency reduce pollution from the transportation sector. More information about this work can be found at: <http://www.dot.state.mn.us/sustainability/>. A full environmental justice analysis is being conducted to determine if disproportionate impacts will be borne by environmental justice populations.

## Vision/Implementation

**Question 16:** What are the dollar amounts in the vision estimate for the asset preservation items?

**Response 16:** Asset preservation items include bridge replacements and rehabilitation, pavement replacement and rehabilitation, and drainage infrastructure. All asset preservation includes long term fixes and improvements to bring the assets in compliance with current standards. All approximate construction costs below include 10% contingency and inflation. Cost estimates were done in December 2019 and are updated as information changes. The asset preservation items below are not programmed in MnDOT's State Transportation Improvement Program or in MnDOT's Capital Highway Investment Plan.

Asset	Cost Estimate
Bridges	\$50 million
Pavement	\$35 million
Drainage Infrastructure	\$90 million

**Question 17:** Bloomington wanted confirmation that when an actual project is scoped that the I35W/I494 turbine is the 1<sup>st</sup> priority.

**Response 17:** MnDOT continues to identify the I494/I35W interchange as a high priority. The first construction project to implement a portion of the vision is focusing on this interchange, however, MnDOT would like to make that determination by June 2020.

**Question 18:** Questioned the merits of a MNPASS lane altogether, noting that congestion seems to remain unchanged or even worsen for the non-MNPASS users (low income citizens?). Meanwhile, those that can afford to use the MnPASS lane with less congestion do so at everyone's collective expense.

**Response 18:** MnPASS lanes offer a faster, more reliable choice for transit, carpoolers and solo motorists, and enable a freeway to carry more people during peak weekday travel times. They are used

by all income levels during peak times and are available for everyone to use during off-peak times. Adding MnPASS lanes on I494 will immediately reduce congestion for all corridor users and slow the growth of congestion in the corridor for years to come. MnDOT is also considering options to make it easier for low income individuals to make greater use of the lanes.

**Question 19:** Concerns were expressed that the vision analysis did not address the clear social and environmental issues with substantive analysis. Deep frustrations were expressed with where this was heading.

**Response 19:** Social, economic, and environmental criteria were used in both Phases 1 & 2 of the screening analysis, which was determined to be non-differentiating in weighing alternatives.

**Question 20:** Concerns about the access during construction, especially for pedestrian and transit dependent minority/low-income citizens that need to get to jobs, food, and shopping. How are they going to be accommodated during construction when bridges are removed?

**Response 20:** MnDOT has not identified staging or temporary access changes during construction as that is a future phase in the delivery of the project. That information will be forthcoming. MnDOT will work with the cities before and during construction to limit the impacts to minority/low-income citizens as much as possible. One strategy that has been used on previous projects is to phase or alternate construction of bridge crossings.

**Question 21:** Concerns were expressed about potential right of way impacts (total or partial acquisitions) and the hope is that they become clearer for the City Council, property owners, and the public going forward.

**Response 21:** MnDOT is optimizing the concept design during the geometric layout development to look for ways to reduce right of way impacts. These optimizations will be shared with the cities, property owners, and the public.

## **Access Reconfiguration**

**Question 22:** Be explicit on the meeting invite for the access reconfiguration identifying the planned closures for Nicollet and 12<sup>th</sup> access to I494.

**Response 22:** MnDOT has and will continue to do so.

**Commission members:** Wes Dunser (Chair), Ken Severson (Vice Chair), Paul Chillman, Husniyah Bradley, Kyle Schmidt, Dan Edgerton, Jeffrey Walz, Louis Dzierzak

**Commission members not in attendance:** Mollie O'Howard

**Liaisons:** Sean Hayford Oleary

**Liaisons not in attendance:** Kevin Wendt, Councilmember Trautmann

**City Staff Liaison:** Jack Broz

**Other City Staff:** Scott Kulzer, Olivia Wycklendt

**I. Call meeting to Order**

*Chair Dunser called the meeting to order at 7:00 pm.*

**II. Approval of Agenda**

*Motion by Commissioner Severson to approve the agenda, s/Walz. Motion carried.*

**III. Review & Approve Minutes for July 8th, 2020 Meeting**

*Motion by Commissioner Severson to approve the July 8th, 2020 meeting minutes, s/Chillman. Motion carried.*

**IV. I-494 Vision: MnDOT's response to City comments/questions**

- Staff Liaison Broz gave a brief background on the "494 Vision" and reminded commissioners that the Vision is a corridor wide plan and is separate from any specific 494 project at this time. Future projects will work towards realizing that larger vision. The commissioners then discussed MnDOT's responses to questions and concerns that were raised by both Bloomington and Richfield regarding the vision for the I-494/35W interchange. Commissioner Severson reiterated his view that 35W to WB494 should be able to access Penn Avenue, and this was a major sticking point for him. MnDOT stated that access to Penn from the turbine was possible and considered but was dropped due to ROW impacts, reintroduction of another weave, and easier travel on via local routes 76<sup>th</sup>/82nd. Discussion related to the interchange was unified in the idea that the project seemed rushed, poorly thought out, and ill-designed to serve as the solution to the interchange problems for the next half century.
- Chair Dunser and Liaison Hayford Oleary wanted to know if MnDOT was seeking an endorsement of Project A or if they were just sending an FYI. Broz stated it was more the latter, that this was a "vision" of a cost effective project A that was a step towards implementing the full turbine design. This N to W flyover turbine would have the most benefit as opposed to the other 3 at this time.
- Following more discussion of the interchange and other potential impacts to Richfield at the Portland interchange, Commissioner Severson made a motion to formally express to City Council the Transportation Commission's dissatisfaction with MnDOT's response to the Richfield and Bloomington questions about the 494 Vision, and in particular the Penn Avenue changes generally and the ROW and traffic impacts specifically at Portland Ave/494. The motion was seconded by Louis Dzierzak and a roll call vote was called. The motion carried unanimously with the exception of Commissioner Edgerton who abstained from voting due to his work on the Penn Ave Corridor Study.

**V. Penn Avenue Study- Dan Edgerton, Zan Associates**

- Dan Edgerton, acting in his capacity as City/County Consultant for the Penn Avenue Corridor Study, provided background and an update on the project.

- Edgerton recapped the goals and findings of Open House #1 & #2 and detailed what the future Open House #3 would entail. In an effort to pin down what the study would bring forward as recommendations, the commissioners viewed a series of cross sections of Penn avenue that utilized various design tools. As an activity, the group was asked to rank how well these certain design tools would address the specific goals that came out of OH#2. The goals were walking, biking, driving (both to Penn and through), community revitalization and improving greenspace/landscaping/boulevards.
- Edgerton reiterated that the product of this Penn Corridor Study exercise would be a Penn "Vision" that would be unfortunately be implemented in piecemeal phases since at this point the county simply planned to resurface Penn.
- Edgerton noted that the commissions feedback was helpful and to expect to see information about Open House #3 sometime in the Fall.

#### **VI. Project Updates**

- Broz gave a brief update on the Lyndale project, which has effectively been completed.
- Kulzer noted the 77<sup>th</sup> Underpass project was still on track for 2021 construction and staff and our legislators were still working on getting bonding dollars to finalize the funding package during future special sessions. Kulzer noted that he had heard from the City's lobbyist that a bonding bill before the election was looking less likely since the Legislature is in full-on campaign mode.

#### **VII. Work Plan Review/Next Steps**

- The next Penn Open House is planned for Fall 2020.

#### **VIII. Upcoming events/meeting(s)**

*The next Transportation Commission meeting is scheduled for Wednesday, September 2nd, 2020.*

#### **IX. Adjournment**

*Motion made by Commissioner Dunser to adjourn meeting, s/Walz. Motion carried.  
Adjourned at 9:28 pm.*



## Meeting Minutes: I-494: Airport to Hwy 169 – Policy Advisory Committee

Date: 2/24/2020  
Minutes prepared by: Amber Blanchard and Erik Baxstrom  
Location: Bloomington City Hall, Haeg Conference Room

### Attendance

- Molly Cummings
- Mary Brindle
- Andrew Lutaya
- Erik Baxstrom
- Tony Fischer
- Simon Trautmann
- Jack Broz
- Anna Varney
- Nikki Farrington
- Josh Potter
- Amber Blanchard
- Karl Keel
- Debbie Goettel
- Jack Baloga
- Brad Aho
- Amy Marohn
- April Crockett
- Deb Barber
- Jason Staebel
- Brian Kary
- Mike Barnes
- Maria Gonzalez
- Derek Berube
- Gina Mitteco

### Decisions Made

- Decision: Turbine Interchange as part of vision.
  - All in favor

## Action Items

- Provide the traffic information data for the access reconfiguration to the PAC.
- Reach out to Councilmember Whalen and the Landlords Association to engage with land owners in Richfield.
- Send 494/35W interchange business listening session to TAC and PAC.
- I494 Corridor Commission has a legislative briefer that they prepare and could use some help from MnDOT.
- Will look into volumes and travel times of Best Buy commuters from I35W SB.
- Status of investigation to add exit at Penn for those coming from NB 35W.
- The City of Edina has offered to host the next PAC. The Project Team will work with the city on logistics.

## Meeting Notes from Agenda

1. Mike Barnes welcomed everyone and opened up the meeting with introductions.
2. Mike Barnes recapped the 12-19-19 meeting and opened it up for comments.
  - a. The question was asked what options can be looked at to add an exit for those traveling on NB 35W to WB 494 to Penn Ave. The project team is still looking into this.
3. Brian Kary presented on smart technology. Highlights include:
  - a. CAVX is leading the effort of signal phase and timing data from signals to vehicles
  - b. Intelligent work zones will have temporary infrastructure to maintain data during construction (e.g.: delays, travel time, etc.) - 1/3 of MnDOT's system has been upgraded to the pole mounted radar sensors.
  - c. Some data may be broadcast to cars to appear on dashboards instead of dynamic message signs
  - d. Discussed some of the pilot items going in on TH 55
  - e. Enhanced pavement markings for machine vision technology (lane departure assist, autopilot driving, etc.)
  - f. Questions asked: Since there is a lot of information being collected, what will the data be used for? Many companies are moving to cell phone-based data. The data will be used for traffic management, queue warnings (especially in work zones) and ramp meters; can look at real time traffic data and adjust their cycle lengths. What about markings covered in snow? The industry doesn't have a good answer for this yet. Testing is taking place in Michigan and Minnesota. A follow up question of where are we going to store all of the data was asked. MnDOT has a project with the University of Minnesota to determine the amount of data and how to combine it. Why build the infrastructure if we can get the data from cell phones and what is the cost benefit analysis? We can get good speed data from cell phones, but not good volume data and cell phone data can't help with ramp metering or signal timing. Traffic sensors are inexpensive.
4. Both Amber Blanchard and Andrew Lutaya talked about traffic operations on the arterial network and the expectation based on traffic modeling indicates the local network will see less traffic and equal or better level of service of operations.
  - a. Why do the interchanges not affect the traffic operations on the local system outside of American and 77th and is that an assumption? Based on year 2040 traffic modeling data that assumes MnPASS on 494, there aren't large impacts to the local system.
  - b. Does Portland Ave has an impact on 82nd St? The response was no, it does not.

5. Erik Baxstrom went through the feedback from the Portland Interchange Business Listening Session in January. Key themes include frontage roads (loss of access, straighter alignments, and drainage improvements), construction, impacts to businesses during construction, and design options. Key themes about design options include the fatal flaws of the roundabout and diverging diamond interchanges well understood, Texas U-turn was well received due to traffic operations, but there are concerns about access removal, and the single point urban and tight diamond interchanges are consistent within the region.
  - What engagement has taken place with residents? Three distinct phases of engagement have taken place, beginning in the summer of 2018: Survey and in-person events to gather input on the purpose and need; targeted engagement of businesses and the public on access changes to Nicollet Avenue, Portland Avenue and 12<sup>th</sup> Avenue including events, open houses and surveys; sharing the purpose and need along with further engagement with businesses on access changes. The location of events have included open houses, pop-ups at public gatherings, listening sessions, Walmart, and door-to-door communication (for businesses). Media has included earned media via local television news and newspapers, city newsletters, emails to project email list, targeted social media, and fliers at businesses and large apartment buildings.
  - The project team received guidance from Councilmember Trautmann and Mayor Regan-Gonzalez to talk with Councilmember Whalen and the Landlords Association to connect with land owners in Richfield.
    - RAMA Landlord Group via Richfield staff Lynette Chambers
    - Season's Park and Richfield Towers apartments
    - Affordable Housing Task Force – Councilmember Ben Whalen
6. Amber Blanchard and Andrew Lutaya discussed the last remaining key decision to be agreed to by the PAC (the turbine interchange).
  - Discussion of the interchange ensued with the following questions/comments and responses:
    - Are you still looking at the NB 35W to exit at Penn? Yes, still are.
    - Good signage will be important with these changes and will keep people off of the local system.
    - Natural environment'
    - What will be the impact to Best Buy commuters from I35W SB? Will look into volumes and travel times.
    - We are only voting on vision and not the interchange design? Yes, just the vision.
    - How much improvement will occur on other interchange movements (not 35W NB to 494 WB)? Bridge braids provide improvements to 494 EB and WB by removing weave areas. Also, the 494 WB to 35W SB operations will improve with the directional ramp.
    - Are you thinking about how flooding could affect the feasibility of the directional ramp going under 494 and issues around drainage? Yes, it will be looked at as part of a geotechnical investigation and with further discussion and information exchanges with FHWA.
    - Is the interchange an easier component of the project? We don't know yet until we complete a benefit cost analysis, which is forthcoming.
  - The PAC was all in favor of the turbine interchange as part of the I494 vision.
7. Amber Blanchard and Andrew Lutaya talked about the vision implementation will be done in phases due to fiscal and project constraints. Also there is ongoing work to identify the initial phase of the corridor vision implementation (Project A) and there are many possible scope scenarios. A discussion followed that included comments and questions/responses:
  - What can be done with congestion on I494? Vision is big improvement.
  - Want to know the funding gap and if there should be an ask to the legislature.

- Would be upset about a drawn out implementation plan especially if we use stop gap measures like mill and overlays.
  - I494 is a statewide benefit. Need to talk with legislators to make the vision work and implement it in a way that is cost effective.
  - Is the state really committed to getting this done?
8. What are you hearing? (all) – didn't get to agenda item as ran out of time
  9. Next Steps (Mike Barnes) – didn't get to agenda item as ran out of time

## Supplemental Materials

I-494\_022420\_PAC\_v3.pptx

LOS access.pptx

Preparing for Future CAV 494.docx

## Next Meeting

Date: April 27, 2020

Time: 1 – 3 pm

Location: Braemar Golf Course, Edina

## I-494: Airport to US 169 Policy Advisory Committee

Date: 02/23/2021

Location: Virtual

Invited Members and Staff:

**State of Minnesota:** Sen. Melissa Franzen; Sen. Melissa Halvorson Wiklund; Sen. Patricia Torres Ray; Rep. Emma Greenman; Rep. Steve Elkins; Rep. Michael Howard

**Hennepin County:** Commissioner Angel Conley; Commissioner Debbie Goettel

**Metropolitan Council:** Councilmember Molly Cummings; Councilmember Chris Ferguson; Councilmember Deb Barber

**Metropolitan Airports Commission:** Bridget Rief

**City of Richfield:** Mayor Maria Regan Gonzalez; Councilmember Simon Trautmann

**City of Eden Prairie:** Councilmember Mike Freiberg

**City of Bloomington:** Councilmember Jack Baloga

**City of Edina:** Councilmember Ron Anderson; Councilmember James Pierce; Councilmember Mike Fischer; Councilmember Kevin Staunton

**FHWA:** Dave Scott

**MnDOT:** Mike Barnes

## Meeting

### Introductions and Welcome

Introductions and roll call were performed. Mike Barnes then reviewed the meeting summary from December 8, 2020.

### Vision Implementation Plan Development

Next Amber Blanchard and Andrew Lutaya then presented the Vision Implementation Plan Development including the process, outcomes, and TAC recommendations.

- An important outcome is the constructability of the project. One the topic of community support, the PAC would like to see it broken down by communities and coalition preferences and priorities for how the implementation should be sequenced. When each project element should be constructed.
- There was a comment that the project should be prepared to seek out Federal transportation funds when appropriate.
- There was another comment on working with “Street Suites” for engagement in Richfield.
- A comment was made about stormwater management and that concurrence on the plan today should not be viewed as an agreement on where the stormwater storage locations are constructed.
- The project team then discussed the TACs recommendation.

- Concurrence was reach by all TAC members on the Vision Implementation Plan Development

**ACTION:** Concurrence from PAC to move forward with recommended implementation plan and begin development of first project.

## Scott Kulzer

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**From:** Joe Powers  
**Sent:** Friday, August 13, 2021 12:11 PM  
**To:** Scott Kulzer  
**Subject:** FW: I494 Ramp Connection Suggestions  
**Attachments:** Penn Ave Access v3.docx

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**From:** Blanchard, Amber (DOT) [mailto:[amber.blanchard@state.mn.us](mailto:amber.blanchard@state.mn.us)]  
**Sent:** Wednesday, July 28, 2021 7:03 AM  
**To:** Ken Severson; Barnes, Michael (DOT); Lutaya, Andrew (DOT)  
**Cc:** Sean Hayford Oleary; Kristin Asher; Joe Powers; Wes Dunser  
**Subject:** RE: I494 Ramp Connection Suggestions

Good morning Ken!

Thank you for sending your ideas pertaining to the I494/I35W interchange. We really do appreciate all of the feedback we get. Please see my responses in italics below to your bulleted suggestions. I have also included an attachment that explains the access at Penn Ave a bit further and why we are continuing with the current configuration. We agree these types of projects don't come around very often and will last a long time and are doing everything we can to meet the goals of the project related to improved mobility and safety.

If you have any follow up questions, please let me know as I am happy to answer them.

Kind Regards,

Amber

**Amber Blanchard, P.E. (MN)**  
(pronouns: she/her/hers)  
Major Projects Manager | Metro District

- I494 Corridor Director
- Stone Arch Bridge Project Director

Minnesota Department of Transportation  
1500 W. County Road B-2  
Roseville, MN 55113  
Direct: 651-234-7770  
[amber.blanchard@state.mn.us](mailto:amber.blanchard@state.mn.us)



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**From:** Ken Severson <[Kenneth.Severson@suncountry.com](mailto:Kenneth.Severson@suncountry.com)>  
**Sent:** Monday, July 19, 2021 9:19 AM

**To:** Blanchard, Amber (DOT) <amber.blanchard@state.mn.us>; Barnes, Michael (DOT) <michael.barnes@state.mn.us>; Lutaya, Andrew (DOT) <andrew.lutaya@state.mn.us>  
**Cc:** Sean Hayford Oleary <sdho@sdho.org>; Kristin Asher <KAsher@richfieldmn.gov>; Joe Powers <JPowers@richfieldmn.gov>; Wes Dunser <wes.dunser@gmail.com>  
**Subject:** RE: I494 Ramp Connection Suggestions

**This message may be from an external email source.**

Do not select links or open attachments unless verified. Report all suspicious emails to Minnesota IT Services Security Operations Center.

Amber,

I'm sorry I missed your call last Friday morning. Thank you for reaching out to me as promised. (Things got crazy on my end.) Rather than try to simply verbalize my concerns and suggested improvements, using a portion of the project drawing "SP2785-424\_Full-Vision-Project-Layout\_06-09-2020.pdf", I have attached marked up copies of that drawing to show what I think are viable alternatives to the current MnDOT proposal that would permit full access to Penn Ave from I-35W and to SB I-35W from Penn Ave. These are my concerns as well as my proposals:

1. As proposed by MnDOT, neither northbound or southbound I-35W traffic may exit at Penn Ave. When I asked why this was the case I was told there is "insufficient space available" to permit the traffic weave that would be required. I am going to throw down the NFL red challenge flag on that one. Based on the attached "I-35W-to-494 Proposal", one would have anywhere from 841 to 1,450 feet to perform any merging/weaving to exit at Penn. This is at a minimum four times longer than the 210 feet one has when going NB on Hwy 77 to WB I-494. See the attachments where I derived my measurements.

*Response: Not sure where the "insufficient space available" reason came from, but the reason the access is changing at Penn is due to safety and traffic operations in the I494/I35W interchange area. Penn Ave and the I494/I35W interchange area are only 0.5 miles apart. This, in turn with the amount of traffic in this area (197,000 vehicles per day in 2017), contribute to the amount of congestion and delay we see there now. The 2001 Final Environmental Impact Statement first talked about the access changes at Penn and the I494/I35W interchange as well as the "box" network of local streets that would carry the local traffic. Subsequent studies in 2010 and 2014 continued those discussions as the best way to reduce congestion and improve safety.*

*We have done a more detailed analysis looking at the different aspects of a slip ramp from the I35W NB to I494 WB directional ramp to Penn Ave which explains our support of the current configuration in the vision and Project 1. I have attached that for your information.*

2. If the above proposal will not work, another alternative for NB I-35W traffic is to simply leave the existing NE cloverleaf in place rather than spending the money to remove it, and then designate it for Penn Ave. traffic only. This would be similar to the existing NE cloverleaf at I-494 & Hwy 77 which is limited to carpool/HOV traffic only. This option would eliminate the need to exit at 82<sup>nd</sup> St and drive through the revitalized PennAmerican neighborhood and eight traffic lights just to get to Best Buy and other areas north of I-494. This option is basically free as you would only need to add new signage. It has been stated by MnDOT personnel this area is needed for stormwater management, but I question why a stormwater pond would drive the need to remove the cloverleaf. The plans for this interchange already show a stormwater pond within the SE cloverleaf, and numerous other interchanges in the metro area have stormwater ponds as well. Most notable is the I-494/US 169 interchange with nine stormwater ponds.

*Response: While it is true this area is needed for stormwater treatment, the current configuration of removing the NE loop ramp is being done for the same reasons I mentioned in the response to your first bullet, to reduce congestion and improve safety. Only 200 vehicles per day are forecasted to want to use the NE loop ramp to exit at Penn Ave in 2040. By comparison, a total of 5000 vehicles will use the ramps from NB and SB I35W. See the attached document for more information.*



3. As proposed by MnDOT, one will not be able to access SB I-35W from Penn, but will have to go to 82<sup>nd</sup> St. for access. Based on the attached "Penn-to-I-35W Proposals", I see two options for providing access to SB I-35W from Penn Ave. The first one is based on the interchange at East Bush Lake Road where one has the immediate choice of staying left to WB on I-494 or keeping to the right to proceed EB on I-494. The second option is to simply provide an exit slip ramp further east. In both cases, these would only require a simple one-direction merging of traffic, there would not be any two-way "weaving" of traffic.

*Response: While we didn't do the amount of analysis for the EB I494 ramp from Penn as we did in the WB direction, the same reasons apply. You are correct, weaving of traffic will not take place, but merging traffic will. The first option you proposed will likely not work without a significant investment in acquiring right of way as we have made every effort to stay within the existing MnDOT right of way. Also a few other issues pop up here including an access road needed to get to our existing lift station from the ramp (not shown in your drawing, but needed since we can't access it from private property), avoiding retaining walls, and the elevation differences between the slip ramp and the I494 EB to I35W SB ramp (not enough distance to connect the ramps at the right grades). The second option you proposed has issues too. The Penn Ave to EB I494 ramp will be metered and will be backed up during peak hours. We typically like to have a minimum of 600 feet from ramp nose to ramp nose, which would require us to move the Penn Ave to EB 494 nose to the east and then it gets too close to the loop ramp from I35W SB to 494 EB. I have included a screen shot of our current geometric design to give you a better idea of the complexities in this area.*

Please look over these suggestions and if you have any questions feel free to contact me. As this is a once every 50 year type of project, let's get it right. I am a member of the Richfield Transportation Commission and have typically expressed my concerns at those meetings, but unfortunately due to Covid-19 and staff illness we have not had any meetings recently. For that reason I am cc'ing some Richfield staff and officials for whom I have email addresses. Feel free to share this email with anybody you wish.

Thank you.

**Ken Severson**  
**Structures/Interiors Engineer**

Sun Country Airlines  
7201 Longfellow Avenue S.  
Minneapolis, MN 55450  
o: 651-389-9590  
m: 651-724-0631

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**From:** Blanchard, Amber (DOT) <[amber.blanchard@state.mn.us](mailto:amber.blanchard@state.mn.us)>

**Sent:** Thursday, July 15, 2021 4:39 PM

**To:** Barnes, Michael (DOT) <[michael.barnes@state.mn.us](mailto:michael.barnes@state.mn.us)>; Lutaya, Andrew (DOT) <[andrew.lutaya@state.mn.us](mailto:andrew.lutaya@state.mn.us)>

**Cc:** Ken Severson <[Kenneth.Severson@suncountry.com](mailto:Kenneth.Severson@suncountry.com)>

**Subject:** [EXTERNAL] RE: I494 Ramp Connection Suggestions

Thanks Mike!

Ken – Are you available for a call sometime tomorrow morning?

Amber

**Amber Blanchard, P.E. (MN)**  
(pronouns: she/her/hers)  
Major Projects Manager | Metro District  
• I494 Corridor Director

- Stone Arch Bridge Project Director

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**From:** Barnes, Michael (DOT) <[michael.barnes@state.mn.us](mailto:michael.barnes@state.mn.us)>  
**Sent:** Thursday, July 15, 2021 4:29 PM  
**To:** Blanchard, Amber (DOT) <[amber.blanchard@state.mn.us](mailto:amber.blanchard@state.mn.us)>; Lutaya, Andrew (DOT) <[andrew.lutaya@state.mn.us](mailto:andrew.lutaya@state.mn.us)>  
**Cc:** [Kenneth.Severson@suncountry.com](mailto:Kenneth.Severson@suncountry.com)  
**Subject:** I494 Ramp Connection Suggestions

Amber & Andrew, I attended the TH 77 Underpass Ribbon Cutting this afternoon. After the ceremony, Ken Severson talked to me about some potential options for northbound I35W traffic to be able to exit to Penn Ave and also eastbound Penn traffic to access I35W southbound. He has some additional questions and input in the area also, so please give him a call or let him know when the next meeting will be in the area so he can meet to discuss. I've cc'd him on this email and also put his contact info below. Thanks!

**Ken Severson**  
**Structures/Interiors Engineer**

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m: 651-724-0631

## Penn Avenue Access

MnDOT and stakeholders have developed a vision for the I494 corridor between US 169 and the airport. This vision includes restricting access to Penn Ave from westbound I494 for those coming from northbound and southbound I35W. As project development progresses, a question has been raised regarding the potential to allow full access at Penn Avenue and if the benefits of full access justify additional cost and safety concerns.

MnDOT has concerns about including an access to Penn Ave for those coming from northbound and southbound I35W. These include:

*Safety:* The crash rate along I494 at the Penn Ave interchange is greater than the critical crash rate (based on 2015-2017 data). This indicates a need for improved safety. Reducing congestion leads to a lower risk of crashes. MnDOT undertook a more detailed analysis to look at the number of crashes predicted with a slip ramp from the I35W NB to I494 WB directional ramp to Penn Ave. The predictive safety analysis is below.

Scenario	Location	2040 Predicted Crashes		
		Property Damage Only (PDO)	Fatal + Injury (FI)	Total
<b>Base Condition (No Slip Ramp)</b>	Arterial	59.5	43.9	103.5
	Flyover	8.5	5.9	14.3
	Total	68.0	49.8	117.8
<b>With Slip Ramp</b>	Arterial	57.2	41.7	98.9
	Flyover	11.2	8.9	20.0
	Total	68.4	50.6	118.9
<b>Change with Slip Ramp</b>	Arterial	-2.3	-2.2	-4.6
	Flyover	2.7	3.0	5.7
	<b>Total</b>	<b>0.4</b>	<b>0.8</b>	<b>1.2</b>
	<b>Total Percent Change</b>	<b>0.5%</b>	<b>1.6%</b>	<b>1.0%</b>

Overall, the analysis shows there are more predicted crashes with the slip ramp compared to without. You can mainly focus on the cells highlighted in yellow, which show the change in safety performance is relatively small, with 0.8 more fatal/injury crashes and 1.2 more total crashes predicted in 2040 with the

slip ramp. Of note, the fatal and injury crashes accounts for all level of injury crashes and not just the severe ones. These results correspond with what traffic experts expect, crashes on the arterial system decrease with the direction ramp, but the decrease is smaller than the increase in crashes on the directional ramp due to the additional access point and weave segment added, along with weaving traffic between the slip ramp and westbound Penn Avenue off-ramp.

*Weaving:* Short weave sections increase congestion. An access at Penn Ave will add a 1400 foot section on the directional ramp where, daily, 450 vehicles will have to move right to exit and weave with those destined for westbound I494 (450 vehicles from northbound I35W – 275 in the AM peak and 175 in the PM peak based on 2040 vision forecast data). There are many factors to take into consideration when eliminating weaves, including length of weave, the freeway to freeway volume in the weave segment (overall volume entering the weave segment), and ramp to ramp volumes.

*Users:* A total of 650 out of 5000 vehicles are forecasted to use an access to Penn Ave from northbound and southbound I35W in 2040 every day. This is only 13% of the forecasted traffic.

*Cost and Impacts:* This access would add another \$1.5 to \$2.2 million to the corridor cost estimate. Included in the amount is between \$400,000 and \$500,000 for right of way purchase of property owned by Best Buy. See below for more information on cost and impacts.

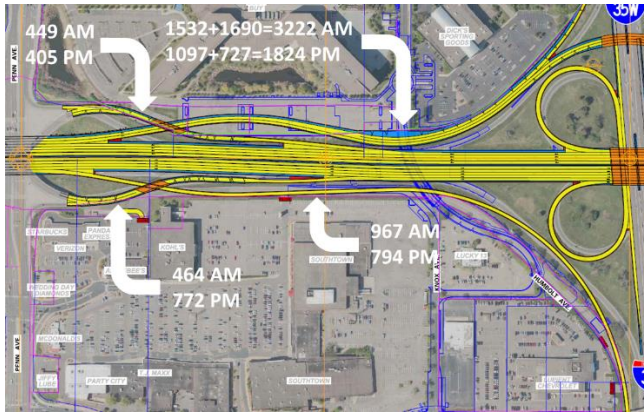
*Travel Time:* In 2040, it will take vehicles approximately 8.6 minutes to get to Best Buy from I35W via Penn Ave and 82<sup>nd</sup> Street in the morning peak hours compared to approximately 7.0 minutes with this access via the freeway. In the afternoon peak hours, it will take vehicles approximately 6.6 minutes to get to 35W from Best Buy via Penn Ave and 82<sup>nd</sup> Street compared to approximately 5.6 minutes via the freeway. The freeway will be faster in the morning by only 1.6 minutes and in the afternoon by only 1 minute. The small differences in travel times do not warrant increased access.

In summary, the benefits of access are small time savings for users (relatively small number of users – 650 of 5000 vehicles, or 13%) when compared to the 82<sup>nd</sup> Street/Penn Avenue access alternative contained in the vision layout. Costs include an additional \$1.5M to \$2.2M in construction cost and the continuance of a weave condition that is not considered safe by widely accepted highway design standards. Weighing the cost and benefits, MnDOT does not support changes to the vision layout to provide access at Penn Ave for those coming from northbound and southbound I35W.

## **Additional Information**

### *Forecasted Traffic Volumes*

The 2040 forecasted traffic volumes are listed below between Penn Ave and I35W.



The 2040 forecasted traffic volumes for those looking to exit at Penn Ave from NB and SB I-35W are:

- AM from NB I-35W – 275
- AM from SB I-35W – 100
- PM from NB I-35W – 175
- PM from SB I-35W – 100

The 2040 forecasted traffic volumes for those looking to exit at I-35W SB from Penn Ave are:

- AM – 125
- PM – 295

#### *Cost range and additional impacts:*

Adding a slip ramp from the I-35W to WB I-494 directional ramp has additional costs and impacts to the vision layout.

Construction cost (additional pavement, retaining walls, grading, etc.) = \$1,000,000 to \$1,500,000

Right of Way acquisition (from Best Buy) = \$400,000 to \$500,000

10% added for risk = \$140,000 to \$200,000

Total cost: \$1,540,000 to \$2,200,000

Assumes the roadway on the Best Buy property to Knox Ave is eliminated. Utility conflicts are still unknown in this area. No inflation included.

