



**SPECIAL CITY COUNCIL WORKSESSION  
RICHFIELD MUNICIPAL CENTER, HEREDIA PARK  
JUNE 26, 2018  
6:00 PM**

Call to order

1. Commission Recognition Event

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.**



**REGULAR CITY COUNCIL MEETING  
RICHFIELD MUNICIPAL CENTER, COUNCIL CHAMBERS  
JUNE 26, 2018  
7:00 PM**

**INTRODUCTORY PROCEEDINGS**

Call to order

Open forum (15 minutes maximum)

***Each speaker is to keep their comment period to three minutes to allow sufficient time for others. Comments are to be an opportunity to address the Council on items not on the agenda. Individuals who wish to address the Council must have registered prior to the meeting.***

Pledge of Allegiance

Approval of the minutes of the: (1) Special City Council work session of June 12, 2018; and (2) Regular City Council meeting of June 12, 2018.

**PRESENTATIONS**

1. Swearing-in of City of Richfield Police Officers Macabe Stariha, Hailey Quanbeck, Christopher Barber, and Matthew Hotzler.

**COUNCIL DISCUSSION**

2. Hats Off to Hometown Hits

**AGENDA APPROVAL**

3. Approval of the Agenda
4. **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. Consideration of the adoption of a resolution establishing an absentee ballot counting board for the 2018 State Primary and State General Elections.

Staff Report No. 106
  - B. Consideration of the approval of eight (8) solar project agreements with iDEAL Energies for the installation of solar panels on city facilities.

Staff Report No. 107
  - C. Consideration of the adoption of a resolution approving the submission of the limited use permit with the Minnesota Department of Transportation (MnDOT) for the 66th Street Streetscape elements within



MnDOT right-of-way (ROW).

Staff Report No. 108

- D. Consideration of the adoption of a resolution approving an agreement related to the Minnesota Department of Transportation's Landscape Partnership Program.

Staff Report No. 109

- E. Consideration of the approval of the revised Richfield Parkway Infrastructure Construction Agreement and the Maintenance Parcel Agreement between the City of Richfield and Chamberlain Apartments, LLC.

Staff Report No. 110

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

### **PROPOSED ORDINANCES**

6. Consideration of a variety of land use approvals related to a proposal for a mixed use development at 101 66th Street East (66th Street and 1st Avenue).

Staff Report No. 111

7. Consideration of a variety of land use requests related to a proposal to construct condominiums, townhomes, and apartments on the northern portion of the former Lyndale Garden Center property and an adjacent single-family property.

Staff Report No. 112

### **OTHER BUSINESS**

8. Consideration of the adoption of a resolution of denial for a Therapeutic Massage Enterprise Licence for Longshi, Inc.

Staff Report No. 113

### **CITY MANAGER'S REPORT**

9. City Manager's Report

### **CLAIMS AND PAYROLLS**

10. Claims and Payrolls

Open forum (15 minutes maximum)

***Each speaker is to keep their comment period to three minutes to allow sufficient time for others. Comments are to be an opportunity to address the Council on items not on the agenda. Individuals who wish to address the Council must have registered prior to the meeting.***

11. 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.**



# CITY COUNCIL MEETING MINUTES

Richfield, Minnesota

## Special City Council Work Session

### June 12, 2018

#### CALL TO ORDER

The work session was called to order by Mayor Elliott at 6:00 p.m. in the Bartholomew Room.

*Council Members Present:* Pat Elliott, Mayor; Edwina Garcia; Michael Howard; Maria Regan Gonzalez; and Simon Trautmann.

*Staff Present:* Steven L. Devich, City Manager; Chris Link, Operations Superintendent; Melissa Poehlman, Planning and Redevelopment Manager/Assistant Community Development Director; Matt Brillhart, Associate Planner; and Jared Voto, Executive Aide/Analyst.

<b>Item #1</b>	<b>SOLAR PROJECTS UPDATE</b>
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Operations Superintendent Link provided a brief history on the topic of solar. He stated staff has been working with an installer and identified areas for the placement of solar arrays at multiple facilities, both 20 and 40 kW systems. He discussed the City's agreement partners (Xcel Energy, Ideal Energies, and Green 2 Solar) and their relationship with the City. He stated there was no cost to the City for the installation of solar and there is an option to purchase at year 14. Lastly, he discussed the ability for the City to show how the arrays are working, by putting a monitor on the website or possibly the monitors at City Hall.

Mayor Elliott asked about the energy savings and if the City did due diligence of the companies.

Operations Superintendent Link responded that it is basically a wash with electricity costs, but the City will never pay more in electricity than we would if we did not have solar. He stated the City checked references and that the provider has done a number of projects throughout the state, including with Richfield School District.

City Manager Devich mentioned that Jim Strommen, attorney for Kennedy & Graven, spent a lot of time with the agreements for the City. Mr. Strommen is also the attorney for the Suburban Rate Authority and is very knowledgeable with utilities. City Manager Devich also mentioned that the City took time to identify the locations for solar arrays.

Mayor Elliott asked about the timeline for installation.

Operations Superintendent Link responded that if the agreements were approved the Public Works Facility could begin installation in September, with the other buildings following. He mentioned the agreements and estimates will be shared with the City Council.

<b>Item #2</b>	<b>MIXED-USE DEVELOPMENT PROPOSAL FOR 101 66TH STREET EAST (66TH STREET &amp; 1ST AVENUE)</b>
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City Manager Devich introduced the topic as an opportunity for the Council to learn about changes that have occurred on the proposed development to address issues brought up by the neighbors, knowing that not some issues can be addressed and other cannot be addressed, and answer any questions.

Ryan Anderson, ISG, architect for the project, provided background and history of the project. He also discussed changes made that include additions to buffering of adjoining residential property adjacent to the building.

Julie Lapensky and Mike Plantan, neighbors of the proposed development, stated the building is too large for the site, this project being a prototype for other mixed use buildings in Richfield, their interest in businesses that are compatible with R-1 zoning, their interest in making it a dead end street, and the economic viability of the development going smaller.

Council Member Garcia asked about the possibility and type of a restaurant on the site.

Paul Lynch, developer, responded that there are no restaurants on that site currently. He stated potentially yes if a coffee shop or Jimmy John's-type restaurant were interested in the site.

Council Member Howard asked staff how the mixed use designation worked and what types of businesses were permitted in the site.

Associate Planner Brillhart referenced the resolution that was recommended by the Planning Commission. There is a stipulation in the resolution that limits the amount of restaurant space in the development to 2,000 square feet, of the 6,000 square feet of commercial. He went on to list possible types of commercial uses.

Mayor Elliott suggested the developer focus on commercial uses that would benefit the neighborhood.

Mr. Lynch agreed with the Mayor's suggestion.

Council Member Howard discussed the Plaza 66 development and he recalled discussions about parameters on hours that commercial businesses could be open and asked if that was put into the resolution.

Assistant Community Development Director Poehlman could not recall if restrictions were included in the resolution and mentioned that the liquor regulations limit the hours of operation and could be added to the resolution, however the type of restaurant would not typically have late hours of operation, but if it was a concern it is something that could be added.

Council Member Howard stated it would be something he would be interested in to build in assurances.

Council Member Garcia asked about what happens if people start parking on the streets.

Assistant Community Development Director Poehlman responded that staff believes there is adequate parking to serve the needs of the development, but there is always a chance for spillover parking. Staff has tended to wait to see if a problem actually arises and then addressing it.

Mayor Elliott commented he thought staff has dealt well with parking issues and that there have been very few locations that have been an issue, except for 68th and Penn.

Council Member Trautmann asked about the financing of the project.

Mr. Lynch responded with the economy doing well construction subcontractors are more difficult to hire and there are different ways as a general contractor to control their costs. He stated they are looking at the project from a cost and timing standpoint. He stated they have been looking at different materials that add to curb appeals and their costs. He also stated he has financing and would be able to have the bank provide something to the City Council if it is requested.

Council Member Trautmann thanked him for his response and stated the fear he has is the Council gets pitched on one product but end up with something different due to cost reasons that lessens curb appeal.

Mayor Elliott asked for the best case scenario timeline.

Mr. Lynch responded if the project is approved at the next Council meeting, they would start construction in 2018.

Council Member Howard discussed the developer's responses to questions from the neighborhood and references policies in place to mitigate concerns. He commented with the Chamberlain development the developer wrote a letter to the neighborhood and city making some commitments for the policies and to work with the neighborhood and asked if that was something to do here to ensure accountability.

Mr. Lynch responded by clarifying as the landlord he has a lease with renters that require them to adhere to the policies and procedures of the property. In the future if there is an issue that as a landlord he needs to address he can update the policy and provide it to his renters and they must adhere to it. He stated he could provide policies to the City and gave some examples of policies.

Assistant Community Development Director Poehlman suggested providing the letter than the Chamberlain development submitted so he has an idea of what the Council is looking for.

Council Member Regan Gonzalez commented that one piece is policies for tenants but another was agreement with the neighborhood related to buffering and types of fencing. She asked City staff what type of recourse the City has if things that are agreed to are not completed by the developer.

Assistant Community Development Director Poehlman responded as this moves forward the Council should be approving site plans that show where all the items are to be located and materials and these should be included in the stipulations and known now. She commented on the Chamberlain, which is a much larger development; there is more opportunity for things to be moved around and language was included that the developer will continue discussions with the neighborhood about the location of amenities, but in this case the buffer cannot be moved so there aren't as many unknowns.

Council Member Howard stated there seems to be a lot of buffering and asked the neighbors for their reaction to the changes there from what it was originally proposed to what is proposed now, noting the neighbors directly to the south of the proposed development were not in attendance.

Ms. Lapensky responded that it would be difficult to speak for the adjacent neighbors.

Mr. Plantan responded that the concessions may be great for those neighbors it doesn't solve the issue for the whole neighborhood of the scale and aesthetics that are troublesome.

Mayor Elliott commented about the aesthetics of the building and it was clarified that this was not up for approval this evening.

Council Member Garcia stated she was still concerned about the restaurant and parking. She stated she would like to go to the site and view it with staff, and also meet with the nearby residents.

Ms. Lapensky stated she appreciates Council Member Garcia's comments and stated the neighborhood is feeling the project continues to progress with little concessions and people are still frustrated. She stated she hoped for something that would make it better and nothing has truly changed in the eyes of the neighborhood. She also stated that knowing that it contributes to the tax base of the city and asked what can be done to make it livable to the neighborhood.

Council Member Trautmann asked about snow removal and a shadow effect that could be created.

Mr. Anderson responded that this has been part of the discussion throughout the process and a concern with snow from 66th Street. He stated there will be agreements between the commercial tenants and landlord, which is typical with these projects. He also detailed changes to the site to allow for more snow storage and changes to the stormwater infrastructure to handle melting snow.

Mayor Elliott asked the developer if he uses triple-net leases and about snow removal.

Mr. Lynch responded he uses triple-net lease where he takes care of all of the snow, and he hires a snow contractor to remove the snow. He stated if there is a buildup of snow the contractor hauls the snow off the property.

Associate Planner Brillhart clarified that the City is responsible to snow removal along 66th Street and that the Public Works Department has reviewed the plans for the property. He stated shadows slow the melting of ice, but that is true of any multi-story building along 66th Street, and our Public Works Department has not shared any concerns. He also stated that they have previously included stipulations on developments with tight parking that requires all parking spaces be available year-round. This stipulation would likely be included.

Council Member Regan Gonzalez commented that she does not like the fact that the building is a big rectangular box, understanding that the developer looked at different options and asked if this is the most economically viable option for this space.

Mr. Lynch responded that yes, for the last two years this is the direction they have been pursuing.

Mr. Anderson also responded that when they talk about the scale of the building, the depth of the building uses standard commercial multi-residential building, a standard for the industry. He stated that in order to adjust the scale, having less depth, could really increase the costs.

<b>ADJOURNMENT</b>
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The work session was adjourned by unanimous consent at 6:52 p.m.

Date Approved: June 26, 2018

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Pat Elliott  
Mayor

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Jared Voto  
Executive Aide/Analyst

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Steven L. Devich  
City Manager



# CITY COUNCIL MEETING MINUTES

Richfield, Minnesota

## Regular Meeting

June 12, 2018

### CALL TO ORDER

The meeting was called to order by Mayor Elliott at 7:00 p.m. in the Council Chambers.

*Council Members Present:* Pat Elliott, Mayor; Edwina Garcia; Michael Howard; Maria Regan Gonzalez; and Simon Trautmann.

*Staff Present:* Steven L. Devich, City Manager; Mary Tietjen, City Attorney; Pam Dmytrenko, Assistant City Manager/HR Manager; Jay Henthorne, Chief of Police; Jim Topitzhofer, Recreation Services Director; Chris Regis, Finance Manager; Melissa Poehlman, Planning & Redevelopment Manager/Assistant Community Development Director; Jennifer Anderson, Support Services Manager; Jack Broz, Transportation Engineer; and Jared Voto, Executive Aide/Analyst.

### OPEN FORUM

None.

### PLEDGE OF ALLEGIANCE

Mayor Elliott led the Pledge of Allegiance.

### APPROVAL OF MINUTES

M/Howard, S/Elliott to approve the minutes of the: (1) Special joint City Council and HRA work session of May 21, 2018; (2) Special City Council work session of May 22, 2018; (3) Special City Council work session of May 22, 2018; and (4) Regular City Council meeting of May 22, 2018.

Motion carried 5-0.

Item #1	GENE & MARY JACOBSEN CITIZEN OF THE YEAR FOR 2018 AWARD
<p>Council Member Howard introduced Mark Westergaard, Chair of the Human Rights Commission. Chair Westergaard announced the Citizen of the Year for 2018 Award was awarded to Joyce Marrie and read her nomination. Kim Jacobsen, son of Gene &amp; Mary Jacobsen, presented the</p>	

award to Ms. Marrie. Ms. Marrie thanked the City of Richfield, the Richfield City Council, Human Rights Commission, spoke about her work and read a poem she wrote.

Council Members praised and thanked Ms. Marrie for her work, saying she is what makes Richfield great.

<b>Item #2</b>	<b>HUMAN RIGHTS COMMISSION 2017 YEAR IN REVIEW</b>
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Council Member Howard re-introduced Mark Westergaard, Chair of the Human Rights Commission. Chair Westergaard provided the purpose of the Human Rights Commission and gave a review of 2017-2018 work done by the Commission.

Council Member Howard thanked Chair Westergaard his work as Chair and shared his appreciation for the work they do for Richfield.

Council Member Garcia thanked Chair Westergaard and the Commission for their work.

Chair Westergaard thanked the City for their support and Mike Koob as liaison.

<b>Item #3</b>	<b>COUNCIL DISCUSSION</b> <ul style="list-style-type: none"><li>• Hats Off to Hometown Hits</li></ul>
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Council Member Garcia spoke regarding concerts in the park on Thursday, June 14 at Augsburg Park; on June 19 at Augsburg Park there is kids entertainment by The Alpha Bits at 12 p.m.; on June 20 at Richfield Historical Society there is a concert by the Ghost Wagon band; on June 22 there is a program for home alone safety for 9-12 year olds from 9 a.m. to 3 p.m. at Richfield Central School, at a cost of \$20; on June 26 at 12 p.m. there is kids entertainment at Augsburg Park by Kid Power w/ Rachael.

Council Member Trautmann spoke regarding attending the first curling club event at the Richfield Ice Arena and stated this is the only location in Hennepin County to curl. He asked people to visit their website ([www.richfieldcurlingclub.com](http://www.richfieldcurlingclub.com)) for more information and join a new comer's league.

Mayor Elliott spoke regarding also attending the curling event and invited others to go to the ice arena and try it. He also reminded everyone that the 4th of July is approaching and invited the community to volunteer and help out at the events.

Council Member Howard spoke regarding the opening of the Richfield pool and that season passes are available on the website. He also mentioned the terrific Memorial Day event, despite the heat.

Council Member Regan Gonzalez spoke regarding the Dementia Friendly kickoff luncheon on June 20 at 11:30 a.m. to 2 p.m. at the Richfield Community Center, and spoke about the community's effort to become dementia-friendly.

Mayor Elliott also spoke about the professional wrestling event at the 4th of July festivities and stated he has volunteered to referee a match.



<b>Item #4</b>	<b>APPROVAL OF THE AGENDA</b>
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M/Howard, S/Elliott to approve the agenda.

Motion carried 5-0.

<b>Item #5</b>	<b>CONSENT CALENDAR</b>
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City Manager Devich presented the consent calendar.

- A. Consideration of the approval of a Community Celebration Event license (with a request for the fee to be waived) and a Temporary On-Sale Intoxicating Liquor license from the Fourth of July Committee for events scheduled at Veterans Memorial Park, July 3 - 4, 2018. (S.R. No. 93)
- B. Consideration of the approval of a Temporary On Sale Intoxicating Liquor license for activities scheduled to take place July 4, 2018, for the Minneapolis-Richfield American Legion Post #435, located at 6501 Portland Avenue South. (S.R. No. 94)
- C. Consideration of the approval of a bid tabulation and award of contract to Corrective Asphalt Materials, LLC for the 2018 Maltene Pavement Rejuvenation Project in the amount \$486,200, and authorize the City Manager to approve contract changes under \$100,000 without further City Council consideration. (S.R. No. 95)
- D. Consideration of the adoption of a resolution authorizing the 69th Street West Pedestrian Improvements Project application submission for Federal Surface Transportation Program (STP) funds under the Metropolitan Council's Regional Solicitation process. (S.R. No. 96)

RESOLUTION NO. 11505  
RESOLUTION AUTHORIZING SUBMISSION OF THE 69th STREET  
WEST PEDESTRIAN PROJECT FUNDING APPLICATION FOR  
FEDERAL SURFACE TRANSPORTATION PROGRAM FUNDS

This resolution appears as Resolution No. 11505.

- E. Consideration of the approval of an Amendment of Commercial Lease with the Minnesota Department of Transportation and Amendment of License Agreement with Transmission Shop, Inc. for the parking lot at Cedar Avenue and Diagonal Boulevard and authorize the City Manager and Mayor to execute any renewals of the Amendment of Commercial Lease and Amendment to License Agreement after June 30, 2020, without further Council consideration. (S.R. No. 97)
- F. Consideration of the adoption of a resolution supporting a Livable Communities Demonstration Act grant application to the Metropolitan Council for the Cedar Point II housing project. (S.R. No. 98)

RESOLUTION NO. 11506  
RESOLUTION IDENTIFYING THE NEED FOR LIVABLE COMMUNITIES  
DEMONSTRATION ACCOUNT ("LCDA") FUNDING AND AUTHORIZING  
AN APPLICATION FOR GRANT FUNDS

This resolution appears as Resolution No. 11506.

- G. Consideration of the approval of a first reading of an ordinance rezoning 6328 Aldrich Avenue from Single family Residential to Planned Mixed Use, related to a proposal for the former Lyndale Garden Center property. (S.R. No. 99)
- H. Consideration of the approval of the lease agreement between the City of Richfield and ETS Elite South Central, LLC for use of the space formerly occupied by Hat Trick Hockey to conduct physical training programs. (S.R. No. 100)
- I. Consideration of the adoption of a resolution appointing Whitney Bain and Kristen Lindquist to the Board of Directors of the Richfield Tourism Promotion Board, Inc. (S.R. No. 101)

RESOLUTION NO. 11507  
RESOLUTION APPOINTING REPRESENTATIVES TO THE BOARD OF  
DIRECTORS OF THE RICHFIELD TOURISM PROMOTION BOARD,  
INC.

This resolution appears as Resolution No. 11507.

M/Elliott, S/Regan Gonzalez to approve the consent calendar.

Motion carried 5-0.

<b>Item #6</b>	<b>CONSIDERATION OF ITEMS, IF ANY, REMOVED FROM THE CONSENT CALENDAR</b>
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None.

<b>Item #7</b>	<b>PUBLIC HEARING AND CONSIDERATION OF THE ADOPTION OF A RESOLUTION PROVIDING HOST APPROVAL FOR THE ISSUANCE OF TAXEXEMPT REVENUE BONDS BY THE CITY OF BETHEL FOR THE BENEFIT OF PARTNERSHIP ACADEMY. (S.R. NO. 102)</b>
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Council Member Trautmann presented Staff Report No. 102 and opened the public hearing.

M/Howard, S/Elliott to close the public hearing.

Motion carried 5-0.

M/Trautmann, S/Garcia to adopt a resolution authorizing the City of Bethel to issue tax-exempt revenue bonds on behalf of Partnership Academy.

RESOLUTION NO. 11508  
RESOLUTION CONSENTING TO AND APPROVING THE ISSUANCE  
BY THE CITY OF BETHEL OF ITS CONDUIT REVENUE OBLIGATIONS  
AND TAKING OTHER ACTIONS WITH RESPECT THERETO

Motion carried 5-0. This resolution appears as Resolution No. 11508.

<b>Item #8</b>	<b>CONSIDERATION OF THE FIRST READING OF AN ORDINANCE REZONING PROPERTY AT 101 66TH STREET EAST (66TH STREET AND 1ST AVENUE) FROM SINGLE-FAMILY RESIDENTIAL TO PLANNED MIXED USE. (S.R. NO. 103)</b>
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Mayor Elliott presented Staff Report No. 103.

M/Elliott, S/Trautmann to approve a first reading of an ordinance that amends Richfield Zoning Code Appendix I to designate 101 66th Street East as Planned Mixed Use.

Council Member Howard commented that he sees a lot of value to adding mixed use to this site. He stated he wanted continued dialog between the neighbors and developer as there are continuing concerns from the neighborhood.

Mayor Elliott commented that he attended Planning Commission meetings and listened to the testimony and discussions. He stated he was somewhat in favor of the project to begin with and some of the comments made by the Planning Commission members, who were presented with more testimony than the City Council have received, who were not necessarily in favor of the development to begin with, and after several hearings and witnessing changes have changed their opinion from somewhat against to affirming and voting positively for the development. He stated the City Council uses the Planning Commission's hearings and recommendations to guide their decisions. He continued that there has been a good faith attempt to work with the neighbors and agreed to continuing the dialog.

Motion carried 5-0.

<b>Item #9</b>	<b>CONSIDERATION OF THE SECOND READING OF AN ORDINANCE AMENDING THE TOBACCO ORDINANCE TO INCLUDE INCREASING THE MINIMUM LEGAL AGE TO PURCHASE TOBACCO PRODUCTS AND TOBACCO RELATED DEVICES FROM EIGHTEEN (18) TO TWENTY-ONE (21) YEARS OF AGE AND UPDATING SEVERAL SECTIONS TO INCLUDE NEW AND UPDATED DEFINITIONS AND ADOPT A RESOLUTION FOR SUMMARY PUBLICATION OF THE ORDINANCE. (S.R. NO. 104)</b>
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Council Member Regan Gonzalez presented Staff Report No. 104.

Jennifer Anderson, Support Services Manager, spoke about a minor change since the last reading of the ordinance.

Council Member Garcia thanked Council Member Regan Gonzalez and staff for their work on this ordinance.

Council Member Trautmann commented about the American Cancer Society's public statement on eliminating combustible tobacco and they draw distinction between combustible tobacco and electronic cigarettes and where the health risks lie. He predicted the small vaping shops will be eliminated in the next five years as these devices are sold at gas stations next to combustible tobacco products and that big tobacco will win in the end.

Council Member Regan Gonzalez thanked Bloomington Public Health, the Richfield Advisory Board of Health, and the youth and community members for their work on this issue.

M/Regan Gonzalez, S/Garcia to approve the second reading of an ordinance amending the tobacco ordinance to include increasing the minimum legal age to purchase tobacco products and tobacco-related devices from 18 to 21 and adopt a resolution for summary publication of the Ordinance.

RESOLUTION NO. 11509  
RESOLUTION APPROVING SUMMARY PUBLICATION OF AN  
ORDINANCE PERTAINING TO TOBACCO SALES AND THE  
REGULATION OF SMOKING

Motion carried 5-0. This resolution appears as Resolution No. 11509.

<b>Item #10</b>	<b>CONSIDERATION OF APPROVAL OF THE PRELIMINARY DESIGN LAYOUT OF LYNDALE AVENUE RECONSTRUCTION PLAN FROM 66TH STREET TO 76TH STREET AS RECOMMENDED BY THE TRANSPORTATION COMMISSION. (S.R. NO. 105)</b>
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Council Member Howard presented Staff Report No. 105.

Jack Broz, Transportation Engineer, presented an overview of the preliminary design process for the Lyndale Avenue Reconstruction project. He presented the public outreach including four open houses and six transportation commission meetings and the motorists', pedestrians', and bicyclists' concerns that were heard through the outreach. He presented the project measures based on the feedback received and displayed the proposed facilities for each type of user. He also presented notes of proposed changes along the corridor, including mini roundabouts between 68th to 66th Streets. Lastly, he outlined the next steps if Council approved the preliminary design.

Wes Dunser, Transportation Commission member, spoke regarding the safety of crossing Lyndale Avenue is an issue he has discussed with his neighbors. He also discussed looking at this road for the next 50 years and what that means with multimodal transportation and needs of the community.

Mayor Elliott invited Larry Koch to speak to the Council.

Larry Koch, 471 Big Horn Drive, Chanhassen, attorney representing Nola Wagner of 7000 Lyndale Avenue, spoke about her concerns with the proposed changes to Lyndale and specifically the roundabout at 70th Street as it relates to safety and access from her property. He provided a letter to the City Council title "Objection to Lyndale Avenue Reconstruction Plan from 66th Street to 76th Street", outlining Ms. Wagner's objections.

Council Member Trautmann stated he had an opportunity to talk with Ms. Wagner and asked Mr. Koch for clarification if there were any taking of her property with the addition of the roundabout, or is it the City's property.

Mr. Koch responded that based on his examination that the improvements fall within the City's property. He stated the bigger issue is the access to Lyndale.

Council Member Trautmann asked Transportation Engineer Broz if this is something to resolve this evening or if this could be revisited at the Transportation Commission.

Transportation Engineer Broz responded explaining the process of going to detailed design and taking a look at the impacts in more detail and the process of looking at parcel by parcel. This isn't done at preliminary design.

City Manager Devich clarified that the property is within the City right-of-way and there is no taking in this case.

Mayor Elliott asked about the process of preliminary design versus final design and the timeline.

Transportation Engineer Broz responded the schedule is to bid in the winter and would need to move into detail design to stay on schedule.

Mayor Elliott asked if it was possible to meet in the next 7-10 days to meet with Mr. Koch and other homeowners who may have concerns.

Transportation Engineer Broz responded that was possible and highlighted the presentation outlined that contacting the adjacent property owners would take place as detailed design begins.

Council Member Howard commented that safety is a key issue with the corridor. He stated that as Council has looked at roundabout safety has been a key component of that. He asked if safety was part of the justification for looking at a roundabout at 70th Street.

Transportation Engineer Broz responded there is not an existing crash issue at 70th Street. He stated there are issues of maintaining a signal over time and highlighted a roundabout has additional benefits of pedestrian crossing.

Council Member Howard asked about the proximity to Ms. Wagner's driveway to the proposed roundabout, as it relates to existing roundabouts in the city.

Public Works Director Asher responded that there are access points on Portland that are within where the medians and closer to the roundabout.

Mr. Koch commented he has done a lot of studies in the past 24 hours on roundabouts and asked that there be a dialog. He stated they have some ideas and changes to Lyndale and a roundabout that would change site lines and increase safety. He stated there is room for dialog about whether roundabouts are actually safer for bicycles and pedestrians.

Council Member Howard asked if approval tonight would preclude the Council from changing the roundabout to a signal.

Public Works Director Asher responded that if the intersection control is proposed to change the process is moving back six months and it impacts the entire design as the roundabouts narrowed the roadway and allowed motorists to use them as U-turns to access their property, which reduced the impacts on the property owners. She stated that roundabouts are safer for everyone.

Council Member Howard asked if the Council votes to approve the plans is it a vote for a roundabout at 70th or is there leeway for dialog.

Public Works Director Asher stated her interpretation is if you are considering to not put a roundabout at 70th to not approve the plan.

Council Member Howard asked if the item should be tabled for two weeks, or does that throw off the timeline.

Public Works Director Asher stated if the design stayed the same as is proposed the two weeks would not be an issue but if it ended up different it would probably be moved from 2019.

Mayor Elliott asked when the plan first came out with the roundabout at 70th Street.

Public Works Asher responded she believed it was the third open house, of February 20, 2018.

Mayor Elliott asked about notice given to people along the corridor.

Public Works Asher responded the notice was to invite people to the open house or view the plans online if they were unable to attend.

Mayor Elliott commented on the time the project has been discussed and that the roundabouts have been proposed since late February, we are too far down the road and will seriously jeopardize the project moving forward. He acknowledged the concerns raised by Mr. Koch and his clients and stated they had opportunities before this date to raise the concerns. He stated he would be voting yes to continue the process.

Council Member Howard commented overall he thought the plan was strong and appreciated Commissioner Dunser's comments about looking into the future and building a road for 50 years from now. He stated being mindful we're building a road for 50 years, he preferred taking two weeks to discuss the issue with residents.

Mayor Elliott commented he appreciate Council Member Howard affording the opportunity but went back to altering what is proposed at 70th Street changes the whole plan and it is not quite as simple as only looking at 70th. He stated at this stage they weren't in the position to stop the project.

Council Member Garcia commented that no one likes change, and she remembers when Lyndale was redesigned previously. She commented that there have been a number of open houses and the Transportation Commission attended those meetings. She respects the time and effort put into this by the Transportation Commission and their recommendation. She stated she would support the staff recommendation.

Mr. Koch commented he believed Ms. Wanger had met with Council Members and staff and her issues have not been addressed. He stated the City's policy on streets says the City will be involved with the public all the way through to design.

Council Member Trautmann commented that he did speak with Ms. Wagner and his understanding that this was her land and would be a taking, but after talking with staff he understood there would not be a taking. He generally supports Council Member Howard's position to slow the process, but he stated he wants to respect the recommendation of the Transportation Commission, who are volunteer residents, and would vote to move forward.

Council Member Regan Gonzalez asked for clarification from staff about if Council thinks the intersection should be a signal we should vote no, and if Council agree the plan, including the roundabout, the Council should vote yes, but that doesn't preclude Council and staff from continuing conversation with residents about protections.

Public Works Director Asher responded she agreed with her assessment.

Council Member Howard stated he would be voting for the item, speaking about the entirety of the design. He stated it is forward looking and the right approach. He appreciated the work that has gone into the project from the City and residents and wanted to make sure the dialog continues.

M/Howard, S/Garcia to approve the preliminary design layout for the Lyndale Avenue Reconstruction Project from 66th Street to 76th Street as recommended by the Transportation Commission.

Motion carried 5-0.

<b>Item #11</b>	<b>CITY MANAGER'S REPORT</b>
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City Manager Devich discussed cancelling the second City Council meeting in August (August 28), which the Council has done in the past. He also discussed scheduling a budget meeting for either August 29 or September 5. He also discussed the need to change the first meeting in August (August 14) because it falls on the state-wide primary date. He suggested having the meeting on August 21. Council agreed with the meeting on August 21 and cancelling the August 28 meeting.

City Manager Devich read the resignation letter he submitted to the Richfield City Council, effective November 30, 2018, and thanked the City Council for the opportunities they have given him.

Mayor and Council Members thanked City Manager Devich for his service for the city of Richfield.

<b>Item #12</b>	<b>CLAIMS AND PAYROLLS</b>
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M/Garcia, S/Elliott that the following claims and payrolls be approved:

<b>U.S. Bank</b>	<b>06/12/18</b>
A/P Checks: 268404 - 268843	\$ 1,859,173.47
Payroll: 136729 - 137051; 42798 - 42801	656,013.57
<b>TOTAL</b>	<b>\$ 2,515,187.04</b>

Motion carried 5-0.

<b>OPEN FORUM</b>
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None.

<b>Item #13</b>	<b>ADJOURNMENT</b>
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The meeting was adjourned by unanimous consent at 8:45 p.m.

Date Approved: June 26, 2018

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Pat Elliott  
Mayor

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Jared Voto  
Executive Aide/Analyst

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Steven L. Devich  
City Manager





**STAFF REPORT NO. 106**  
**CITY COUNCIL MEETING**  
**6/26/2018**

REPORT PREPARED BY: Kari Sinning, Deputy City Clerk

DEPARTMENT DIRECTOR REVIEW: Elizabeth VanHoose, City Clerk  
6/20/2018

OTHER DEPARTMENT REVIEW: N/A

CITY MANAGER REVIEW: Steven L. Devich, City Manager  
6/21/2018

**ITEM FOR COUNCIL CONSIDERATION:**

**Consideration of the adoption of a resolution establishing an absentee ballot counting board for the 2018 State Primary and State General Elections.**

**EXECUTIVE SUMMARY:**

Minnesota Statutes, Section 203B.121 provides for any municipality to authorize, by ordinance or resolution, an absentee ballot counting board. The board shall consist of a sufficient number of election judges appointed as provided in Minnesota Statutes, Sections 204B.19 through 204B.22. The absentee ballot counting board, which includes Hennepin County Election Staff, may examine all returned absentee ballot envelopes and accept or reject absentee ballots in a manner provided in Minnesota Statutes, Section 203B.121.

**RECOMMENDED ACTION:**

**By motion: Adopt a resolution establishing an absentee ballot counting board for the 2018 State Primary and State General Elections.**

**BASIS OF RECOMMENDATION:**

**A. HISTORICAL CONTEXT**

- None

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

- Minnesota Statutes, Section 203B.121 provides for any municipality to authorize, by ordinance or resolution, an absentee ballot counting board.

**C. CRITICAL TIMING ISSUES:**

- The City needs an absentee ballot counting board to be established at least 46 days before the 2018 State Primary election.

**D. FINANCIAL IMPACT:**

- The City will need two election judges daily which will increase some election costs.

**E. LEGAL CONSIDERATION:**

- State law requires we must establish and appoint an absentee ballot counting board.

**ALTERNATIVE RECOMMENDATION(S):**

- None

**PRINCIPAL PARTIES EXPECTED AT MEETING:**

N/A

**ATTACHMENTS:**

Description		Type
	Resolution	Resolution Letter

**RESOLUTION NO.**

**RESOLUTION ESTABLISHING AN ABSENTEE BALLOT COUNTING BOARD FOR  
THE 2018 STATE PRIMARY AND STATE GENERAL ELECTIONS**

**WHEREAS**, pursuant to Minnesota Statutes, Section 203B.121 and 203B.14, as amended, an absentee ballot counting board is established. The board has those powers and duties, and shall be appointed in the manner provided by law; and

**WHEREAS**, the absentee ballot counting board is authorized to examine absentee ballot envelopes and receive or reject absentee ballots in the manner provided by Minnesota Statutes, Section 203B.121 and 203B.19, as amended; and

**WHEREAS**, the absentee ballot counting board shall be appointed for each general and special election in the City.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Richfield, that the following are hereby appointed as absentee ballot board judges for the State Primary and State General Elections:

Yvonne Atkins  
Janis Anderson  
Angela Faison  
Nancy Gibbs  
John Holter  
Margaret Johnson

Melaine Parks  
Kari Sinning  
Julie Smith  
Mariys Solt  
Judy Wood  
Hennepin County Elections Staff

**NOW, THEREFORE, ALSO BE IT RESOLVED** by the City Council of the City of Richfield does hereby approve guidelines establishing an absentee ballot counting board and authorize the City Clerk to oversee the appointment and procedural processes.

Adopted by the City Council of the City of Richfield, Minnesota this 26th day of June, 2018.

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Pat Elliott, Mayor

ATTEST:

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Elizabeth VanHoose, City Clerk



**STAFF REPORT NO. 107**  
**CITY COUNCIL MEETING**  
**6/26/2018**

REPORT PREPARED BY: Scott Kulzer, Administrative Aide/Analyst

DEPARTMENT DIRECTOR REVIEW: Kristin Asher, Public Works Director  
6/19/2018

OTHER DEPARTMENT REVIEW: N/A

CITY MANAGER REVIEW: Steven L. Devich, City Manager  
6/21/2018

**ITEM FOR COUNCIL CONSIDERATION:**

**Consideration of the approval of eight (8) solar project agreements with iDEAL Energies for the installation of solar panels on city facilities.**

**EXECUTIVE SUMMARY:**

At the January 23, 2018, City Council Work Session, staff presented alternative energy options available to the City of Richfield. City Council gave direction to pursue solar possibilities on city facilities.

At the June 12, 2018, City Council Work Session, staff presented the current status of the solar project process. The following locations have been identified to install solar systems:

40 Kilowatt System

- Public Works Facility
- Pool
- Ice Arena
- Veterans Park Shelter

20 Kilowatt System

- Cedar Liquor
- Lyndale Liquor
- Penn Liquor
- Fire Station #2

The agreement highlights discussed at the most recent Work Session were:

- \$0 down for installation of the solar arrays
- City will have option to purchase the solar arrays at year 14
- City will pay Green 2 Solar for electricity per a reduced rate on Xcel bill
- There is guaranteed savings or net zero on energy costs; even if electricity rates do not fluctuate as predicted, the City will never pay more than if there were not solar arrays
- Web-based monitoring will be available 24/7 to city staff and residents.

**RECOMMENDED ACTION:**

**By motion: Approve the eight (8) solar project agreements with iDEAL Energies for the installation of**

solar panels on city facilities.

## **BASIS OF RECOMMENDATION:**

### **A. HISTORICAL CONTEXT**

The City of Richfield has a group of City Staff called the "Green Team". The Green Team met regularly throughout 2017 to research and discuss alternative energy opportunities. Green Team members conducted informational meetings with the following solar providers:

- Ameresco
- Apex
- Cedar Creek Energies
- TruNorth Solar
- iDEAL Energies

After conducting the meetings, iDEAL Energies was selected because of past performance/projects and requiring no financial obligation at time of installation.

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

- Exploring alternative energy opportunities - City Council goal since 2015
- Contributes towards Green Step Cities designation (Best Practices 26-Renewable Energy)

### **C. CRITICAL TIMING ISSUES:**

- With the approval of the agreements, installation can take place late summer/fall of 2018.

### **D. FINANCIAL IMPACT:**

None at this time. The structure and responsibility of all parties involved are as follows:

- iDEAL Energies - Coordinates the projects, including the solar array installation
- Green 2 Solar - Leases, operates, and maintains the solar arrays during the lease term and sells the power to the city. Green 2 Solar is the financial branch of iDEAL Energies.
- City of Richfield - Houses the solar arrays on the eight (8) identified city facilities
- Xcel Energy Solar Rewards Program - Reduced kWh rate on utility bills for having solar arrays on city facilities

#### Other Impacts

- \$0 down for installation of solar arrays
- City will have the option to purchase the solar arrays at year 14
- Maintenance is required by the city once owned. The power inverter general maintenance is estimated at \$300/year.
- City Insurance rates will increase \$1,500/year; currently is \$350,000/year.

### **E. LEGAL CONSIDERATION:**

- The City Attorney's Office met with iDEAL Energies regarding the agreements and has since thoroughly reviewed the agreements. The City Attorney will be available for questions.

## **ALTERNATIVE RECOMMENDATION(S):**

- None

## **PRINCIPAL PARTIES EXPECTED AT MEETING:**

None

## **ATTACHMENTS:**

Description	Type
❑ Ballast Racking-Multiple Sites	Contract/Agreement
❑ Flush Mount-Veteran's Park Shelter	Contract/Agreement
❑ Flush Mount-Richfield Pool	Contract/Agreement
❑ Power Purchase Agreement Visual	Contract/Agreement



### Solar Array Purchase, Capital Lease & Power Purchase Agreements w/ Put & Call

19.980 kW DC SilfabSLG370M  
 20.00 kW AC SolarEdge SE20k 480V 3Ph Inverter(s), SolarEdge P800 Power Optimizers &  
 Unirac, Panelclaw (or equivalent) Ballasted Racking @ approximately 10°

### Xcel SolarRewards

[With provision for additional same sized solar array upon amendment of Solar Rewards Program requirements]

## Customer Information

Date:	June 18, 2018
Solar Array Legal Owner:	<b>City of Richfield</b>
Customer Corporate Form:	Minnesota City
Customer Mailing Address:	6700 Portland Avenue, Richfield, MN 55423
Customer Signer Name:	Steve Devich
Customer Signer Title:	City Manager
Customer Authorized Representative:	Chris Link
Customer Authorized Representative Tel:	612-861-9174
Installation Address:	<b>** See Attached Installation Address Schedule</b>
Premise Number:	<b>** See Attached Installation Address Schedule</b>
Site Owner:	City of Richfield
Site Owner Mailing Address:	6700 Portland Avenue, Richfield, MN 55423

## Project Information

System Size in kW DC	<b>19.980 kW DC</b> (+/- 0.10 kW DC)
Installation Cost:	<b>\$74500.00</b>
Project Completion Date:	Summer/Fall, 2018
Rebate Name:	Xcel SolarRewards
Rebate Amount:	\$0.08 (per kWh/kW)
Rebate Payer:	Xcel Energy
REC Owner:	Xcel Energy
Tax Credit Percent:	30%
Panel Description:	SilfabSLG370M
Panel Size in Watts DC:	370 (Watts DC)
Inverter Description:	SolarEdge SE20k 480V 3Ph Inverter
Total Inversion in kW AC:	20.00 (kW AC)
Power Optimizer Description:	SolarEdge P800 Power Optimizers
Solar Racking Description:	Unirac, Panelclaw (or equivalent) Ballasted Racking @ approximately 10°

## Lease, Power Purchase, and Put & Call Agreement Information

Site Use:	<b>** See Attached Installation Address Schedule</b>
Tenant:	Green2 Solar Leasing, LLC
Tenant Signer Name:	Rich Ragatz
Tenant Signer Title:	Vice President
Leased Space Rent Payment:	<b>\$45.00</b> per year
Leased Energy System Rent Payment:	<b>\$5.00</b> per year
Put /Call Year:	13

**Purchase Agreement**

19.980 kW DC SilfabSLG370M,  
20.00 kW AC SolarEdge SE20k 480V 3Ph Inverter(s),  
SolarEdge P800 Power Optimizers & Unirac, Panelclaw (or  
equivalent) Ballasted Racking @ approximately 10°

**Xcel SolarRewards**

This **PURCHASE AGREEMENT** (this “**Agreement**”), dated **June 18, 2018** (“**Effective Date**”) is between **IDEAL ENERGIES, LLC**, a Minnesota Limited Liability Company, whose principal place of business is located at **5810 Nicollet Avenue Minneapolis, MN 55419** (“**Seller**”), and **City of Richfield**, a Minnesota City, whose principal place of business is located at **6700 Portland Avenue, Richfield, MN 55423** (“**Customer**”). Seller and Customer are sometimes also referred to in this Agreement jointly as “**Parties**”, or individually as a “**Party**”.

**RECITALS**

- A. Seller sells and installs grid connected photovoltaic solar energy systems and Customer desires to purchase and install the Energy System (defined below) at the installation location described above (the “**Site**”); and
- B. Seller will provide the Customer the Energy System (defined below) at the Site in two planned projects, where the first project (“**Project 1**”) is the installation of a **19.980 kW DC** (+/- 0.10 kW DC) photovoltaic energy system (“**Energy System 1**”) which meets the requirements of Xcel Energy’s existing SolarRewards Program (the “**SolarRewards Program**”) which provides certain incentives for the installation of grid-connected photovoltaic energy systems with a generating capacity of 20 kW DC or less per location, and the second project (“**Project 2**”) is the installation of an additional **19.980 kW DC** (+/- 0.10 kW DC) photovoltaic energy system (“**Energy System 2**”), in accordance with the amendments to the SolarRewards Program requirements, which will increase the allowable energy generating capacity limit to 40.0 kW DC per location signed into law May 28, 2018.
- C. Individually, Project 1 and Project 2 are referred to in this Agreement as a “**Project**”, and collectively as “the **Projects**”; and Energy System 1 and Energy System 2 (if installed) are referred to individually and collectively in this Agreement as (the “**Energy System**”).
- D. Seller has applied or will apply for the Rebate (as described below) on behalf of Customer for the Energy System by applying for a Rebate for each Project separately, and after the Rebate is secured for each Project, will install the same in accordance with the terms and conditions set forth in this Agreement; and
- E. Concurrent with the execution of this Agreement, the Customer will enter into a **Facility Lease Agreement** (the “**Lease Agreement**”) with **Green2 Solar Leasing, LLC** (“**Tenant**”) pursuant to which the Tenant will lease, operate and maintain the Customer’s Energy System
- F. Concurrent with the execution of this Agreement, the Customer will also enter into a Power Purchase Agreement (the “**Power Purchase Agreement**”) with Tenant pursuant to which Tenant will sell power generated by the Energy System to Customer.
- G. The following rules of construction apply to this Agreement; unless the context otherwise requires: (i) a term has the meaning assigned to it; (ii) “including” means including without

Customer / Owner	City of Richfield
Installation Location / Site	** See Attached Installation Address Schedule
Xcel Premise #	** See Attached Installation Address Schedule

limitation; (iii) words and defined term in the singular include the plural and words and defined terms in the plural include the singular; and (iv) any agreement, instrument, program, or statute defined or referred to herein means such agreement, instrument, program, or statute as from time to time amended, modified or supplemented.

**AGREEMENT**

**NOW, THEREFORE**, for valuable consideration, the receipt of which is hereby acknowledged, the Parties agree as follows:

1. **Condition.** Subsequent to Agreement; Multiple Agreements. This Agreement for purchase, sale, installation and operation of the Energy System is subject to the fulfillment of Subsection 9 a., below, which must be timely fulfilled or this Agreement will terminate in accordance with Section 15. This Agreement is executed on the same date as the Lease Agreement, Power Purchase Agreement and Put and Call Agreement between and among the Parties to this transaction, and the Tenant (collectively “**Agreements**”). The Agreements become operative on the Effective Date, are to be interpreted together where necessary and are each subject to termination upon the failure of essential conditions subsequent, including but not limited to **Subsection 9a**.
2. **Services.** After each Project has secured a Rebate described in Section 9, Seller will, at its expense, perform electrical engineering on the Energy System, perform structural engineering on the Site to verify it is adequate to support the Energy System, provide and install the Energy System on the Site, and perform Energy System commissioning. Seller will apply for Rebates as applicable, perform the services described herein with regard to each Project, install the Energy System, and commission the Energy System.
3. **Title and Risk of Loss.** Title and risk of loss for each Energy System will pass to Customer upon Final Project Completion (as defined in Section 7d below).
4. **Purchase and Sale; Installation Costs and Payment Terms.** Each Energy System will consist of the Energy System components identified on **Schedule A** (the “**System Components**”) and be installed by Seller pursuant to the Project design documents for such Energy System (the “**Design Documents**”). As consideration of Customer’s purchase of the Energy System:
  - a. **Project 1.** Seller agrees to sell and Customer agrees to purchase Energy System 1 and the services described herein for hereunder for a total cost of **\$74500.00** (“**Project 1 Installation Cost**”) pursuant to the payment terms set forth in subparagraph 4.c. below.
  - b. **Project 2.** Following Xcel Energy’s acceptance of applications for Solar Rewards Rebates in accordance with the new amended Solar Rewards program and the award of the Rebate for Project 2, Seller agrees to sell and Customer agrees to purchase, Energy System 2 and the

services provided for hereunder for an additional total cost of **\$63000.00** ("**Project 2 Installation Cost**") pursuant to the payment terms set forth in subparagraph 4.c. below. The Project 1 Installation Cost and Project 2 Installation Cost (if any) are referred to in this Agreement individually as the **Installation Cost**, and collectively as "**the Installation Costs**".

- c. The Installation Cost for each Energy System will be paid by Tenant in the Lease Agreement, executed concurrently herewith, in accordance with subparagraph 3. a. of Lease Agreement and as a condition of this Agreement.

5. **Customer's Representations and Responsibilities.**

- a. Customer represents that it owns the Site.
- b. Customer will, at least two weeks before the Final Project Completion date for Project 1, provide either a wireless internet connection or a RJ45 Internet outlet at the electrical room for connecting the Energy System to web-based monitoring equipment. If Customer does not provide the foregoing, Seller may, at its election, provide this service to assure internet service is available for Energy System monitoring on the Final Project Completion date for the Project. If Seller provides the foregoing service, a separate fee of \$250.00 will be invoiced to Customer.
- c. If required by the applicable Rebate program, Customer will participate in energy audits to identify additional energy savings opportunities.

6. **Seller's Representations and Responsibilities.**

- a. Seller will provide all System Components, Design Documents, labor, equipment, supplies and services necessary to install each Energy System at the Site in accordance with the "Scope of Work" described in **Schedule C**.
- b. Seller will perform structural engineering at each Site and prepare electrical drawings for each Energy System. Seller will perform work for Project 1 individually, and for Project 1 and 2 combined as a single project (the "**Engineering**").
- c. Seller will perform all services in material compliance with applicable laws, rules, regulations, governmental approvals and permits, including all applicable agreements with, and tariffs of, the local utility (collectively, "**Applicable Requirements**").

7. **Installation Plan; Final Project Completion.**

- a. **Project 1.** Upon award of a Rebate to Customer for Project 1 and completing Engineering, Seller will install Project 1 in accordance with this Agreement. When installing Project 1, Seller will install AC equipment from the solar array's inverters to the point of electric interconnection adequately sized to accommodate both Projects such that only one conduit run from the solar array to the point of interconnection is required.
- b. **Project 2.** Following Xcel Energy's acceptance of applications for Solar Rewards Rebates in accordance with the new amended Solar Rewards program and the award of the Rebate for Project 2, Seller will install Project 2 in accordance with this Agreement.
- c. **Single Project.** If the construction of Project 1 has not begun before Customer has been awarded a Rebate for Project 2, Projects 1 and 2 will be constructed at the same time. If Project 1 has been constructed but has not

achieved Final Project Completion (as defined below), Seller may, at its sole discretion, delay start-up of Project 1 until Project 2 is constructed so that both Projects are combined into a single Solar Rewards project application and started up at the same time as a single Energy System.

- d. **Installation Plan.** Customer and Seller will work together to develop a proposed work plan and schedule for the installation of the Project (the "**Schedule**"). If events arise which make meeting the Schedule impractical, such as availability of equipment and other reasonable delays, Seller will notify Customer of the same as soon as reasonably possible, and the Parties will adjust the Schedule accordingly. A Project is completed when a system witness test is performed for such Project, and the full system is turned on, and is capable and authorized under Applicable Requirements, to generate and deliver electric energy to Customer and the local utility's electrical grid at the interconnection point ("**Final Project Completion**"). Notwithstanding any delays, the anticipated date for Final Project Completion for the Energy System is **November 30, 2018**.

8. **Changes.**

- a. It is the desire of the Parties to keep changes to the terms of this Agreement to a minimum, including changes to the Schedule. Either Party may request a change by advising the other Party in writing of the proposed change. For each change request, Seller will prepare a revised Schedule, an updated schedule to this Agreement, or any other necessary document and an applicable cost estimate. Customer will advise Seller in writing of its approval or disapproval of the change. If Customer approves the change, Seller will perform the services as changed, and the Installation Costs will be adjusted to reflect the requested change. If Customer does not approve the change, approval not to be unreasonably withheld, Seller shall continue under the Schedule.
- b. To accommodate structural limitations of the Site, the availability of equipment, changes in panel wattage available from manufacturers, or other reasons approved by Customer, Seller may substitute other equipment for the equipment described on **Schedule A** provided it carries at least a 10-year manufacturer's workmanship warranty and a 25-year production warranties achieving at least 80% of rated capacity. A substitution in panel wattage that results in a kW DC variance of +/- 0.10 kW DC for an Energy System may be made by Seller without amending this Agreement.

9. **Rebates, and Tax Credits, Net Metering.** The Parties anticipate the Project will be eligible for the following rebates and credits.

- a. Each Project is anticipated to be eligible to receive the **Xcel SolarRewards** totaling **\$0.08** per kWh generated from the Energy System (the "**Rebate**") payable to Customer (or its assignee) from **Xcel Energy**. The Rebate shall be paid annually for ten consecutive years based on the Energy System's prior year's annual kWh production, and in accordance with other terms of the interconnection agreement between Customer and the utility, Customer will be required to convey Renewable Energy Credits ("**RECs**") for electricity produced by the Energy System to **Xcel Energy**, and execute any required paperwork required to convey the RECs. Any RECs remaining after the termination or expiration of any conveyance to **Xcel Energy** belong solely to the Customer.



- b. Each Project may be eligible to receive a Federal Tax Credit from the U.S. Treasury pursuant to the terms of the Lease Agreement equal to **30%** of eligible Installation Cost of the Energy System ("**Tax Credit**") that is put into service during **2018 or 2019**.
- c. Each Project may be eligible to participate in the local utility's **Net Metering Program**. Under this program, the energy generated from an Energy System is available for use and to reduce the total amount of energy that the Customer needs to purchase from the utility, and for months where the Energy System produces more kWh than the Site consumes, the utility will compensate Customer at the applicable rate.
10. **Insurance.**
- a. Seller will, at its own cost and expense, maintain insurance approved by Customer for the services being performed by Seller under this Agreement. Seller shall provide Customer with certificate(s) evidencing such insurance prior to commencement of any work at the Site.
- b. Customer will at all times, at its own cost and expense, maintain insurance after Final Project Completion for each Project for the Energy System.
- c. As required, Customer will provide Seller and the utility with a certificate of insurance that conforms with any utility or Rebate program requirements.
11. **Seller's Waiver and Indemnity Regarding Liens.** To the fullest extent permitted under the Applicable Requirements, Seller waives any right to file or impose any mechanic's, materialman's, or other liens with respect to the Site or the Projects. Seller shall promptly pay all undisputed amounts owed for services, materials, equipment, and labor furnished by any person to Seller with respect to the Projects. Seller shall, at Seller's sole cost and expense, discharge and cause to be released, whether by payment or posting of an appropriate surety bond in accordance with the Applicable Requirements, within thirty (30) days of its filing, any mechanic's, materialmen's, or other lien in respect of the Projects, the Energy Systems, or the Site created by, through or under, or as a result of any act or omission (or alleged act or omission) of, Seller or any subcontractor or other person providing services, materials, equipment or labor with respect to the Projects. If Seller defaults in its obligation to discharge, satisfy or settle such liens, Customer may discharge, satisfy or settle such liens and Seller shall, within fifteen (15) days of a written request by Customer, reimburse Customer for all costs and expenses incurred by Customer to discharge, satisfy or settle such liens.
12. **Warranties.**
- a. Customer understands and acknowledges that the System Components furnished and installed by Seller (including the solar modules, inverters, power optimizers, racking, and monitoring equipment and their performance/energy output), are not manufactured by Seller and will carry only the warranty of their manufacturer. Seller provides only the warranties set forth on **Schedule D** hereto. Except as otherwise set forth on Schedule D, all other warranties are disclaimed as further set forth below. Seller shall promptly transmit to Customer all manufacturers' warranties on for the Projects, including on any of its System Components or other equipment, and all operations manual(s) following Final Project Completion. Customer, however, is solely responsible for pursuing any warranty claims on System Components against the manufacturer(s) at its own expense, and may look only to such manufacturer, and not to Seller, for any warranty with respect thereto. In accordance with the Lease Agreement, if applicable, Tenant will assist Customer in resolving any warranties relating to System Components as described therein.
- b. **EXCEPT AS EXPRESSLY PROVIDED IN SCHEDULE D, SELLER MAKES NO WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING WITHOUT LIMITATION ANY WARRANTY AS TO THE INSTALLATION, DESIGN, DESCRIPTION, QUALITY, MERCHANTABILITY, COMPLETENESS, USEFUL LIFE, ENERGY PRODUCTION, PROJECTED ECONOMIC VIABILITY, FINANCIAL DATA AND PROJECTIONS, ROOF PERFORMANCE, FITNESS FOR ANY PARTICULAR PURPOSE OR ANY OTHER MATTER OF THE ENERGY SYSTEM, THE SYSTEM COMPONENTS, THE PROJECT, OR ANY SERVICES PROVIDED UNDER THIS AGREEMENT.**
13. **Ownership of Project Documents and Design.** All Design Documents for the Customer's Energy System shall be the sole and exclusive property of Customer. Customer grants Seller a license to use the Design Documents solely for the Projects. Seller has no right under this license to use the Design Documents or cause them to be used by a third party.
14. **Indemnification; Limitation of Damages.**
- a. Subject to the limitations set forth below, Seller indemnifies, defends and holds harmless Customer and its elected officials, officers, members, consultants, representatives, agents, and employees (each a "Customer Indemnified Party") against any third party claim for damages, liabilities, losses, costs and expenses, including reasonable attorney fees and costs (collectively, "**Damages**") incurred or suffered by any of them caused by (i) any material breach of this Agreement by Seller, or (ii) the negligence, gross negligence or willful misconduct of Seller, its employees, or subcontractors in connection with the Projects.
- b. Subject to the limitations set forth below, Customer indemnifies, defends and holds harmless Seller and its officers, directors, members, consultants, representatives, agents, employees and affiliates (each a "Seller Indemnified Party") against any third party claim for damages incurred or suffered by any of them in any way arising out of, relating to, or in connection with (i) any material breach of this Agreement by Customer, or (ii) the negligence, gross negligence or willful misconduct of Customer or its employees in connection with the Projects.
- c. Any Customer Indemnified Party or Seller Indemnified Party claiming indemnification hereunder must give each Party prompt notice of the relevant claim and each Party agrees to cooperate with each other Party, at its own expense, in the defense of such claim. Notwithstanding the foregoing, any Party from whom indemnification is sought shall control the defense and settlement of such claim; provided however that such Party shall not agree to any settlement that materially adversely affects the other Party without the prior written consent of such Party, which approval shall not be unreasonably withheld. Without limiting or diminishing the foregoing, any Party may, at its option and its own expense, participate in the defense of any such claim with legal counsel of its own choice.
- d. **IN NO EVENT SHALL EITHER PARTY BE LIABLE**

**FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES ARISING FROM, CONNECTED WITH OR RELATING TO THIS AGREEMENT, THE ENERGY SYSTEM OR THE PROJECT, OR TO SELLER'S OR CUSTOMER'S ACTS OR OMISSIONS IN CONNECTION WITH THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT, WHETHER FOR NEGLIGENCE, STRICT LIABILITY, PRODUCT LIABILITY OR OTHERWISE, EXCEPT FOR ANY DAMAGES OF THIRD PARTIES FOR WHICH ONE PARTY IS REQUIRED TO INDEMNIFY THE OTHER PARTY.**

15. **Termination.** This Agreement may be terminated as follows:

- a. Either Party may terminate this Agreement by providing the other Party written notice in the event (i) a Rebate for Project 1, or if Project 1 and Project 2 have been combined into a single Project, and the Project is not substantially complete within fifteen (15) months after the Effective Date, or (ii) the structural analysis produces credible evidence that the Site is not capable of supporting the Energy System (except where Seller, at its sole election, and with Customer's consent (which shall not be unreasonably withheld) includes and provides in the Installation Cost, alternate equipment and/or structural retrofits or other requirements specified in the structural engineering report for the Energy System that render the Site suitable for installing the Energy System).
- b. Customer may terminate this Agreement by giving written notice to Seller at any time prior to the Final Project Completion date for Project 1 (or the Project if Project 1 and Project 2 have been combined into a single Project): (i) if Seller has breached any representation, warranty or covenant contained in this Agreement in any material respect, Customer has notified Seller of such breach, and the breach has continued without cure by Seller or written waiver by Customer for a period of thirty (30) days after the notice of breach; or (ii) after sixty (60) days' prior notice to Seller if Seller has not achieved Final Project Completion on or prior to December 31, 2019.
- c. Seller may also terminate this Agreement in the event Customer has breached any representation, warranty or covenant contained in this Agreement in any material respect, Seller has notified Customer of the breach, and the breach has continued without cure by Customer or written waiver by Seller for a period of thirty (30) days after the notice of breach.
- d. Except as otherwise provided in this Section 15, the termination rights under this Section 15 are cumulative with and in addition to any other rights or remedies to which the Parties may be entitled at law or in equity and in accordance with the terms of this Agreement.

16. **General.**

- a. **Subordination to Utility Rebate Agreement.** No portion of this Agreement is intended to conflict with any Utility Rebate Agreements (the "**Utility Rebate Agreements**") to which Seller or Customer is a party. In the case of a conflict between the terms or conditions of this Agreement and the Utility Rebate Agreements, the terms and conditions of Utility Rebate Agreements shall control. The utility, or its successors and assigns, is a third-party beneficiary of the provision of this paragraph. Nothing in this Agreement shall prevent the utility, from fully enforcing

the terms and conditions of Utility Rebate Agreements.

- b. **Relationship of the Parties.** The Parties shall for all purposes be considered independent contractors with respect to each other, and neither shall be considered an employee, employer, agent, principal, partner or joint venturer with or of the other.
- c. **Entire Agreement.** This Agreement and all the schedules, exhibits, and attachments hereto, together with any agreements referenced herein, constitute the entire agreement and understanding of the Parties relative to the subject matter hereof. The Parties have not relied upon any promises, representations, warranties, agreements, covenants or undertakings, other than those expressly set forth or referred to herein. This Agreement replaces and supersedes any and all prior oral or written agreements, representations and discussions relating to such subject matter.
- d. **Survival of Representations.** All representations, warranties, covenants and agreements of the Parties contained in this Agreement, or in any instrument, certificate, exhibit or other writing provided for in it, shall survive the execution of this Agreement and the consummation of the transactions contemplated herein.
- e. **Amendment.** This Agreement may be amended or modified only by a document executed by the Parties. No custom or practice of the Parties at variance with the terms hereof shall have any effect of waiver or consent.
- f. **Notices.** All notices to be given under this Agreement shall be in writing and shall be effectively given upon personal delivery, facsimile or email transmission (with confirmation of receipt), delivery by overnight delivery service or three days following deposit in the United States Mail (certified or registered mail, postage prepaid, return receipt requested).
- g. **No Delay.** No delay or failure on the part of any Party hereto to exercise any right, power or privilege hereunder shall operate as a waiver thereof.
- h. **Force Majeure.** Neither Party will be liable to the other Party for any delay, error, failure in performance or interruption of performance resulting from causes beyond its reasonable control, including without limitation fires, flood, accidents, explosions, sabotage, strikes or other labor disturbances, product unavailability, labor unavailability, civil commotion, riots, invasions, wars, acts of God, terrorism, or any cause (whether similar or dissimilar to the foregoing) beyond the reasonable control of the Parties.
- i. **Governing Law / Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota without regard to its conflicts of laws principals. Any lawsuit arising out of this Agreement shall be brought only in a court of general jurisdiction in Hennepin County, Minnesota.
- j. **Severability.** The provisions of this Agreement are severable. If any part of this Agreement is rendered void, invalid or unenforceable, such rendering shall not affect the validity and enforceability of the remainder of this Agreement.
- k. **Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns. Neither Party shall assign this Agreement, or any portion thereof, without the prior written consent of the other Party,

provided Seller may assign this Agreement in connection with the sale of any or all of its assets to a third party or Bank. Any attempted assignment or transfer without prior written consent of the other Party shall be of no force or effect. As to any permitted assignment: (a) reasonable prior notice of any such assignment shall be given to the other Party; and (b) any assignee shall expressly assume the assignor's obligations hereunder, unless otherwise agreed to by the other Party in writing.

- l. **Marketing and Promotion.** Seller shall not use Customer's name, image or likeness in connection with advertising and promoting the Project or the Energy System without Customer's approval, which shall not be unreasonably withheld.
- m. **Data Practices.** Pursuant to Minnesota Statutes, Section 13.05, subd. 11, all of the data created, collected, received, stored, used, maintained, or disseminated by Seller in performing this Agreement is subject to the requirements of the Minnesota Government Data Practices Act ("MGDPA"), Minnesota Statutes Chapter 13, and Seller must comply with those requirements as if it were a government entity. The remedies in Minnesota Statutes, Section 13.08 apply to Seller. Seller does not have a duty to provide access to public data to the public if the public data are available from the Customer, except as required by the terms of this Agreement.
- n. **Proprietary Information.** Information claimed by Seller to be proprietary, trade secret or business data shall be governed by the standards required for "Trade Secret Information" as defined in MGDPA, Section 13.37(b) and as it may otherwise be referenced in the MGDPA. All of the data created, collected, received, stored, used, maintained, or disseminated by or to the Customer under this Agreement is subject to the requirements of the MGDPA. The Parties acknowledge that the classification of any government data is governed by the MGDPA and not by the understanding of either the Customer or the Seller. Notwithstanding any other provision in this Agreement, the Customer's obligation is to maintain and release the data in a manner that is consistent with the MGDPA, provided, however, that Customer agrees to provide prompt written notice to the Seller when Customer receives a request under the MGDPA for data concerning the terms of the Agreement, including the Agreement itself ("Contract Data"), not including presentations, memoranda and information previously disclosed publicly. When Customer receives a request for Contract Data, Customer shall notify Seller of the request promptly in writing. Customer shall reasonably wait to disclose the Contract Data until the later of (i) Seller getting a judicial determination by a judicial officer, arbitrator, or administrative law judge on the public or nonpublic designation of the Data or (ii) the last day that, in Customer's sole discretion, Customer must make such disclosure to avoid being at risk of a successful claim from the requester that Customer is in violation of the MGDPA. Customer remains solely responsible for the initial determination of whether the requested Contract Data is public or private/nonpublic, but the parties acknowledge that any final determination by a judicial officer, arbitrator, or administrative law judge, or appellate review thereof, will control. If the Customer determines that some or all of the Contract Data is public under section 13.03 of the MGDPA, Customer shall provide prompt written notice to Seller prior to Customer's disclosure of such data so that Seller, its sole expense, shall have the opportunity to object to such disclosure in writing and seek a determination by a judicial

officer, arbitrator, or administrative law judge that such data constitutes trade secret information or business data under the MGDPA and therefore cannot be disclosed under the MGDPA. In no event shall Customer be required by the Seller under this Agreement to withhold or delay disclosure of public data contrary to requirements of the MGDPA. Notwithstanding the notice and timing provisions in this Subsection 16 n., Customer shall not be liable to Seller for any failure to give notice or otherwise to timely respond to Seller regarding a third-party request for data. Seller's claims against the Customer shall be limited to private actions it may have, if any, for Customer's failure to follow the MGDPA.

- o. **Record Keeping Availability and Retention.** Pursuant to Minnesota Statutes, Section 16C.05, subd. 5, Seller agrees that the books, records, documents and accounting procedures and practices of Seller, that are relevant to the Agreement or transaction, are subject to examination by the Customer and the state auditor for a minimum of six (6) years. Seller shall maintain such records for a minimum of six (6) years after final payment.
- p. **Non-Discrimination.** Pursuant to Minnesota Statutes, Section 181.59, the Seller will take affirmative action to ensure that applicants are selected, and that employees are treated during employment, without regard to their race, color, creed, religion, national origin, sex, sexual orientation, marital status, status with regard to public assistance, membership or activity in a local civil rights commission, disability or age. The Seller agrees to be bound by the provisions of Section 181.59, that prohibits certain discriminatory practices and the terms of said section are incorporated into this Agreement.

The Parties hereto have caused this Agreement to be duly signed in their respective names effective the date first written above.

Seller  
**IDEAL ENERGIES, LLC**

By: \_\_\_\_\_  
Chris Psihos, its President

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

Customer  
**City of Richfield**

**SIGN HERE**

By: \_\_\_\_\_  
Pat Elliott, its Mayor

By: \_\_\_\_\_  
Steve Devich, its City Manager

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

## SCHEDULE A

### System Components

**Project 1 (Energy System 1)** is comprised of the following System Components:

1. UL Listed and approved Solar Panels: **54 - SilfabSLG370M @ 370 kW DC each**
2. UL listed and approved DC/AC inverters: **1 - SolarEdge SE20k 480V 3Ph Inverter @ 20.00 kW AC each**
3. Power Optimizers: **27 - SolarEdge P800 Power Optimizers**
4. Solar Panel Racking / mounting system: **Unirac, Panelclaw (or equivalent) Ballasted Racking @ approximately 10°**
5. Electrical components including but not limited to conductive wiring, ground circuitry, conduit, junction boxes, disconnects, switches, over-current protection, and any associated hardware necessary to complete the installation of the solar electric modules and interconnect with the Site's existing electric service.
6. Monitoring equipment and web-based remote system monitoring. Customer is responsible for bringing and providing internet service at the installation location (typically the electrical room).

**Project 2 (Energy System 2)** is comprised of the same System Components and quantities described as **Project 1 above**.

The Parties agree that the Energy System does **NOT** include the following unless purchased as an option (except where Seller includes them in the Installation Costs):

1. Any structural improvements to the building required to support the Energy System and the System Components, or any fencing for groundmounted installations, if required.
2. Batteries or emergency back-up power capability.
3. Any upgrades to Customer's electrical service to bring their service up to code.
4. Third-party fees for web-based monitoring of the Energy System.

## SCHEDULE B

### Contact Information for Parties

**Site Owner:**

**City of Richfield**

6700 Portland Avenue, Richfield, MN 55423

**Customer's Authorized Representative:**

**Chris Link**

612-861-9174

**Seller/Installer:**

**Ideal Energies, LLC**

Chris Psihos t. (612)928-5008

chris.psihos@idealenergies.com

5810 Nicollet Avenue Minneapolis, MN 55419

**Project Electrician(s):**

**Green<sup>2</sup> Electric, LLC**

Joaquin Thomas, Master Electrician

Russell Goetz, Master Electrician

t. (612)928-5008 f. (612)928-5009

5810 Nicollet Avenue Minneapolis, MN 55419

License **EA719118**

## **SCHEDULE C**

### **Scope of Work**

#### **A. Design Scope**

1. Seller will prepare structural and electrical Design Documents describing the Project.
2. Seller will comply with all building codes and, as necessary, obtain any code variances.
3. Seller will ensure that the Energy System installation meets then current National Electrical Code requirements.
4. Seller will apply for all permits, and complete inspections to close such permits after Project Completion.
5. Seller will apply for interconnection of the Energy System and net metering with the local utility.

#### **B. Installation**

1. Seller will furnish and install all required material or equipment for a complete installation.
2. Seller will connect the Energy System to Customer's electric panel.
3. Seller will commission and test the Energy System after installation.
4. Electrical interconnections will be performed by licensed electricians.
5. Except as provided in the Purchase Agreement, the Parties agree that Seller will not be liable for any indirect or consequential losses incurred by Customer as a result of the Energy System installation. Such losses may result from disruption of operations, interruption of electrical service, suspension of mechanical services and other interruptions reasonably related to standard Energy System installation of the size and type contemplated by the Project. Seller shall be responsible for any damage to the Site caused by Seller or its subcontractors, suppliers or representatives. Customer shall have the right to recover monetary damages or seek specific performance, for any Seller breach in the installation, maintenance or repair of the Energy System causing damages to the Site.

#### **C. Safety**

1. Seller will adhere to all current safety laws including without limitation federal, state and local safety regulations.
2. Seller's workers will conform to standard OSHA safety practices and procedures during installation.

#### **D. General**

1. Seller will provide all required design, engineering, construction, administration and management services necessary to complete the Project.
2. Seller will take all action reasonably necessary or required to bring the Project to commercial operation.
3. Seller will provide to Customer copies of all operating and maintenance manuals and third-party warranties.
4. Customer is responsible for scheduling and completing, if necessary, the energy audit required for purposes of the Rebates.

## SCHEDULE D

### Seller's Warranties

**Engineering and Design Services Warranty** Seller warrants that it will perform the engineering and design services in a professional and workmanlike manner using the degree of care, skill, prudence, judgment and diligence that a reasonable, qualified and competent provider of similar services would exercise. Except as otherwise provided herein, during the period beginning on the Final Project Completion date and ending five years later (the "**Warranty Period**"), it is shown that there was an error in such engineering and design services as a result of Seller's failure to meet those warranty standards, and if Customer properly notifies Seller within the Warranty Period, Seller will, at its own expense and at no cost to Customer, re-perform such services to remedy such error within a reasonable timeframe.

**Installation Services Warranty** Seller warrants that it will perform the installation services in a professional and workmanlike manner using the degree of care, skill, prudence, judgment and diligence that a reasonable, qualified and competent provider of similar services would exercise. Except as otherwise provided herein, if during the Warranty Period it is shown that there was an error in such installation services as a result of Seller's failure to meet those standards, and if Customer properly notifies Seller within the Warranty Period, Seller will, at its own expense and at no cost to Customer, re-perform such services to remedy such error within a reasonable timeframe.

**Limited System Components Warranty** Seller warrants that the System Components will be new and not physically damaged by Seller at the time of Final Project Completion. If Customer notifies Seller within a reasonable timeframe after Final Project Completion that any System Components were not new or are physically damaged by Seller at the time of Final Project Completion, Seller shall replace such System Components within a reasonable timeframe with System Components that are new and undamaged.

**Roof Warranty** Except as otherwise provided herein, if during the Warranty Period it is shown that the roof leaks solely as a result of Seller's installation of the Energy System, and if Customer properly notifies Seller within the Warranty Period, Seller will, at its own expense and at no cost to Customer, promptly repair the roof so that it does not leak; provided that such leaking is not due to normal wear and tear.

**Limitation on Warranties** The above warranties do NOT cover damage, malfunctions or services failures to the extent caused by:

1. Failure to follow the any applicable operations or maintenance manual or any other maintenance instructions provided by Seller or the manufacturer of the System Components, or failure to maintain or operate the Energy System;
2. Repair, modification, maintenance, movement or relocation of the Energy System or the System Components by someone other than a service technician approved by Seller or the manufacturer of the System Components;
3. Attachment or connection to the Energy System of any equipment not supplied by Seller, or the use of the Energy System for a purpose for which the Project was not intended;
4. Abuse, misuse or acts of Customer or any third person (other than Seller or its employees or agents), including intentional damage, theft or vandalism; or
5. Damage or deteriorated performance of the Energy System or Site caused by electrical surges, building settling, building component failure, work done on the building or adjacent structures, use of machinery or vehicle in the area, winds in excess of the system design rating, lightning, fire, flood, extreme weather conditions, pests, tornadoes, hurricanes, hail, storms, explosions, earthquakes, ground subsidence, falling debris, accidental breakages (not caused by Seller or its employees or agents), normal wear and tear, and other events or accidents outside the reasonable control of Seller.

**Customer's Right to Remedy** In the event that Seller fails to remedy any breach of warranty within the prescribed timeframe under this **Schedule D** or such breach threatens imminent harm to Customer or its property, Customer shall have the right to employ any reasonable means necessary to remedy such breach, and Seller shall reimburse Customer for all reasonable and necessary expenses incurred by Customer in carrying out such remedy. The Warranties in this Schedule D are separate from and in addition to any manufacturer's or other warranty for the Energy System or components thereof, and Purchaser may prosecute any and all such warranties, including these Warranties, concurrently and in complement to the other(s).

## Facility Lease Agreement

19.980 kW DC SilfabSLG370M,  
20.00 kW AC SolarEdge SE20k 480V 3Ph Inverter(s),  
SolarEdge P800 Power Optimizers & Unirac, Panelclaw (or  
equivalent) Ballasted Racking @ approximately 10°

### Xcel SolarRewards

This **FACILITY LEASE AGREEMENT** (this "**Lease**"), dated **June 18, 2018** ("**Effective Date**"), is between **Green2 Solar Leasing, LLC**, a Minnesota Limited Liability Company, whose principal place of business is located at **5810 Nicollet Avenue, Minneapolis, MN 55419** ("**Tenant**"), and **City of Richfield**, a Minnesota City, whose principal place of business is located at **6700 Portland Avenue, Richfield, MN 55423** ("**Customer**"). The Tenant and Customer are sometimes also referred to in this Lease jointly as "**Parties**", or individually as a "**Party**".

### RECITALS

- A. Customer is the owner of certain real property located at **\*\* See Attached Installation Address Schedule** (the "**Site**") presently used as a(an) **\*\* See Attached Installation Address Schedule** (the "**Property**"); and
- B. Tenant desires to lease from Customer, and Customer desires and is authorized to lease to Tenant, subject to the terms and conditions of this Lease, a portion of the Property for the construction, operation and maintenance of a photovoltaic solar electric system ("**Energy System**") further described as **Project 1** and **Project 2** in that certain Purchase Agreement (the "**Purchase Agreement**") between Customer and **Ideal Energies, LLC** ("**Seller**") of even date herewith; and
- C. Customer has or will be the **legal owner of the Energy System upon purchase from Ideal Energies, LLC**, and Customer desires to lease the same to Tenant subject to the terms and conditions of this Lease; and
- D. Tenant and Customer will, concurrently with this Lease, enter into a **Power Purchase Agreement** (the "**Power Purchase Agreement**") pursuant to which Tenant will sell power generated by the Energy System to the Customer; and
- E. For federal tax purposes, Customer and Tenant will treat this Lease as a transfer of the ownership of the Energy System from Customer to Tenant; and
- F. The Tenant should be eligible to receive a Federal Tax Credit from the U.S. Treasury pursuant to the terms of this Lease equal to **30%** of eligible Installation Cost of any Energy System ("**Tax Credit**") that is put into service during **2018 or 2019**.

### LEASE AGREEMENT

**NOW, THEREFORE**, in consideration of the foregoing Recitals, the mutual promises of the Parties hereto and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Lease Contingency.** The Parties performance under this Lease is contingent on Final Project Completion (as defined in the Purchase Agreement) occurring for Project 1 in accordance with the terms of the Purchase Agreement.
2. **Lease of Energy System and Leased Space.** Customer

Customer / Owner	City of Richfield
Installation Location / Site	** See Attached Installation Address Schedule
Xcel Premise #	** See Attached Installation Address Schedule

hereby leases to Tenant, and Tenant hereby leases from Customer the (a) the Energy System and (b) all roof/ground space required for the installation and operation of the Energy System on the Property ("**Leased Space**") as generally prescribed on the Plan View drawing included herewith as **Schedule A**, including rights to place wiring to the point of electrical interconnection. The Energy System and the Leased Space together constitute the leased property ("**Leased Property**"). The final As-Built Plan View drawing provided to Customer by Seller in its Operations Manual after Final Project Completion occurs is hereby incorporated into Schedule A of this Lease by reference.

### 3. **System Payments, Tax Ownership.**

- a. **Installation Cost Payment.** Tenant will pay Customer's Installation Cost (as defined in the Purchase Agreement) for Project 1 and Project 2 on their respective Final Project Completion dates.
- b. **Transfer of Tax Ownership.** The Parties shall treat the Energy System as having been sold to the Tenant for federal tax purposes in consideration of the payment(s) made under Section 3(a) above.
4. **Rebate.** The Rebate, as defined in the Purchase Agreement, (the "**Rebate**") is irrevocably assigned to Tenant as additional consideration and will be treated by Tenant as a fee earned for services. In the event the actual Rebate received is greater or less than the expected Rebate described in the Purchase Agreement, there will be no adjustment to the Rebate or the terms of this Lease, and each Party waives its right to recover any surplus or deficiency from the other Party.
5. **Access to Leased Space.** Customer grants to Tenant the right to access the Leased Space via reasonable route or routes over and across the Property upon reasonable prior notice to Customer. Customer will cooperate with Tenant to access the meter or any other part of the Energy System which is not located within the Leased Property.
6. **Permitted Use of Leased Space.** During the Term (as defined below) and subject to Customer rights set forth in this Lease, Tenant shall have the exclusive right to use the Leased Space for the construction, installation, operation, maintenance, repair, replacement, relocation, reconfiguration, removal, alteration, modification, improvement, use and enjoyment of the Energy System (and other necessary and incidental uses for the operation of the Energy System) to fulfill Tenant's obligations under this Lease and the Power Purchase Agreement (the "**Permitted Uses**"). Tenant may not erect any other facilities or use any other equipment on the Leased Space that is not expressly permitted under the terms of this Lease without first obtaining Customer's written consent, which consent shall not be unreasonably withheld, delayed or conditioned provided the other facilities or equipment are necessary for the operation of the Energy System and are not likely, in Customer's reasonable opinion, to damage the

Property or interfere with Customer's business. Customer shall at all times have absolute and paramount right to operate the Site and Tenant's activities shall not materially interfere in any way with Customer's operation of the same. This right shall supersede any other rights granted to Tenant in this Lease.

7. **Term.** The term (the "**Term**") of this Agreement for each Energy System shall begin on the date that Final Project Completion occurs for such Energy System and shall terminate on the date that is **twenty (20)** years after such Final Project Completion date. Energy Systems installed as separate Projects with different Final Project Completion dates will have different Term start and end dates. If the Power Purchase Agreement is terminated by either party, this Lease shall terminate.
8. **Rent of Leased Space.** Beginning on the first anniversary of the Final Project Completion for Project 1 and continuing on each and every anniversary thereof throughout its Term, Tenant shall pay to Customer Rent for the Leased Space. Leased Space Rent for **Project 1** shall be **\$45.00** per year. If **Project 2** is installed, the Leased Space Rent for **Project 2** shall be an additional **\$45.00** per year.
9. **Rent of Energy System.** Beginning on the first anniversary of the Final Project Completion for Project 1 and continuing on each and every anniversary thereof throughout its Term, Tenant shall pay to Customer Rent for the Energy System. Energy System Rent for **Project 1** shall be **\$5.00** per year. If **Project 2** is installed, the Energy System Rent for **Project 2** shall be an additional **\$5.00** per year.
10. **Holdover.** If Tenant holds over any tenancy after expiration of any Term, such tenancy shall be month-to-month subject to the terms and conditions of this Agreement. Either Party may terminate such month-to-month tenancy at any time upon the giving to the other Party no less than thirty (30) days written notice.
11. **Operating Permits.** Tenant shall, at its sole expense, maintain in full force and effect all certificates, permits and other approvals ("**Operating Permits**") required by any federal, state or local authorities ("**Governmental Authorities**") having jurisdiction over Tenant or the Leased Property.
12. **Energy System Title and Condition on Lease Termination.** The Parties agree that legal title to any and all fixtures, equipment, improvements or personal property of whatsoever nature at any time constructed or placed on or affixed to the Leased Space by Tenant, including without limitation the Energy System and its System Components, shall be and remain with System Owner. Tenant shall leave the Energy System at the end of this Agreement in substantially the same condition as existed on the Final Project Completion date(s) plus any improvements, ordinary wear and tear and casualty damage excepted.
13. **Energy System Operation and Maintenance.**
  - a. **Operation and Maintenance of the Energy System.** Tenant will at its sole cost and expense operate the Energy System, monitor the system's performance and keep and maintain the Energy System in good condition and repair utilizing the Maintenance List provided in **Schedule B** herewith as a guideline, with strict adherence hereto not expected by the Parties. Customer is solely responsible for pursuing any available warranties on System Components against the manufacturer at its own expense, and may look only to such manufacturer, and not to Tenant, for any warranty with respect thereto. Tenant will assist Customer in resolving any warranties relating to System Components on a time and material basis. Should

such services be required, Tenant will provide the labor at reasonably discounted market rates and pass through its direct expenses at Tenant's actual cost. Notwithstanding the foregoing or anything in this Lease to the contrary, nothing in this Lease shall prohibit, impair, or otherwise affect adversely, Customer's right to operate, maintain, repair or improve the buildings on which Energy Systems will be installed or the Customer's exercise of its governmental, regulatory, or proprietary authority ("**Exercise**") without triggering an Event of Default in this Lease. This Exercise right specifically includes, but is not limited to, emergency measures that Customer, in its sole discretion, may deem necessary for the health and safety of the public. Customer agrees to provide prompt notice to Tenant of the potential Exercise, if it may impact the terms of this Lease. Upon notice to Tenant of a possible Exercise, Tenant and Customer shall meet and confer regarding options available to eliminate or mitigate the impact of the Exercise on Tenant, which shall include consideration of any recapture of Tenant's Tax Credits during the first five years occurring following the Final Project Completion Date, and the Tenant's non-receipt of Power Payments and Rebates Tenant would reasonably have received but for the occurrence of Customer's Exercise. Customer shall use best efforts to identify and facilitate the relocation of any Energy System or portion of an Energy System affected by the Exercise, including payment of Tenant's reasonable cost of such relocation, or agreeing to an expansion of the total Energy System on reasonable terms that eliminate or mitigate the effect of the Exercise. If Customer and Tenant cannot agree on Agreement modification resulting from an Exercise, the Parties agree to retain and share the cost of a mediator and continue good faith efforts to equitably resolve the impact of the Exercise on Tenant.

- b. **Operation and Maintenance Standard of Care.** Tenant will use commercially reasonable efforts to identify, respond to, and complete necessary maintenance and repairs and to operate the Energy System to maximize its energy production. Notwithstanding the foregoing, the Parties understand that delays may be caused by multiple causes including without limitation delay in the identification of operational issues, troubleshooting issues, warranty replacement, warranty procurement, parts availability, parts delivery, crew availability, equipment defects, equipment performance, internet downtime, and similar causes.
- c. **Energy System Casualty.** In the case of casualty to the Energy System, Tenant agrees to repair the Energy System with proceeds described in Section 17a. Said Proceeds will be provided to Tenant to make the repairs caused by the casualty. Tenant shall repair, at Tenant's expense, any damage to the Leased Space that results from the Tenant's repair, reconfiguration, alteration, modification or replacement of any Energy System.
14. **Repair of Leased Space During Term.** Customer shall have the right at any time to access the Leased Space to inspect, maintain, replace or repair items and components thereof, excluding the Energy System. ("**Customer Maintenance**"). Customer Maintenance shall include temporary removal such components of the Energy System that interfere with Customer Maintenance of the Leased Space, and the replacement of such components upon completion. Customer shall provide thirty (30) days prior notice of any scheduled Customer Maintenance, except in the case of an emergency, the Customer shall give notice as soon as possible. Customer, at its own cost, will perform Customer Maintenance, and use



Seller or, another third party approved by Tenant to perform Customer Maintenance (Tenant's approval of third parties will not be unreasonably withheld). The Customer Maintenance will be performed at Tenant's expense to the extent the Customer Maintenance was required as a result of damage to the Leased Space caused by the Energy System. Tenant will reimburse Tenant for any lost Rebate revenue resulting from the Energy System being non-operational in excess of forty-five (45) days, excluding any downtime resulting from damage to the Leased Space caused by the Energy System.

15. **Utilities/taxes.** Tenant shall pay all applicable taxes, assessments, or similar levied against the Energy System and other personal property located and/or installed on the Site by the Tenant due at the time of Final Project Completion. Customer shall pay applicable taxes, assessments, or similar levied against the Energy System and other personal property located and/or installed on the Site by the Tenant that are assessed after the Final Project Completion. Notwithstanding the foregoing, Tenant shall pay all personal or property taxes after Final Project Completion that are levied on any rent payments paid to Customer pursuant to this Lease. Any payments due under this paragraph shall be made by Tenant within the later of 30 days after receipt of written notice thereof (together with a copy of the applicable tax bill) from Customer or otherwise or resolution of any contest hereunder.

16. **Interference.**

- a. **Interference by Tenant.** Tenant shall operate the Energy System in a manner that will not unreasonably interfere with any existing operations or equipment located, operated or owned by Customer or any other permitted occupants as of the date of this Lease ("**Existing Operations**"). All operations by Tenant shall be lawful and in material compliance with all regulations and requirements of the Minnesota Public Utilities Commission, as well as any other applicable state, federal or local regulations and requirements ("**Legal Requirements**") and any applicable agreements with, or tariffs of, the local utility.
- b. **Interference by Customer.** Subject to paragraph 1 of this Agreement, following the installation of any Energy System, Customer shall not, and shall not cause or permit any other persons or parties to, install equipment or facilities or construct or allow any construction of a structure or structures ("**New Construction**") near the Leased Space if such New Construction will interfere with the Energy System or its performance. Customer shall not move, modify, remove, adjust, alter, change, replace, reconfigure or operate the Energy System or any part of it during the term of the Lease without prior written direction or approval of Tenant, except if there is an occurrence reasonably deemed by Customer to be a bona fide emergency, in which case Customer will immediately notify Tenant of such emergency and Customer's proposed actions. Customer shall be responsible for, and promptly notify Tenant, of any damage to the Energy System caused by the Customer or its employees, invitees or agents, and shall promptly pay Tenant the costs to repair such damage to the Energy System, along with any lost Rebate revenue.

17. **Insurance.**

- a. **General Liability and Property Insurance.** Customer shall keep the Energy System insured against loss by fire, theft, hail and wind and such other hazard as Tenant shall reasonably require with an insurance company acceptable to Tenant in its reasonable discretion, at all times will

insure the Energy System at an amount equal to the Installation Cost (as defined in the Purchase Agreement) and will provide Tenant with a Certificate of Insurance that names Tenant as an additional insured and loss payee. Customer shall also secure and maintain adequate comprehensive general liability insurance against liability related to the Energy System. Customer shall provide Tenant with evidence of having acquired such insurance coverages prior to each Project's Final Project Completion date and on an annual basis thereafter. The loss, injury or destruction of the Energy System shall not release Customer from payment as provided in this Lease. Any insurance policies obtained by Customer shall provide that such policy of insurance cannot be terminated or cancelled by the insurer without thirty (30) days prior written notice to Tenant. Customer is responsible for any deductibles due under the insurance policies for casualties and will pay Tenant said deductible along with insurance proceeds received to repair the Energy System, and Tenant's lost Rebate revenue resulting from the casualty. Customer's failure or refusal to repair and recommitment an Energy System following a loss shall constitute a breach of this Lease.

- b. **Workers' Compensation Insurance and Employers' Liability Insurance.** In accordance with Minnesota state law, Tenant shall maintain in force workers' compensation insurance for all of its employees. Tenant shall also maintain employer's liability coverage in an amount of not less than One Million Dollars (\$1,000,000.00) per accident. Tenant shall also secure and maintain adequate comprehensive general liability insurance against liability related to the Leased Premises. Upon request, Tenant will provide Customer with a Certificate of Insurance.
- c. **Tenant Insurance.** At all times during this Lease, Tenant shall, at its own expense, maintain and provide general commercial liability insurance in the amount of \$2,000,000. Upon request, copies of certificates evidencing the existence and amounts thereof shall be delivered to Customer by Tenant. Should any insurance expire or be cancelled during the term of this Lease, Tenant shall provide Customer with renewal or replacement certificates at least 30 days prior to the expiration or cancellation of the original policies.

18. **Indemnification.**

- a. Tenant shall indemnify, defend and hold harmless Customer and its elected officials, officers, consultants, representatives, agents, and employees (each a "Tenant Indemnified Party") against any damages, liabilities, losses, costs and expenses, including reasonable attorney fees and costs (collectively, "Damages") incurred or suffered by any of them in any way arising out of, relating to, or in connection with a third party claim for or (i) any breach of this Agreement by Tenant, or (ii) the negligence, gross negligence or willful misconduct of Tenant or its employees or agents in connection with the transactions contemplated by this Agreement.
- b. Tenant shall defend and indemnify Customer from any mechanic's, materialman's, or other lien with respect to the Property or the Leased Property to the extent such lien is attributable to Tenant's failure to pay Installation Costs or other costs incurred in the performance of Tenant's obligations for maintenance and repair of the Energy System.
- c. Customer shall indemnify, defend and hold harmless Tenant and its officers, directors, members, consultants,

representatives, agents, employees and affiliates (each a "**Customer Indemnified Party**") against any Damages incurred or suffered by any of them in any way arising out of, relating to, or in connection with a third party claim for or of (i) any breach of this Agreement by Customer, or (ii) the negligence, gross negligence or willful misconduct of Customer or its employees or agents in connection with the transactions contemplated by this Agreement.

- d. A Customer Indemnified Party or Tenant Indemnified Party claiming indemnification hereunder must give each Party prompt notice of the relevant claim and each Party agrees to cooperate with the each other Party, at its own expense, in the defense of such claim. Notwithstanding the foregoing, any Party from whom indemnification is sought, shall control the defense and settlement of such claim; provided however that such Party shall not agree to any settlement that materially adversely affects the other Party without the prior written consent of such Party, which approval shall not be unreasonably withheld. Without limiting or diminishing the foregoing, any Party may, at its option and its own expense, participate in the defense of any such claim with legal counsel of its own choice.

19. **General.**

- a. **Subordination to Utility Rebate Agreement.** No portion of this Lease is intended to conflict with any Utility Rebate Agreements (the "Utility Rebate Agreements") to which Tenant or Customer is a party. In the case of a conflict between the terms or conditions of this Agreement and the Utility Rebate Agreements, the terms and conditions of Utility Rebate Agreements shall control. The Utility, or its successors and assigns, is a third-party beneficiary of the provision of this paragraph. Nothing in this Lease shall prevent the Utility, from fully enforcing the terms and conditions of Utility Rebate Agreements.
- b. **Relationship of the Parties.** The Parties shall for all purposes be considered independent contractors with respect to each other, and neither shall be considered an employee, employer, agent, principal, partner or joint venturer of the other.
- c. **Entire Agreement.** This Lease and all the schedules, exhibits and attachments hereto, together with any agreement reference herein, constitute the entire agreement and understanding of the Parties relative to the subject matter hereof. The Parties have not relied upon any promises, representations, warranties, agreements, covenants or undertakings, other than those expressly set forth or referred to herein. This Lease replaces and supersedes any and all prior oral or written agreements, representations and discussions relating to such subject matter.
- d. **Survival of Representations.** All representations, warranties, covenants and agreements of the Parties contained in this Lease, or in any instrument, certificate, exhibit or other writing provided for in it, shall survive the execution of this Lease and the consummation of the transactions contemplated herein.
- e. **Amendment.** This Lease may be amended or modified only by a writing executed by the Parties to this Lease. No custom or practice of the Parties at variance with the terms hereof shall have any effect.
- f. **Notices.** All notices to be given under this Lease shall be in writing and shall be effectively given upon personal delivery, facsimile or email transmission (with confirmation of receipt), delivery by overnight delivery service or three

days following deposit in the United States Mail (certified or registered mail, postage prepaid, return receipt requested).

- g. **No Delay.** No delay or failure on the part of any Party hereto to exercise any right, power or privilege hereunder shall operate as a waiver thereof.
- h. **Force Majeure.** Neither Party will be liable to the other Party for any delay, error, failure in performance or interruption of performance resulting from causes beyond its reasonable control, including without limitation fires, flood, accidents, explosions, sabotage, strikes or other labor disturbances, civil commotion, riots, invasions, wars, acts of God, terrorism or any cause (whether similar or dissimilar to the foregoing) beyond the reasonable control of the Party.
- i. **Governing Law / Venue.** This Lease shall be governed by and construed in accordance with the laws of the State of Minnesota without regard to its conflicts of laws principals. Any lawsuit brought in connection with this Lease shall be brought only in a court of general jurisdiction in Hennepin County, Minnesota.
- j. **Severability.** The provisions of this Lease are severable. If any part of this Lease is rendered void, invalid or unenforceable, such rendering shall not affect the validity and enforceability of the remainder of this Lease.
- k. **Successors and Assigns.** This Lease shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns. Neither Party shall assign this Lease, or any portion thereof, without the prior written consent of the other Party. Any attempted assignment or transfer without such prior written consent of the other Party shall be of no force or effect. As to any permitted assignment: (a) reasonable prior notice of any such assignment shall be given to the other Party; and (b) any assignee shall expressly assume the assignor's obligations hereunder, unless otherwise agreed to by the other Party in writing. Notwithstanding the foregoing, as may be required for Tenant to avoid being classified as a Public Utility under Minnesota Statutes Chapter 216B.02, Subd. 4., or to leverage tax benefits as tax owner, Tenant may, at its sole discretion, assign and/or sublease all or part of its full interest under this Lease to a controlled affiliate of Tenant, assign its rights under the Power Purchase Agreement a controlled affiliate of Tenant, or assign this Lease in connection with any sale of any or all of its Assets to a third party or Bank.
- l. **Quiet Possession.** Customer agrees that upon compliance with the terms and conditions of this Lease, Tenant shall peaceably and quietly have, hold and enjoy the Leased Space for the Term and any extensions thereof.
- m. **Data Practices.** Pursuant to Minnesota Statutes, Section 13.05, subd. 11, all of the data created, collected, received, stored, used, maintained, or disseminated by Tenant in performing this Lease is subject to the requirements of the Minnesota Government Data Practices Act ("MGDPA"), Minnesota Statutes Chapter 13, and Tenant must comply with those requirements as if it were a government entity. The remedies in Minnesota Statutes, Section 13.08 apply to Tenant. Tenant does not have a duty to provide access to public data to the public if the public data are available from the Customer, except as required by the terms of this Lease.

- n. **Proprietary Information.** Information claimed by Tenant to be proprietary, trade secret or business data shall be governed by the standards required for "Trade Secret Information" as defined in MGDPA, Section 13.37(b) and as it may otherwise be referenced in the MGDPA. All of the data created, collected, received, stored, used, maintained, or disseminated by or to the Customer under this Agreement is subject to the requirements of the MGDPA. The Parties acknowledge that the classification of any government data is governed by the MGDPA and not by the understanding of either the Customer or the Tenant. Notwithstanding any other provision in this Agreement, the Customer's obligation is to maintain and release the data in a manner that is consistent with the MGDPA, provided, however, that Customer agrees to provide prompt written notice to the Tenant when Customer receives a request under the MGDPA for data concerning the terms of the Agreement, including the Agreement itself ("Contract Data"), not including presentations, memoranda and information previously disclosed publicly. When Customer receives a request for Contract Data, Customer shall notify Tenant of the request promptly in writing. Customer shall reasonably wait to disclose the Contract Data until the later of (i) Seller getting a judicial determination by a judicial officer, arbitrator, or administrative law judge on the public or nonpublic designation of the Data or (ii) the last day that, in Customer's sole discretion, Customer must make such disclosure to avoid being at risk of a successful claim from the requester that Customer is in violation of the MGDPA. Customer remains solely responsible for the initial determination of whether the requested Contract Data is public or private/nonpublic, but the parties acknowledge that any final determination by a judicial officer, arbitrator, or administrative law judge, or appellate review thereof, will control. If the Customer determines that some or all of the Contract Data is public under section 13.03 of the MGDPA, Customer shall provide prompt written notice to Tenant prior to Customer's disclosure of such data so that Tenant, at its sole expense, shall have the opportunity to object to such disclosure in writing and seek a determination by a judicial officer, arbitrator, or administrative law judge that such data constitutes trade secret information or business data under the MGDPA and therefore cannot be disclosed under the MGDPA. In no event shall Customer be required by the Tenant under this Agreement to withhold or delay disclosure of public data contrary to requirements of the MGDPA. Notwithstanding the notice and timing provisions in this Subsection 16 n., Customer shall not be liable to Tenant for any failure to give notice or otherwise to timely respond to Tenant regarding a third-party request for data. Tenant's claims against the Customer shall be limited to private actions it may have, if any, for Customer's failure to follow the MGDPA.
- o. **Record Keeping—Availability and Retention.** Pursuant to Minnesota Statutes, Section 16C.05, subd. 5, Tenant agrees that the books, records, documents and accounting procedures and practices of Tenant, that are relevant to the Lease or transaction, are subject to examination by the Customer and the state auditor for a minimum of six (6) years. Tenant shall maintain such records for a minimum of six (6) years after final payment.
- p. **Non-Discrimination.** Pursuant to Minnesota Statutes, Section 181.59, the Tenant will take affirmative action to ensure that applicants are selected, and that employees are treated during employment, without regard to their race, color, creed, religion, national origin, sex, sexual

orientation, marital status, status with regard to public assistance, membership or activity in a local civil rights commission, disability or age. The Tenant agrees to be bound by the provisions of Minnesota Statutes, Section 181.59, that prohibits certain discriminatory practices and the terms of said section are incorporated into this Lease.

- q. **Contamination Liability.** Tenant shall indemnify, defend, and hold harmless Customer, its officials, employees, agents, and assigns from and against any and all fines, suits, claims, demands, penalties, liabilities, costs or expenses, losses, settlements, remedial action requirements and enforcement actions, administrative proceedings, and any other actions of whatever kind or nature, including attorneys' fees and costs (and costs and fees on appeal), fees of environmental consultants and laboratory fees, known or unknown, contingent or otherwise, arising out of or in any way to the extent arising out of or related to any contamination to the Site caused by the negligence or willful misconduct of Tenant during the term of this Lease, including any personal injury (including wrongful death) or property damage (real or personal) arising therefrom. This paragraph shall survive the termination or earlier expiration of this Lease. For purposes of this paragraph "Contamination" shall be defined as any hazardous substances, hazardous materials, toxic substances or other similar or regulated substances, residues or wastes, pollutants, petroleum products and by-products, including any other environmental contamination whatsoever.
- r. **Compliance with Law.** Tenant agrees to comply with all laws, orders, and regulations of federal, state and municipal authorities and with any lawful direction of any public officer which shall impose any duty upon Tenant with respect to Tenant's use of the Site.

The Parties acknowledge they have read this Agreement, understand it and agree to be bound by its terms and conditions as of the date first set forth above.

Tenant  
**Green2 Solar Leasing, LLC**

By: \_\_\_\_\_  
Rich Ragatz, its Vice President

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

Customer  
**City of Richfield**

By: \_\_\_\_\_  
Pat Elliott, its Mayor

By: \_\_\_\_\_  
Steve Devich, its City Manager

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

**SIGN HERE**

## **SCHEDULE A**

### **Site Plan**

Facility Plan View Drawing Indicating the Final Location of the Energy System on the Leased Space and the point of interconnection of the Energy System with the electrical system at the Property

[The above document is provided by Seller, and is included in the Owner's Manual that is provided to the Customer after Final Project Completion]

## **SCHEDULE B**

### Maintenance Items

- A. Weekly performance monitoring via online monitoring system to validate performance of panels and inverters, energy production; benchmark performance vs. similar systems for validation
- B. Identify any defective equipment via on-line monitoring system
- C. Semi-annual Site audits of system performing the following tasks
  - i. Inspect panels, inverters, and racking for physical damage
  - ii. Clean any debris on or under the solar arrays
  - iii. Ensure labels are intact
  - iv. Check for loose hanging wires, repair as necessary
  - v. Check electrical connections; tighten/torque as necessary
  - vi. Check for corrosion of electrical enclosures, repair as necessary
  - vii. Ensure roof drainage is adequate, that roof drains are not clogged, and confirm there are no signs of pooling water in the vicinity of the solar array
- D. Management of System Component Warranty Claims

**Power Purchase Agreement**

19.980 kW DC SilfabSLG370M,  
20.00 kW AC SolarEdge SE20k 480V 3Ph Inverter(s),  
SolarEdge P800 Power Optimizers & Unirac, Panelclaw (or  
equivalent) Ballasted Racking @ approximately 10°

**Xcel SolarRewards**

This **POWER PURCHASE AGREEMENT** (this "**Agreement**"), dated **June 18, 2018** ("**Effective Date**"), is between **Green2 Solar Leasing, LLC** a Minnesota Limited Liability Company, whose principal place of business is located at **5810 Nicollet Avenue, Minneapolis, MN 55419** ("**Tenant**"), and **City of Richfield**, a Minnesota City, whose principal place of business is located at **6700 Portland Avenue, Richfield, MN 55423** ("**Customer**"). Tenant and Customer are sometimes also referred to in this Agreement jointly as "**Parties**", or individually as a "**Party**".

**RECITALS**

- A. Tenant leases, operates and maintains Customer's photovoltaic solar electric system (the "**Energy System**") (as further described as Project 1 and Project 2, and as located at the installation location described above (the "**Site**") described above, all of which are defined in that certain **Purchase Agreement** (the "**Purchase Agreement**") between Customer and **Ideal Energies, LLC** ("**Seller**") of even date herewith) pursuant to a Facility Lease Agreement (the "**Lease**") between the Parties of even date herewith; and
- B. Tenant desires to sell renewable electric power to Customer, inclusive of all rights to its available environmental attributes, and Customer desires to purchase from Tenant all such electricity which is produced by the Energy System; and
- C. Tenant or its affiliate has, or will, apply for the "**Rebate**" (as defined in the Purchase Agreement) on behalf of Customer. After award of the Rebate and before the Final Project Completion date for each Energy System (as defined in the Purchase Agreement), Customer will enter into an agreement(s) ("**Utility Agreement**") with the local utility ("**Utility**") pursuant to which Customer will convey to the Utility, as may be required by the Utility Agreement, all Renewable Energy Credits ("**RECs**") for electricity produced by the Energy System for the term specified in the Utility Agreement; and
- D. The Customer may be eligible to participate in the Utility's **Net Metering Program**. Under this program, the energy generated from an Energy System is available for use and to reduce the total amount of energy that Customer needs to purchase from the Utility. Under this program, for months where the Energy System produces more kWh than the Site consumes, the Utility will compensate Customer at the applicable Net Metering rate; and
- E. Pursuant to the Lease, the Tenant may be eligible to receive a Federal Tax Credit from the U.S. Treasury equal to **30%** of eligible Installation Cost of any Energy System ("**Tax Credit**") that is put into service during **2018 or 2019**.

**AGREEMENT**

**NOW, THEREFORE**, in consideration of the foregoing Recitals, the mutual promises of the Parties hereto and for other good and valuable consideration, the receipt and sufficiency of which hereby are acknowledged, the Parties agree as follows:

1. **Agreement Contingency.** The Parties performance under

<b>Customer / Owner</b>	<b>City of Richfield</b>
<b>Installation Location / Site</b>	<b>** See Attached Installation Address Schedule</b>
<b>Xcel Premise #</b>	<b>** See Attached Installation Address Schedule</b>

this Agreement is contingent on Final Project Completion (as defined in the Purchase Agreement) occurring for Project 1 in accordance with the terms of the Purchase Agreement.

2. **Power Purchase.** Tenant shall deliver all power generated from the Energy System to Customer at the point of interconnection shown on Schedule A of the Lease.
  - a. Customer will pay Tenant for all the power generated from the Energy System and delivered to the interconnection point by making the payments specified in **Schedule A** or Schedule A-2 as applicable per section 2.b below (the "**Power Payments**").
  - b. If the Project 1 and Project 2 Final Project Completion dates are different, **Schedule A** will apply for each Project. If the Project 1 and Project 2 Final Project Completion dates are the same, **Schedule A-2** shall apply for the combined Project.
  - c. The Power Payments for each Energy System are due monthly and payable in accordance with the Prompt Payment of Local Government Bills Act, Minnesota Statutes, Section 471.425 ("**Act**") beginning on the first day of the first month following its Final Project Completion date and continuing each month until expiration of the Term (as defined below) of this Agreement for that Energy System. Power Payments do not include any sales tax. Sales tax will be added to the Power Payments based on Customer's applicable sales tax rate. Payments shall be sent to:

**Green2 Solar Leasing, LLC**  
5810 Nicollet Avenue  
Minneapolis MN 55419

3. **Ownership of Renewable Energy Credits.** Customer will, if required by the Utility Agreement, convey to the Utility all RECs generated by the Energy System for the term specified in the Utility Agreement. Subject to any required assignment to the Utility, Customer owns all RECs. For purposes of this Agreement, RECs include all attributes of an environmental or other nature that are created or otherwise arise from the Energy System, including without limitation tags, certificates or similar projects or rights associated with solar energy as a "green" or "renewable" electric generation resource. RECs shall also include any other environmental attribute intended to be transferred to the Utility under the Utility Agreement.
4. **Term.** The term (the "**Term**") of this Agreement for each Energy System shall begin on the date that Final Project Completion occurs for such Energy System and shall terminate on the date that is **twenty (20)** years after such Final Project Completion date, unless otherwise provided in the Agreements. Energy Systems installed as separate Projects with different Final Project Completion dates will have different Term start and end dates.
5. **Late Charge/Costs of Collection.** In the event Customer fails to make any Power Payment when due and is not subject to a good faith dispute under the Act, Customer agrees to pay

interest on the late payment not to exceed five (5%) percent per annum simple interest.

6. **Grant of Security Interest.** In order to secure the payment and performance of all of Customer's liabilities, obligations and covenants under this Agreement or the Lease, Customer hereby grants to Tenant a continuing security interest in all Rebates, in the Energy System, together with all attachments, accessories or replacement parts placed upon the Energy System, and in all proceeds of each of the foregoing.
7. **Insurance.** Customer shall keep the Energy System insured against loss by fire, theft, hail and wind and such other hazards, as required by the Lease.
8. **Events of Customer's Default.** Each of the following shall constitute an event of Customer's default ("**Event of Default**"):
  - a. Customer shall fail to make any payment to Tenant when due under the Act, Tenant has notified the Customer of such failure, and the failure has continued without cure by Customer or written waiver by Tenant for a period of thirty (30) days after the notice of failure;
  - b. The Customer fails to comply with any of its material obligations under any of Customer's agreements with the Utility and such breaches materially affect Tenant's rights in this Agreement.
  - c. Customer's failure or refusal to repair and recommission an Energy System following a casualty loss.
9. **Events of Tenant's Default.** Each of the following shall constitute an event of Tenant's default ("**Event of Default**"):
  - a. Tenant shall fail to make any payment to Customer when due, Customer has notified Tenant of such failure, and the failure has continued without cure by Tenant or written waiver by Tenant for a period of thirty (30) days after the notice of failure;
  - b. Tenant's failure or refusal to repair and recommission an Energy System following a casualty loss.
  - c. Tenant's failure to comply with any of its material obligations under any of the Tenant Agreements that materially affect Customer's rights in this Agreement and are not timely cured.
10. **Remedies.**
  - a. If an Event of breach of this Agreement, the non-defaulting Party may, at its option, exercise any one or more of the following remedies:
    - i. Declare all amounts due or to become due under this Agreement immediately due and payable;
    - ii. Recover any additional damages and expenses sustained by the non-defaulting Party by reason the Event of Default; and
    - iii. Exercise any other remedies available under law or in equity.
  - b. The remedies provided herein shall be cumulative and may be exercised singularly, concurrently or successively with and in addition to all other remedies in law or equity. If either Party fails to perform any of its obligations under this Agreement, the other Party may (but need not) at any time thereafter perform such obligation, and the expenses incurred in connection therewith shall be payable in full by the nonperforming Party upon demand-including but not limited to, the non-defaulting Party's attorney's fees and costs of collection in pursuing any remedies in which it is the prevailing Party.

11. **PRUDENT PRACTICES WARRANTY; ANNUAL ENERGY PRODUCTION NOT GUARANTEED BY TENANT; TENANT WARRANTS THAT IT'S OPERATION, MAINTENANCE AND REPAIR OF THE ENERGY SYSTEMS WILL, AT ALL TIMES, MEET GENERALLY ACCEPTED INDUSTRY STANDARDS FOR PRUDENT PRACTICES, AS THEY MAY BE DEFINED THROUGHOUT THE TERM OF THIS AGREEMENT. THE PARTIES UNDERSTAND AND AGREE, HOWEVER, THAT THE ANNUAL ENERGY PRODUCTION FROM THE ENERGY SYSTEM MAY VARY FROM TENANT'S ANNUAL PROJECTIONS FOR REASONS BEYOND THE PARTIES CONTROL, INCLUDING WITHOUT LIMITATION, SEASON WEATHER VARIATIONS, ROUTINE AND NON-ROUTINE MAINTENANCE CAUSING DOWNTIME, EQUIPMENT PERFORMANCE, PROCESSING ANY EQUIPMENT WARRANTIES FOR MALFUNCTIONING EQUIPMENT, OR FORCED MAJEURE EVENTS. THE PARTIES UNDERSTAND THAT THE REBATES AND UTILITY BILL CREDITS/SAVINGS ARE PAID/RECOGNIZED PROPORTIONALLY WITH ENERGY SYSTEM ENERGY PRODUCTION, AND THAT THE ACTUAL AMOUNTS RECEIVED BY CUSTOMER WILL VARY ACCORDINGLY. SUCH TO TENANT'S WARRANTY TO EMPLOY PRUDENT PRACTICES, TENANT DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, THAT PRODUCTION WILL MATCH PROJECTIONS. CUSTOMER AND TENANT ASSUME, AT THEIR SOLE RISK, THE VARIABILITY OF ANNUAL ENERGY PRODUCTION AND VARIATIONS FROM ANY FINANCIAL PROJECTIONS RELATING TO UTILITY BILL CREDITS, SAVINGS AND REBATES. NOTWITHSTANDING TENANT'S WARRANTY LIMITS AND DISCLAIMERS, TENANT AGREES THAT ANY MANUFACTURER'S WARRANTY ON THE ENERGY SYSTEM, OR ANY COMPONENT THEREOF, SHALL INURE TO THE BENEFIT OF CUSTOMER AS WELL AS TO TENANT IN THE EVENT OF A MANUFACTURER BREACH OF SUCH WARRANTY. CUSTOMER SHALL RECEIVE TIMELY NOTICE OF CLAIM BY TENANT AGAINST SUCH MANUFACTURER WARRANTY.**

12. **Power Production Adjustment Price Guarantee.**

- a. In any 12-month period beginning with the applicable Final Project Completion date that the Energy System does not produce at least 900 kWh per KW DC, Tenant will reimburse Customer within 60 days after the then applicable twelve-month period as follows: Total payments made over the then applicable 12-month period \* (1 - (actual kWh/kWDC / 900 kWh/kWDC)). For Example, if a 40 kWDC Energy System produces 800 kWh/kWDC and power payments equaling \$3000 are paid during the then applicable 12-month period a \$333.33 cash reimbursement will be paid to the Customer calculated as follows:  $\$3000 * (1 - 800/900) = \$333.33$ .
- b. Beginning with the 8<sup>th</sup> year following a Project's final Project Completion Date, Tenant agrees that if the total annual energy payment per kWh price that Customer pays to Tenant for Energy System power production ("**Tenant Rate**") is greater than Customer's total annual payment to the utility per kWh price, as measured by its total annual payment to the utility for kWh Energy Charge, Fuel Cost Charge, Demand Charge, Affordability Charge, Resource Adjustment, Interim Rate Adjustment, and sales tax, minus the total in average kWh Energy Charge price issued to Customer during the same period ("**Utility Rate**"), then Tenant shall pay or credit Customer within sixty (60) days of the measuring period as follows: the total kWh production of the Energy System for the measuring period times the difference in kWh rate between Tenant Rate and Utility Rate. E.g. 1000 kWh of Energy System power

production at \$0.095 per kWh and average kWh price for Utility Rate is \$0.09, then Tenant pays or credits Customer \$90.00.

- c. In the event Tenant makes any payment to Customer pursuant to Section 12b, Tenant may recover the amount paid by collecting additional Power Payments from the Customer. Tenant and Customer will work in good faith to create a schedule for additional monthly Power Payments with the amount of the additional Power Payments not to exceed 80% of the net annual savings achieved for the prior year. See Schedule B1 and B2 for example. This provision survives the termination of this Agreement.

### 13. **Miscellaneous.**

- a. **Subordination to Utility Rebate Agreement.** No portion of this Agreement is intended to conflict with any Utility Rebate Agreements (the “**Utility Rebate Agreements**”) to which Tenant or Customer is a party. In the case of a conflict between the terms or conditions of this Agreement and the Utility Rebate Agreements, the terms and conditions of Utility Rebate Agreements shall control. The Utility, or its successors and assigns, is a third-party beneficiary of the provision of this paragraph. Nothing in this Agreement shall prevent the Utility, from fully enforcing the terms and conditions of Utility Rebate Agreements.
- b. **Relationship of the Parties.** The Parties shall for all purposes be considered independent contractors with respect to each other, and neither shall be considered an employee, employer, agent, principal, partner or joint venturer with or of the other.
- c. **Entire Agreement.** This Agreement and the Agreements as defined in the Purchase Agreement, schedules, exhibits and attachments hereto, constitute the entire agreement and understanding of the Parties relative to the subject matter hereof. The Parties have not relied upon any promises, representations, warranties, agreements, covenants or undertakings, other than those expressly set forth or referred to herein. This Agreement replaces and supersedes any and all prior oral or written agreements, representations and discussions relating to such subject matter.
- d. **Survival of Representations.** All representations, warranties, covenants and agreements of the Parties contained in this Agreement, or in any instrument, certificate, exhibit or other writing provided for in it, shall survive the execution of this Agreement and the consummation of the transactions contemplated herein.
- e. **Amendment.** This Agreement may be amended or modified only by a writing executed by the Parties to this Agreement. No custom or practice of the Parties at variance with the terms hereof may be used to argue waiver or consent in nullification of this Section.
- f. **Notices.** All notices to be given under this Agreement shall be in writing and shall be effectively given upon personal delivery, facsimile or email transmission (with confirmation of receipt), delivery by overnight delivery service or three days following deposit in the United States Mail (certified or registered mail, postage prepaid, return receipt requested). Notice shall be made to:

**Tenant**  
Green2Solar Leasing, LLC  
5810 Nicollet Avenue  
Minneapolis, MN 55419

**Customer**  
City of Richfield  
Attn: City Manager  
6700 Portland Avenue  
Richfield, MN 55423

- g. **No Delay.** No delay or failure on the part of any Party hereto to exercise any right, power or privilege hereunder shall operate as a waiver thereof.
- h. **Force Majeure.** Neither Party will be liable to the other Party for any delay, error, failure in performance or interruption of performance resulting from causes beyond its reasonable control, including without limitation, fires, flood, accidents, explosions, sabotage, strikes or other labor disturbances, civil unrest, riots, invasions, wars, acts of God or any cause (whether similar or dissimilar to the foregoing) beyond the reasonable control of the Party.
- i. **Governing Law / Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota without regard to its conflicts of laws principals. Any lawsuit brought in connection with this Agreement shall be brought only in a court of general jurisdiction in Hennepin County, Minnesota.
- j. **Severability.** The provisions of this Agreement are severable. If any part of this Agreement is rendered void, invalid or unenforceable by a court of competent jurisdiction, such rendering shall not affect the validity and enforceability of the remainder of this Agreement.
- k. **Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns. Neither Party shall assign this Agreement, or any portion thereof, without the prior written consent of the other Party. Any attempted assignment or transfer without such prior written consent of the other Party shall be of no force or effect. As to any permitted assignment: (a) reasonable prior notice of any such assignment shall be given to the other Party; and (b) any assignee shall expressly assume the assignor's obligations hereunder, unless otherwise agreed to by the other Party in writing. Notwithstanding the foregoing, as may be required for Tenant to avoid being classified as a Public Utility under Minnesota Statutes Chapter 216B.02, Subd. 4., or to leverage tax benefits as tax owner, Tenant may, at its sole discretion, assign and/or sublease all or part of its full interest under the Lease to a controlled affiliate of Tenant, assign its rights under this Power Purchase Agreement a controlled affiliate of Tenant, or assign this Agreement in connection with any sale of any or all of its Assets to a third party or Bank
- l. **Time is of the Essence.** Time is of the essence with respect to all of the terms of this Agreement.
- m. **Data Practices.** Pursuant to Minnesota Statutes, Section 13.05, subd. 11, all of the data created, collected, received, stored, used, maintained, or disseminated by Tenant in performing this Agreement is subject to the requirements of the Minnesota Government Data Practices Act (“MGDPA”), Minnesota Statutes Chapter 13, and Tenant must comply with those requirements as if it were a government entity. The remedies in Minnesota Statutes, Section 13.08 apply to Tenant. Tenant does not have a duty to provide access to public data to the public if the public data are available from the Customer, except as required by the terms of this Agreement.
- n. **Proprietary Information.** Information claimed by Tenant



to be proprietary, trade secret or business data shall be governed by the standards required for "Trade Secret Information" as defined in MGDPA, Section 13.37(b) and as it may otherwise be referenced in the MGDPA. All of the data created, collected, received, stored, used, maintained, or disseminated by or to the Customer under this Agreement is subject to the requirements of the MGDPA. The Parties acknowledge that the classification of any government data is governed by the MGDPA and not by the understanding of either the Customer or the Tenant. Notwithstanding any other provision in this Agreement, the Customer's obligation is to maintain and release the data in a manner that is consistent with the MGDPA, provided, however, that Customer agrees to provide prompt written notice to the Tenant when Customer receives a request under the MGDPA for data concerning the terms of the Agreement, including the Agreement itself ("Contract Data"), not including presentations, memoranda and information previously disclosed publicly. When Customer receives a request for Contract Data, Customer shall notify Tenant of the request promptly in writing. Customer shall reasonably wait to disclose the Contract Data until the later of (i) Seller getting a judicial determination by a judicial officer, arbitrator, or administrative law judge on the public or nonpublic designation of the Data or (ii) the last day that, in Customer's sole discretion, Customer must make such disclosure to avoid being at risk of a successful claim from the requester that Customer is in violation of the MGDPA. Customer remains solely responsible for the initial determination of whether the requested Contract Data is public or private/nonpublic, but the parties acknowledge that any final determination by a judicial officer, arbitrator, or administrative law judge, or appellate review thereof, will control. If the Customer determines that some or all of the Contract Data is public under section 13.03 of the MGDPA, Customer shall provide prompt written notice to Tenant prior to Customer's disclosure of such data so that Tenant, at its sole expense, shall have the opportunity to object to such disclosure in writing and seek a determination by a judicial officer, arbitrator, or administrative law judge that such data constitutes trade secret information or business data under the MGDPA and therefore cannot be disclosed under the MGDPA. In no event shall Customer be required by the Tenant under this Agreement to withhold or delay disclosure of public data contrary to requirements of the MGDPA. Notwithstanding the notice and timing provisions in this Subsection 16 n., Customer shall not be liable to Tenant for any failure to give notice or otherwise to timely respond to Tenant regarding a third-party request for data. Tenant's claims against the Customer shall be limited to private actions it may have, if any, for Customer's failure to follow the MGDPA.

- o. **Record Keeping—Availability and Retention.** Pursuant to Minnesota Statutes, Section 16C.05, subd. 5, Tenant agrees that the books, records, documents and accounting procedures and practices of Tenant, that are relevant to the Agreement or transaction, are subject to examination by the Customer and the state auditor for a minimum of six (6) years. Tenant shall maintain such records for a minimum of six (6) years after final payment.
- p. **Non-Discrimination.** Pursuant to Minnesota Statutes, Section 181.59, the Tenant will take affirmative action to ensure that applicants are selected, and that employees are treated during employment, without regard to their race, color, creed, religion, national origin, sex, sexual orientation, marital status, status with regard to public

assistance, membership or activity in a local civil rights commission, disability or age. The Tenant agrees to be bound by the provisions of Section 181.59, that prohibits certain discriminatory practices and the terms of said section are incorporated into this Agreement.

- q. **Indemnification by Tenant.** Tenant shall fully indemnify, save harmless and defend Customer or any of its elected officials, officers, employees, contractors and agents from and against any and all costs, claims, and expenses incurred by such parties in connection with or arising from any claim by a third party for physical damage to or physical destruction of property, or death of or bodily injury to any person, but only to the extent caused by (a) the negligence, gross negligence or willful misconduct of Tenant or its agents or employees or others under Tenant's control or (b) Tenant's default under this Agreement. Tenant shall indemnify, defend and hold harmless all of Customer's Indemnified Parties from and against all Liabilities to the extent arising out of or relating to any Hazardous Substance spilled or otherwise caused by the negligence or willful misconduct of Tenant or any of its contractors, agents or employees.
- r. **Indemnification by Customer.** Customer shall fully indemnify, save harmless and defend Tenant or any of its officers, directors, employees, contractors and agents from and against any and all costs, claims, and expenses incurred by such parties in connection with or arising from any claim by a third party for physical damage to or physical destruction of property, or death of or bodily injury to any person, but only to the extent caused by (a) the negligence, gross negligence or willful misconduct of Customer or its agents or employees or others under Customer's control or (b) Customer's default under this Agreement. Customer shall indemnify, defend and hold harmless all of Tenant's Indemnified Parties from and against all Liabilities arising out of or relating to the existence at, on, above, below or near the Sites of any Hazardous Substance, except to the extent deposited, spilled or otherwise caused by the negligence or willful misconduct of Tenant or any of its contractors, agents or employees.

The Parties acknowledge they have read this Agreement, understand it and agree to be bound by its terms and conditions as of the date first set forth above.

Tenant  
**Green2 Solar Leasing, LLC**

By: \_\_\_\_\_  
Rich Ragatz, its Vice President

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

Customer  
**City of Richfield**

By: \_\_\_\_\_  
Pat Elliott, its Mayor

By: \_\_\_\_\_  
Steve Devich, its City Manager

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

**SIGN HERE**

**SCHEDULE A**  
**Power Purchase Payment Schedule**

19.980 kW DC SilfabSLG370M,  
20.00 kW AC SolarEdge SE20k 480V 3Ph Inverter Inverters, SolarEdge P800 Power Optimizers &  
Unirac, Panelclaw (or equivalent) Ballasted Racking @ approximately 10°

**Xcel SolarRewards**

Green2 Solar Leasing, LLC Utility Bill Expense				
Year	Facility Lease Runs Full Term  (Power Purchase Expense)		Put or Call Is Exercised  (Power Purchase Expense)	
	(\$/year)	(\$/month)	(\$/year)	(\$/month)
1	\$ 1958.40	\$ 163.20	\$ 1958.40	\$ 163.20
2	\$ 1985.16	\$ 165.43	\$ 1985.16	\$ 165.43
3	\$ 2064.12	\$ 172.01	\$ 2064.12	\$ 172.01
4	\$ 2146.20	\$ 178.85	\$ 2146.20	\$ 178.85
5	\$ 2231.52	\$ 185.96	\$ 2231.52	\$ 185.96
6	\$ 2320.32	\$ 193.36	\$ 2320.32	\$ 193.36
7	\$ 2412.60	\$ 201.05	\$ 2412.60	\$ 201.05
8	\$ 2508.48	\$ 209.04	\$ 2508.48	\$ 209.04
9	\$ 2608.32	\$ 217.36	\$ 2608.32	\$ 217.36
10	\$ 2712.00	\$ 226.00	\$ 2712.00	\$ 226.00
11	\$ 2819.88	\$ 234.99	\$ 2819.88	\$ 234.99
12	\$ 2932.08	\$ 244.34	\$ 2932.08	\$ 244.34
13	\$ 3048.72	\$ 254.06	\$ 3048.72	\$ 254.06
14	\$ 1380.00	\$ 115.00	\$	\$
15	\$ 1380.00	\$ 115.00	\$	\$
16	\$ 1380.00	\$ 115.00	\$	\$
17	\$ 1380.00	\$ 115.00	\$	\$
18	\$ 1380.00	\$ 115.00	\$	\$
19	\$ 1380.00	\$ 115.00	\$	\$
20	\$ 1380.00	\$ 115.00	\$	\$
21	\$	\$	\$	\$
22	\$	\$	\$	\$
23	\$	\$	\$	\$
24	\$	\$	\$	\$
25	\$	\$	\$	\$
<b>Total</b>	<b>\$ 41407.80</b>		<b>\$ 31747.80</b>	

**SCHEDULE A-2**  
**Power Purchase Payment Schedule**

39.960 kW DC SilfabSLG370M,  
40.00 kW AC SolarEdge SE20k 480V 3Ph Inverter Inverters, SolarEdge P800 Power Optimizers &  
Unirac, Panelclaw (or equivalent) Ballasted Racking @ approximately 10°

**Xcel SolarRewards**

Green2 Solar Leasing, LLC Utility Bill Expense				
Year	Lease Runs Full Term  (Power Purchase Expense)		Put or Call Is Exercised  (Power Purchase Expense)	
	(\$/year)	(\$/month)	(\$/year)	(\$/month)
1	\$ 3916.68	\$ 326.39	\$ 3916.68	\$ 326.39
2	\$ 3970.20	\$ 330.85	\$ 3970.20	\$ 330.85
3	\$ 4128.12	\$ 344.01	\$ 4128.12	\$ 344.01
4	\$ 4292.28	\$ 357.69	\$ 4292.28	\$ 357.69
5	\$ 4463.04	\$ 371.92	\$ 4463.04	\$ 371.92
6	\$ 4640.52	\$ 386.71	\$ 4640.52	\$ 386.71
7	\$ 4825.08	\$ 402.09	\$ 4825.08	\$ 402.09
8	\$ 5016.96	\$ 418.08	\$ 5016.96	\$ 418.08
9	\$ 5216.52	\$ 434.71	\$ 5216.52	\$ 434.71
10	\$ 5424.00	\$ 452.00	\$ 5424.00	\$ 452.00
11	\$ 5639.76	\$ 469.98	\$ 5639.76	\$ 469.98
12	\$ 5864.04	\$ 488.67	\$ 5864.04	\$ 488.67
13	\$ 6097.32	\$ 508.11	\$ 6097.32	\$ 508.11
14	\$ 1500.00	\$ 125.00	\$	\$
15	\$ 1500.00	\$ 125.00	\$	\$
16	\$ 1500.00	\$ 125.00	\$	\$
17	\$ 1500.00	\$ 125.00	\$	\$
18	\$ 1500.00	\$ 125.00	\$	\$
19	\$ 1500.00	\$ 125.00	\$	\$
20	\$ 1500.00	\$ 125.00	\$	\$
21	\$	\$	\$	\$
22	\$	\$	\$	\$
23	\$	\$	\$	\$
24	\$	\$	\$	\$
25	\$	\$	\$	\$
<b>Total</b>	<b>\$ 73994.52</b>		<b>\$ 63494.52</b>	

Trade Secret

**Schedule B1 & B2**  
Adjustment for Actual Utility Rate Increases

Schedule B1 - Unit Rate adjustment - Put/Call Exercised by parties						
Year	Annual Solar Array production	Tenant's PPA Rate	Utility Rate [example]	Amount Tenant Rate exceeds Utility Rate	Reimbursement per 12b	Additional Power Payment
1	46,953	\$0.0834	\$0.0950	\$0.0000	\$0.00	\$ -
2	46,718	\$0.0872	\$0.0979	\$0.0000	\$0.00	\$ -
3	46,485	\$0.0911	\$0.1008	\$0.0000	\$0.00	\$ -
4	46,252	\$0.0952	\$0.1038	\$0.0000	\$0.00	\$ -
5	46,021	\$0.0995	\$0.1069	\$0.0000	\$0.00	\$ -
6	45,791	\$0.1039	\$0.1101	\$0.0000	\$0.00	\$ -
7	45,562	\$0.1086	\$0.1134	\$0.0000	\$0.00	\$ -
8	45,334	\$0.1135	\$0.1168	\$0.0000	\$0.00	\$ -
9	45,107	\$0.1186	\$0.1203	\$0.0000	\$0.00	\$ -
10	44,882	\$0.1239	\$0.1240	\$0.0000	\$0.00	\$ -
11	44,657	\$0.1295	\$0.1277	\$0.0018	\$82.42	\$ -
12	44,434	\$0.1353	\$0.1315	\$0.0038	\$170.79	\$ -
13	44,212	\$0.1414	\$0.1354	\$0.0060	\$264.80	\$ -
14	43,991	\$0.0000	\$0.1395	\$0.0000	\$0.00	\$518.01
15	43,771	\$0.0000	\$0.1437	\$0.0000	\$0.00	
16	43,552	\$0.0000	\$0.1480	\$0.0000	\$0.00	
17	43,334	\$0.0000	\$0.1524	\$0.0000	\$0.00	
18	43,118	\$0.0000	\$0.1570	\$0.0000	\$0.00	
19	42,902	\$0.0000	\$0.1617	\$0.0000	\$0.00	
20	42,688	\$0.0000	\$0.1666	\$0.0000	\$0.0000	
TOTAL		Actual Utility Rate increase	3.0%		\$ 518.01	\$ 518.01

Schedule B2 - Unit Rate adjustment - Lease Runs Full Term						
Year	Annual Solar Array production	Tenant's PPA Rate	Utility Rate [example]	Amount Tenant Rate exceeds Utility Rate	Reimbursement per 12b	Additional Power Payment
1	46,953	\$0.0834	\$0.0950	\$0.0000	\$0.00	\$ -
2	46,718	\$0.0872	\$0.0979	\$0.0000	\$0.00	\$ -
3	46,485	\$0.0911	\$0.1008	\$0.0000	\$0.00	\$ -
4	46,252	\$0.0952	\$0.1038	\$0.0000	\$0.00	\$ -
5	46,021	\$0.0995	\$0.1069	\$0.0000	\$0.00	\$ -
6	45,791	\$0.1039	\$0.1101	\$0.0000	\$0.00	\$ -
7	45,562	\$0.1086	\$0.1134	\$0.0000	\$0.00	\$ -
8	45,334	\$0.1135	\$0.1168	\$0.0000	\$0.00	\$ -
9	45,107	\$0.1186	\$0.1203	\$0.0000	\$0.00	\$ -
10	44,882	\$0.1239	\$0.1240	\$0.0000	\$0.00	\$ -
11	44,657	\$0.1295	\$0.1277	\$0.0018	\$82.42	\$ -
12	44,434	\$0.1353	\$0.1315	\$0.0038	\$170.79	\$ -
13	44,212	\$0.1414	\$0.1354	\$0.0060	\$264.80	\$ -
14	43,991	\$0.0341	\$0.1395	\$0.0000	\$0.00	\$ -
15	43,771	\$0.0343	\$0.1437	\$0.0000	\$0.00	\$ -
16	43,552	\$0.0344	\$0.1480	\$0.0000	\$0.00	\$ -
17	43,334	\$0.0346	\$0.1524	\$0.0000	\$0.00	\$ -
18	43,118	\$0.0348	\$0.1570	\$0.0000	\$0.00	\$ -
19	42,902	\$0.0350	\$0.1617	\$0.0000	\$0.00	\$ -
20	42,688	\$0.0351	\$0.1666	\$0.0000	\$0.00	\$ 518.01
TOTAL		Actual Utility Rate increase	3.0%		\$ 518.01	\$ 518.01

**Put and Call Agreement**

19.980 kW DC SilfabSLG370M,  
20.00 kW AC SolarEdge SE20k 480V 3Ph Inverter(s),  
SolarEdge P800 Power Optimizers & Unirac, Panelclaw  
(or equivalent) Ballasted Racking @ approximately 10°

**Xcel SolarRewards**

<b>Customer / Owner</b>	<b>City of Richfield</b>
<b>Installation Location / Site</b>	<b>** See Attached Installation Address Schedule</b>
<b>Xcel Premise #</b>	<b>** See Attached Installation Address Schedule</b>

This **PUT AND CALL AGREEMENT** (this "**Agreement**"), dated **June 18, 2018** is between **Green2 Solar Leasing, LLC**, a Minnesota Limited Liability Company, whose principal place of business is located at **5810 Nicollet Avenue, Minneapolis, MN 55419** ("**Tenant**"), and **City of Richfield**, a Minnesota City, whose principal place of business is located at **6700 Portland Avenue, Richfield, MN 55423** ("**Customer**"). Tenant and Customer are sometimes also referred to in this Agreement jointly as "**Parties**", or individually as a "**Party**".

**RECITALS**

- A. Customer is the purchaser of a photovoltaic solar electric system (the "**Energy System**") located at the installation location described above (the "**Site**") and as described as Project 1 and Project 2 in the Purchase Agreement between Customer and **Ideal Energies, LLC** ("**Seller**") of even date herewith (the "**Purchase Agreement**"); and
- B. Tenant is the lessee of the Energy System and associated rights under the **Facility Lease Agreement** with Customer (the "**Lease**") of even date herewith, and Tenant sells the Energy System generated from the Energy System pursuant to a Power Purchase Agreement with Customer (the "**Power Purchase Agreement**") of even date herewith (Tenant's interests in the Lease and Power Purchase Agreement is referred to herein as an "**Interest**"); and
- C. The Parties hereto now desire to enter into this Agreement to set forth the terms and conditions upon which Tenant has an option, but not the obligation, to put its Interest(s) to the Customer and upon which Customer has an option, but the obligation, to call Tenant's Interest(s) from Tenant.

**AGREEMENT**

**NOW, THEREFORE**, in consideration of the foregoing Recitals, the mutual promises of the Parties hereto and for other good and valuable consideration, the receipt and sufficiency of which hereby are acknowledged, the Parties hereby agree as follows:

1. **Contingency.** The Parties performance under this Agreement is contingent on Final Project Completion (as defined in the Purchase Agreement) occurring for Project 1 in accordance with the terms of the Purchase Agreement.
2. **Put of Tenant's Interest.** Commencing on the **thirteen (13) year anniversary of the Final Project Completion date for any Project**, and for a period of **three (3) months thereafter** (the "**Put Period**"), Tenant shall have the right and option to require Customer to purchase all, but not less than all, of Tenant's Interest the Energy System installed pursuant to that Project (the "**Put**"). Tenant may exercise the Put by delivering notice of exercise of such option in writing to Customer during the Put Period. If exercised, Tenant shall be obligated to sell, and Customer shall be obligated to purchase, all of the Interest owned by Tenant. The purchase price for any Interest shall be **\$1.00** (the "**Put Price**"). The date of the Put closing will be thirty (30) days following the notice of exercise of the Put, or such earlier

date as the Parties may agree in writing (the "**Put Closing Date**"). The Put Price shall be paid by Customer to Tenant in cash on the Put Closing Date. Each Party shall remain liable for any obligations arising under the Lease prior to the Put Closing Date. Notwithstanding the foregoing, an invoice provided by Tenant to Customer stating the Project and its Put Price, and Customer's payment of the same satisfies the requirements of this Section.

3. **Call of Tenant's Interest.** For a period of **nine (9) months beginning the day following the last day of the Put Period** (the "**Call Period**") for any Project, Customer shall have the right and option to purchase all, but not less than all, of Tenant's Interest in the Energy System installed pursuant to that Project (the "**Call**"). Customer may exercise the Call by delivering notice of exercise of such option to Tenant during the Call Period. If exercised and based on a Call Price determined by the method of calculation as set forth below, Customer shall be obligated to purchase, and Tenant shall be obligated to sell, all of the Interest owned by Tenant. The purchase price for the Interest pursuant to the Call shall be an amount equal to the fair market value (the "**Fair Market Value Price**") of such Interest as agreed by the Parties and if no agreement is possible, then by an independent qualified appraiser selected by the Customer and the cost of which is paid for by the Tenant (the "**Call Price**"). The Parties agree, for each Project, that a reasonable method of establishing the Fair Market Value Price is to use a discounted cash flow value of Tenant's power purchase income less expenses remaining under the Power Purchase Agreement and Lease Agreement as of the Call Date. As of the date hereof, the Parties believe that a discount rate of 15% is reasonable and agree that the Parties will use foregoing method in determining the Fair Market Value and resulting Call Price. If and only if Customer accepts the Call Price as agreed upon or determined by independent appraiser, Customer shall purchase the Energy System for the Price and pursuant to a mutually agreed upon purchase and sale agreement. The date of the Call closing shall be thirty (30) days following delivery of the notice of exercise of the Call, or such earlier date as the Parties may agree in writing (the "**Call Closing Date**"). The Call Price shall be paid by Customer to Tenant in cash on the Call Closing Date. Each Party shall remain liable for any obligations arising under the Lease for the Energy System prior to the Call Closing Date.
4. **Obligations following exercise of Put or Call.**
  - a. **Tenant.** After the transfer and assignment of the Interest for the Energy System installed pursuant to each Project, pursuant to the Put or Call, Tenant shall have no further obligations or liability in connection with that Interest, except that Tenant shall indemnify, defend and hold Customer harmless from all third-party claims arising out of Tenant's leasehold interest and operation of the Energy System prior to the termination of the Lease.

- b. **Customer.** After the transfer and assignment of the Interest pursuant to the Put or Call for the Energy System installed pursuant to a Project, Customer shall make, if not already paid, the Power Payments described in Schedule A of the Power Purchase Agreement between the Parties of even date herewith beginning with the month after that Project's Final Project Completion date through and including the month of the Project's Put or Call Closing date. Customer is not obligated to pay Tenant any Power Purchase Payments after the Put or Call Closing date through the end of the Term for that Project as specified in the Power Purchase Agreement. Customer shall indemnify, defend and hold Tenant harmless from all third-party claims arising out of Customer's ownership or operation of the Energy System as of the date of the transfer and assignment to Customer.

5. **Miscellaneous.**

- a. **Subordination to Utility Rebate Agreement.** No portion of this Agreement is intended to conflict with any Utility Rebate Agreements (the "**Utility Rebate Agreements**") to which Tenant or Customer is a party. In the case of a conflict between the terms or conditions of this Agreement and the Utility Rebate Agreements, the terms and conditions of Utility Rebate Agreements shall control. The utility, or its successors and assigns, is a third-party beneficiary of the provision of this paragraph. Nothing in this Agreement shall prevent the utility, from fully enforcing the terms and conditions of Utility Rebate Agreements.
- b. **Relationship of the Parties.** The Parties shall for all purposes be considered independent contractors with respect to each other, and neither shall be considered an employee, employer, agent, principal, partner or joint venturer of the other.
- c. **Entire Agreement.** This Agreement and all schedules, exhibits and attachments hereto, together with any agreement reference herein, constitute the entire agreement and understanding of the Parties relative to the subject matter hereof. The Parties have not relied upon any promises, representations, warranties, agreements, covenants or undertakings, other than those expressly set forth or referred to herein. This Agreement replaces and supersedes any and all prior oral or written agreements, representations and discussions relating to such subject matter.
- d. **Survival of Representations.** All representations, warranties, covenants and agreements of the Parties contained in this Agreement, or in any instrument, certificate, exhibit or other writing provided for in it, shall survive the execution of this Agreement and the consummation of the transactions contemplated herein.
- e. **Amendment.** This Agreement may be amended or modified only by a writing executed by the Parties to this Agreement. No custom or practice of the Parties at variance with the terms hereof shall have any effect.
- f. **Notices.** All notices to be given under this Agreement shall be in writing and shall be effectively given upon personal delivery, facsimile or email transmission (with confirmation of receipt), delivery by overnight delivery service or three days following deposit in the United States Mail (certified or registered mail, postage

prepaid, return receipt requested).

- g. **No Delay.** No delay or failure on the part of any Party hereto to exercise any right, power or privilege hereunder shall operate as a waiver thereof.
- h. **Force Majeure.** Neither Party will be liable to the other Party for any delay, error, failure in performance or interruption of performance resulting from causes beyond its reasonable control, including without limitation fires, flood, accidents, explosions, sabotage, strikes or other labor disturbances, civil commotion, riots, invasions, wars, acts of God, terrorism or any cause (whether similar or dissimilar to the foregoing) beyond the reasonable control of the Party.
- i. **Governing Law / Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota without regard to its conflicts of laws principals. Any lawsuit brought in connection with this Agreement shall be brought only in a court of general jurisdiction in Hennepin County, Minnesota.
- j. **Severability.** The provisions of this Agreement are severable. If any part of this Agreement is rendered void, invalid or unenforceable, such rendering shall not affect the validity and enforceability of the remainder of this Agreement.
- k. **Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns. Neither Party shall assign this Agreement, or any portion thereof, without the prior written consent of the other Party. Any attempted assignment or transfer without such prior written consent of the other Party shall be of no force or effect. As to any permitted assignment: (a) reasonable prior notice of any such assignment shall be given to the other Party; and (b) any assignee shall expressly assume the assignor's obligations hereunder, unless otherwise agreed to by the other Party in writing. Notwithstanding the foregoing, as may be required for Tenant to avoid being classified as a Public Utility under Minnesota Statutes Chapter 216B.02, Subd. 4., or to leverage tax benefits as tax owner, Tenant may, at its sole discretion, assign and/or sublease all or part of its full interest under the Lease Agreement to a controlled affiliate of Tenant, assign its rights under the Power Purchase Agreement a controlled affiliate of Tenant, assign its rights under this Agreement to a controlled affiliate of Tenant, or assign this Agreement in connection with any sale of any or all of its Assets to a third party or Bank.
- l. **Time is of the Essence.** Time is of the essence with respect to all of the terms of this Agreement.

[SIGNATURE PAGE FOLLOWS]



Trade Secret

The Parties acknowledge they have read this Agreement, understand it and agree to be bound by its terms and conditions as of the date first set forth above.

Tenant  
**Green2 Solar Leasing, LLC**

By: \_\_\_\_\_  
Rich Ragatz, its Vice President

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

Customer  
**City of Richfield**

By: \_\_\_\_\_  
Pat Elliott, its Mayor

By: \_\_\_\_\_  
Steve Devich, its City Manager

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



## Installation Address / Site Schedule

19.980 kW DC SilfabSLG370M,  
20.00 kW AC SolarEdge SE20k 480V 3Ph Inverter(s),  
SolarEdge P800 Power Optimizers & Unirac, Panelclaw (or equivalent) Ballasted Racking @ approximately 10°

Installation Address Location	Project Description	Utility Premise #	Real Property Owner	Real Property Owner Mailing Address	Real Property Use
Cedar Liquor - 6600 Cedar Ave, Richfield, MN 55423	Project 1 Only	302838490	City of Richfield	6700 Portland Avenue, Richfield, MN 55423	Retail
Lyndale Liquor - 6444 Lyndale Ave S, Richfield, MN 55423	Project 1 Only	303505161	City of Richfield	6700 Portland Avenue, Richfield, MN 55423	Retail
Penn Liquor - 6440 Penn Ave, Richfield, MN 55423	Project 1 Only	302221851	City of Richfield	6700 Portland Avenue, Richfield, MN 55423	Retail
Ice Arena - 636 E 66th Street, Richfield, MN 55423	Project 1 & 2	302818461	City of Richfield	6700 Portland Avenue, Richfield, MN 55423	Sports Facility
Ice Arena 2 - 640 E 66th Street, Richfield, MN 55423	Project 1 & 2	303629096	City of Richfield	6700 Portland Avenue, Richfield, MN 55423	Sports Facility
Public Works - 1901 E 66th St, Richfield, MN 55423	Project 1 & 2	304117050	City of Richfield	6700 Portland Avenue, Richfield, MN 55423	Public Works Building



**iDEAL ENERGIES****Solar Array Purchase, Capital Lease & Power Purchase Agreements w/ Put & Call**

19.980 kW DC SilfabSLG370M  
 20.00 kW AC SolarEdge SE20k 480V 3Ph Inverter(s), SolarEdge P800 Power Optimizers &  
 IronRidge, S5! Clips W/ Unistrut Flushmount Racking or equivalent @ approximately 15°

**Xcel SolarRewards**

[With provision for additional same sized solar array upon amendment of Solar Rewards Program requirements]

**Customer Information**

Date:	June 19, 2018
Solar Array Legal Owner:	<b>City of Richfield</b>
Customer Corporate Form:	Minnesota City
Customer Mailing Address:	6700 Portland Avenue, Richfield, MN 55423
Customer Signer Name:	Steve Devich
Customer Signer Title:	City Manager
Customer Authorized Representative:	Chris Link
Customer Authorized Representative Tel:	612-861-9174
Installation Address:	<b>6300 Oakland Ave, Richfield, MN 55423</b>
Premise Number:	<b>303733099</b>
Site Owner:	City of Richfield
Site Owner Mailing Address:	6700 Portland Avenue, Richfield, MN 55423

**Project Information**

System Size in kW DC	<b>19.980 kW DC</b> (+/- 0.10 kW DC)
Installation Cost:	<b>\$72500.00</b>
Project Completion Date:	Summer/Fall, 2018
Rebate Name:	Xcel SolarRewards
Rebate Amount:	\$0.08 (per kWh/kW)
Rebate Payer:	Xcel Energy
REC Owner:	Xcel Energy
Tax Credit Percent:	30%
Panel Description:	SilfabSLG370M
Panel Size in Watts DC:	370 (Watts DC)
Inverter Description:	SolarEdge SE20k 480V 3Ph Inverter
Total Inversion in kW AC:	20.00 (kW AC)
Power Optimizer Description:	SolarEdge P800 Power Optimizers
Solar Racking Description:	IronRidge, S5! Clips W/ Unistrut Flushmount Racking or equivalent @ approximately 15°

**Lease, Power Purchase, and Put & Call Agreement Information**

Site Use:	Park Shelter
Tenant:	Green2 Solar Leasing, LLC
Tenant Signer Name:	Rich Ragatz
Tenant Signer Title:	Vice President
Leased Space Rent Payment:	<b>\$45.00</b> per year
Leased Energy System Rent Payment:	<b>\$5.00</b> per year
Put /Call Year:	13

**Purchase Agreement**

19.980 kW DC SilfabSLG370M,  
 20.00 kW AC SolarEdge SE20k 480V 3Ph Inverter(s),  
 SolarEdge P800 Power Optimizers & IronRidge, S5! Clips  
 W/ Unistrut Flushmount Racking or equivalent @  
 approximately 15°

**Xcel SolarRewards**

This **PURCHASE AGREEMENT** (this "**Agreement**"), dated **June 19, 2018** ("**Effective Date**") is between **IDEAL ENERGIES, LLC**, a Minnesota Limited Liability Company, whose principal place of business is located at **5810 Nicollet Avenue Minneapolis, MN 55419** ("**Seller**"), and **City of Richfield**, a Minnesota City, whose principal place of business is located at **6700 Portland Avenue, Richfield, MN 55423** ("**Customer**"). Seller and Customer are sometimes also referred to in this Agreement jointly as "**Parties**", or individually as a "**Party**".

**RECITALS**

- A. Seller sells and installs grid connected photovoltaic solar energy systems and Customer desires to purchase and install the Energy System (defined below) at the installation location described above (the "**Site**"); and
- B. Seller will provide the Customer the Energy System (defined below) at the Site in two planned projects, where the first project ("**Project 1**") is the installation of a **19.980 kW DC** (+/- 0.10 kW DC) photovoltaic energy system ("**Energy System 1**") which meets the requirements of Xcel Energy's existing SolarRewards Program (the "**SolarRewards Program**") which provides certain incentives for the installation of grid-connected photovoltaic energy systems with a generating capacity of 20 kW DC or less per location, and the second project ("**Project 2**") is the installation of an additional **19.980 kW DC** (+/- 0.10 kW DC) photovoltaic energy system ("**Energy System 2**"), in accordance with the amendments to the SolarRewards Program requirements, which will increase the allowable energy generating capacity limit to 40.0 kW DC per location signed into law May 28, 2018.
- C. Individually, Project 1 and Project 2 are referred to in this Agreement as a "Project", and collectively as "the Projects"; and Energy System 1 and Energy System 2 (if installed) are referred to individually and collectively in this Agreement as (the "**Energy System**").
- D. Seller has applied or will apply for the Rebate (as described below) on behalf of Customer for the Energy System by applying for a Rebate for each Project separately, and after the Rebate is secured for each Project, will install the same in accordance with the terms and conditions set forth in this Agreement; and
- E. Concurrent with the execution of this Agreement, the Customer will enter into a **Facility Lease Agreement** (the "**Lease Agreement**") with **Green2 Solar Leasing, LLC** ("**Tenant**") pursuant to which the Tenant will lease, operate and maintain the Customer's Energy System
- F. Concurrent with the execution of this Agreement, the Customer will also enter into a Power Purchase Agreement (the "**Power Purchase Agreement**") with Tenant pursuant to which Tenant will sell power generated by the Energy System to Customer.
- G. The following rules of construction apply to this Agreement; unless the context otherwise requires: (i) a term has the

<b>Customer / Owner</b>	<b>City of Richfield</b>
<b>Installation Location / Site</b>	6300 Oakland Ave, Richfield, MN 55423
<b>Xcel Premise #</b>	303733099

meaning assigned to it; (ii) "including" means including without limitation; (iii) words and defined term in the singular include the plural and words and defined terms in the plural include the singular; and (iv) any agreement, instrument, program, or statute defined or referred to herein means such agreement, instrument, program, or statute as from time to time amended, modified or supplemented.

**AGREEMENT**

**NOW, THEREFORE**, for valuable consideration, the receipt of which is hereby acknowledged, the Parties agree as follows:

1. **Condition.** Subsequent to Agreement; Multiple Agreements. This Agreement for purchase, sale, installation and operation of the Energy System is subject to the fulfillment of Subsection 9 a., below, which must be timely fulfilled or this Agreement will terminate in accordance with Section 15. This Agreement is executed on the same date as the Lease Agreement, Power Purchase Agreement and Put and Call Agreement between and among the Parties to this transaction, and the Tenant (collectively "Agreements"). The Agreements become operative on the Effective Date, are to be interpreted together where necessary and are each subject to termination upon the failure of essential conditions subsequent, including but not limited to **Subsection 9a**.
2. **Services.** After each Project has secured a Rebate described in Section 9, Seller will, at its expense, perform electrical engineering on the Energy System, perform structural engineering on the Site to verify it is adequate to support the Energy System, provide and install the Energy System on the Site, and perform Energy System commissioning. Seller will apply for Rebates as applicable, perform the services described herein with regard to each Project, install the Energy System, and commission the Energy System.
3. **Title and Risk of Loss.** Title and risk of loss for each Energy System will pass to Customer upon Final Project Completion (as defined in Section 7d below).
4. **Purchase and Sale; Installation Costs and Payment Terms.** Each Energy System will consist of the Energy System components identified on **Schedule A** (the "**System Components**") and be installed by Seller pursuant to the Project design documents for such Energy System (the "**Design Documents**"). As consideration of Customer's purchase of the Energy System:
  - a. **Project 1.** Seller agrees to sell and Customer agrees to purchase Energy System 1 and the services described herein for hereunder for a total cost of **\$72500.00** ("**Project 1 Installation Cost**") pursuant to the payment terms set forth in subparagraph 4.c. below.
  - b. **Project 2.** Following Xcel Energy's acceptance of applications for Solar Rewards Rebates in accordance with the new amended Solar Rewards program and the

award of the Rebate for Project 2, Seller agrees to sell and Customer agrees to purchase, Energy System 2 and the services provided for hereunder for an additional total cost of \$ ("Project 2 Installation Cost") pursuant to the payment terms set forth in subparagraph 4.c. below. The Project 1 Installation Cost and Project 2 Installation Cost (if any) are referred to in this Agreement individually as the **Installation Cost**, and collectively as "**the Installation Costs**". **PROJECT 2 WILL NOT BE INSTALLED FOR THIS SITE**

- c. The Installation Cost for each Energy System will be paid by Tenant in the Lease Agreement, executed concurrently herewith, in accordance with subparagraph 3. a. of Lease Agreement and as a condition of this Agreement.

5. **Customer's Representations and Responsibilities.**

- a. Customer represents that it owns the Site.
- b. Customer will, at least two weeks before the Final Project Completion date for Project 1, provide either a wireless internet connection or a RJ45 Internet outlet at the electrical room for connecting the Energy System to web-based monitoring equipment. If Customer does not provide the foregoing, Seller may, at its election, provide this service to assure internet service is available for Energy System monitoring on the Final Project Completion date for the Project. If Seller provides the foregoing service, a separate fee of \$250.00 will be invoiced to Customer.
- c. If required by the applicable Rebate program, Customer will participate in energy audits to identify additional energy savings opportunities.

6. **Seller's Representations and Responsibilities.**

- a. Seller will provide all System Components, Design Documents, labor, equipment, supplies and services necessary to install each Energy System at the Site in accordance with the "Scope of Work" described in **Schedule C**.
- b. Seller will perform structural engineering at each Site and prepare electrical drawings for each Energy System. Seller will perform work for Project 1 individually, and for Project 1 and 2 combined as a single project (the "**Engineering**").
- c. Seller will perform all services in material compliance with applicable laws, rules, regulations, governmental approvals and permits, including all applicable agreements with, and tariffs of, the local utility (collectively, "**Applicable Requirements**").

7. **Installation Plan; Final Project Completion.**

- a. **Project 1.** Upon award of a Rebate to Customer for Project 1 and completing Engineering, Seller will install Project 1 in accordance with this Agreement. When installing Project 1, Seller will install AC equipment from the solar array's inverters to the point of electric interconnection adequately sized to accommodate both Projects such that only one conduit run from the solar array to the point of interconnection is required.
- b. **Project 2.** Following Xcel Energy's acceptance of applications for Solar Rewards Rebates in accordance with the new amended Solar Rewards program and the award of the Rebate for Project 2, Seller will install Project 2 in accordance with this Agreement.
- c. **Single Project.** If the construction of Project 1 has not

begun before Customer has been awarded a Rebate for Project 2, Projects 1 and 2 will be constructed at the same time. If Project 1 has been constructed but has not achieved Final Project Completion (as defined below), Seller may, at its sole discretion, delay start-up of Project 1 until Project 2 is constructed so that both Projects are combined into a single Solar Rewards project application and started up at the same time as a single Energy System.

- d. **Installation Plan.** Customer and Seller will work together to develop a proposed work plan and schedule for the installation of the Project (the "**Schedule**"). If events arise which make meeting the Schedule impractical, such as availability of equipment and other reasonable delays, Seller will notify Customer of the same as soon as reasonably possible, and the Parties will adjust the Schedule accordingly. A Project is completed when a system witness test is performed for such Project, and the full system is turned on, and is capable and authorized under Applicable Requirements, to generate and deliver electric energy to Customer and the local utility's electrical grid at the interconnection point ("**Final Project Completion**"). Notwithstanding any delays, the anticipated date for Final Project Completion for the Energy System is **November 30, 2018**.

8. **Changes.**

- a. It is the desire of the Parties to keep changes to the terms of this Agreement to a minimum, including changes to the Schedule. Either Party may request a change by advising the other Party in writing of the proposed change. For each change request, Seller will prepare a revised Schedule, an updated schedule to this Agreement, or any other necessary document and an applicable cost estimate. Customer will advise Seller in writing of its approval or disapproval of the change. If Customer approves the change, Seller will perform the services as changed, and the Installation Costs will be adjusted to reflect the requested change. If Customer does not approve the change, approval not to be unreasonably withheld, Seller shall continue under the Schedule.
- b. To accommodate structural limitations of the Site, the availability of equipment, changes in panel wattage available from manufacturers, or other reasons approved by Customer, Seller may substitute other equipment for the equipment described on **Schedule A** provided it carries at least a 10-year manufacturer's workmanship warranty and a 25-year production warranties achieving at least 80% of rated capacity. A substitution in panel wattage that results in a kW DC variance of +/- 0.10 kW DC for an Energy System may be made by Seller without amending this Agreement.

9. **Rebates, and Tax Credits, Net Metering.** The Parties anticipate the Project will be eligible for the following rebates and credits.

- a. Each Project is anticipated to be eligible to receive the **Xcel SolarRewards** totaling **\$0.08** per kWh generated from the Energy System (the "**Rebate**") payable to Customer (or its assignee) from **Xcel Energy**. The Rebate shall be paid annually for ten consecutive years based on the Energy System's prior year's annual kWh production, and in accordance with other terms of the interconnection agreement between Customer and the utility, Customer will be required to convey Renewable Energy Credits ("**RECs**") for electricity produced by the Energy System to **Xcel Energy**, and execute any required paperwork

required to convey the RECs. Any RECs remaining after the termination or expiration of any conveyance to **Xcel Energy** belong solely to the Customer.

- b. Each Project may be eligible to receive a Federal Tax Credit from the U.S. Treasury pursuant to the terms of the Lease Agreement equal to **30%** of eligible Installation Cost of the Energy System ("**Tax Credit**") that is put into service during **2018 or 2019**.
- c. Each Project may be eligible to participate in the local utility's **Net Metering Program**. Under this program, the energy generated from an Energy System is available for use and to reduce the total amount of energy that the Customer needs to purchase from the utility, and for months where the Energy System produces more kWh than the Site consumes, the utility will compensate Customer at the applicable rate.

#### 10. Insurance.

- a. Seller will, at its own cost and expense, maintain insurance approved by Customer for the services being performed by Seller under this Agreement. Seller shall provide Customer with certificate(s) evidencing such insurance prior to commencement of any work at the Site.
- b. Customer will at all times, at its own cost and expense, maintain insurance after Final Project Completion for each Project for the Energy System.
- c. As required, Customer will provide Seller and the utility with a certificate of insurance that conforms with any utility or Rebate program requirements.

11. **Seller's Waiver and Indemnity Regarding Liens.** To the fullest extent permitted under the Applicable Requirements, Seller waives any right to file or impose any mechanic's, materialman's, or other liens with respect to the Site or the Projects. Seller shall promptly pay all undisputed amounts owed for services, materials, equipment, and labor furnished by any person to Seller with respect to the Projects. Seller shall, at Seller's sole cost and expense, discharge and cause to be released, whether by payment or posting of an appropriate surety bond in accordance with the Applicable Requirements, within thirty (30) days of its filing, any mechanic's, materialmen's, or other lien in respect of the Projects, the Energy Systems, or the Site created by, through or under, or as a result of any act or omission (or alleged act or omission) of, Seller or any subcontractor or other person providing services, materials, equipment or labor with respect to the Projects. If Seller defaults in its obligation to discharge, satisfy or settle such liens, Customer may discharge, satisfy or settle such liens and Seller shall, within fifteen (15) days of a written request by Customer, reimburse Customer for all costs and expenses incurred by Customer to discharge, satisfy or settle such liens.

#### 12. Warranties.

- a. Customer understands and acknowledges that the System Components furnished and installed by Seller (including the solar modules, inverters, power optimizers, racking, and monitoring equipment and their performance/energy output), are not manufactured by Seller and will carry only the warranty of their manufacturer. Seller provides only the warranties set forth on **Schedule D** hereto. Except as otherwise set forth on Schedule D, all other warranties are disclaimed as further set forth below. Seller shall promptly transmit to Customer all manufacturers' warranties on for the Projects, including on any of its System Components or other equipment, and all operations manual(s) following Final Project Completion. Customer, however, is solely responsible for pursuing any warranty claims on System

Components against the manufacturer(s) at its own expense, and may look only to such manufacturer, and not to Seller, for any warranty with respect thereto. In accordance with the Lease Agreement, if applicable, Tenant will assist Customer in resolving any warranties relating to System Components as described therein.

- b. **EXCEPT AS EXPRESSLY PROVIDED IN SCHEDULE D, SELLER MAKES NO WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING WITHOUT LIMITATION ANY WARRANTY AS TO THE INSTALLATION, DESIGN, DESCRIPTION, QUALITY, MERCHANTABILITY, COMPLETENESS, USEFUL LIFE, ENERGY PRODUCTION, PROJECTED ECONOMIC VIABILITY, FINANCIAL DATA AND PROJECTIONS, ROOF PERFORMANCE, FITNESS FOR ANY PARTICULAR PURPOSE OR ANY OTHER MATTER OF THE ENERGY SYSTEM, THE SYSTEM COMPONENTS, THE PROJECT, OR ANY SERVICES PROVIDED UNDER THIS AGREEMENT.**

13. **Ownership of Project Documents and Design.** All Design Documents for the Customer's Energy System shall be the sole and exclusive property of Customer. Customer grants Seller a license to use the Design Documents solely for the Projects. Seller has no right under this license to use the Design Documents or cause them to be used by a third party.

#### 14. Indemnification; Limitation of Damages.

- a. Subject to the limitations set forth below, Seller indemnifies, defends and holds harmless Customer and its elected officials, officers, members, consultants, representatives, agents, and employees (each a "Customer Indemnified Party") against any third party claim for damages, liabilities, losses, costs and expenses, including reasonable attorney fees and costs (collectively, "**Damages**") incurred or suffered by any of them caused by (i) any material breach of this Agreement by Seller, or (ii) the negligence, gross negligence or willful misconduct of Seller, its employees, or subcontractors in connection with the Projects.
- b. Subject to the limitations set forth below, Customer indemnifies, defends and holds harmless Seller and its officers, directors, members, consultants, representatives, agents, employees and affiliates (each a "Seller Indemnified Party") against any third party claim for damages incurred or suffered by any of them in any way arising out of, relating to, or in connection with (i) any material breach of this Agreement by Customer, or (ii) the negligence, gross negligence or willful misconduct of Customer or its employees in connection with the Projects.
- c. Any Customer Indemnified Party or Seller Indemnified Party claiming indemnification hereunder must give each Party prompt notice of the relevant claim and each Party agrees to cooperate with each other Party, at the its own expense, in the defense of such claim. Notwithstanding the foregoing, any Party from whom indemnification is sought shall control the defense and settlement of such claim; provided however that such Party shall not agree to any settlement that materially adversely affects the other Party without the prior written consent of such Party, which approval shall not be unreasonably withheld. Without limiting or diminishing the foregoing, any Party may, at its option and its own expense, participate in the defense of

any such claim with legal counsel of its own choice.

- d. **IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES ARISING FROM, CONNECTED WITH OR RELATING TO THIS AGREEMENT, THE ENERGY SYSTEM OR THE PROJECT, OR TO SELLER'S OR CUSTOMER'S ACTS OR OMISSIONS IN CONNECTION WITH THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT, WHETHER FOR NEGLIGENCE, STRICT LIABILITY, PRODUCT LIABILITY OR OTHERWISE, EXCEPT FOR ANY DAMAGES OF THIRD PARTIES FOR WHICH ONE PARTY IS REQUIRED TO INDEMNIFY THE OTHER PARTY.**

15. **Termination.** This Agreement may be terminated as follows:

- a. Either Party may terminate this Agreement by providing the other Party written notice in the event (i) a Rebate for Project 1, or if Project 1 and Project 2 have been combined into a single Project, and the Project is not substantially complete within fifteen (15) months after the Effective Date, or (ii) the structural analysis produces credible evidence that the Site is not capable of supporting the Energy System (except where Seller, at its sole election, and with Customer's consent (which shall not be unreasonably withheld) includes and provides in the Installation Cost, alternate equipment and/or structural retrofits or other requirements specified in the structural engineering report for the Energy System that render the Site suitable for installing the Energy System).
- b. Customer may terminate this Agreement by giving written notice to Seller at any time prior to the Final Project Completion date for Project 1 (or the Project if Project 1 and Project 2 have been combined into a single Project): (i) if Seller has breached any representation, warranty or covenant contained in this Agreement in any material respect, Customer has notified Seller of such breach, and the breach has continued without cure by Seller or written waiver by Customer for a period of thirty (30) days after the notice of breach; or (ii) after sixty (60) days' prior notice to Seller if Seller has not achieved Final Project Completion on or prior to December 31, 2019.
- c. Seller may also terminate this Agreement in the event Customer has breached any representation, warranty or covenant contained in this Agreement in any material respect, Seller has notified Customer of the breach, and the breach has continued without cure by Customer or written waiver by Seller for a period of thirty (30) days after the notice of breach.
- d. Except as otherwise provided in this Section 15, the termination rights under this Section 15 are cumulative with and in addition to any other rights or remedies to which the Parties may be entitled at law or in equity and in accordance with the terms of this Agreement.

16. **General.**

- a. **Subordination to Utility Rebate Agreement.** No portion of this Agreement is intended to conflict with any Utility Rebate Agreements (the "**Utility Rebate Agreements**") to which Seller or Customer is a party. In the case of a conflict between the terms or conditions of this Agreement and the Utility Rebate Agreements, the terms and conditions of Utility Rebate Agreements shall control. The utility, or its successors and assigns, is a third-party

beneficiary of the provision of this paragraph. Nothing in this Agreement shall prevent the utility, from fully enforcing the terms and conditions of Utility Rebate Agreements.

- b. **Relationship of the Parties.** The Parties shall for all purposes be considered independent contractors with respect to each other, and neither shall be considered an employee, employer, agent, principal, partner or joint venturer with or of the other.
- c. **Entire Agreement.** This Agreement and all the schedules, exhibits, and attachments hereto, together with any agreements referenced herein, constitute the entire agreement and understanding of the Parties relative to the subject matter hereof. The Parties have not relied upon any promises, representations, warranties, agreements, covenants or undertakings, other than those expressly set forth or referred to herein. This Agreement replaces and supersedes any and all prior oral or written agreements, representations and discussions relating to such subject matter.
- d. **Survival of Representations.** All representations, warranties, covenants and agreements of the Parties contained in this Agreement, or in any instrument, certificate, exhibit or other writing provided for in it, shall survive the execution of this Agreement and the consummation of the transactions contemplated herein.
- e. **Amendment.** This Agreement may be amended or modified only by a document executed by the Parties. No custom or practice of the Parties at variance with the terms hereof shall have any effect of waiver or consent.
- f. **Notices.** All notices to be given under this Agreement shall be in writing and shall be effectively given upon personal delivery, facsimile or email transmission (with confirmation of receipt), delivery by overnight delivery service or three days following deposit in the United States Mail (certified or registered mail, postage prepaid, return receipt requested).
- g. **No Delay.** No delay or failure on the part of any Party hereto to exercise any right, power or privilege hereunder shall operate as a waiver thereof.
- h. **Force Majeure.** Neither Party will be liable to the other Party for any delay, error, failure in performance or interruption of performance resulting from causes beyond its reasonable control, including without limitation fires, flood, accidents, explosions, sabotage, strikes or other labor disturbances, product unavailability, labor unavailability, civil commotion, riots, invasions, wars, acts of God, terrorism, or any cause (whether similar or dissimilar to the foregoing) beyond the reasonable control of the Parties.
- i. **Governing Law / Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota without regard to its conflicts of laws principals. Any lawsuit arising out of this Agreement shall be brought only in a court of general jurisdiction in Hennepin County, Minnesota.
- j. **Severability.** The provisions of this Agreement are severable. If any part of this Agreement is rendered void, invalid or unenforceable, such rendering shall not affect the validity and enforceability of the remainder of this Agreement.
- k. **Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns.

Neither Party shall assign this Agreement, or any portion thereof, without the prior written consent of the other Party, provided Seller may assign this Agreement in connection with the sale of any or all of its assets to a third party or Bank. Any attempted assignment or transfer without prior written consent of the other Party shall be of no force or effect. As to any permitted assignment: (a) reasonable prior notice of any such assignment shall be given to the other Party; and (b) any assignee shall expressly assume the assignor's obligations hereunder, unless otherwise agreed to by the other Party in writing.

- i. **Marketing and Promotion.** Seller shall not use Customer's name, image or likeness in connection with advertising and promoting the Project or the Energy System without Customer's approval, which shall not be unreasonably withheld.
- m. **Data Practices.** Pursuant to Minnesota Statutes, Section 13.05, subd. 11, all of the data created, collected, received, stored, used, maintained, or disseminated by Seller in performing this Agreement is subject to the requirements of the Minnesota Government Data Practices Act ("MGDPA"), Minnesota Statutes Chapter 13, and Seller must comply with those requirements as if it were a government entity. The remedies in Minnesota Statutes, Section 13.08 apply to Seller. Seller does not have a duty to provide access to public data to the public if the public data are available from the Customer, except as required by the terms of this Agreement.
- n. **Proprietary Information.** Information claimed by Seller to be proprietary, trade secret or business data shall be governed by the standards required for "Trade Secret Information" as defined in MGDPA, Section 13.37(b) and as it may otherwise be referenced in the MGDPA. All of the data created, collected, received, stored, used, maintained, or disseminated by or to the Customer under this Agreement is subject to the requirements of the MGDPA. The Parties acknowledge that the classification of any government data is governed by the MGDPA and not by the understanding of either the Customer or the Seller. Notwithstanding any other provision in this Agreement, the Customer's obligation is to maintain and release the data in a manner that is consistent with the MGDPA, provided, however, that Customer agrees to provide prompt written notice to the Seller when Customer receives a request under the MGDPA for data concerning the terms of the Agreement, including the Agreement itself ("Contract Data"), not including presentations, memoranda and information previously disclosed publicly. When Customer receives a request for Contract Data, Customer shall notify Seller of the request promptly in writing. Customer shall reasonably wait to disclose the Contract Data until the later of (i) Seller getting a judicial determination by a judicial officer, arbitrator, or administrative law judge on the public or nonpublic designation of the Data or (ii) the last day that, in Customer's sole discretion, Customer must make such disclosure to avoid being at risk of a successful claim from the requester that Customer is in violation of the MGDPA. Customer remains solely responsible for the initial determination of whether the requested Contract Data is public or private/nonpublic, but the parties acknowledge that any final determination by a judicial officer, arbitrator, or administrative law judge, or appellate review thereof, will control. If the Customer determines that some or all of the Contract Data is public under section 13.03 of the MGDPA, Customer shall provide prompt written notice to Seller prior to Customer's disclosure of such data so that Seller, its

sole expense, shall have the opportunity to object to such disclosure in writing and seek a determination by a judicial officer, arbitrator, or administrative law judge that such data constitutes trade secret information or business data under the MGDPA and therefore cannot be disclosed under the MGDPA. In no event shall Customer be required by the Seller under this Agreement to withhold or delay disclosure of public data contrary to requirements of the MGDPA. Notwithstanding the notice and timing provisions in this Subsection 16 n., Customer shall not be liable to Seller for any failure to give notice or otherwise to timely respond to Seller regarding a third-party request for data. Seller's claims against the Customer shall be limited to private actions it may have, if any, for Customer's failure to follow the MGDPA.

- o. **Record Keeping Availability and Retention.** Pursuant to Minnesota Statutes, Section 16C.05, subd. 5, Seller agrees that the books, records, documents and accounting procedures and practices of Seller, that are relevant to the Agreement or transaction, are subject to examination by the Customer and the state auditor for a minimum of six (6) years. Seller shall maintain such records for a minimum of six (6) years after final payment.
- p. **Non-Discrimination.** Pursuant to Minnesota Statutes, Section 181.59, the Seller will take affirmative action to ensure that applicants are selected, and that employees are treated during employment, without regard to their race, color, creed, religion, national origin, sex, sexual orientation, marital status, status with regard to public assistance, membership or activity in a local civil rights commission, disability or age. The Seller agrees to be bound by the provisions of Section 181.59, that prohibits certain discriminatory practices and the terms of said section are incorporated into this Agreement.

The Parties hereto have caused this Agreement to be duly signed in their respective names effective the date first written above.

Seller  
**IDEAL ENERGIES, LLC**

By: \_\_\_\_\_  
Chris Psihos, its President

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

Customer  
**City of Richfield**

**SIGN HERE**

By: \_\_\_\_\_  
Pat Elliott, its Mayor

By: \_\_\_\_\_  
Steve Devich, its City Manager

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



## SCHEDULE A

### System Components

**Project 1 (Energy System 1)** is comprised of the following System Components:

1. UL Listed and approved Solar Panels: **54 - SilfabSLG370M @ 370 kW DC each**
2. UL listed and approved DC/AC inverters: **1 - SolarEdge SE20k 480V 3Ph Inverter @ 20.00 kW AC each**
3. Power Optimizers: **27 - SolarEdge P800 Power Optimizers**
4. Solar Panel Racking / mounting system: **IronRidge, S5! Clips W/ Unistrut Flushmount Racking or equivalent @ approximately 15°**
5. Electrical components including but not limited to conductive wiring, ground circuitry, conduit, junction boxes, disconnects, switches, over-current protection, and any associated hardware necessary to complete the installation of the solar electric modules and interconnect with the Site's existing electric service.
6. Monitoring equipment and web-based remote system monitoring. Customer is responsible for bringing and providing internet service at the installation location (typically the electrical room).

**Project 2 (Energy System 2)** is comprised of the same System Components and quantities described as **Project 1 above**.

The Parties agree that the Energy System does **NOT** include the following unless purchased as an option (except where Seller includes them in the Installation Costs):

1. Any structural improvements to the building required to support the Energy System and the System Components, or any fencing for groundmounted installations, if required.
2. Batteries or emergency back-up power capability.
3. Any upgrades to Customer's electrical service to bring their service up to code.
4. Third-party fees for web-based monitoring of the Energy System.

## SCHEDULE B

### Contact Information for Parties

**Site Owner:**

**City of Richfield**

6700 Portland Avenue, Richfield, MN 55423

**Customer's Authorized Representative:**

**Chris Link**

612-861-9174

**Seller/Installer:**

**Ideal Energies, LLC**

Chris Psihos t. (612)928-5008

chris.psihos@idealenergies.com

5810 Nicollet Avenue Minneapolis, MN 55419

**Project Electrician(s):**

**Green<sup>2</sup> Electric, LLC**

Joaquin Thomas, Master Electrician

Russell Goetz, Master Electrician

t. (612)928-5008 f. (612)928-5009

5810 Nicollet Avenue Minneapolis, MN 55419

License **EA719118**

## **SCHEDULE C**

### **Scope of Work**

#### **A. Design Scope**

1. Seller will prepare structural and electrical Design Documents describing the Project.
2. Seller will comply with all building codes and, as necessary, obtain any code variances.
3. Seller will ensure that the Energy System installation meets then current National Electrical Code requirements.
4. Seller will apply for all permits, and complete inspections to close such permits after Project Completion.
5. Seller will apply for interconnection of the Energy System and net metering with the local utility.

#### **B. Installation**

1. Seller will furnish and install all required material or equipment for a complete installation.
2. Seller will connect the Energy System to Customer's electric panel.
3. Seller will commission and test the Energy System after installation.
4. Electrical interconnections will be performed by licensed electricians.
5. Except as provided in the Purchase Agreement, the Parties agree that Seller will not be liable for any indirect or consequential losses incurred by Customer as a result of the Energy System installation. Such losses may result from disruption of operations, interruption of electrical service, suspension of mechanical services and other interruptions reasonably related to standard Energy System installation of the size and type contemplated by the Project. Seller shall be responsible for any damage to the Site caused by Seller or its subcontractors, suppliers or representatives. Customer shall have the right to recover monetary damages or seek specific performance, for any Seller breach in the installation, maintenance or repair of the Energy System causing damages to the Site.

#### **C. Safety**

1. Seller will adhere to all current safety laws including without limitation federal, state and local safety regulations.
2. Seller's workers will conform to standard OSHA safety practices and procedures during installation.

#### **D. General**

1. Seller will provide all required design, engineering, construction, administration and management services necessary to complete the Project.
2. Seller will take all action reasonably necessary or required to bring the Project to commercial operation.
3. Seller will provide to Customer copies of all operating and maintenance manuals and third-party warranties.
4. Customer is responsible for scheduling and completing, if necessary, the energy audit required for purposes of the Rebates.



## SCHEDULE D

### Seller's Warranties

**Engineering and Design Services Warranty** Seller warrants that it will perform the engineering and design services in a professional and workmanlike manner using the degree of care, skill, prudence, judgment and diligence that a reasonable, qualified and competent provider of similar services would exercise. Except as otherwise provided herein, during the period beginning on the Final Project Completion date and ending five years later (the "**Warranty Period**"), it is shown that there was an error in such engineering and design services as a result of Seller's failure to meet those warranty standards, and if Customer properly notifies Seller within the Warranty Period, Seller will, at its own expense and at no cost to Customer, re-perform such services to remedy such error within a reasonable timeframe.

**Installation Services Warranty** Seller warrants that it will perform the installation services in a professional and workmanlike manner using the degree of care, skill, prudence, judgment and diligence that a reasonable, qualified and competent provider of similar services would exercise. Except as otherwise provided herein, if during the Warranty Period it is shown that there was an error in such installation services as a result of Seller's failure to meet those standards, and if Customer properly notifies Seller within the Warranty Period, Seller will, at its own expense and at no cost to Customer, re-perform such services to remedy such error within a reasonable timeframe.

**Limited System Components Warranty** Seller warrants that the System Components will be new and not physically damaged by Seller at the time of Final Project Completion. If Customer notifies Seller within a reasonable timeframe after Final Project Completion that any System Components were not new or are physically damaged by Seller at the time of Final Project Completion, Seller shall replace such System Components within a reasonable timeframe with System Components that are new and undamaged.

**Roof Warranty** Except as otherwise provided herein, if during the Warranty Period it is shown that the roof leaks solely as a result of Seller's installation of the Energy System, and if Customer properly notifies Seller within the Warranty Period, Seller will, at its own expense and at no cost to Customer, promptly repair the roof so that it does not leak; provided that such leaking is not due to normal wear and tear.

**Limitation on Warranties** The above warranties do NOT cover damage, malfunctions or services failures to the extent caused by:

1. Failure to follow the any applicable operations or maintenance manual or any other maintenance instructions provided by Seller or the manufacturer of the System Components, or failure to maintain or operate the Energy System;
2. Repair, modification, maintenance, movement or relocation of the Energy System or the System Components by someone other than a service technician approved by Seller or the manufacturer of the System Components;
3. Attachment or connection to the Energy System of any equipment not supplied by Seller, or the use of the Energy System for a purpose for which the Project was not intended;
4. Abuse, misuse or acts of Customer or any third person (other than Seller or its employees or agents), including intentional damage, theft or vandalism; or
5. Damage or deteriorated performance of the Energy System or Site caused by electrical surges, building settling, building component failure, work done on the building or adjacent structures, use of machinery or vehicle in the area, winds in excess of the system design rating, lightning, fire, flood, extreme weather conditions, pests, tornadoes, hurricanes, hail, storms, explosions, earthquakes, ground subsidence, falling debris, accidental breakages (not caused by Seller or its employees or agents), normal wear and tear, and other events or accidents outside the reasonable control of Seller.

**Customer's Right to Remedy** In the event that Seller fails to remedy any breach of warranty within the prescribed timeframe under this **Schedule D** or such breach threatens imminent harm to Customer or its property, Customer shall have the right to employ any reasonable means necessary to remedy such breach, and Seller shall reimburse Customer for all reasonable and necessary expenses incurred by Customer in carrying out such remedy. The Warranties in this Schedule D are separate from and in addition to any manufacturer's or other warranty for the Energy System or components thereof, and Purchaser may prosecute any and all such warranties, including these Warranties, concurrently and in complement to the other(s).

## Facility Lease Agreement

19.980 kW DC SilfabSLG370M,  
20.00 kW AC SolarEdge SE20k 480V 3Ph Inverter(s),  
SolarEdge P800 Power Optimizers & IronRidge, S5! Clips  
W/ Unistrut Flushmount Racking or equivalent @  
approximately 15°

### Xcel SolarRewards

This **FACILITY LEASE AGREEMENT** (this "Lease"), dated **June 19, 2018** ("Effective Date"), is between **Green2 Solar Leasing, LLC**, a Minnesota Limited Liability Company, whose principal place of business is located at **5810 Nicollet Avenue, Minneapolis, MN 55419** ("Tenant"), and **City of Richfield**, a Minnesota City, whose principal place of business is located at **6700 Portland Avenue, Richfield, MN 55423** ("Customer"). The Tenant and Customer are sometimes also referred to in this Lease jointly as "**Parties**", or individually as a "**Party**".

### RECITALS

- A. Customer is the owner of certain real property located at **6300 Oakland Ave, Richfield, MN 55423** (the "**Site**") presently used as a(an) **Park Shelter** (the "**Property**"); and
- B. Tenant desires to lease from Customer, and Customer desires and is authorized to lease to Tenant, subject to the terms and conditions of this Lease, a portion of the Property for the construction, operation and maintenance of a photovoltaic solar electric system ("**Energy System**") further described as **Project 1** and **Project 2** in that certain Purchase Agreement (the "**Purchase Agreement**") between Customer and **Ideal Energies, LLC** ("**Seller**") of even date herewith; and
- C. Customer has or will be the **legal owner of the Energy System upon purchase from Ideal Energies, LLC**, and Customer desires to lease the same to Tenant subject to the terms and conditions of this Lease; and
- D. Tenant and Customer will, concurrently with this Lease, enter into a **Power Purchase Agreement** (the "**Power Purchase Agreement**") pursuant to which Tenant will sell power generated by the Energy System to the Customer; and
- E. For federal tax purposes, Customer and Tenant will treat this Lease as a transfer of the ownership of the Energy System from Customer to Tenant; and
- F. The Tenant should be eligible to receive a Federal Tax Credit from the U.S. Treasury pursuant to the terms of this Lease equal to **30%** of eligible Installation Cost of any Energy System ("**Tax Credit**") that is put into service during **2018 or 2019**.

### LEASE AGREEMENT

**NOW, THEREFORE**, in consideration of the foregoing Recitals, the mutual promises of the Parties hereto and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Lease Contingency.** The Parties performance under this Lease is contingent on Final Project Completion (as defined in the Purchase Agreement) occurring for Project 1 in accordance with the terms of the Purchase Agreement.
2. **Lease of Energy System and Leased Space.** Customer hereby leases to Tenant, and Tenant hereby leases from

<b>Customer / Owner</b>	<b>City of Richfield</b>
<b>Installation Location / Site</b>	6300 Oakland Ave, Richfield, MN 55423
<b>Xcel Premise #</b>	303733099

Customer the (a) the Energy System and (b) all roof/ground space required for the installation and operation of the Energy System on the Property ("**Leased Space**") as generally prescribed on the Plan View drawing included herewith as **Schedule A**, including rights to place wiring to the point of electrical interconnection. The Energy System and the Leased Space together constitute the leased property ("**Leased Property**"). The final As-Built Plan View drawing provided to Customer by Seller in its Operations Manual after Final Project Completion occurs is hereby incorporated into Schedule A of this Lease by reference.

### 3. System Payments, Tax Ownership.

- a. **Installation Cost Payment.** Tenant will pay Customer's Installation Cost (as defined in the Purchase Agreement) for Project 1 and Project 2 on their respective Final Project Completion dates.
- b. **Transfer of Tax Ownership.** The Parties shall treat the Energy System as having been sold to the Tenant for federal tax purposes in consideration of the payment(s) made under Section 3(a) above.
4. **Rebate.** The Rebate, as defined in the Purchase Agreement, (the "**Rebate**") is irrevocably assigned to Tenant as additional consideration and will be treated by Tenant as a fee earned for services. In the event the actual Rebate received is greater or less than the expected Rebate described in the Purchase Agreement, there will be no adjustment to the Rebate or the terms of this Lease, and each Party waives its right to recover any surplus or deficiency from the other Party.
5. **Access to Leased Space.** Customer grants to Tenant the right to access the Leased Space via reasonable route or routes over and across the Property upon reasonable prior notice to Customer. Customer will cooperate with Tenant to access the meter or any other part of the Energy System which is not located within the Leased Property.
6. **Permitted Use of Leased Space.** During the Term (as defined below) and subject to Customer rights set forth in this Lease, Tenant shall have the exclusive right to use the Leased Space for the construction, installation, operation, maintenance, repair, replacement, relocation, reconfiguration, removal, alteration, modification, improvement, use and enjoyment of the Energy System (and other necessary and incidental uses for the operation of the Energy System) to fulfill Tenant's obligations under this Lease and the Power Purchase Agreement (the "Permitted Uses"). Tenant may not erect any other facilities or use any other equipment on the Leased Space that is not expressly permitted under the terms of this Lease without first obtaining Customer's written consent, which consent shall not be unreasonably withheld, delayed or conditioned provided the other facilities or equipment are necessary for the operation of the Energy System and are not likely, in Customer's reasonable opinion, to damage the Property or interfere with Customer's business. Customer shall

at all times have absolute and paramount right to operate the Site and Tenant's activities shall not materially interfere in any way with Customer's operation of the same. This right shall supersede any other rights granted to Tenant in this Lease.

7. **Term.** The term (the "**Term**") of this Agreement for each Energy System shall begin on the date that Final Project Completion occurs for such Energy System and shall terminate on the date that is **twenty (20)** years after such Final Project Completion date. Energy Systems installed as separate Projects with different Final Project Completion dates will have different Term start and end dates. If the Power Purchase Agreement is terminated by either party, this Lease shall terminate.
8. **Rent of Leased Space.** Beginning on the first anniversary of the Final Project Completion for Project 1 and continuing on each and every anniversary thereof throughout its Term, Tenant shall pay to Customer Rent for the Leased Space. Leased Space Rent for **Project 1** shall be **\$45.00** per year. If **Project 2** is installed, the Leased Space Rent for **Project 2** shall be an additional **\$45.00** per year.
9. **Rent of Energy System.** Beginning on the first anniversary of the Final Project Completion for Project 1 and continuing on each and every anniversary thereof throughout its Term, Tenant shall pay to Customer Rent for the Energy System. Energy System Rent for **Project 1** shall be **\$5.00** per year. If **Project 2** is installed, the Energy System Rent for **Project 2** shall be an additional **\$5.00** per year.
10. **Holdover.** If Tenant holds over any tenancy after expiration of any Term, such tenancy shall be month-to-month subject to the terms and conditions of this Agreement. Either Party may terminate such month-to-month tenancy at any time upon the giving to the other Party no less than thirty (30) days written notice.
11. **Operating Permits.** Tenant shall, at its sole expense, maintain in full force and effect all certificates, permits and other approvals ("**Operating Permits**") required by any federal, state or local authorities ("**Governmental Authorities**") having jurisdiction over Tenant or the Leased Property.
12. **Energy System Title and Condition on Lease Termination.** The Parties agree that legal title to any and all fixtures, equipment, improvements or personal property of whatsoever nature at any time constructed or placed on or affixed to the Leased Space by Tenant, including without limitation the Energy System and its System Components, shall be and remain with System Owner. Tenant shall leave the Energy System at the end of this Agreement in substantially the same condition as existed on the Final Project Completion date(s) plus any improvements, ordinary wear and tear and casualty damage excepted.
13. **Energy System Operation and Maintenance.**
  - a. **Operation and Maintenance of the Energy System.** Tenant will at its sole cost and expense operate the Energy System, monitor the system's performance and keep and maintain the Energy System in good condition and repair utilizing the Maintenance List provided in **Schedule B** herewith as a guideline, with strict adherence hereto not expected by the Parties. Customer is solely responsible for pursuing any available warranties on System Components against the manufacturer at its own expense, and may look only to such manufacturer, and not to Tenant, for any warranty with respect thereto. Tenant will assist Customer in resolving any warranties relating to System Components on a time and material basis. Should such services be required, Tenant will provide the labor at

reasonably discounted market rates and pass through its direct expenses at Tenant's actual cost. Notwithstanding the foregoing or anything in this Lease to the contrary, nothing in this Lease shall prohibit, impair, or otherwise affect adversely, Customer's right to operate, maintain, repair or improve the buildings on which Energy Systems will be installed or the Customer's exercise of its governmental, regulatory, or proprietary authority ("**Exercise**") without triggering an Event of Default in this Lease. This Exercise right specifically includes, but is not limited to, emergency measures that Customer, in its sole discretion, may deem necessary for the health and safety of the public. Customer agrees to provide prompt notice to Tenant of the potential Exercise, if it may impact the terms of this Lease. Upon notice to Tenant of a possible Exercise, Tenant and Customer shall meet and confer regarding options available to eliminate or mitigate the impact of the Exercise on Tenant, which shall include consideration of any recapture of Tenant's Tax Credits during the first five years occurring following the Final Project Completion Date, and the Tenant's non-receipt of Power Payments and Rebates Tenant would reasonably have received but for the occurrence of Customer's Exercise. Customer shall use best efforts to identify and facilitate the relocation of any Energy System or portion of an Energy System affected by the Exercise, including payment of Tenant's reasonable cost of such relocation, or agreeing to an expansion of the total Energy System on reasonable terms that eliminate or mitigate the effect of the Exercise. If Customer and Tenant cannot agree on Agreement modification resulting from an Exercise, the Parties agree to retain and share the cost of a mediator and continue good faith efforts to equitably resolve the impact of the Exercise on Tenant.

- b. **Operation and Maintenance Standard of Care.** Tenant will use commercially reasonable efforts to identify, respond to, and complete necessary maintenance and repairs and to operate the Energy System to maximize its energy production. Notwithstanding the foregoing, the Parties understand that delays may be caused by multiple causes including without limitation delay in the identification of operational issues, troubleshooting issues, warranty replacement, warranty procurement, parts availability, parts delivery, crew availability, equipment defects, equipment performance, internet downtime, and similar causes.
- c. **Energy System Casualty.** In the case of casualty to the Energy System, Tenant agrees to repair the Energy System with proceeds described in Section 17a. Said Proceeds will be provided to Tenant to make the repairs caused by the casualty. Tenant shall repair, at Tenant's expense, any damage to the Leased Space that results from the Tenant's repair, reconfiguration, alteration, modification or replacement of any Energy System.
14. **Repair of Leased Space During Term.** Customer shall have the right at any time to access the Leased Space to inspect, maintain, replace or repair items and components thereof, excluding the Energy System. ("**Customer Maintenance**"). Customer Maintenance shall include temporary removal such components of the Energy System that interfere with Customer Maintenance of the Leased Space, and the replacement of such components upon completion. Customer shall provide thirty (30) days prior notice of any scheduled Customer Maintenance, except in the case of an emergency, the Customer shall give notice as soon as possible. Customer, at its own cost, will perform Customer Maintenance, and use Seller or, another third party approved by Tenant to perform

Customer Maintenance (Tenant's approval of third parties will not be unreasonably withheld). The Customer Maintenance will be performed at Tenant's expense to the extent the Customer Maintenance was required as a result of damage to the Leased Space caused by the Energy System. Tenant will reimburse Tenant for any lost Rebate revenue resulting from the Energy System being non-operational in excess of forty-five (45) days, excluding any downtime resulting from damage to the Leased Space caused by the Energy System.

15. **Utilities/taxes.** Tenant shall pay all applicable taxes, assessments, or similar levied against the Energy System and other personal property located and/or installed on the Site by the Tenant due at the time of Final Project Completion. Customer shall pay applicable taxes, assessments, or similar levied against the Energy System and other personal property located and/or installed on the Site by the Tenant that are assessed after the Final Project Completion. Notwithstanding the foregoing, Tenant shall pay all personal or property taxes after Final Project Completion that are levied on any rent payments paid to Customer pursuant to this Lease. Any payments due under this paragraph shall be made by Tenant within the later of 30 days after receipt of written notice thereof (together with a copy of the applicable tax bill) from Customer or otherwise or resolution of any contest hereunder.

16. **Interference.**

- a. **Interference by Tenant.** Tenant shall operate the Energy System in a manner that will not unreasonably interfere with any existing operations or equipment located, operated or owned by Customer or any other permitted occupants as of the date of this Lease ("**Existing Operations**"). All operations by Tenant shall be lawful and in material compliance with all regulations and requirements of the Minnesota Public Utilities Commission, as well as any other applicable state, federal or local regulations and requirements ("**Legal Requirements**") and any applicable agreements with, or tariffs of, the local utility.
- b. **Interference by Customer.** Subject to paragraph 1 of this Agreement, following the installation of any Energy System, Customer shall not, and shall not cause or permit any other persons or parties to, install equipment or facilities or construct or allow any construction of a structure or structures ("**New Construction**") near the Leased Space if such New Construction will interfere with the Energy System or its performance. Customer shall not move, modify, remove, adjust, alter, change, replace, reconfigure or operate the Energy System or any part of it during the term of the Lease without prior written direction or approval of Tenant, except if there is an occurrence reasonably deemed by Customer to be a bona fide emergency, in which case Customer will immediately notify Tenant of such emergency and Customer's proposed actions. Customer shall be responsible for, and promptly notify Tenant, of any damage to the Energy System caused by the Customer or its employees, invitees or agents, and shall promptly pay Tenant the costs to repair such damage to the Energy System, along with any lost Rebate revenue.

17. **Insurance.**

- a. **General Liability and Property Insurance.** Customer shall keep the Energy System insured against loss by fire, theft, hail and wind and such other hazard as Tenant shall reasonably require with an insurance company acceptable to Tenant in its reasonable discretion, at all times will insure the Energy System at an amount equal to the

Installation Cost (as defined in the Purchase Agreement) and will provide Tenant with a Certificate of Insurance that names Tenant as an additional insured and loss payee. Customer shall also secure and maintain adequate comprehensive general liability insurance against liability related to the Energy System. Customer shall provide Tenant with evidence of having acquired such insurance coverages prior to each Project's Final Project Completion date and on an annual basis thereafter. The loss, injury or destruction of the Energy System shall not release Customer from payment as provided in this Lease. Any insurance policies obtained by Customer shall provide that such policy of insurance cannot be terminated or cancelled by the insurer without thirty (30) days prior written notice to Tenant. Customer is responsible for any deductibles due under the insurance policies for casualties and will pay Tenant said deductible along with insurance proceeds received to repair the Energy System, and Tenant's lost Rebate revenue resulting from the casualty. Customer's failure or refusal to repair and recommission an Energy System following a loss shall constitute a breach of this Lease.

- b. **Workers' Compensation Insurance and Employers' Liability Insurance.** In accordance with Minnesota state law, Tenant shall maintain in force workers' compensation insurance for all of its employees. Tenant shall also maintain employer's liability coverage in an amount of not less than One Million Dollars (\$1,000,000.00) per accident. Tenant shall also secure and maintain adequate comprehensive general liability insurance against liability related to the Leased Premises. Upon request, Tenant will provide Customer with a Certificate of Insurance.
- c. **Tenant Insurance.** At all times during this Lease, Tenant shall, at its own expense, maintain and provide general commercial liability insurance in the amount of \$2,000,000. Upon request, copies of certificates evidencing the existence and amounts thereof shall be delivered to Customer by Tenant. Should any insurance expire or be cancelled during the term of this Lease, Tenant shall provide Customer with renewal or replacement certificates at least 30 days prior to the expiration or cancellation of the original policies.

18. **Indemnification.**

- a. Tenant shall indemnify, defend and hold harmless Customer and its elected officials, officers, consultants, representatives, agents, and employees (each a "Tenant Indemnified Party") against any damages, liabilities, losses, costs and expenses, including reasonable attorney fees and costs (collectively, "Damages") incurred or suffered by any of them in any way arising out of, relating to, or in connection with a third party claim for or (i) any breach of this Agreement by Tenant, or (ii) the negligence, gross negligence or willful misconduct of Tenant or its employees or agents in connection with the transactions contemplated by this Agreement.
- b. Tenant shall defend and indemnify Customer from any mechanic's, materialman's, or other lien with respect to the Property or the Leased Property to the extent such lien is attributable to Tenant's failure to pay Installation Costs or other costs incurred in the performance of Tenant's obligations for maintenance and repair of the Energy System.
- c. Customer shall indemnify, defend and hold harmless Tenant and its officers, directors, members, consultants, representatives, agents, employees and affiliates (each a

- “Customer Indemnified Party”**) against any Damages incurred or suffered by any of them in any way arising out of, relating to, or in connection with a third party claim for or of (i) any breach of this Agreement by Customer, or (ii) the negligence, gross negligence or willful misconduct of Customer or its employees or agents in connection with the transactions contemplated by this Agreement.
- d. A Customer Indemnified Party or Tenant Indemnified Party claiming indemnification hereunder must give each Party prompt notice of the relevant claim and each Party agrees to cooperate with the each other Party, at its own expense, in the defense of such claim. Notwithstanding the forgoing, any Party from whom indemnification is sought, shall control the defense and settlement of such claim; provided however that such Party shall not agree to any settlement that materially adversely affects the other Party without the prior written consent of such Party, which approval shall not be unreasonably withheld. Without limiting or diminishing the foregoing, any Party may, at its option and its own expense, participate in the defense of any such claim with legal counsel of its own choice.
19. **General.**
- a. **Subordination to Utility Rebate Agreement.** No portion of this Lease is intended to conflict with any Utility Rebate Agreements (the “Utility Rebate Agreements”) to which Tenant or Customer is a party. In the case of a conflict between the terms or conditions of this Agreement and the Utility Rebate Agreements, the terms and conditions of Utility Rebate Agreements shall control. The Utility, or its successors and assigns, is a third-party beneficiary of the provision of this paragraph. Nothing in this Lease shall prevent the Utility, from fully enforcing the terms and conditions of Utility Rebate Agreements.
- b. **Relationship of the Parties.** The Parties shall for all purposes be considered independent contractors with respect to each other, and neither shall be considered an employee, employer, agent, principal, partner or joint venturer of the other.
- c. **Entire Agreement.** This Lease and all the schedules, exhibits and attachments hereto, together with any agreement reference herein, constitute the entire agreement and understanding of the Parties relative to the subject matter hereof. The Parties have not relied upon any promises, representations, warranties, agreements, covenants or undertakings, other than those expressly set forth or referred to herein. This Lease replaces and supersedes any and all prior oral or written agreements, representations and discussions relating to such subject matter.
- d. **Survival of Representations.** All representations, warranties, covenants and agreements of the Parties contained in this Lease, or in any instrument, certificate, exhibit or other writing provided for in it, shall survive the execution of this Lease and the consummation of the transactions contemplated herein.
- e. **Amendment.** This Lease may be amended or modified only by a writing executed by the Parties to this Lease. No custom or practice of the Parties at variance with the terms hereof shall have any effect.
- f. **Notices.** All notices to be given under this Lease shall be in writing and shall be effectively given upon personal delivery, facsimile or email transmission (with confirmation of receipt), delivery by overnight delivery service or three days following deposit in the United States Mail (certified or registered mail, postage prepaid, return receipt requested).
- g. **No Delay.** No delay or failure on the part of any Party hereto to exercise any right, power or privilege hereunder shall operate as a waiver thereof.
- h. **Force Majeure.** Neither Party will be liable to the other Party for any delay, error, failure in performance or interruption of performance resulting from causes beyond its reasonable control, including without limitation fires, flood, accidents, explosions, sabotage, strikes or other labor disturbances, civil commotion, riots, invasions, wars, acts of God, terrorism or any cause (whether similar or dissimilar to the foregoing) beyond the reasonable control of the Party.
- i. **Governing Law / Venue.** This Lease shall be governed by and construed in accordance with the laws of the State of Minnesota without regard to its conflicts of laws principals. Any lawsuit brought in connection with this Lease shall be brought only in a court of general jurisdiction in Hennepin County, Minnesota.
- j. **Severability.** The provisions of this Lease are severable. If any part of this Lease is rendered void, invalid or unenforceable, such rendering shall not affect the validity and enforceability of the remainder of this Lease.
- k. **Successors and Assigns.** This Lease shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns. Neither Party shall assign this Lease, or any portion thereof, without the prior written consent of the other Party. Any attempted assignment or transfer without such prior written consent of the other Party shall be of no force or effect. As to any permitted assignment: (a) reasonable prior notice of any such assignment shall be given to the other Party; and (b) any assignee shall expressly assume the assignor's obligations hereunder, unless otherwise agreed to by the other Party in writing. Notwithstanding the foregoing, as may be required for Tenant to avoid being classified as a Public Utility under Minnesota Statutes Chapter 216B.02, Subd. 4., or to leverage tax benefits as tax owner, Tenant may, at its sole discretion, assign and/or sublease all or part of its full interest under this Lease to a controlled affiliate of Tenant, assign its rights under the Power Purchase Agreement a controlled affiliate of Tenant, or assign this Lease in connection with any sale of any or all of its Assets to a third party or Bank.
- l. **Quiet Possession.** Customer agrees that upon compliance with the terms and conditions of this Lease, Tenant shall peaceably and quietly have, hold and enjoy the Leased Space for the Term and any extensions thereof.
- m. **Data Practices.** Pursuant to Minnesota Statutes, Section 13.05, subd. 11, all of the data created, collected, received, stored, used, maintained, or disseminated by Tenant in performing this Lease is subject to the requirements of the Minnesota Government Data Practices Act (“MGDPA”), Minnesota Statutes Chapter 13, and Tenant must comply with those requirements as if it were a government entity. The remedies in Minnesota Statutes, Section 13.08 apply to Tenant. Tenant does not have a duty to provide access to public data to the public if the public data are available from the Customer, except as required by the terms of this Lease.
- n. **Proprietary Information.** Information claimed by Tenant

to be proprietary, trade secret or business data shall be governed by the standards required for "Trade Secret Information" as defined in MGDPA, Section 13.37(b) and as it may otherwise be referenced in the MGDPA. All of the data created, collected, received, stored, used, maintained, or disseminated by or to the Customer under this Agreement is subject to the requirements of the MGDPA. The Parties acknowledge that the classification of any government data is governed by the MGDPA and not by the understanding of either the Customer or the Tenant. Notwithstanding any other provision in this Agreement, the Customer's obligation is to maintain and release the data in a manner that is consistent with the MGDPA, provided, however, that Customer agrees to provide prompt written notice to the Tenant when Customer receives a request under the MGDPA for data concerning the terms of the Agreement, including the Agreement itself ("Contract Data"), not including presentations, memoranda and information previously disclosed publicly. When Customer receives a request for Contract Data, Customer shall notify Tenant of the request promptly in writing. Customer shall reasonably wait to disclose the Contract Data until the later of (i) Seller getting a judicial determination by a judicial officer, arbitrator, or administrative law judge on the public or nonpublic designation of the Data or (ii) the last day that, in Customer's sole discretion, Customer must make such disclosure to avoid being at risk of a successful claim from the requester that Customer is in violation of the MGDPA. Customer remains solely responsible for the initial determination of whether the requested Contract Data is public or private/nonpublic, but the parties acknowledge that any final determination by a judicial officer, arbitrator, or administrative law judge, or appellate review thereof, will control. If the Customer determines that some or all of the Contract Data is public under section 13.03 of the MGDPA, Customer shall provide prompt written notice to Tenant prior to Customer's disclosure of such data so that Tenant, at its sole expense, shall have the opportunity to object to such disclosure in writing and seek a determination by a judicial officer, arbitrator, or administrative law judge that such data constitutes trade secret information or business data under the MGDPA and therefore cannot be disclosed under the MGDPA. In no event shall Customer be required by the Tenant under this Agreement to withhold or delay disclosure of public data contrary to requirements of the MGDPA. Notwithstanding the notice and timing provisions in this Subsection 16 n., Customer shall not be liable to Tenant for any failure to give notice or otherwise to timely respond to Tenant regarding a third-party request for data. Tenant's claims against the Customer shall be limited to private actions it may have, if any, for Customer's failure to follow the MGDPA.

- o. **Record Keeping—Availability and Retention.** Pursuant to Minnesota Statutes, Section 16C.05, subd. 5, Tenant agrees that the books, records, documents and accounting procedures and practices of Tenant, that are relevant to the Lease or transaction, are subject to examination by the Customer and the state auditor for a minimum of six (6) years. Tenant shall maintain such records for a minimum of six (6) years after final payment.

- p. **Non-Discrimination.** Pursuant to Minnesota Statutes, Section 181.59, the Tenant will take affirmative action to ensure that applicants are selected, and that employees are treated during employment, without regard to their race, color, creed, religion, national origin, sex, sexual orientation, marital status, status with regard to public

assistance, membership or activity in a local civil rights commission, disability or age. The Tenant agrees to be bound by the provisions of Minnesota Statutes, Section 181.59, that prohibits certain discriminatory practices and the terms of said section are incorporated into this Lease.

- q. **Contamination Liability.** Tenant shall indemnify, defend, and hold harmless Customer, its officials, employees, agents, and assigns from and against any and all fines, suits, claims, demands, penalties, liabilities, costs or expenses, losses, settlements, remedial action requirements and enforcement actions, administrative proceedings, and any other actions of whatever kind or nature, including attorneys' fees and costs (and costs and fees on appeal), fees of environmental consultants and laboratory fees, known or unknown, contingent or otherwise, arising out of or in any way to the extent arising out of or related to any contamination to the Site caused by the negligence or willful misconduct of Tenant during the term of this Lease, including any personal injury (including wrongful death) or property damage (real or personal) arising therefrom. This paragraph shall survive the termination or earlier expiration of this Lease. For purposes of this paragraph "Contamination" shall be defined as any hazardous substances, hazardous materials, toxic substances or other similar or regulated substances, residues or wastes, pollutants, petroleum products and by-products, including any other environmental contamination whatsoever.
- r. **Compliance with Law.** Tenant agrees to comply with all laws, orders, and regulations of federal, state and municipal authorities and with any lawful direction of any public officer which shall impose any duty upon Tenant with respect to Tenant's use of the Site.

The Parties acknowledge they have read this Agreement, understand it and agree to be bound by its terms and conditions as of the date first set forth above.

Tenant  
**Green2 Solar Leasing, LLC**

By: \_\_\_\_\_  
Rich Ragatz, its Vice President

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

Customer  
**City of Richfield**

By: \_\_\_\_\_  
Pat Elliott, its Mayor

By: \_\_\_\_\_  
Steve Devich, its City Manager

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

**SIGN HERE**

## **SCHEDULE A**

### **Site Plan**

Facility Plan View Drawing Indicating the Final Location of the Energy System on the Leased Space and the point of interconnection of the Energy System with the electrical system at the Property

[The above document is provided by Seller, and is included in the Owner's Manual that is provided to the Customer after Final Project Completion]

## **SCHEDULE B**

### Maintenance Items

- A. Weekly performance monitoring via online monitoring system to validate performance of panels and inverters, energy production; benchmark performance vs. similar systems for validation
- B. Identify any defective equipment via on-line monitoring system
- C. Semi-annual Site audits of system performing the following tasks
  - i. Inspect panels, inverters, and racking for physical damage
  - ii. Clean any debris on or under the solar arrays
  - iii. Ensure labels are intact
  - iv. Check for loose hanging wires, repair as necessary
  - v. Check electrical connections; tighten/torque as necessary
  - vi. Check for corrosion of electrical enclosures, repair as necessary
  - vii. Ensure roof drainage is adequate, that roof drains are not clogged, and confirm there are no signs of pooling water in the vicinity of the solar array
- D. Management of System Component Warranty Claims



**Power Purchase Agreement**

19.980 kW DC SilfabSLG370M,  
 20.00 kW AC SolarEdge SE20k 480V 3Ph Inverter(s),  
 SolarEdge P800 Power Optimizers & IronRidge, S5! Clips  
 W/ Unistrut Flushmount Racking or equivalent @  
 approximately 15°

**Xcel SolarRewards**

This **POWER PURCHASE AGREEMENT** (this "**Agreement**"), dated **June 19, 2018** ("**Effective Date**"), is between **Green2 Solar Leasing, LLC** a Minnesota Limited Liability Company, whose principal place of business is located at **5810 Nicollet Avenue, Minneapolis, MN 55419** ("**Tenant**"), and **City of Richfield**, a Minnesota City, whose principal place of business is located at **6700 Portland Avenue, Richfield, MN 55423** ("**Customer**"). Tenant and Customer are sometimes also referred to in this Agreement jointly as "**Parties**", or individually as a "**Party**".

**RECITALS**

- A. Tenant leases, operates and maintains Customer's photovoltaic solar electric system (the "**Energy System**") (as further described as Project 1 and Project 2, and as located at the installation location described above (the "**Site**") described above, all of which are defined in that certain **Purchase Agreement** (the "**Purchase Agreement**") between Customer and **Ideal Energies, LLC** ("**Seller**") of even date herewith) pursuant to a Facility Lease Agreement (the "**Lease**") between the Parties of even date herewith; and
- B. Tenant desires to sell renewable electric power to Customer, inclusive of all rights to its available environmental attributes, and Customer desires to purchase from Tenant all such electricity which is produced by the Energy System; and
- C. Tenant or its affiliate has, or will, apply for the "**Rebate**" (as defined in the Purchase Agreement) on behalf of Customer. After award of the Rebate and before the Final Project Completion date for each Energy System (as defined in the Purchase Agreement), Customer will enter into an agreement(s) ("**Utility Agreement**") with the local utility ("**Utility**") pursuant to which Customer will convey to the Utility, as may be required by the Utility Agreement, all Renewable Energy Credits ("**RECs**") for electricity produced by the Energy System for the term specified in the Utility Agreement; and
- D. The Customer may be eligible to participate in the Utility's **Net Metering Program**. Under this program, the energy generated from an Energy System is available for use and to reduce the total amount of energy that Customer needs to purchase from the Utility. Under this program, for months where the Energy System produces more kWh than the Site consumes, the Utility will compensate Customer at the applicable Net Metering rate; and
- E. Pursuant to the Lease, the Tenant may be eligible to receive a Federal Tax Credit from the U.S. Treasury equal to **30%** of eligible Installation Cost of any Energy System ("**Tax Credit**") that is put into service during **2018 or 2019**.

**AGREEMENT**

**NOW, THEREFORE**, in consideration of the foregoing Recitals, the mutual promises of the Parties hereto and for other good and valuable consideration, the receipt and sufficiency of which hereby are acknowledged, the Parties agree as follows:

<b>Customer / Owner</b>	<b>City of Richfield</b>
<b>Installation Location / Site</b>	6300 Oakland Ave, Richfield, MN 55423
<b>Xcel Premise #</b>	303733099

1. **Agreement Contingency.** The Parties performance under this Agreement is contingent on Final Project Completion (as defined in the Purchase Agreement) occurring for Project 1 in accordance with the terms of the Purchase Agreement.
2. **Power Purchase.** Tenant shall deliver all power generated from the Energy System to Customer at the point of interconnection shown on Schedule A of the Lease.
  - a. Customer will pay Tenant for all the power generated from the Energy System and delivered to the interconnection point by making the payments specified in **Schedule A** or Schedule A-2 as applicable per section 2.b below (the "**Power Payments**").
  - b. If the Project 1 and Project 2 Final Project Completion dates are different, **Schedule A** will apply for each Project. If the Project 1 and Project 2 Final Project Completion dates are the same, **Schedule A-2** shall apply for the combined Project.
  - c. The Power Payments for each Energy System are due monthly and payable in accordance with the Prompt Payment of Local Government Bills Act, Minnesota Statutes, Section 471.425 ("Act") beginning on the first day of the first month following its Final Project Completion date and continuing each month until expiration of the Term (as defined below) of this Agreement for that Energy System. Power Payments do not include any sales tax. Sales tax will be added to the Power Payments based on Customer's applicable sales tax rate. Payments shall be sent to:
 

**Green2 Solar Leasing, LLC**  
 5810 Nicollet Avenue  
 Minneapolis MN 55419
3. **Ownership of Renewable Energy Credits.** Customer will, if required by the Utility Agreement, convey to the Utility all RECs generated by the Energy System for the term specified in the Utility Agreement. Subject to any required assignment to the Utility, Customer owns all RECs. For purposes of this Agreement, RECs include all attributes of an environmental or other nature that are created or otherwise arise from the Energy System, including without limitation tags, certificates or similar projects or rights associated with solar energy as a "green" or "renewable" electric generation resource. RECs shall also include any other environmental attribute intended to be transferred to the Utility under the Utility Agreement.
4. **Term.** The term (the "**Term**") of this Agreement for each Energy System shall begin on the date that Final Project Completion occurs for such Energy System and shall terminate on the date that is **twenty (20)** years after such Final Project Completion date, unless otherwise provided in the Agreements. Energy Systems installed as separate Projects with different Final Project Completion dates will have different Term start and end dates.
5. **Late Charge/Costs of Collection.** In the event Customer fails

to make any Power Payment when due and is not subject to a good faith dispute under the Act, Customer agrees to pay interest on the late payment not to exceed five (5%) percent per annum simple interest.

6. **Grant of Security Interest.** In order to secure the payment and performance of all of Customer's liabilities, obligations and covenants under this Agreement or the Lease, Customer hereby grants to Tenant a continuing security interest in all Rebates, in the Energy System, together with all attachments, accessories or replacement parts placed upon the Energy System, and in all proceeds of each of the foregoing.
7. **Insurance.** Customer shall keep the Energy System insured against loss by fire, theft, hail and wind and such other hazards, as required by the Lease.
8. **Events of Customer's Default.** Each of the following shall constitute an event of Customer's default ("**Event of Default**"):
  - a. Customer shall fail to make any payment to Tenant when due under the Act, Tenant has notified the Customer of such failure, and the failure has continued without cure by Customer or written waiver by Tenant for a period of thirty (30) days after the notice of failure;
  - b. The Customer fails to comply with any of its material obligations under any of Customer's agreements with the Utility and such breaches materially affect Tenant's rights in this Agreement.
  - c. Customer's failure or refusal to repair and recommission an Energy System following a casualty loss.
9. **Events of Tenant's Default.** Each of the following shall constitute an event of Tenant's default ("**Event of Default**"):
  - a. Tenant shall fail to make any payment to Customer when due, Customer has notified Tenant of such failure, and the failure has continued without cure by Tenant or written waiver by Tenant for a period of thirty (30) days after the notice of failure;
  - b. Tenant's failure or refusal to repair and recommission an Energy System following a casualty loss.
  - c. Tenant's failure to comply with any of its material obligations under any of the Tenant Agreements that materially affect Customer's rights in this Agreement and are not timely cured.
10. **Remedies.**
  - a. If an Event of breach of this Agreement, the non-defaulting Party may, at its option, exercise any one or more of the following remedies:
    - i. Declare all amounts due or to become due under this Agreement immediately due and payable;
    - ii. Recover any additional damages and expenses sustained by the non-defaulting Party by reason the Event of Default; and
    - iii. Exercise any other remedies available under law or in equity.
  - b. The remedies provided herein shall be cumulative and may be exercised singularly, concurrently or successively with and in addition to all other remedies in law or equity. If either Party fails to perform any of its obligations under this Agreement, the other Party may (but need not) at any time thereafter perform such obligation, and the expenses incurred in connection therewith shall be payable in full by the nonperforming Party upon demand—including but not limited to, the non-defaulting Party's attorney's fees and

costs of collection in pursuing any remedies in which it is the prevailing Party.

11. **PRUDENT PRACTICES WARRANTY; ANNUAL ENERGY PRODUCTION NOT GUARANTEED BY TENANT; TENANT WARRANTS THAT IT'S OPERATION, MAINTENANCE AND REPAIR OF THE ENERGY SYSTEMS WILL, AT ALL TIMES, MEET GENERALLY ACCEPTED INDUSTRY STANDARDS FOR PRUDENT PRACTICES, AS THEY MAY BE DEFINED THROUGHOUT THE TERM OF THIS AGREEMENT. THE PARTIES UNDERSTAND AND AGREE, HOWEVER, THAT THE ANNUAL ENERGY PRODUCTION FROM THE ENERGY SYSTEM MAY VARY FROM TENANT'S ANNUAL PROJECTIONS FOR REASONS BEYOND THE PARTIES CONTROL, INCLUDING WITHOUT LIMITATION, SEASON WEATHER VARIATIONS, ROUTINE AND NON-ROUTINE MAINTENANCE CAUSING DOWNTIME, EQUIPMENT PERFORMANCE, PROCESSING ANY EQUIPMENT WARRANTIES FOR MALFUNCTIONING EQUIPMENT, OR FORCED MAJEURE EVENTS. THE PARTIES UNDERSTAND THAT THE REBATES AND UTILITY BILL CREDITS/SAVINGS ARE PAID/RECOGNIZED PROPORTIONALLY WITH ENERGY SYSTEM ENERGY PRODUCTION, AND THAT THE ACTUAL AMOUNTS RECEIVED BY CUSTOMER WILL VARY ACCORDINGLY. SUCH TO TENANT'S WARRANTY TO EMPLOY PRUDENT PRACTICES, TENANT DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, THAT PRODUCTION WILL MATCH PROJECTIONS. CUSTOMER AND TENANT ASSUME, AT THEIR SOLE RISK, THE VARIABILITY OF ANNUAL ENERGY PRODUCTION AND VARIATIONS FROM ANY FINANCIAL PROJECTIONS RELATING TO UTILITY BILL CREDITS, SAVINGS AND REBATES. NOTWITHSTANDING TENANT'S WARRANTY LIMITS AND DISCLAIMERS, TENANT AGREES THAT ANY MANUFACTURER'S WARRANTY ON THE ENERGY SYSTEM, OR ANY COMPONENT THEREOF, SHALL INURE TO THE BENEFIT OF CUSTOMER AS WELL AS TO TENANT IN THE EVENT OF A MANUFACTURER BREACH OF SUCH WARRANTY. CUSTOMER SHALL RECEIVE TIMELY NOTICE OF CLAIM BY TENANT AGAINST SUCH MANUFACTURER WARRANTY.**
12. **Power Production Adjustment Price Guarantee.**
  - a. In any 12-month period beginning with the applicable Final Project Completion date that the Energy System does not produce at least 900 kWh per KW DC, Tenant will reimburse Customer within 60 days after the then applicable twelve-month period as follows: Total payments made over the then applicable 12-month period \* (1 - (actual kWh/kWDC / 900 kWh/kWDC)). For Example, if a 40 kWDC Energy System produces 800 kWh/kWDC and power payments equaling \$3000 are paid during the then applicable 12-month period a \$333.33 cash reimbursement will be paid to the Customer calculated as follows:  $\$3000 * (1 - 800/900) = \$333.33$ .
  - b. Beginning with the 8<sup>th</sup> year following a Project's final Project Completion Date, Tenant agrees that if the total annual energy payment per kWh price that Customer pays to Tenant for Energy System power production ("**Tenant Rate**") is greater than Customer's total annual payment to the utility per kWh price, as measured by its total annual payment to the utility for kWh Energy Charge, Fuel Cost Charge, Demand Charge, Affordability Charge, Resource Adjustment, Interim Rate Adjustment, and sales tax, minus the total in average kWh Energy Charge price issued to Customer during the same period ("**Utility Rate**"), then Tenant shall pay or credit Customer within sixty (60) days of the measuring period as follows: the total kWh production of the Energy System for the measuring period

times the difference in kWh rate between Tenant Rate and Utility Rate. E.g. 1000 kWh of Energy System power production at \$0.095 per kWh and average kWh price for Utility Rate is \$0.09, then Tenant pays or credits Customer \$90.00.

Minneapolis, MN 55419

**Customer**

City of Richfield  
Attn: City Manager  
6700 Portland Avenue  
Richfield, MN 55423

- c. In the event Tenant makes any payment to Customer pursuant to Section 12b, Tenant may recover the amount paid by collecting additional Power Payments from the Customer. Tenant and Customer will work in good faith to create a schedule for additional monthly Power Payments with the amount of the additional Power Payments not to exceed 80% of the net annual savings achieved for the prior year. See Schedule B1 and B2 for example. This provision survives the termination of this Agreement.

13. **Miscellaneous.**

- a. **Subordination to Utility Rebate Agreement.** No portion of this Agreement is intended to conflict with any Utility Rebate Agreements (the "**Utility Rebate Agreements**") to which Tenant or Customer is a party. In the case of a conflict between the terms or conditions of this Agreement and the Utility Rebate Agreements, the terms and conditions of Utility Rebate Agreements shall control. The Utility, or its successors and assigns, is a third-party beneficiary of the provision of this paragraph. Nothing in this Agreement shall prevent the Utility, from fully enforcing the terms and conditions of Utility Rebate Agreements.
- b. **Relationship of the Parties.** The Parties shall for all purposes be considered independent contractors with respect to each other, and neither shall be considered an employee, employer, agent, principal, partner or joint venturer with or of the other.
- c. **Entire Agreement.** This Agreement and the Agreements as defined in the Purchase Agreement, schedules, exhibits and attachments hereto, constitute the entire agreement and understanding of the Parties relative to the subject matter hereof. The Parties have not relied upon any promises, representations, warranties, agreements, covenants or undertakings, other than those expressly set forth or referred to herein. This Agreement replaces and supersedes any and all prior oral or written agreements, representations and discussions relating to such subject matter.
- d. **Survival of Representations.** All representations, warranties, covenants and agreements of the Parties contained in this Agreement, or in any instrument, certificate, exhibit or other writing provided for in it, shall survive the execution of this Agreement and the consummation of the transactions contemplated herein.
- e. **Amendment.** This Agreement may be amended or modified only by a writing executed by the Parties to this Agreement. No custom or practice of the Parties at variance with the terms hereof may be used to argue waiver or consent in nullification of this Section.
- f. **Notices.** All notices to be given under this Agreement shall be in writing and shall be effectively given upon personal delivery, facsimile or email transmission (with confirmation of receipt), delivery by overnight delivery service or three days following deposit in the United States Mail (certified or registered mail, postage prepaid, return receipt requested). Notice shall be made to:
- g. **No Delay.** No delay or failure on the part of any Party hereto to exercise any right, power or privilege hereunder shall operate as a waiver thereof.
- h. **Force Majeure.** Neither Party will be liable to the other Party for any delay, error, failure in performance or interruption of performance resulting from causes beyond its reasonable control, including without limitation, fires, flood, accidents, explosions, sabotage, strikes or other labor disturbances, civil unrest, riots, invasions, wars, acts of God or any cause (whether similar or dissimilar to the foregoing) beyond the reasonable control of the Party.
- i. **Governing Law / Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota without regard to its conflicts of laws principals. Any lawsuit brought in connection with this Agreement shall be brought only in a court of general jurisdiction in Hennepin County, Minnesota.
- j. **Severability.** The provisions of this Agreement are severable. If any part of this Agreement is rendered void, invalid or unenforceable by a court of competent jurisdiction, such rendering shall not affect the validity and enforceability of the remainder of this Agreement.
- k. **Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns. Neither Party shall assign this Agreement, or any portion thereof, without the prior written consent of the other Party. Any attempted assignment or transfer without such prior written consent of the other Party shall be of no force or effect. As to any permitted assignment: (a) reasonable prior notice of any such assignment shall be given to the other Party; and (b) any assignee shall expressly assume the assignor's obligations hereunder, unless otherwise agreed to by the other Party in writing. Notwithstanding the foregoing, as may be required for Tenant to avoid being classified as a Public Utility under Minnesota Statutes Chapter 216B.02, Subd. 4., or to leverage tax benefits as tax owner, Tenant may, at its sole discretion, assign and/or sublease all or part of its full interest under the Lease to a controlled affiliate of Tenant, assign its rights under this Power Purchase Agreement a controlled affiliate of Tenant, or assign this Agreement in connection with any sale of any or all of its Assets to a third party or Bank
- l. **Time is of the Essence.** Time is of the essence with respect to all of the terms of this Agreement.
- m. **Data Practices.** Pursuant to Minnesota Statutes, Section 13.05, subd. 11, all of the data created, collected, received, stored, used, maintained, or disseminated by Tenant in performing this Agreement is subject to the requirements of the Minnesota Government Data Practices Act ("MGDPA"), Minnesota Statutes Chapter 13, and Tenant must comply with those requirements as if it were a government entity. The remedies in Minnesota Statutes, Section 13.08 apply to Tenant. Tenant does not have a duty to provide access to public data to the public if the public data are available from the Customer, except

**Tenant**  
Green2Solar Leasing, LLC  
5810 Nicollet Avenue

as required by the terms of this Agreement.

- n. **Proprietary Information.** Information claimed by Tenant to be proprietary, trade secret or business data shall be governed by the standards required for "Trade Secret Information" as defined in MGDPA, Section 13.37(b) and as it may otherwise be referenced in the MGDPA. All of the data created, collected, received, stored, used, maintained, or disseminated by or to the Customer under this Agreement is subject to the requirements of the MGDPA. The Parties acknowledge that the classification of any government data is governed by the MGDPA and not by the understanding of either the Customer or the Tenant. Notwithstanding any other provision in this Agreement, the Customer's obligation is to maintain and release the data in a manner that is consistent with the MGDPA, provided, however, that Customer agrees to provide prompt written notice to the Tenant when Customer receives a request under the MGDPA for data concerning the terms of the Agreement, including the Agreement itself ("Contract Data"), not including presentations, memoranda and information previously disclosed publicly. When Customer receives a request for Contract Data, Customer shall notify Tenant of the request promptly in writing. Customer shall reasonably wait to disclose the Contract Data until the later of (i) Seller getting a judicial determination by a judicial officer, arbitrator, or administrative law judge on the public or nonpublic designation of the Data or (ii) the last day that, in Customer's sole discretion, Customer must make such disclosure to avoid being at risk of a successful claim from the requester that Customer is in violation of the MGDPA. Customer remains solely responsible for the initial determination of whether the requested Contract Data is public or private/nonpublic, but the parties acknowledge that any final determination by a judicial officer, arbitrator, or administrative law judge, or appellate review thereof, will control. If the Customer determines that some or all of the Contract Data is public under section 13.03 of the MGDPA, Customer shall provide prompt written notice to Tenant prior to Customer's disclosure of such data so that Tenant, at its sole expense, shall have the opportunity to object to such disclosure in writing and seek a determination by a judicial officer, arbitrator, or administrative law judge that such data constitutes trade secret information or business data under the MGDPA and therefore cannot be disclosed under the MGDPA. In no event shall Customer be required by the Tenant under this Agreement to withhold or delay disclosure of public data contrary to requirements of the MGDPA. Notwithstanding the notice and timing provisions in this Subsection 16 n., Customer shall not be liable to Tenant for any failure to give notice or otherwise to timely respond to Tenant regarding a third-party request for data. Tenant's claims against the Customer shall be limited to private actions it may have, if any, for Customer's failure to follow the MGDPA.
- o. **Record Keeping—Availability and Retention.** Pursuant to Minnesota Statutes, Section 16C.05, subd. 5, Tenant agrees that the books, records, documents and accounting procedures and practices of Tenant, that are relevant to the Agreement or transaction, are subject to examination by the Customer and the state auditor for a minimum of six (6) years. Tenant shall maintain such records for a minimum of six (6) years after final payment.
- p. **Non-Discrimination.** Pursuant to Minnesota Statutes, Section 181.59, the Tenant will take affirmative action to ensure that applicants are selected, and that employees are treated during employment, without regard to their

race, color, creed, religion, national origin, sex, sexual orientation, marital status, status with regard to public assistance, membership or activity in a local civil rights commission, disability or age. The Tenant agrees to be bound by the provisions of Section 181.59, that prohibits certain discriminatory practices and the terms of said section are incorporated into this Agreement.

- q. **Indemnification by Tenant.** Tenant shall fully indemnify, save harmless and defend Customer or any of its elected officials, officers, employees, contractors and agents from and against any and all costs, claims, and expenses incurred by such parties in connection with or arising from any claim by a third party for physical damage to or physical destruction of property, or death of or bodily injury to any person, but only to the extent caused by (a) the negligence, gross negligence or willful misconduct of Tenant or its agents or employees or others under Tenant's control or (b) Tenant's default under this Agreement. Tenant shall indemnify, defend and hold harmless all of Customer's Indemnified Parties from and against all Liabilities to the extent arising out of or relating to any Hazardous Substance spilled or otherwise caused by the negligence or willful misconduct of Tenant or any of its contractors, agents or employees.
- r. **Indemnification by Customer.** Customer shall fully indemnify, save harmless and defend Tenant or any of its officers, directors, employees, contractors and agents from and against any and all costs, claims, and expenses incurred by such parties in connection with or arising from any claim by a third party for physical damage to or physical destruction of property, or death of or bodily injury to any person, but only to the extent caused by (a) the negligence, gross negligence or willful misconduct of Customer or its agents or employees or others under Customer's control or (b) Customer's default under this Agreement. Customer shall indemnify, defend and hold harmless all of Tenant's Indemnified Parties from and against all Liabilities arising out of or relating to the existence at, on, above, below or near the Sites of any Hazardous Substance, except to the extent deposited, spilled or otherwise caused by the negligence or willful misconduct of Tenant or any of its contractors, agents or employees.

The Parties acknowledge they have read this Agreement, understand it and agree to be bound by its terms and conditions as of the date first set forth above.

Tenant  
**Green2 Solar Leasing, LLC**

By: \_\_\_\_\_  
Rich Ragatz, its Vice President

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

Customer  
**City of Richfield**

By: \_\_\_\_\_  
Pat Elliott, its Mayor

By: \_\_\_\_\_  
Steve Devich, its City Manager

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

**SIGN HERE**

Trade Secret  
**SCHEDULE A**  
**Power Purchase Payment Schedule**

19.980 kW DC SilfabSLG370M,  
20.00 kW AC SolarEdge SE20k 480V 3Ph Inverter Inverters, SolarEdge P800 Power Optimizers &  
Unirac, Panelclaw (or equivalent) Ballasted Racking @ approximately 10°

**Xcel SolarRewards**

Green2 Solar Leasing, LLC Utility Bill Expense				
Year	Facility Lease Runs Full Term  (Power Purchase Expense)		Put or Call Is Exercised  (Power Purchase Expense)	
	(\$/year)	(\$/month)	(\$/year)	(\$/month)
1	\$ 1888.80	\$ 157.40	\$ 1888.80	\$ 157.40
2	\$ 1914.60	\$ 159.55	\$ 1914.60	\$ 159.55
3	\$ 1990.68	\$ 165.89	\$ 1990.68	\$ 165.89
4	\$ 2069.88	\$ 172.49	\$ 2069.88	\$ 172.49
5	\$ 2152.20	\$ 179.35	\$ 2152.20	\$ 179.35
6	\$ 2237.76	\$ 186.48	\$ 2237.76	\$ 186.48
7	\$ 2326.80	\$ 193.90	\$ 2326.80	\$ 193.90
8	\$ 2419.32	\$ 201.61	\$ 2419.32	\$ 201.61
9	\$ 2515.56	\$ 209.63	\$ 2515.56	\$ 209.63
10	\$ 2615.64	\$ 217.97	\$ 2615.64	\$ 217.97
11	\$ 2719.68	\$ 226.64	\$ 2719.68	\$ 226.64
12	\$ 2827.80	\$ 235.65	\$ 2827.80	\$ 235.65
13	\$ 2940.36	\$ 245.03	\$ 2940.36	\$ 245.03
14	\$ 1380.00	\$ 115.00	\$	\$
15	\$ 1380.00	\$ 115.00	\$	\$
16	\$ 1380.00	\$ 115.00	\$	\$
17	\$ 1380.00	\$ 115.00	\$	\$
18	\$ 1380.00	\$ 115.00	\$	\$
19	\$ 1380.00	\$ 115.00	\$	\$
20	\$ 1380.00	\$ 115.00	\$	\$
21	\$	\$	\$	\$
22	\$	\$	\$	\$
23	\$	\$	\$	\$
24	\$	\$	\$	\$
25	\$	\$	\$	\$
<b>Total</b>	<b>\$ 40279.08</b>		<b>\$ 30619.08</b>	

Trade Secret

**SCHEDULE A-2**  
**Power Purchase Payment Schedule**

Not Applicable. No Project 2 Installed.



Trade Secret

**Schedule B1 & B2**  
Adjustment for Actual Utility Rate Increases

Schedule B1 - Unit Rate adjustment - Put/Call Exercised by parties						
Year	Annual Solar Array production	Tenant's PPA Rate	Utility Rate [example]	Amount Tenant Rate exceeds Utility Rate	Reimbursement per 12b	Additional Power Payment
1	46,953	\$0.0834	\$0.0950	\$0.0000	\$0.00	\$ -
2	46,718	\$0.0872	\$0.0979	\$0.0000	\$0.00	\$ -
3	46,485	\$0.0911	\$0.1008	\$0.0000	\$0.00	\$ -
4	46,252	\$0.0952	\$0.1038	\$0.0000	\$0.00	\$ -
5	46,021	\$0.0995	\$0.1069	\$0.0000	\$0.00	\$ -
6	45,791	\$0.1039	\$0.1101	\$0.0000	\$0.00	\$ -
7	45,562	\$0.1086	\$0.1134	\$0.0000	\$0.00	\$ -
8	45,334	\$0.1135	\$0.1168	\$0.0000	\$0.00	\$ -
9	45,107	\$0.1186	\$0.1203	\$0.0000	\$0.00	\$ -
10	44,882	\$0.1239	\$0.1240	\$0.0000	\$0.00	\$ -
11	44,657	\$0.1295	\$0.1277	\$0.0018	\$82.42	\$ -
12	44,434	\$0.1353	\$0.1315	\$0.0038	\$170.79	\$ -
13	44,212	\$0.1414	\$0.1354	\$0.0060	\$264.80	\$ -
14	43,991	\$0.0000	\$0.1395	\$0.0000	\$0.00	\$518.01
15	43,771	\$0.0000	\$0.1437	\$0.0000	\$0.00	
16	43,552	\$0.0000	\$0.1480	\$0.0000	\$0.00	
17	43,334	\$0.0000	\$0.1524	\$0.0000	\$0.00	
18	43,118	\$0.0000	\$0.1570	\$0.0000	\$0.00	
19	42,902	\$0.0000	\$0.1617	\$0.0000	\$0.00	
20	42,688	\$0.0000	\$0.1666	\$0.0000	\$0.0000	
TOTAL		Actual Utility Rate increase	3.0%		\$ 518.01	\$ 518.01

Schedule B2 - Unit Rate adjustment - Lease Runs Full Term						
Year	Annual Solar Array production	Tenant's PPA Rate	Utility Rate [example]	Amount Tenant Rate exceeds Utility Rate	Reimbursement per 12b	Additional Power Payment
1	46,953	\$0.0834	\$0.0950	\$0.0000	\$0.00	\$ -
2	46,718	\$0.0872	\$0.0979	\$0.0000	\$0.00	\$ -
3	46,485	\$0.0911	\$0.1008	\$0.0000	\$0.00	\$ -
4	46,252	\$0.0952	\$0.1038	\$0.0000	\$0.00	\$ -
5	46,021	\$0.0995	\$0.1069	\$0.0000	\$0.00	\$ -
6	45,791	\$0.1039	\$0.1101	\$0.0000	\$0.00	\$ -
7	45,562	\$0.1086	\$0.1134	\$0.0000	\$0.00	\$ -
8	45,334	\$0.1135	\$0.1168	\$0.0000	\$0.00	\$ -
9	45,107	\$0.1186	\$0.1203	\$0.0000	\$0.00	\$ -
10	44,882	\$0.1239	\$0.1240	\$0.0000	\$0.00	\$ -
11	44,657	\$0.1295	\$0.1277	\$0.0018	\$82.42	\$ -
12	44,434	\$0.1353	\$0.1315	\$0.0038	\$170.79	\$ -
13	44,212	\$0.1414	\$0.1354	\$0.0060	\$264.80	\$ -
14	43,991	\$0.0341	\$0.1395	\$0.0000	\$0.00	\$ -
15	43,771	\$0.0343	\$0.1437	\$0.0000	\$0.00	\$ -
16	43,552	\$0.0344	\$0.1480	\$0.0000	\$0.00	\$ -
17	43,334	\$0.0346	\$0.1524	\$0.0000	\$0.00	\$ -
18	43,118	\$0.0348	\$0.1570	\$0.0000	\$0.00	\$ -
19	42,902	\$0.0350	\$0.1617	\$0.0000	\$0.00	\$ -
20	42,688	\$0.0351	\$0.1666	\$0.0000	\$0.00	\$ 518.01
TOTAL		Actual Utility Rate increase	3.0%		\$ 518.01	\$ 518.01

**Put and Call Agreement**

19.980 kW DC SilfabSLG370M,  
 20.00 kW AC SolarEdge SE20k 480V 3Ph Inverter(s),  
 SolarEdge P800 Power Optimizers & IronRidge, S5!  
 Clips W/ Unistrut Flushmount Racking or equivalent @  
 approximately 15°

<b>Customer / Owner</b>	<b>City of Richfield</b>
<b>Installation Location / Site</b>	6300 Oakland Ave, Richfield, MN 55423
<b>Xcel Premise #</b>	303733099

**Xcel SolarRewards**

This **PUT AND CALL AGREEMENT** (this "**Agreement**"), dated **June 19, 2018** is between **Green2 Solar Leasing, LLC**, a Minnesota Limited Liability Company, whose principal place of business is located at **5810 Nicollet Avenue, Minneapolis, MN 55419** ("**Tenant**"), and **City of Richfield**, a Minnesota City, whose principal place of business is located at **6700 Portland Avenue, Richfield, MN 55423** ("**Customer**"). Tenant and Customer are sometimes also referred to in this Agreement jointly as "**Parties**", or individually as a "**Party**".

**RECITALS**

- A. Customer is the purchaser of a photovoltaic solar electric system (the "**Energy System**") located at the installation location described above (the "**Site**") and as described as Project 1 and Project 2 in the Purchase Agreement between Customer and **Ideal Energies, LLC** ("**Seller**") of even date herewith (the "**Purchase Agreement**"); and
- B. Tenant is the lessee of the Energy System and associated rights under the **Facility Lease Agreement** with Customer (the "**Lease**") of even date herewith, and Tenant sells the Energy System generated from the Energy System pursuant to a Power Purchase Agreement with Customer (the "**Power Purchase Agreement**") of even date herewith (Tenant's interests in the Lease and Power Purchase Agreement is referred to herein as an "**Interest**"); and
- C. The Parties hereto now desire to enter into this Agreement to set forth the terms and conditions upon which Tenant has an option, but not the obligation, to put its Interest(s) to the Customer and upon which Customer has an option, but the obligation, to call Tenant's Interest(s) from Tenant.

**AGREEMENT**

**NOW, THEREFORE**, in consideration of the foregoing Recitals, the mutual promises of the Parties hereto and for other good and valuable consideration, the receipt and sufficiency of which hereby are acknowledged, the Parties hereby agree as follows:

1. **Contingency.** The Parties performance under this Agreement is contingent on Final Project Completion (as defined in the Purchase Agreement) occurring for Project 1 in accordance with the terms of the Purchase Agreement.
2. **Put of Tenant's Interest.** Commencing on the **thirteen (13) year anniversary of the Final Project Completion date for any Project**, and for a period of **three (3) months thereafter** (the "**Put Period**"), Tenant shall have the right and option to require Customer to purchase all, but not less than all, of Tenant's Interest the Energy System installed pursuant to that Project (the "**Put**"). Tenant may exercise the Put by delivering notice of exercise of such option in writing to Customer during the Put Period. If exercised, Tenant shall be obligated to sell, and Customer shall be obligated to purchase, all of the Interest owned by Tenant. The purchase price for any Interest shall be **\$1.00** (the "**Put Price**"). The date of the Put closing will be thirty (30) days

following the notice of exercise of the Put, or such earlier date as the Parties may agree in writing (the "**Put Closing Date**"). The Put Price shall be paid by Customer to Tenant in cash on the Put Closing Date. Each Party shall remain liable for any obligations arising under the Lease prior to the Put Closing Date. Notwithstanding the foregoing, an invoice provided by Tenant to Customer stating the Project and its Put Price, and Customer's payment of the same satisfies the requirements of this Section.

3. **Call of Tenant's Interest.** For a period of **nine (9) months beginning the day following the last day of the Put Period** (the "**Call Period**") for any Project, Customer shall have the right and option to purchase all, but not less than all, of Tenant's Interest in the Energy System installed pursuant to that Project (the "**Call**"). Customer may exercise the Call by delivering notice of exercise of such option to Tenant during the Call Period. If exercised and based on a Call Price determined by the method of calculation as set forth below, Customer shall be obligated to purchase, and Tenant shall be obligated to sell, all of the Interest owned by Tenant. The purchase price for the Interest pursuant to the Call shall be an amount equal to the fair market value (the "**Fair Market Value Price**") of such Interest as agreed by the Parties and if no agreement is possible, then by an independent qualified appraiser selected by the Customer and the cost of which is paid for by the Tenant (the "**Call Price**"). The Parties agree, for each Project, that a reasonable method of establishing the Fair Market Value Price is to use a discounted cash flow value of Tenant's power purchase income less expenses remaining under the Power Purchase Agreement and Lease Agreement as of the Call Date. As of the date hereof, the Parties believe that a discount rate of 15% is reasonable and agree that the Parties will use foregoing method in determining the Fair Market Value and resulting Call Price. If and only if Customer accepts the Call Price as agreed upon or determined by independent appraiser, Customer shall purchase the Energy System for the Price and pursuant to a mutually agreed upon purchase and sale agreement. The date of the Call closing shall be thirty (30) days following delivery of the notice of exercise of the Call, or such earlier date as the Parties may agree in writing (the "**Call Closing Date**"). The Call Price shall be paid by Customer to Tenant in cash on the Call Closing Date. Each Party shall remain liable for any obligations arising under the Lease for the Energy System prior to the Call Closing Date.
4. **Obligations following exercise of Put or Call.**
  - a. **Tenant.** After the transfer and assignment of the Interest for the Energy System installed pursuant to each Project, pursuant to the Put or Call, Tenant shall have no further obligations or liability in connection with that Interest, except that Tenant shall indemnify, defend and hold Customer harmless from all third-party claims arising out of Tenant's leasehold interest and



operation of the Energy System prior to the termination of the Lease.

- b. **Customer.** After the transfer and assignment of the Interest pursuant to the Put or Call for the Energy System installed pursuant to a Project, Customer shall make, if not already paid, the Power Payments described in Schedule A of the Power Purchase Agreement between the Parties of even date herewith beginning with the month after that Project's Final Project Completion date through and including the month of the Project's Put or Call Closing date. Customer is not obligated to pay Tenant any Power Purchase Payments after the Put or Call Closing date through the end of the Term for that Project as specified in the Power Purchase Agreement. Customer shall indemnify, defend and hold Tenant harmless from all third-party claims arising out of Customer's ownership or operation of the Energy System as of the date of the transfer and assignment to Customer.

5. **Miscellaneous.**

- a. **Subordination to Utility Rebate Agreement.** No portion of this Agreement is intended to conflict with any Utility Rebate Agreements (the "**Utility Rebate Agreements**") to which Tenant or Customer is a party. In the case of a conflict between the terms or conditions of this Agreement and the Utility Rebate Agreements, the terms and conditions of Utility Rebate Agreements shall control. The utility, or its successors and assigns, is a third-party beneficiary of the provision of this paragraph. Nothing in this Agreement shall prevent the utility, from fully enforcing the terms and conditions of Utility Rebate Agreements.
- b. **Relationship of the Parties.** The Parties shall for all purposes be considered independent contractors with respect to each other, and neither shall be considered an employee, employer, agent, principal, partner or joint venturer of the other.
- c. **Entire Agreement.** This Agreement and all schedules, exhibits and attachments hereto, together with any agreement reference herein, constitute the entire agreement and understanding of the Parties relative to the subject matter hereof. The Parties have not relied upon any promises, representations, warranties, agreements, covenants or undertakings, other than those expressly set forth or referred to herein. This Agreement replaces and supersedes any and all prior oral or written agreements, representations and discussions relating to such subject matter.
- d. **Survival of Representations.** All representations, warranties, covenants and agreements of the Parties contained in this Agreement, or in any instrument, certificate, exhibit or other writing provided for in it, shall survive the execution of this Agreement and the consummation of the transactions contemplated herein.
- e. **Amendment.** This Agreement may be amended or modified only by a writing executed by the Parties to this Agreement. No custom or practice of the Parties at variance with the terms hereof shall have any effect.
- f. **Notices.** All notices to be given under this Agreement shall be in writing and shall be effectively given upon personal delivery, facsimile or email transmission (with

confirmation of receipt), delivery by overnight delivery service or three days following deposit in the United States Mail (certified or registered mail, postage prepaid, return receipt requested).

- g. **No Delay.** No delay or failure on the part of any Party hereto to exercise any right, power or privilege hereunder shall operate as a waiver thereof.
- h. **Force Majeure.** Neither Party will be liable to the other Party for any delay, error, failure in performance or interruption of performance resulting from causes beyond its reasonable control, including without limitation fires, flood, accidents, explosions, sabotage, strikes or other labor disturbances, civil commotion, riots, invasions, wars, acts of God, terrorism or any cause (whether similar or dissimilar to the foregoing) beyond the reasonable control of the Party.
- i. **Governing Law / Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota without regard to its conflicts of laws principals. Any lawsuit brought in connection with this Agreement shall be brought only in a court of general jurisdiction in Hennepin County, Minnesota.
- j. **Severability.** The provisions of this Agreement are severable. If any part of this Agreement is rendered void, invalid or unenforceable, such rendering shall not affect the validity and enforceability of the remainder of this Agreement.
- k. **Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns. Neither Party shall assign this Agreement, or any portion thereof, without the prior written consent of the other Party. Any attempted assignment or transfer without such prior written consent of the other Party shall be of no force or effect. As to any permitted assignment: (a) reasonable prior notice of any such assignment shall be given to the other Party; and (b) any assignee shall expressly assume the assignor's obligations hereunder, unless otherwise agreed to by the other Party in writing. Notwithstanding the foregoing, as may be required for Tenant to avoid being classified as a Public Utility under Minnesota Statutes Chapter 216B.02, Subd. 4., or to leverage tax benefits as tax owner, Tenant may, at its sole discretion, assign and/or sublease all or part of its full interest under the Lease Agreement to a controlled affiliate of Tenant, assign its rights under the Power Purchase Agreement a controlled affiliate of Tenant, assign its rights under this Agreement to a controlled affiliate of Tenant, or assign this Agreement in connection with any sale of any or all of its Assets to a third party or Bank.
- l. **Time is of the Essence.** Time is of the essence with respect to all of the terms of this Agreement.

**[SIGNATURE PAGE FOLLOWS]**

Trade Secret

The Parties acknowledge they have read this Agreement, understand it and agree to be bound by its terms and conditions as of the date first set forth above.

Tenant  
**Green2 Solar Leasing, LLC**

By: \_\_\_\_\_  
Rich Ragatz, its Vice President

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

Customer  
**City of Richfield**

By: \_\_\_\_\_  
Pat Elliott, its Mayor

By: \_\_\_\_\_  
Steve Devich, its City Manager

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



**iDEAL ENERGIES****Solar Array Purchase, Capital Lease & Power Purchase Agreements w/ Put & Call**

19.980 kW DC SilfabSLG370M  
 20.00 kW AC SolarEdge SE20k 480V 3Ph Inverter(s), SolarEdge P800 Power Optimizers &  
 IronRidge, S5! Clips W/ Unistrut Flushmount Racking or equivalent @ approximately 15°

**Xcel SolarRewards**

[With provision for additional same sized solar array upon amendment of Solar Rewards Program requirements]

**Customer Information**

Date:	June 19, 2018
Solar Array Legal Owner:	<b>City of Richfield</b>
Customer Corporate Form:	Minnesota City
Customer Mailing Address:	6700 Portland Avenue, Richfield, MN 55423
Customer Signer Name:	Steve Devich
Customer Signer Title:	City Manager
Customer Authorized Representative:	Chris Link
Customer Authorized Representative Tel:	612-861-9174
Installation Address:	<b>0</b>
Premise Number:	<b>0</b>
Site Owner:	City of Richfield
Site Owner Mailing Address:	6700 Portland Avenue, Richfield, MN 55423

**Project Information**

System Size in kW DC	<b>19.980 kW DC</b> (+/- 0.10 kW DC)
Installation Cost:	<b>\$72500.00</b>
Project Completion Date:	Summer/Fall, 2018
Rebate Name:	Xcel SolarRewards
Rebate Amount:	\$0.08 (per kWh/kW)
Rebate Payer:	Xcel Energy
REC Owner:	Xcel Energy
Tax Credit Percent:	30%
Panel Description:	SilfabSLG370M
Panel Size in Watts DC:	370 (Watts DC)
Inverter Description:	SolarEdge SE20k 480V 3Ph Inverter
Total Inversion in kW AC:	20.00 (kW AC)
Power Optimizer Description:	SolarEdge P800 Power Optimizers
Solar Racking Description:	IronRidge, S5! Clips W/ Unistrut Flushmount Racking or equivalent @ approximately 15°

**Lease, Power Purchase, and Put & Call Agreement Information**

Site Use:	Pool
Tenant:	Green2 Solar Leasing, LLC
Tenant Signer Name:	Rich Ragatz
Tenant Signer Title:	Vice President
Leased Space Rent Payment:	<b>\$45.00</b> per year
Leased Energy System Rent Payment:	<b>\$5.00</b> per year
Put /Call Year:	13

**Purchase Agreement**

19.980 kW DC SilfabSLG370M,  
 20.00 kW AC SolarEdge SE20k 480V 3Ph Inverter(s),  
 SolarEdge P800 Power Optimizers & IronRidge, S5! Clips  
 W/ Unistrut Flushmount Racking or equivalent @  
 approximately 15°

**Xcel SolarRewards**

This **PURCHASE AGREEMENT** (this "**Agreement**"), dated **June 19, 2018** ("**Effective Date**") is between **IDEAL ENERGIES, LLC**, a Minnesota Limited Liability Company, whose principal place of business is located at **5810 Nicollet Avenue Minneapolis, MN 55419** ("**Seller**"), and **City of Richfield**, a Minnesota City, whose principal place of business is located at **6700 Portland Avenue, Richfield, MN 55423** ("**Customer**"). Seller and Customer are sometimes also referred to in this Agreement jointly as "**Parties**", or individually as a "**Party**".

**RECITALS**

- A. Seller sells and installs grid connected photovoltaic solar energy systems and Customer desires to purchase and install the Energy System (defined below) at the installation location described above (the "**Site**"); and
- B. Seller will provide the Customer the Energy System (defined below) at the Site in two planned projects, where the first project ("**Project 1**") is the installation of a **19.980 kW DC** (+/- 0.10 kW DC) photovoltaic energy system ("**Energy System 1**") which meets the requirements of Xcel Energy's existing SolarRewards Program (the "**SolarRewards Program**") which provides certain incentives for the installation of grid-connected photovoltaic energy systems with a generating capacity of 20 kW DC or less per location, and the second project ("**Project 2**") is the installation of an additional **19.980 kW DC** (+/- 0.10 kW DC) photovoltaic energy system ("**Energy System 2**"), in accordance with the amendments to the SolarRewards Program requirements, which will increase the allowable energy generating capacity limit to 40.0 kW DC per location signed into law May 28, 2018.
- C. Individually, Project 1 and Project 2 are referred to in this Agreement as a "Project", and collectively as "the Projects"; and Energy System 1 and Energy System 2 (if installed) are referred to individually and collectively in this Agreement as (the "**Energy System**").
- D. Seller has applied or will apply for the Rebate (as described below) on behalf of Customer for the Energy System by applying for a Rebate for each Project separately, and after the Rebate is secured for each Project, will install the same in accordance with the terms and conditions set forth in this Agreement; and
- E. Concurrent with the execution of this Agreement, the Customer will enter into a **Facility Lease Agreement** (the "**Lease Agreement**") with **Green2 Solar Leasing, LLC** ("**Tenant**") pursuant to which the Tenant will lease, operate and maintain the Customer's Energy System
- F. Concurrent with the execution of this Agreement, the Customer will also enter into a Power Purchase Agreement (the "**Power Purchase Agreement**") with Tenant pursuant to which Tenant will sell power generated by the Energy System to Customer.
- G. The following rules of construction apply to this Agreement; unless the context otherwise requires: (i) a term has the

<b>Customer / Owner</b>	<b>City of Richfield</b>
<b>Installation Location / Site</b>	0
<b>Xcel Premise #</b>	0

meaning assigned to it; (ii) "including" means including without limitation; (iii) words and defined term in the singular include the plural and words and defined terms in the plural include the singular; and (iv) any agreement, instrument, program, or statute defined or referred to herein means such agreement, instrument, program, or statute as from time to time amended, modified or supplemented.

**AGREEMENT**

**NOW, THEREFORE**, for valuable consideration, the receipt of which is hereby acknowledged, the Parties agree as follows:

1. **Condition.** Subsequent to Agreement; Multiple Agreements. This Agreement for purchase, sale, installation and operation of the Energy System is subject to the fulfillment of Subsection 9 a., below, which must be timely fulfilled or this Agreement will terminate in accordance with Section 15. This Agreement is executed on the same date as the Lease Agreement, Power Purchase Agreement and Put and Call Agreement between and among the Parties to this transaction, and the Tenant (collectively "Agreements"). The Agreements become operative on the Effective Date, are to be interpreted together where necessary and are each subject to termination upon the failure of essential conditions subsequent, including but not limited to **Subsection 9a**.
2. **Services.** After each Project has secured a Rebate described in Section 9, Seller will, at its expense, perform electrical engineering on the Energy System, perform structural engineering on the Site to verify it is adequate to support the Energy System, provide and install the Energy System on the Site, and perform Energy System commissioning. Seller will apply for Rebates as applicable, perform the services described herein with regard to each Project, install the Energy System, and commission the Energy System.
3. **Title and Risk of Loss.** Title and risk of loss for each Energy System will pass to Customer upon Final Project Completion (as defined in Section 7d below).
4. **Purchase and Sale; Installation Costs and Payment Terms.** Each Energy System will consist of the Energy System components identified on **Schedule A** (the "**System Components**") and be installed by Seller pursuant to the Project design documents for such Energy System (the "**Design Documents**"). As consideration of Customer's purchase of the Energy System:
  - a. **Project 1.** Seller agrees to sell and Customer agrees to purchase Energy System 1 and the services described herein for hereunder for a total cost of **\$72500.00** ("**Project 1 Installation Cost**") pursuant to the payment terms set forth in subparagraph 4.c. below.
  - b. **Project 2.** Following Xcel Energy's acceptance of applications for Solar Rewards Rebates in accordance with the new amended Solar Rewards program and the

award of the Rebate for Project 2, Seller agrees to sell and Customer agrees to purchase, Energy System 2 and the services provided for hereunder for an additional total cost of \$ ("Project 2 Installation Cost") pursuant to the payment terms set forth in subparagraph 4.c. below. The Project 1 Installation Cost and Project 2 Installation Cost (if any) are referred to in this Agreement individually as the **Installation Cost**, and collectively as "**the Installation Costs**". **PROJECT 2 WILL NOT BE INSTALLED FOR THIS SITE.**

- c. The Installation Cost for each Energy System will be paid by Tenant in the Lease Agreement, executed concurrently herewith, in accordance with subparagraph 3. a. of Lease Agreement and as a condition of this Agreement.

5. **Customer's Representations and Responsibilities.**

- a. Customer represents that it owns the Site.
- b. Customer will, at least two weeks before the Final Project Completion date for Project 1, provide either a wireless internet connection or a RJ45 Internet outlet at the electrical room for connecting the Energy System to web-based monitoring equipment. If Customer does not provide the foregoing, Seller may, at its election, provide this service to assure internet service is available for Energy System monitoring on the Final Project Completion date for the Project. If Seller provides the foregoing service, a separate fee of \$250.00 will be invoiced to Customer.
- c. If required by the applicable Rebate program, Customer will participate in energy audits to identify additional energy savings opportunities.

6. **Seller's Representations and Responsibilities.**

- a. Seller will provide all System Components, Design Documents, labor, equipment, supplies and services necessary to install each Energy System at the Site in accordance with the "Scope of Work" described in **Schedule C**.
- b. Seller will perform structural engineering at each Site and prepare electrical drawings for each Energy System. Seller will perform work for Project 1 individually, and for Project 1 and 2 combined as a single project (the "**Engineering**").
- c. Seller will perform all services in material compliance with applicable laws, rules, regulations, governmental approvals and permits, including all applicable agreements with, and tariffs of, the local utility (collectively, "**Applicable Requirements**").

7. **Installation Plan; Final Project Completion.**

- a. **Project 1.** Upon award of a Rebate to Customer for Project 1 and completing Engineering, Seller will install Project 1 in accordance with this Agreement. When installing Project 1, Seller will install AC equipment from the solar array's inverters to the point of electric interconnection adequately sized to accommodate both Projects such that only one conduit run from the solar array to the point of interconnection is required.
- b. **Project 2.** Following Xcel Energy's acceptance of applications for Solar Rewards Rebates in accordance with the new amended Solar Rewards program and the award of the Rebate for Project 2, Seller will install Project 2 in accordance with this Agreement.
- c. **Single Project.** If the construction of Project 1 has not

begun before Customer has been awarded a Rebate for Project 2, Projects 1 and 2 will be constructed at the same time. If Project 1 has been constructed but has not achieved Final Project Completion (as defined below), Seller may, at its sole discretion, delay start-up of Project 1 until Project 2 is constructed so that both Projects are combined into a single Solar Rewards project application and started up at the same time as a single Energy System.

- d. **Installation Plan.** Customer and Seller will work together to develop a proposed work plan and schedule for the installation of the Project (the "**Schedule**"). If events arise which make meeting the Schedule impractical, such as availability of equipment and other reasonable delays, Seller will notify Customer of the same as soon as reasonably possible, and the Parties will adjust the Schedule accordingly. A Project is completed when a system witness test is performed for such Project, and the full system is turned on, and is capable and authorized under Applicable Requirements, to generate and deliver electric energy to Customer and the local utility's electrical grid at the interconnection point ("**Final Project Completion**"). Notwithstanding any delays, the anticipated date for Final Project Completion for the Energy System is **November 30, 2018**.

8. **Changes.**

- a. It is the desire of the Parties to keep changes to the terms of this Agreement to a minimum, including changes to the Schedule. Either Party may request a change by advising the other Party in writing of the proposed change. For each change request, Seller will prepare a revised Schedule, an updated schedule to this Agreement, or any other necessary document and an applicable cost estimate. Customer will advise Seller in writing of its approval or disapproval of the change. If Customer approves the change, Seller will perform the services as changed, and the Installation Costs will be adjusted to reflect the requested change. If Customer does not approve the change, approval not to be unreasonably withheld, Seller shall continue under the Schedule.
- b. To accommodate structural limitations of the Site, the availability of equipment, changes in panel wattage available from manufacturers, or other reasons approved by Customer, Seller may substitute other equipment for the equipment described on **Schedule A** provided it carries at least a 10-year manufacturer's workmanship warranty and a 25-year production warranties achieving at least 80% of rated capacity. A substitution in panel wattage that results in a kW DC variance of +/- 0.10 kW DC for an Energy System may be made by Seller without amending this Agreement.

9. **Rebates, and Tax Credits, Net Metering.** The Parties anticipate the Project will be eligible for the following rebates and credits.

- a. Each Project is anticipated to be eligible to receive the **Xcel SolarRewards** totaling **\$0.08** per kWh generated from the Energy System (the "**Rebate**") payable to Customer (or its assignee) from **Xcel Energy**. The Rebate shall be paid annually for ten consecutive years based on the Energy System's prior year's annual kWh production, and in accordance with other terms of the interconnection agreement between Customer and the utility, Customer will be required to convey Renewable Energy Credits ("**RECs**") for electricity produced by the Energy System to **Xcel Energy**, and execute any required paperwork

required to convey the RECs. Any RECs remaining after the termination or expiration of any conveyance to **Xcel Energy** belong solely to the Customer.

- b. Each Project may be eligible to receive a Federal Tax Credit from the U.S. Treasury pursuant to the terms of the Lease Agreement equal to **30%** of eligible Installation Cost of the Energy System ("**Tax Credit**") that is put into service during **2018 or 2019**.
- c. Each Project may be eligible to participate in the local utility's **Net Metering Program**. Under this program, the energy generated from an Energy System is available for use and to reduce the total amount of energy that the Customer needs to purchase from the utility, and for months where the Energy System produces more kWh than the Site consumes, the utility will compensate Customer at the applicable rate.

#### 10. Insurance.

- a. Seller will, at its own cost and expense, maintain insurance approved by Customer for the services being performed by Seller under this Agreement. Seller shall provide Customer with certificate(s) evidencing such insurance prior to commencement of any work at the Site.
- b. Customer will at all times, at its own cost and expense, maintain insurance after Final Project Completion for each Project for the Energy System.
- c. As required, Customer will provide Seller and the utility with a certificate of insurance that conforms with any utility or Rebate program requirements.

11. **Seller's Waiver and Indemnity Regarding Liens.** To the fullest extent permitted under the Applicable Requirements, Seller waives any right to file or impose any mechanic's, materialman's, or other liens with respect to the Site or the Projects. Seller shall promptly pay all undisputed amounts owed for services, materials, equipment, and labor furnished by any person to Seller with respect to the Projects. Seller shall, at Seller's sole cost and expense, discharge and cause to be released, whether by payment or posting of an appropriate surety bond in accordance with the Applicable Requirements, within thirty (30) days of its filing, any mechanic's, materialmen's, or other lien in respect of the Projects, the Energy Systems, or the Site created by, through or under, or as a result of any act or omission (or alleged act or omission) of, Seller or any subcontractor or other person providing services, materials, equipment or labor with respect to the Projects. If Seller defaults in its obligation to discharge, satisfy or settle such liens, Customer may discharge, satisfy or settle such liens and Seller shall, within fifteen (15) days of a written request by Customer, reimburse Customer for all costs and expenses incurred by Customer to discharge, satisfy or settle such liens.

#### 12. Warranties.

- a. Customer understands and acknowledges that the System Components furnished and installed by Seller (including the solar modules, inverters, power optimizers, racking, and monitoring equipment and their performance/energy output), are not manufactured by Seller and will carry only the warranty of their manufacturer. Seller provides only the warranties set forth on **Schedule D** hereto. Except as otherwise set forth on Schedule D, all other warranties are disclaimed as further set forth below. Seller shall promptly transmit to Customer all manufacturers' warranties on for the Projects, including on any of its System Components or other equipment, and all operations manual(s) following Final Project Completion. Customer, however, is solely responsible for pursuing any warranty claims on System

Components against the manufacturer(s) at its own expense, and may look only to such manufacturer, and not to Seller, for any warranty with respect thereto. In accordance with the Lease Agreement, if applicable, Tenant will assist Customer in resolving any warranties relating to System Components as described therein.

- b. **EXCEPT AS EXPRESSLY PROVIDED IN SCHEDULE D, SELLER MAKES NO WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING WITHOUT LIMITATION ANY WARRANTY AS TO THE INSTALLATION, DESIGN, DESCRIPTION, QUALITY, MERCHANTABILITY, COMPLETENESS, USEFUL LIFE, ENERGY PRODUCTION, PROJECTED ECONOMIC VIABILITY, FINANCIAL DATA AND PROJECTIONS, ROOF PERFORMANCE, FITNESS FOR ANY PARTICULAR PURPOSE OR ANY OTHER MATTER OF THE ENERGY SYSTEM, THE SYSTEM COMPONENTS, THE PROJECT, OR ANY SERVICES PROVIDED UNDER THIS AGREEMENT.**

13. **Ownership of Project Documents and Design.** All Design Documents for the Customer's Energy System shall be the sole and exclusive property of Customer. Customer grants Seller a license to use the Design Documents solely for the Projects. Seller has no right under this license to use the Design Documents or cause them to be used by a third party.

#### 14. Indemnification; Limitation of Damages.

- a. Subject to the limitations set forth below, Seller indemnifies, defends and holds harmless Customer and its elected officials, officers, members, consultants, representatives, agents, and employees (each a "Customer Indemnified Party") against any third party claim for damages, liabilities, losses, costs and expenses, including reasonable attorney fees and costs (collectively, "**Damages**") incurred or suffered by any of them caused by (i) any material breach of this Agreement by Seller, or (ii) the negligence, gross negligence or willful misconduct of Seller, its employees, or subcontractors in connection with the Projects.
- b. Subject to the limitations set forth below, Customer indemnifies, defends and holds harmless Seller and its officers, directors, members, consultants, representatives, agents, employees and affiliates (each a "Seller Indemnified Party") against any third party claim for damages incurred or suffered by any of them in any way arising out of, relating to, or in connection with (i) any material breach of this Agreement by Customer, or (ii) the negligence, gross negligence or willful misconduct of Customer or its employees in connection with the Projects.
- c. Any Customer Indemnified Party or Seller Indemnified Party claiming indemnification hereunder must give each Party prompt notice of the relevant claim and each Party agrees to cooperate with each other Party, at the its own expense, in the defense of such claim. Notwithstanding the foregoing, any Party from whom indemnification is sought shall control the defense and settlement of such claim; provided however that such Party shall not agree to any settlement that materially adversely affects the other Party without the prior written consent of such Party, which approval shall not be unreasonably withheld. Without limiting or diminishing the foregoing, any Party may, at its option and its own expense, participate in the defense of

any such claim with legal counsel of its own choice.

- d. **IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES ARISING FROM, CONNECTED WITH OR RELATING TO THIS AGREEMENT, THE ENERGY SYSTEM OR THE PROJECT, OR TO SELLER'S OR CUSTOMER'S ACTS OR OMISSIONS IN CONNECTION WITH THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT, WHETHER FOR NEGLIGENCE, STRICT LIABILITY, PRODUCT LIABILITY OR OTHERWISE, EXCEPT FOR ANY DAMAGES OF THIRD PARTIES FOR WHICH ONE PARTY IS REQUIRED TO INDEMNIFY THE OTHER PARTY.**

15. **Termination.** This Agreement may be terminated as follows:

- a. Either Party may terminate this Agreement by providing the other Party written notice in the event (i) a Rebate for Project 1, or if Project 1 and Project 2 have been combined into a single Project, and the Project is not substantially complete within fifteen (15) months after the Effective Date, or (ii) the structural analysis produces credible evidence that the Site is not capable of supporting the Energy System (except where Seller, at its sole election, and with Customer's consent (which shall not be unreasonably withheld) includes and provides in the Installation Cost, alternate equipment and/or structural retrofits or other requirements specified in the structural engineering report for the Energy System that render the Site suitable for installing the Energy System).
- b. Customer may terminate this Agreement by giving written notice to Seller at any time prior to the Final Project Completion date for Project 1 (or the Project if Project 1 and Project 2 have been combined into a single Project): (i) if Seller has breached any representation, warranty or covenant contained in this Agreement in any material respect, Customer has notified Seller of such breach, and the breach has continued without cure by Seller or written waiver by Customer for a period of thirty (30) days after the notice of breach; or (ii) after sixty (60) days' prior notice to Seller if Seller has not achieved Final Project Completion on or prior to December 31, 2019.
- c. Seller may also terminate this Agreement in the event Customer has breached any representation, warranty or covenant contained in this Agreement in any material respect, Seller has notified Customer of the breach, and the breach has continued without cure by Customer or written waiver by Seller for a period of thirty (30) days after the notice of breach.
- d. Except as otherwise provided in this Section 15, the termination rights under this Section 15 are cumulative with and in addition to any other rights or remedies to which the Parties may be entitled at law or in equity and in accordance with the terms of this Agreement.

16. **General.**

- a. **Subordination to Utility Rebate Agreement.** No portion of this Agreement is intended to conflict with any Utility Rebate Agreements (the "**Utility Rebate Agreements**") to which Seller or Customer is a party. In the case of a conflict between the terms or conditions of this Agreement and the Utility Rebate Agreements, the terms and conditions of Utility Rebate Agreements shall control. The utility, or its successors and assigns, is a third-party

beneficiary of the provision of this paragraph. Nothing in this Agreement shall prevent the utility, from fully enforcing the terms and conditions of Utility Rebate Agreements.

- b. **Relationship of the Parties.** The Parties shall for all purposes be considered independent contractors with respect to each other, and neither shall be considered an employee, employer, agent, principal, partner or joint venturer with or of the other.
- c. **Entire Agreement.** This Agreement and all the schedules, exhibits, and attachments hereto, together with any agreements referenced herein, constitute the entire agreement and understanding of the Parties relative to the subject matter hereof. The Parties have not relied upon any promises, representations, warranties, agreements, covenants or undertakings, other than those expressly set forth or referred to herein. This Agreement replaces and supersedes any and all prior oral or written agreements, representations and discussions relating to such subject matter.
- d. **Survival of Representations.** All representations, warranties, covenants and agreements of the Parties contained in this Agreement, or in any instrument, certificate, exhibit or other writing provided for in it, shall survive the execution of this Agreement and the consummation of the transactions contemplated herein.
- e. **Amendment.** This Agreement may be amended or modified only by a document executed by the Parties. No custom or practice of the Parties at variance with the terms hereof shall have any effect of waiver or consent.
- f. **Notices.** All notices to be given under this Agreement shall be in writing and shall be effectively given upon personal delivery, facsimile or email transmission (with confirmation of receipt), delivery by overnight delivery service or three days following deposit in the United States Mail (certified or registered mail, postage prepaid, return receipt requested).
- g. **No Delay.** No delay or failure on the part of any Party hereto to exercise any right, power or privilege hereunder shall operate as a waiver thereof.
- h. **Force Majeure.** Neither Party will be liable to the other Party for any delay, error, failure in performance or interruption of performance resulting from causes beyond its reasonable control, including without limitation fires, flood, accidents, explosions, sabotage, strikes or other labor disturbances, product unavailability, labor unavailability, civil commotion, riots, invasions, wars, acts of God, terrorism, or any cause (whether similar or dissimilar to the foregoing) beyond the reasonable control of the Parties.
- i. **Governing Law / Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota without regard to its conflicts of laws principals. Any lawsuit arising out of this Agreement shall be brought only in a court of general jurisdiction in Hennepin County, Minnesota.
- j. **Severability.** The provisions of this Agreement are severable. If any part of this Agreement is rendered void, invalid or unenforceable, such rendering shall not affect the validity and enforceability of the remainder of this Agreement.
- k. **Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns.



Neither Party shall assign this Agreement, or any portion thereof, without the prior written consent of the other Party, provided Seller may assign this Agreement in connection with the sale of any or all of its assets to a third party or Bank. Any attempted assignment or transfer without prior written consent of the other Party shall be of no force or effect. As to any permitted assignment: (a) reasonable prior notice of any such assignment shall be given to the other Party; and (b) any assignee shall expressly assume the assignor's obligations hereunder, unless otherwise agreed to by the other Party in writing.

- l. **Marketing and Promotion.** Seller shall not use Customer's name, image or likeness in connection with advertising and promoting the Project or the Energy System without Customer's approval, which shall not be unreasonably withheld.
- m. **Data Practices.** Pursuant to Minnesota Statutes, Section 13.05, subd. 11, all of the data created, collected, received, stored, used, maintained, or disseminated by Seller in performing this Agreement is subject to the requirements of the Minnesota Government Data Practices Act ("MGDPA"), Minnesota Statutes Chapter 13, and Seller must comply with those requirements as if it were a government entity. The remedies in Minnesota Statutes, Section 13.08 apply to Seller. Seller does not have a duty to provide access to public data to the public if the public data are available from the Customer, except as required by the terms of this Agreement.
- n. **Proprietary Information.** Information claimed by Seller to be proprietary, trade secret or business data shall be governed by the standards required for "Trade Secret Information" as defined in MGDPA, Section 13.37(b) and as it may otherwise be referenced in the MGDPA. All of the data created, collected, received, stored, used, maintained, or disseminated by or to the Customer under this Agreement is subject to the requirements of the MGDPA. The Parties acknowledge that the classification of any government data is governed by the MGDPA and not by the understanding of either the Customer or the Seller. Notwithstanding any other provision in this Agreement, the Customer's obligation is to maintain and release the data in a manner that is consistent with the MGDPA, provided, however, that Customer agrees to provide prompt written notice to the Seller when Customer receives a request under the MGDPA for data concerning the terms of the Agreement, including the Agreement itself ("Contract Data"), not including presentations, memoranda and information previously disclosed publicly. When Customer receives a request for Contract Data, Customer shall notify Seller of the request promptly in writing. Customer shall reasonably wait to disclose the Contract Data until the later of (i) Seller getting a judicial determination by a judicial officer, arbitrator, or administrative law judge on the public or nonpublic designation of the Data or (ii) the last day that, in Customer's sole discretion, Customer must make such disclosure to avoid being at risk of a successful claim from the requester that Customer is in violation of the MGDPA. Customer remains solely responsible for the initial determination of whether the requested Contract Data is public or private/nonpublic, but the parties acknowledge that any final determination by a judicial officer, arbitrator, or administrative law judge, or appellate review thereof, will control. If the Customer determines that some or all of the Contract Data is public under section 13.03 of the MGDPA, Customer shall provide prompt written notice to Seller prior to Customer's disclosure of such data so that Seller, its

sole expense, shall have the opportunity to object to such disclosure in writing and seek a determination by a judicial officer, arbitrator, or administrative law judge that such data constitutes trade secret information or business data under the MGDPA and therefore cannot be disclosed under the MGDPA. In no event shall Customer be required by the Seller under this Agreement to withhold or delay disclosure of public data contrary to requirements of the MGDPA. Notwithstanding the notice and timing provisions in this Subsection 16 n., Customer shall not be liable to Seller for any failure to give notice or otherwise to timely respond to Seller regarding a third-party request for data. Seller's claims against the Customer shall be limited to private actions it may have, if any, for Customer's failure to follow the MGDPA.

- o. **Record Keeping Availability and Retention.** Pursuant to Minnesota Statutes, Section 16C.05, subd. 5, Seller agrees that the books, records, documents and accounting procedures and practices of Seller, that are relevant to the Agreement or transaction, are subject to examination by the Customer and the state auditor for a minimum of six (6) years. Seller shall maintain such records for a minimum of six (6) years after final payment.
- p. **Non-Discrimination.** Pursuant to Minnesota Statutes, Section 181.59, the Seller will take affirmative action to ensure that applicants are selected, and that employees are treated during employment, without regard to their race, color, creed, religion, national origin, sex, sexual orientation, marital status, status with regard to public assistance, membership or activity in a local civil rights commission, disability or age. The Seller agrees to be bound by the provisions of Section 181.59, that prohibits certain discriminatory practices and the terms of said section are incorporated into this Agreement.

The Parties hereto have caused this Agreement to be duly signed in their respective names effective the date first written above.

Seller  
**IDEAL ENERGIES, LLC**

By: \_\_\_\_\_  
Chris Psihos, its President

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

Customer  
**City of Richfield**

**SIGN HERE**

By: \_\_\_\_\_  
Pat Elliott, its Mayor

By: \_\_\_\_\_  
Steve Devich, its City Manager

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



## SCHEDULE A

### System Components

**Project 1 (Energy System 1)** is comprised of the following System Components:

1. UL Listed and approved Solar Panels: **54 - SilfabSLG370M @ 370 kW DC each**
2. UL listed and approved DC/AC inverters: **1 - SolarEdge SE20k 480V 3Ph Inverter @ 20.00 kW AC each**
3. Power Optimizers: **27 - SolarEdge P800 Power Optimizers**
4. Solar Panel Racking / mounting system: **IronRidge, S5! Clips W/ Unistrut Flushmount Racking or equivalent @ approximately 15°**
5. Electrical components including but not limited to conductive wiring, ground circuitry, conduit, junction boxes, disconnects, switches, over-current protection, and any associated hardware necessary to complete the installation of the solar electric modules and interconnect with the Site's existing electric service.
6. Monitoring equipment and web-based remote system monitoring. Customer is responsible for bringing and providing internet service at the installation location (typically the electrical room).

**Project 2 (Energy System 2)** is comprised of the same System Components and quantities described as **Project 1 above**.

The Parties agree that the Energy System does **NOT** include the following unless purchased as an option (except where Seller includes them in the Installation Costs):

1. Any structural improvements to the building required to support the Energy System and the System Components, or any fencing for groundmounted installations, if required.
2. Batteries or emergency back-up power capability.
3. Any upgrades to Customer's electrical service to bring their service up to code.
4. Third-party fees for web-based monitoring of the Energy System.

## SCHEDULE B

### Contact Information for Parties

**Site Owner:**

**City of Richfield**

6700 Portland Avenue, Richfield, MN 55423

**Customer's Authorized Representative:**

**Chris Link**

612-861-9174

**Seller/Installer:**

**Ideal Energies, LLC**

Chris Psihos t. (612)928-5008

chris.psihos@idealenergies.com

5810 Nicollet Avenue Minneapolis, MN 55419

**Project Electrician(s):**

**Green<sup>2</sup> Electric, LLC**

Joaquin Thomas, Master Electrician

Russell Goetz, Master Electrician

t. (612)928-5008 f. (612)928-5009

5810 Nicollet Avenue Minneapolis, MN 55419

License **EA719118**

## **SCHEDULE C**

### **Scope of Work**

#### **A. Design Scope**

1. Seller will prepare structural and electrical Design Documents describing the Project.
2. Seller will comply with all building codes and, as necessary, obtain any code variances.
3. Seller will ensure that the Energy System installation meets then current National Electrical Code requirements.
4. Seller will apply for all permits, and complete inspections to close such permits after Project Completion.
5. Seller will apply for interconnection of the Energy System and net metering with the local utility.

#### **B. Installation**

1. Seller will furnish and install all required material or equipment for a complete installation.
2. Seller will connect the Energy System to Customer's electric panel.
3. Seller will commission and test the Energy System after installation.
4. Electrical interconnections will be performed by licensed electricians.
5. Except as provided in the Purchase Agreement, the Parties agree that Seller will not be liable for any indirect or consequential losses incurred by Customer as a result of the Energy System installation. Such losses may result from disruption of operations, interruption of electrical service, suspension of mechanical services and other interruptions reasonably related to standard Energy System installation of the size and type contemplated by the Project. Seller shall be responsible for any damage to the Site caused by Seller or its subcontractors, suppliers or representatives. Customer shall have the right to recover monetary damages or seek specific performance, for any Seller breach in the installation, maintenance or repair of the Energy System causing damages to the Site.

#### **C. Safety**

1. Seller will adhere to all current safety laws including without limitation federal, state and local safety regulations.
2. Seller's workers will conform to standard OSHA safety practices and procedures during installation.

#### **D. General**

1. Seller will provide all required design, engineering, construction, administration and management services necessary to complete the Project.
2. Seller will take all action reasonably necessary or required to bring the Project to commercial operation.
3. Seller will provide to Customer copies of all operating and maintenance manuals and third-party warranties.
4. Customer is responsible for scheduling and completing, if necessary, the energy audit required for purposes of the Rebates.

## SCHEDULE D

### Seller's Warranties

**Engineering and Design Services Warranty** Seller warrants that it will perform the engineering and design services in a professional and workmanlike manner using the degree of care, skill, prudence, judgment and diligence that a reasonable, qualified and competent provider of similar services would exercise. Except as otherwise provided herein, during the period beginning on the Final Project Completion date and ending five years later (the "**Warranty Period**"), it is shown that there was an error in such engineering and design services as a result of Seller's failure to meet those warranty standards, and if Customer properly notifies Seller within the Warranty Period, Seller will, at its own expense and at no cost to Customer, re-perform such services to remedy such error within a reasonable timeframe.

**Installation Services Warranty** Seller warrants that it will perform the installation services in a professional and workmanlike manner using the degree of care, skill, prudence, judgment and diligence that a reasonable, qualified and competent provider of similar services would exercise. Except as otherwise provided herein, if during the Warranty Period it is shown that there was an error in such installation services as a result of Seller's failure to meet those standards, and if Customer properly notifies Seller within the Warranty Period, Seller will, at its own expense and at no cost to Customer, re-perform such services to remedy such error within a reasonable timeframe.

**Limited System Components Warranty** Seller warrants that the System Components will be new and not physically damaged by Seller at the time of Final Project Completion. If Customer notifies Seller within a reasonable timeframe after Final Project Completion that any System Components were not new or are physically damaged by Seller at the time of Final Project Completion, Seller shall replace such System Components within a reasonable timeframe with System Components that are new and undamaged.

**Roof Warranty** Except as otherwise provided herein, if during the Warranty Period it is shown that the roof leaks solely as a result of Seller's installation of the Energy System, and if Customer properly notifies Seller within the Warranty Period, Seller will, at its own expense and at no cost to Customer, promptly repair the roof so that it does not leak; provided that such leaking is not due to normal wear and tear.

**Limitation on Warranties** The above warranties do NOT cover damage, malfunctions or services failures to the extent caused by:

1. Failure to follow the any applicable operations or maintenance manual or any other maintenance instructions provided by Seller or the manufacturer of the System Components, or failure to maintain or operate the Energy System;
2. Repair, modification, maintenance, movement or relocation of the Energy System or the System Components by someone other than a service technician approved by Seller or the manufacturer of the System Components;
3. Attachment or connection to the Energy System of any equipment not supplied by Seller, or the use of the Energy System for a purpose for which the Project was not intended;
4. Abuse, misuse or acts of Customer or any third person (other than Seller or its employees or agents), including intentional damage, theft or vandalism; or
5. Damage or deteriorated performance of the Energy System or Site caused by electrical surges, building settling, building component failure, work done on the building or adjacent structures, use of machinery or vehicle in the area, winds in excess of the system design rating, lightning, fire, flood, extreme weather conditions, pests, tornadoes, hurricanes, hail, storms, explosions, earthquakes, ground subsidence, falling debris, accidental breakages (not caused by Seller or its employees or agents), normal wear and tear, and other events or accidents outside the reasonable control of Seller.

**Customer's Right to Remedy** In the event that Seller fails to remedy any breach of warranty within the prescribed timeframe under this **Schedule D** or such breach threatens imminent harm to Customer or its property, Customer shall have the right to employ any reasonable means necessary to remedy such breach, and Seller shall reimburse Customer for all reasonable and necessary expenses incurred by Customer in carrying out such remedy. The Warranties in this Schedule D are separate from and in addition to any manufacturer's or other warranty for the Energy System or components thereof, and Purchaser may prosecute any and all such warranties, including these Warranties, concurrently and in complement to the other(s).

## Facility Lease Agreement

19.980 kW DC SilfabSLG370M,  
20.00 kW AC SolarEdge SE20k 480V 3Ph Inverter(s),  
SolarEdge P800 Power Optimizers & IronRidge, S5! Clips  
W/ Unistrut Flushmount Racking or equivalent @  
approximately 15°

### Xcel SolarRewards

This **FACILITY LEASE AGREEMENT** (this "Lease"), dated **June 19, 2018** ("Effective Date"), is between **Green2 Solar Leasing, LLC**, a Minnesota Limited Liability Company, whose principal place of business is located at **5810 Nicollet Avenue, Minneapolis, MN 55419** ("Tenant"), and **City of Richfield**, a Minnesota City, whose principal place of business is located at **6700 Portland Avenue, Richfield, MN 55423** ("Customer"). The Tenant and Customer are sometimes also referred to in this Lease jointly as "**Parties**", or individually as a "**Party**".

### RECITALS

- A. Customer is the owner of certain real property located at **0** (the "**Site**") presently used as a(an) **Pool** (the "**Property**"); and
- B. Tenant desires to lease from Customer, and Customer desires and is authorized to lease to Tenant, subject to the terms and conditions of this Lease, a portion of the Property for the construction, operation and maintenance of a photovoltaic solar electric system ("**Energy System**") further described as **Project 1** and **Project 2** in that certain Purchase Agreement (the "**Purchase Agreement**") between Customer and **Ideal Energies, LLC** ("**Seller**") of even date herewith; and
- C. Customer has or will be the **legal owner of the Energy System upon purchase from Ideal Energies, LLC**, and Customer desires to lease the same to Tenant subject to the terms and conditions of this Lease; and
- D. Tenant and Customer will, concurrently with this Lease, enter into a **Power Purchase Agreement** (the "**Power Purchase Agreement**") pursuant to which Tenant will sell power generated by the Energy System to the Customer; and
- E. For federal tax purposes, Customer and Tenant will treat this Lease as a transfer of the ownership of the Energy System from Customer to Tenant; and
- F. The Tenant should be eligible to receive a Federal Tax Credit from the U.S. Treasury pursuant to the terms of this Lease equal to **30%** of eligible Installation Cost of any Energy System ("**Tax Credit**") that is put into service during **2018 or 2019**.

### LEASE AGREEMENT

**NOW, THEREFORE**, in consideration of the foregoing Recitals, the mutual promises of the Parties hereto and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Lease Contingency.** The Parties performance under this Lease is contingent on Final Project Completion (as defined in the Purchase Agreement) occurring for Project 1 in accordance with the terms of the Purchase Agreement.
2. **Lease of Energy System and Leased Space.** Customer hereby leases to Tenant, and Tenant hereby leases from Customer the (a) the Energy System and (b) all roof/ground

<b>Customer / Owner</b>	<b>City of Richfield</b>
<b>Installation Location / Site</b>	0
<b>Xcel Premise #</b>	0

space required for the installation and operation of the Energy System on the Property ("**Leased Space**") as generally prescribed on the Plan View drawing included herewith as **Schedule A**, including rights to place wiring to the point of electrical interconnection. The Energy System and the Leased Space together constitute the leased property ("**Leased Property**"). The final As-Built Plan View drawing provided to Customer by Seller in its Operations Manual after Final Project Completion occurs is hereby incorporated into Schedule A of this Lease by reference.

### 3. System Payments, Tax Ownership.

- a. **Installation Cost Payment.** Tenant will pay Customer's Installation Cost (as defined in the Purchase Agreement) for Project 1 and Project 2 on their respective Final Project Completion dates.
- b. **Transfer of Tax Ownership.** The Parties shall treat the Energy System as having been sold to the Tenant for federal tax purposes in consideration of the payment(s) made under Section 3(a) above.
4. **Rebate.** The Rebate, as defined in the Purchase Agreement, (the "**Rebate**") is irrevocably assigned to Tenant as additional consideration and will be treated by Tenant as a fee earned for services. In the event the actual Rebate received is greater or less than the expected Rebate described in the Purchase Agreement, there will be no adjustment to the Rebate or the terms of this Lease, and each Party waives its right to recover any surplus or deficiency from the other Party.
5. **Access to Leased Space.** Customer grants to Tenant the right to access the Leased Space via reasonable route or routes over and across the Property upon reasonable prior notice to Customer. Customer will cooperate with Tenant to access the meter or any other part of the Energy System which is not located within the Leased Property.
6. **Permitted Use of Leased Space.** During the Term (as defined below) and subject to Customer rights set forth in this Lease, Tenant shall have the exclusive right to use the Leased Space for the construction, installation, operation, maintenance, repair, replacement, relocation, reconfiguration, removal, alteration, modification, improvement, use and enjoyment of the Energy System (and other necessary and incidental uses for the operation of the Energy System) to fulfill Tenant's obligations under this Lease and the Power Purchase Agreement (the "Permitted Uses"). Tenant may not erect any other facilities or use any other equipment on the Leased Space that is not expressly permitted under the terms of this Lease without first obtaining Customer's written consent, which consent shall not be unreasonably withheld, delayed or conditioned provided the other facilities or equipment are necessary for the operation of the Energy System and are not likely, in Customer's reasonable opinion, to damage the Property or interfere with Customer's business. Customer shall at all times have absolute and paramount right to operate the

Site and Tenant's activities shall not materially interfere in any way with Customer's operation of the same. This right shall supersede any other rights granted to Tenant in this Lease.

7. **Term.** The term (the "**Term**") of this Agreement for each Energy System shall begin on the date that Final Project Completion occurs for such Energy System and shall terminate on the date that is **twenty (20)** years after such Final Project Completion date. Energy Systems installed as separate Projects with different Final Project Completion dates will have different Term start and end dates. If the Power Purchase Agreement is terminated by either party, this Lease shall terminate.
8. **Rent of Leased Space.** Beginning on the first anniversary of the Final Project Completion for Project 1 and continuing on each and every anniversary thereof throughout its Term, Tenant shall pay to Customer Rent for the Leased Space. Leased Space Rent for **Project 1** shall be **\$45.00** per year. If **Project 2** is installed, the Leased Space Rent for **Project 2** shall be an additional **\$45.00** per year.
9. **Rent of Energy System.** Beginning on the first anniversary of the Final Project Completion for Project 1 and continuing on each and every anniversary thereof throughout its Term, Tenant shall pay to Customer Rent for the Energy System. Energy System Rent for **Project 1** shall be **\$5.00** per year. If **Project 2** is installed, the Energy System Rent for **Project 2** shall be an additional **\$5.00** per year.
10. **Holdover.** If Tenant holds over any tenancy after expiration of any Term, such tenancy shall be month-to-month subject to the terms and conditions of this Agreement. Either Party may terminate such month-to-month tenancy at any time upon the giving to the other Party no less than thirty (30) days written notice.
11. **Operating Permits.** Tenant shall, at its sole expense, maintain in full force and effect all certificates, permits and other approvals ("**Operating Permits**") required by any federal, state or local authorities ("**Governmental Authorities**") having jurisdiction over Tenant or the Leased Property.
12. **Energy System Title and Condition on Lease Termination.** The Parties agree that legal title to any and all fixtures, equipment, improvements or personal property of whatsoever nature at any time constructed or placed on or affixed to the Leased Space by Tenant, including without limitation the Energy System and its System Components, shall be and remain with System Owner. Tenant shall leave the Energy System at the end of this Agreement in substantially the same condition as existed on the Final Project Completion date(s) plus any improvements, ordinary wear and tear and casualty damage excepted.
13. **Energy System Operation and Maintenance.**
  - a. **Operation and Maintenance of the Energy System.** Tenant will at its sole cost and expense operate the Energy System, monitor the system's performance and keep and maintain the Energy System in good condition and repair utilizing the Maintenance List provided in **Schedule B** herewith as a guideline, with strict adherence hereto not expected by the Parties. Customer is solely responsible for pursuing any available warranties on System Components against the manufacturer at its own expense, and may look only to such manufacturer, and not to Tenant, for any warranty with respect thereto. Tenant will assist Customer in resolving any warranties relating to System Components on a time and material basis. Should such services be required, Tenant will provide the labor at reasonably discounted market rates and pass through its

direct expenses at Tenant's actual cost. Notwithstanding the foregoing or anything in this Lease to the contrary, nothing in this Lease shall prohibit, impair, or otherwise affect adversely, Customer's right to operate, maintain, repair or improve the buildings on which Energy Systems will be installed or the Customer's exercise of its governmental, regulatory, or proprietary authority ("**Exercise**") without triggering an Event of Default in this Lease. This Exercise right specifically includes, but is not limited to, emergency measures that Customer, in its sole discretion, may deem necessary for the health and safety of the public. Customer agrees to provide prompt notice to Tenant of the potential Exercise, if it may impact the terms of this Lease. Upon notice to Tenant of a possible Exercise, Tenant and Customer shall meet and confer regarding options available to eliminate or mitigate the impact of the Exercise on Tenant, which shall include consideration of any recapture of Tenant's Tax Credits during the first five years occurring following the Final Project Completion Date, and the Tenant's non-receipt of Power Payments and Rebates Tenant would reasonably have received but for the occurrence of Customer's Exercise. Customer shall use best efforts to identify and facilitate the relocation of any Energy System or portion of an Energy System affected by the Exercise, including payment of Tenant's reasonable cost of such relocation, or agreeing to an expansion of the total Energy System on reasonable terms that eliminate or mitigate the effect of the Exercise. If Customer and Tenant cannot agree on Agreement modification resulting from an Exercise, the Parties agree to retain and share the cost of a mediator and continue good faith efforts to equitably resolve the impact of the Exercise on Tenant.

- b. **Operation and Maintenance Standard of Care.** Tenant will use commercially reasonable efforts to identify, respond to, and complete necessary maintenance and repairs and to operate the Energy System to maximize its energy production. Notwithstanding the foregoing, the Parties understand that delays may be caused by multiple causes including without limitation delay in the identification of operational issues, troubleshooting issues, warranty replacement, warranty procurement, parts availability, parts delivery, crew availability, equipment defects, equipment performance, internet downtime, and similar causes.
- c. **Energy System Casualty.** In the case of casualty to the Energy System, Tenant agrees to repair the Energy System with proceeds described in Section 17a. Said Proceeds will be provided to Tenant to make the repairs caused by the casualty. Tenant shall repair, at Tenant's expense, any damage to the Leased Space that results from the Tenant's repair, reconfiguration, alteration, modification or replacement of any Energy System.
14. **Repair of Leased Space During Term.** Customer shall have the right at any time to access the Leased Space to inspect, maintain, replace or repair items and components thereof, excluding the Energy System. ("**Customer Maintenance**"). Customer Maintenance shall include temporary removal such components of the Energy System that interfere with Customer Maintenance of the Leased Space, and the replacement of such components upon completion. Customer shall provide thirty (30) days prior notice of any scheduled Customer Maintenance, except in the case of an emergency, the Customer shall give notice as soon as possible. Customer, at its own cost, will perform Customer Maintenance, and use Seller or, another third party approved by Tenant to perform Customer Maintenance (Tenant's approval of third parties will

not be unreasonably withheld). The Customer Maintenance will be performed at Tenant's expense to the extent the Customer Maintenance was required as a result of damage to the Leased Space caused by the Energy System. Tenant will reimburse Tenant for any lost Rebate revenue resulting from the Energy System being non-operational in excess of forty-five (45) days, excluding any downtime resulting from damage to the Leased Space caused by the Energy System.

15. **Utilities/taxes.** Tenant shall pay all applicable taxes, assessments, or similar levied against the Energy System and other personal property located and/or installed on the Site by the Tenant due at the time of Final Project Completion. Customer shall pay applicable taxes, assessments, or similar levied against the Energy System and other personal property located and/or installed on the Site by the Tenant that are assessed after the Final Project Completion. Notwithstanding the foregoing, Tenant shall pay all personal or property taxes after Final Project Completion that are levied on any rent payments paid to Customer pursuant to this Lease. Any payments due under this paragraph shall be made by Tenant within the later of 30 days after receipt of written notice thereof (together with a copy of the applicable tax bill) from Customer or otherwise or resolution of any contest hereunder.

16. **Interference.**

- a. **Interference by Tenant.** Tenant shall operate the Energy System in a manner that will not unreasonably interfere with any existing operations or equipment located, operated or owned by Customer or any other permitted occupants as of the date of this Lease ("**Existing Operations**"). All operations by Tenant shall be lawful and in material compliance with all regulations and requirements of the Minnesota Public Utilities Commission, as well as any other applicable state, federal or local regulations and requirements ("**Legal Requirements**") and any applicable agreements with, or tariffs of, the local utility.
- b. **Interference by Customer.** Subject to paragraph 1 of this Agreement, following the installation of any Energy System, Customer shall not, and shall not cause or permit any other persons or parties to, install equipment or facilities or construct or allow any construction of a structure or structures ("**New Construction**") near the Leased Space if such New Construction will interfere with the Energy System or its performance. Customer shall not move, modify, remove, adjust, alter, change, replace, reconfigure or operate the Energy System or any part of it during the term of the Lease without prior written direction or approval of Tenant, except if there is an occurrence reasonably deemed by Customer to be a bona fide emergency, in which case Customer will immediately notify Tenant of such emergency and Customer's proposed actions. Customer shall be responsible for, and promptly notify Tenant, of any damage to the Energy System caused by the Customer or its employees, invitees or agents, and shall promptly pay Tenant the costs to repair such damage to the Energy System, along with any lost Rebate revenue.

17. **Insurance.**

- a. **General Liability and Property Insurance.** Customer shall keep the Energy System insured against loss by fire, theft, hail and wind and such other hazard as Tenant shall reasonably require with an insurance company acceptable to Tenant in its reasonable discretion, at all times will insure the Energy System at an amount equal to the Installation Cost (as defined in the Purchase Agreement)

and will provide Tenant with a Certificate of Insurance that names Tenant as an additional insured and loss payee. Customer shall also secure and maintain adequate comprehensive general liability insurance against liability related to the Energy System. Customer shall provide Tenant with evidence of having acquired such insurance coverages prior to each Project's Final Project Completion date and on an annual basis thereafter. The loss, injury or destruction of the Energy System shall not release Customer from payment as provided in this Lease. Any insurance policies obtained by Customer shall provide that such policy of insurance cannot be terminated or cancelled by the insurer without thirty (30) days prior written notice to Tenant. Customer is responsible for any deductibles due under the insurance policies for casualties and will pay Tenant said deductible along with insurance proceeds received to repair the Energy System, and Tenant's lost Rebate revenue resulting from the casualty. Customer's failure or refusal to repair and recommission an Energy System following a loss shall constitute a breach of this Lease.

- b. **Workers' Compensation Insurance and Employers' Liability Insurance.** In accordance with Minnesota state law, Tenant shall maintain in force workers' compensation insurance for all of its employees. Tenant shall also maintain employer's liability coverage in an amount of not less than One Million Dollars (\$1,000,000.00) per accident. Tenant shall also secure and maintain adequate comprehensive general liability insurance against liability related to the Leased Premises. Upon request, Tenant will provide Customer with a Certificate of Insurance.
- c. **Tenant Insurance.** At all times during this Lease, Tenant shall, at its own expense, maintain and provide general commercial liability insurance in the amount of \$2,000,000. Upon request, copies of certificates evidencing the existence and amounts thereof shall be delivered to Customer by Tenant. Should any insurance expire or be cancelled during the term of this Lease, Tenant shall provide Customer with renewal or replacement certificates at least 30 days prior to the expiration or cancellation of the original policies.

18. **Indemnification.**

- a. Tenant shall indemnify, defend and hold harmless Customer and its elected officials, officers, consultants, representatives, agents, and employees (each a "Tenant Indemnified Party") against any damages, liabilities, losses, costs and expenses, including reasonable attorney fees and costs (collectively, "Damages") incurred or suffered by any of them in any way arising out of, relating to, or in connection with a third party claim for or (i) any breach of this Agreement by Tenant, or (ii) the negligence, gross negligence or willful misconduct of Tenant or its employees or agents in connection with the transactions contemplated by this Agreement.
- b. Tenant shall defend and indemnify Customer from any mechanic's, materialman's, or other lien with respect to the Property or the Leased Property to the extent such lien is attributable to Tenant's failure to pay Installation Costs or other costs incurred in the performance of Tenant's obligations for maintenance and repair of the Energy System.
- c. Customer shall indemnify, defend and hold harmless Tenant and its officers, directors, members, consultants, representatives, agents, employees and affiliates (each a "**Customer Indemnified Party**") against any Damages

incurred or suffered by any of them in any way arising out of, relating to, or in connection with a third party claim for or of (i) any breach of this Agreement by Customer, or (ii) the negligence, gross negligence or willful misconduct of Customer or its employees or agents in connection with the transactions contemplated by this Agreement.

- d. A Customer Indemnified Party or Tenant Indemnified Party claiming indemnification hereunder must give each Party prompt notice of the relevant claim and each Party agrees to cooperate with the each other Party, at its own expense, in the defense of such claim. Notwithstanding the forgoing, any Party from whom indemnification is sought, shall control the defense and settlement of such claim; provided however that such Party shall not agree to any settlement that materially adversely affects the other Party without the prior written consent of such Party, which approval shall not be unreasonably withheld. Without limiting or diminishing the foregoing, any Party may, at its option and its own expense, participate in the defense of any such claim with legal counsel of its own choice.

#### 19. **General.**

- a. **Subordination to Utility Rebate Agreement.** No portion of this Lease is intended to conflict with any Utility Rebate Agreements (the "Utility Rebate Agreements") to which Tenant or Customer is a party. In the case of a conflict between the terms or conditions of this Agreement and the Utility Rebate Agreements, the terms and conditions of Utility Rebate Agreements shall control. The Utility, or its successors and assigns, is a third-party beneficiary of the provision of this paragraph. Nothing in this Lease shall prevent the Utility, from fully enforcing the terms and conditions of Utility Rebate Agreements.
- b. **Relationship of the Parties.** The Parties shall for all purposes be considered independent contractors with respect to each other, and neither shall be considered an employee, employer, agent, principal, partner or joint venturer of the other.
- c. **Entire Agreement.** This Lease and all the schedules, exhibits and attachments hereto, together with any agreement reference herein, constitute the entire agreement and understanding of the Parties relative to the subject matter hereof. The Parties have not relied upon any promises, representations, warranties, agreements, covenants or undertakings, other than those expressly set forth or referred to herein. This Lease replaces and supersedes any and all prior oral or written agreements, representations and discussions relating to such subject matter.
- d. **Survival of Representations.** All representations, warranties, covenants and agreements of the Parties contained in this Lease, or in any instrument, certificate, exhibit or other writing provided for in it, shall survive the execution of this Lease and the consummation of the transactions contemplated herein.
- e. **Amendment.** This Lease may be amended or modified only by a writing executed by the Parties to this Lease. No custom or practice of the Parties at variance with the terms hereof shall have any effect.
- f. **Notices.** All notices to be given under this Lease shall be in writing and shall be effectively given upon personal delivery, facsimile or email transmission (with confirmation of receipt), delivery by overnight delivery service or three days following deposit in the United States Mail (certified or registered mail, postage prepaid, return receipt requested).
- g. **No Delay.** No delay or failure on the part of any Party hereto to exercise any right, power or privilege hereunder shall operate as a waiver thereof.
- h. **Force Majeure.** Neither Party will be liable to the other Party for any delay, error, failure in performance or interruption of performance resulting from causes beyond its reasonable control, including without limitation fires, flood, accidents, explosions, sabotage, strikes or other labor disturbances, civil commotion, riots, invasions, wars, acts of God, terrorism or any cause (whether similar or dissimilar to the foregoing) beyond the reasonable control of the Party.
- i. **Governing Law / Venue.** This Lease shall be governed by and construed in accordance with the laws of the State of Minnesota without regard to its conflicts of laws principals. Any lawsuit brought in connection with this Lease shall be brought only in a court of general jurisdiction in Hennepin County, Minnesota.
- j. **Severability.** The provisions of this Lease are severable. If any part of this Lease is rendered void, invalid or unenforceable, such rendering shall not affect the validity and enforceability of the remainder of this Lease.
- k. **Successors and Assigns.** This Lease shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns. Neither Party shall assign this Lease, or any portion thereof, without the prior written consent of the other Party. Any attempted assignment or transfer without such prior written consent of the other Party shall be of no force or effect. As to any permitted assignment: (a) reasonable prior notice of any such assignment shall be given to the other Party; and (b) any assignee shall expressly assume the assignor's obligations hereunder, unless otherwise agreed to by the other Party in writing. Notwithstanding the foregoing, as may be required for Tenant to avoid being classified as a Public Utility under Minnesota Statutes Chapter 216B.02, Subd. 4., or to leverage tax benefits as tax owner, Tenant may, at its sole discretion, assign and/or sublease all or part of its full interest under this Lease to a controlled affiliate of Tenant, assign its rights under the Power Purchase Agreement a controlled affiliate of Tenant, or assign this Lease in connection with any sale of any or all of its Assets to a third party or Bank.
- l. **Quiet Possession.** Customer agrees that upon compliance with the terms and conditions of this Lease, Tenant shall peaceably and quietly have, hold and enjoy the Leased Space for the Term and any extensions thereof.
- m. **Data Practices.** Pursuant to Minnesota Statutes, Section 13.05, subd. 11, all of the data created, collected, received, stored, used, maintained, or disseminated by Tenant in performing this Lease is subject to the requirements of the Minnesota Government Data Practices Act ("MGDPA"), Minnesota Statutes Chapter 13, and Tenant must comply with those requirements as if it were a government entity. The remedies in Minnesota Statutes, Section 13.08 apply to Tenant. Tenant does not have a duty to provide access to public data to the public if the public data are available from the Customer, except as required by the terms of this Lease.
- n. **Proprietary Information.** Information claimed by Tenant to be proprietary, trade secret or business data shall be

governed by the standards required for "Trade Secret Information" as defined in MGDPA, Section 13.37(b) and as it may otherwise be referenced in the MGDPA. All of the data created, collected, received, stored, used, maintained, or disseminated by or to the Customer under this Agreement is subject to the requirements of the MGDPA. The Parties acknowledge that the classification of any government data is governed by the MGDPA and not by the understanding of either the Customer or the Tenant. Notwithstanding any other provision in this Agreement, the Customer's obligation is to maintain and release the data in a manner that is consistent with the MGDPA, provided, however, that Customer agrees to provide prompt written notice to the Tenant when Customer receives a request under the MGDPA for data concerning the terms of the Agreement, including the Agreement itself ("Contract Data"), not including presentations, memoranda and information previously disclosed publicly. When Customer receives a request for Contract Data, Customer shall notify Tenant of the request promptly in writing. Customer shall reasonably wait to disclose the Contract Data until the later of (i) Seller getting a judicial determination by a judicial officer, arbitrator, or administrative law judge on the public or nonpublic designation of the Data or (ii) the last day that, in Customer's sole discretion, Customer must make such disclosure to avoid being at risk of a successful claim from the requester that Customer is in violation of the MGDPA. Customer remains solely responsible for the initial determination of whether the requested Contract Data is public or private/nonpublic, but the parties acknowledge that any final determination by a judicial officer, arbitrator, or administrative law judge, or appellate review thereof, will control. If the Customer determines that some or all of the Contract Data is public under section 13.03 of the MGDPA, Customer shall provide prompt written notice to Tenant prior to Customer's disclosure of such data so that Tenant, at its sole expense, shall have the opportunity to object to such disclosure in writing and seek a determination by a judicial officer, arbitrator, or administrative law judge that such data constitutes trade secret information or business data under the MGDPA and therefore cannot be disclosed under the MGDPA. In no event shall Customer be required by the Tenant under this Agreement to withhold or delay disclosure of public data contrary to requirements of the MGDPA. Notwithstanding the notice and timing provisions in this Subsection 16 n., Customer shall not be liable to Tenant for any failure to give notice or otherwise to timely respond to Tenant regarding a third-party request for data. Tenant's claims against the Customer shall be limited to private actions it may have, if any, for Customer's failure to follow the MGDPA.

- o. **Record Keeping—Availability and Retention.** Pursuant to Minnesota Statutes, Section 16C.05, subd. 5, Tenant agrees that the books, records, documents and accounting procedures and practices of Tenant, that are relevant to the Lease or transaction, are subject to examination by the Customer and the state auditor for a minimum of six (6) years. Tenant shall maintain such records for a minimum of six (6) years after final payment.
- p. **Non-Discrimination.** Pursuant to Minnesota Statutes, Section 181.59, the Tenant will take affirmative action to ensure that applicants are selected, and that employees are treated during employment, without regard to their race, color, creed, religion, national origin, sex, sexual orientation, marital status, status with regard to public assistance, membership or activity in a local civil rights

commission, disability or age. The Tenant agrees to be bound by the provisions of Minnesota Statutes, Section 181.59, that prohibits certain discriminatory practices and the terms of said section are incorporated into this Lease.

- q. **Contamination Liability.** Tenant shall indemnify, defend, and hold harmless Customer, its officials, employees, agents, and assigns from and against any and all fines, suits, claims, demands, penalties, liabilities, costs or expenses, losses, settlements, remedial action requirements and enforcement actions, administrative proceedings, and any other actions of whatever kind or nature, including attorneys' fees and costs (and costs and fees on appeal), fees of environmental consultants and laboratory fees, known or unknown, contingent or otherwise, arising out of or in any way to the extent arising out of or related to any contamination to the Site caused by the negligence or willful misconduct of Tenant during the term of this Lease, including any personal injury (including wrongful death) or property damage (real or personal) arising therefrom. This paragraph shall survive the termination or earlier expiration of this Lease. For purposes of this paragraph "Contamination" shall be defined as any hazardous substances, hazardous materials, toxic substances or other similar or regulated substances, residues or wastes, pollutants, petroleum products and by-products, including any other environmental contamination whatsoever.
- r. **Compliance with Law.** Tenant agrees to comply with all laws, orders, and regulations of federal, state and municipal authorities and with any lawful direction of any public officer which shall impose any duty upon Tenant with respect to Tenant's use of the Site.

The Parties acknowledge they have read this Agreement, understand it and agree to be bound by its terms and conditions as of the date first set forth above.

Tenant  
**Green2 Solar Leasing, LLC**

By: \_\_\_\_\_  
Rich Ragatz, its Vice President

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

Customer  
**City of Richfield**

By: \_\_\_\_\_  
Pat Elliott, its Mayor

By: \_\_\_\_\_  
Steve Devich, its City Manager

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

**SIGN HERE**



## **SCHEDULE A**

### **Site Plan**

Facility Plan View Drawing Indicating the Final Location of the Energy System on the Leased Space and the point of interconnection of the Energy System with the electrical system at the Property

[The above document is provided by Seller, and is included in the Owner's Manual that is provided to the Customer after Final Project Completion]

## **SCHEDULE B**

### Maintenance Items

- A. Weekly performance monitoring via online monitoring system to validate performance of panels and inverters, energy production; benchmark performance vs. similar systems for validation
- B. Identify any defective equipment via on-line monitoring system
- C. Semi-annual Site audits of system performing the following tasks
  - i. Inspect panels, inverters, and racking for physical damage
  - ii. Clean any debris on or under the solar arrays
  - iii. Ensure labels are intact
  - iv. Check for loose hanging wires, repair as necessary
  - v. Check electrical connections; tighten/torque as necessary
  - vi. Check for corrosion of electrical enclosures, repair as necessary
  - vii. Ensure roof drainage is adequate, that roof drains are not clogged, and confirm there are no signs of pooling water in the vicinity of the solar array
- D. Management of System Component Warranty Claims

**Power Purchase Agreement**

19.980 kW DC SilfabSLG370M,  
 20.00 kW AC SolarEdge SE20k 480V 3Ph Inverter(s),  
 SolarEdge P800 Power Optimizers & IronRidge, S5! Clips  
 W/ Unistrut Flushmount Racking or equivalent @  
 approximately 15°

**Xcel SolarRewards**

This **POWER PURCHASE AGREEMENT** (this "**Agreement**"), dated **June 19, 2018** ("**Effective Date**"), is between **Green2 Solar Leasing, LLC** a Minnesota Limited Liability Company, whose principal place of business is located at **5810 Nicollet Avenue, Minneapolis, MN 55419** ("**Tenant**"), and **City of Richfield**, a Minnesota City, whose principal place of business is located at **6700 Portland Avenue, Richfield, MN 55423** ("**Customer**"). Tenant and Customer are sometimes also referred to in this Agreement jointly as "**Parties**", or individually as a "**Party**".

**RECITALS**

- A. Tenant leases, operates and maintains Customer's photovoltaic solar electric system (the "**Energy System**") (as further described as Project 1 and Project 2, and as located at the installation location described above (the "**Site**") described above, all of which are defined in that certain **Purchase Agreement** (the "**Purchase Agreement**") between Customer and **Ideal Energies, LLC** ("**Seller**") of even date herewith) pursuant to a Facility Lease Agreement (the "**Lease**") between the Parties of even date herewith; and
- B. Tenant desires to sell renewable electric power to Customer, inclusive of all rights to its available environmental attributes, and Customer desires to purchase from Tenant all such electricity which is produced by the Energy System; and
- C. Tenant or its affiliate has, or will, apply for the "**Rebate**" (as defined in the Purchase Agreement) on behalf of Customer. After award of the Rebate and before the Final Project Completion date for each Energy System (as defined in the Purchase Agreement), Customer will enter into an agreement(s) ("**Utility Agreement**") with the local utility ("**Utility**") pursuant to which Customer will convey to the Utility, as may be required by the Utility Agreement, all Renewable Energy Credits ("**RECs**") for electricity produced by the Energy System for the term specified in the Utility Agreement; and
- D. The Customer may be eligible to participate in the Utility's **Net Metering Program**. Under this program, the energy generated from an Energy System is available for use and to reduce the total amount of energy that Customer needs to purchase from the Utility. Under this program, for months where the Energy System produces more kWh than the Site consumes, the Utility will compensate Customer at the applicable Net Metering rate; and
- E. Pursuant to the Lease, the Tenant may be eligible to receive a Federal Tax Credit from the U.S. Treasury equal to **30%** of eligible Installation Cost of any Energy System ("**Tax Credit**") that is put into service during **2018 or 2019**.

**AGREEMENT**

**NOW, THEREFORE**, in consideration of the foregoing Recitals, the mutual promises of the Parties hereto and for other good and valuable consideration, the receipt and sufficiency of which hereby are acknowledged, the Parties agree as follows:

Customer / Owner	City of Richfield
Installation Location / Site	0
Xcel Premise #	0

1. **Agreement Contingency.** The Parties performance under this Agreement is contingent on Final Project Completion (as defined in the Purchase Agreement) occurring for Project 1 in accordance with the terms of the Purchase Agreement.
2. **Power Purchase.** Tenant shall deliver all power generated from the Energy System to Customer at the point of interconnection shown on Schedule A of the Lease.
  - a. Customer will pay Tenant for all the power generated from the Energy System and delivered to the interconnection point by making the payments specified in **Schedule A** or Schedule A-2 as applicable per section 2.b below (the "**Power Payments**").
  - b. If the Project 1 and Project 2 Final Project Completion dates are different, **Schedule A** will apply for each Project. If the Project 1 and Project 2 Final Project Completion dates are the same, **Schedule A-2** shall apply for the combined Project.
  - c. The Power Payments for each Energy System are due monthly and payable in accordance with the Prompt Payment of Local Government Bills Act, Minnesota Statutes, Section 471.425 ("Act") beginning on the first day of the first month following its Final Project Completion date and continuing each month until expiration of the Term (as defined below) of this Agreement for that Energy System. Power Payments do not include any sales tax. Sales tax will be added to the Power Payments based on Customer's applicable sales tax rate. Payments shall be sent to:
 

**Green2 Solar Leasing, LLC**  
 5810 Nicollet Avenue  
 Minneapolis MN 55419
3. **Ownership of Renewable Energy Credits.** Customer will, if required by the Utility Agreement, convey to the Utility all RECs generated by the Energy System for the term specified in the Utility Agreement. Subject to any required assignment to the Utility, Customer owns all RECs. For purposes of this Agreement, RECs include all attributes of an environmental or other nature that are created or otherwise arise from the Energy System, including without limitation tags, certificates or similar projects or rights associated with solar energy as a "green" or "renewable" electric generation resource. RECs shall also include any other environmental attribute intended to be transferred to the Utility under the Utility Agreement.
4. **Term.** The term (the "**Term**") of this Agreement for each Energy System shall begin on the date that Final Project Completion occurs for such Energy System and shall terminate on the date that is **twenty (20)** years after such Final Project Completion date, unless otherwise provided in the Agreements. Energy Systems installed as separate Projects with different Final Project Completion dates will have different Term start and end dates.
5. **Late Charge/Costs of Collection.** In the event Customer fails

to make any Power Payment when due and is not subject to a good faith dispute under the Act, Customer agrees to pay interest on the late payment not to exceed five (5%) percent per annum simple interest.

6. **Grant of Security Interest.** In order to secure the payment and performance of all of Customer's liabilities, obligations and covenants under this Agreement or the Lease, Customer hereby grants to Tenant a continuing security interest in all Rebates, in the Energy System, together with all attachments, accessories or replacement parts placed upon the Energy System, and in all proceeds of each of the foregoing.
7. **Insurance.** Customer shall keep the Energy System insured against loss by fire, theft, hail and wind and such other hazards, as required by the Lease.
8. **Events of Customer's Default.** Each of the following shall constitute an event of Customer's default ("**Event of Default**"):
  - a. Customer shall fail to make any payment to Tenant when due under the Act, Tenant has notified the Customer of such failure, and the failure has continued without cure by Customer or written waiver by Tenant for a period of thirty (30) days after the notice of failure;
  - b. The Customer fails to comply with any of its material obligations under any of Customer's agreements with the Utility and such breaches materially affect Tenant's rights in this Agreement.
  - c. Customer's failure or refusal to repair and recommission an Energy System following a casualty loss.
9. **Events of Tenant's Default.** Each of the following shall constitute an event of Tenant's default ("**Event of Default**"):
  - a. Tenant shall fail to make any payment to Customer when due, Customer has notified Tenant of such failure, and the failure has continued without cure by Tenant or written waiver by Tenant for a period of thirty (30) days after the notice of failure;
  - b. Tenant's failure or refusal to repair and recommission an Energy System following a casualty loss.
  - c. Tenant's failure to comply with any of its material obligations under any of the Tenant Agreements that materially affect Customer's rights in this Agreement and are not timely cured.
10. **Remedies.**
  - a. If an Event of breach of this Agreement, the non-defaulting Party may, at its option, exercise any one or more of the following remedies:
    - i. Declare all amounts due or to become due under this Agreement immediately due and payable;
    - ii. Recover any additional damages and expenses sustained by the non-defaulting Party by reason the Event of Default; and
    - iii. Exercise any other remedies available under law or in equity.
  - b. The remedies provided herein shall be cumulative and may be exercised singularly, concurrently or successively with and in addition to all other remedies in law or equity. If either Party fails to perform any of its obligations under this Agreement, the other Party may (but need not) at any time thereafter perform such obligation, and the expenses incurred in connection therewith shall be payable in full by the nonperforming Party upon demand—including but not limited to, the non-defaulting Party's attorney's fees and

costs of collection in pursuing any remedies in which it is the prevailing Party.

11. **PRUDENT PRACTICES WARRANTY; ANNUAL ENERGY PRODUCTION NOT GUARANTEED BY TENANT; TENANT WARRANTS THAT IT'S OPERATION, MAINTENANCE AND REPAIR OF THE ENERGY SYSTEMS WILL, AT ALL TIMES, MEET GENERALLY ACCEPTED INDUSTRY STANDARDS FOR PRUDENT PRACTICES, AS THEY MAY BE DEFINED THROUGHOUT THE TERM OF THIS AGREEMENT. THE PARTIES UNDERSTAND AND AGREE, HOWEVER, THAT THE ANNUAL ENERGY PRODUCTION FROM THE ENERGY SYSTEM MAY VARY FROM TENANT'S ANNUAL PROJECTIONS FOR REASONS BEYOND THE PARTIES CONTROL, INCLUDING WITHOUT LIMITATION, SEASON WEATHER VARIATIONS, ROUTINE AND NON-ROUTINE MAINTENANCE CAUSING DOWNTIME, EQUIPMENT PERFORMANCE, PROCESSING ANY EQUIPMENT WARRANTIES FOR MALFUNCTIONING EQUIPMENT, OR FORCED MAJEURE EVENTS. THE PARTIES UNDERSTAND THAT THE REBATES AND UTILITY BILL CREDITS/SAVINGS ARE PAID/RECOGNIZED PROPORTIONALLY WITH ENERGY SYSTEM ENERGY PRODUCTION, AND THAT THE ACTUAL AMOUNTS RECEIVED BY CUSTOMER WILL VARY ACCORDINGLY. SUCH TO TENANT'S WARRANTY TO EMPLOY PRUDENT PRACTICES, TENANT DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, THAT PRODUCTION WILL MATCH PROJECTIONS. CUSTOMER AND TENANT ASSUME, AT THEIR SOLE RISK, THE VARIABILITY OF ANNUAL ENERGY PRODUCTION AND VARIATIONS FROM ANY FINANCIAL PROJECTIONS RELATING TO UTILITY BILL CREDITS, SAVINGS AND REBATES. NOTWITHSTANDING TENANT'S WARRANTY LIMITS AND DISCLAIMERS, TENANT AGREES THAT ANY MANUFACTURER'S WARRANTY ON THE ENERGY SYSTEM, OR ANY COMPONENT THEREOF, SHALL INURE TO THE BENEFIT OF CUSTOMER AS WELL AS TO TENANT IN THE EVENT OF A MANUFACTURER BREACH OF SUCH WARRANTY. CUSTOMER SHALL RECEIVE TIMELY NOTICE OF CLAIM BY TENANT AGAINST SUCH MANUFACTURER WARRANTY.**
12. **Power Production Adjustment Price Guarantee.**
  - a. In any 12-month period beginning with the applicable Final Project Completion date that the Energy System does not produce at least 900 kWh per KW DC, Tenant will reimburse Customer within 60 days after the then applicable twelve-month period as follows: Total payments made over the then applicable 12-month period \* (1 - (actual kWh/kWDC / 900 kWh/kWDC)). For Example, if a 40 kWDC Energy System produces 800 kWh/kWDC and power payments equaling \$3000 are paid during the then applicable 12-month period a \$333.33 cash reimbursement will be paid to the Customer calculated as follows:  $\$3000 * (1 - 800/900) = \$333.33$ .
  - b. Beginning with the 8<sup>th</sup> year following a Project's final Project Completion Date, Tenant agrees that if the total annual energy payment per kWh price that Customer pays to Tenant for Energy System power production ("**Tenant Rate**") is greater than Customer's total annual payment to the utility per kWh price, as measured by its total annual payment to the utility for kWh Energy Charge, Fuel Cost Charge, Demand Charge, Affordability Charge, Resource Adjustment, Interim Rate Adjustment, and sales tax, minus the total in average kWh Energy Charge price issued to Customer during the same period ("**Utility Rate**"), then Tenant shall pay or credit Customer within sixty (60) days of the measuring period as follows: the total kWh production of the Energy System for the measuring period

times the difference in kWh rate between Tenant Rate and Utility Rate. E.g. 1000 kWh of Energy System power production at \$0.095 per kWh and average kWh price for Utility Rate is \$0.09, then Tenant pays or credits Customer \$90.00.

Minneapolis, MN 55419

**Customer**

City of Richfield  
Attn: City Manager  
6700 Portland Avenue  
Richfield, MN 55423

- c. In the event Tenant makes any payment to Customer pursuant to Section 12b, Tenant may recover the amount paid by collecting additional Power Payments from the Customer. Tenant and Customer will work in good faith to create a schedule for additional monthly Power Payments with the amount of the additional Power Payments not to exceed 80% of the net annual savings achieved for the prior year. See Schedule B1 and B2 for example. This provision survives the termination of this Agreement.

13. **Miscellaneous.**

- a. **Subordination to Utility Rebate Agreement.** No portion of this Agreement is intended to conflict with any Utility Rebate Agreements (the "**Utility Rebate Agreements**") to which Tenant or Customer is a party. In the case of a conflict between the terms or conditions of this Agreement and the Utility Rebate Agreements, the terms and conditions of Utility Rebate Agreements shall control. The Utility, or its successors and assigns, is a third-party beneficiary of the provision of this paragraph. Nothing in this Agreement shall prevent the Utility, from fully enforcing the terms and conditions of Utility Rebate Agreements.
- b. **Relationship of the Parties.** The Parties shall for all purposes be considered independent contractors with respect to each other, and neither shall be considered an employee, employer, agent, principal, partner or joint venturer with or of the other.
- c. **Entire Agreement.** This Agreement and the Agreements as defined in the Purchase Agreement, schedules, exhibits and attachments hereto, constitute the entire agreement and understanding of the Parties relative to the subject matter hereof. The Parties have not relied upon any promises, representations, warranties, agreements, covenants or undertakings, other than those expressly set forth or referred to herein. This Agreement replaces and supersedes any and all prior oral or written agreements, representations and discussions relating to such subject matter.
- d. **Survival of Representations.** All representations, warranties, covenants and agreements of the Parties contained in this Agreement, or in any instrument, certificate, exhibit or other writing provided for in it, shall survive the execution of this Agreement and the consummation of the transactions contemplated herein.
- e. **Amendment.** This Agreement may be amended or modified only by a writing executed by the Parties to this Agreement. No custom or practice of the Parties at variance with the terms hereof may be used to argue waiver or consent in nullification of this Section.
- f. **Notices.** All notices to be given under this Agreement shall be in writing and shall be effectively given upon personal delivery, facsimile or email transmission (with confirmation of receipt), delivery by overnight delivery service or three days following deposit in the United States Mail (certified or registered mail, postage prepaid, return receipt requested). Notice shall be made to:
- g. **No Delay.** No delay or failure on the part of any Party hereto to exercise any right, power or privilege hereunder shall operate as a waiver thereof.
- h. **Force Majeure.** Neither Party will be liable to the other Party for any delay, error, failure in performance or interruption of performance resulting from causes beyond its reasonable control, including without limitation, fires, flood, accidents, explosions, sabotage, strikes or other labor disturbances, civil unrest, riots, invasions, wars, acts of God or any cause (whether similar or dissimilar to the foregoing) beyond the reasonable control of the Party.
- i. **Governing Law / Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota without regard to its conflicts of laws principals. Any lawsuit brought in connection with this Agreement shall be brought only in a court of general jurisdiction in Hennepin County, Minnesota.
- j. **Severability.** The provisions of this Agreement are severable. If any part of this Agreement is rendered void, invalid or unenforceable by a court of competent jurisdiction, such rendering shall not affect the validity and enforceability of the remainder of this Agreement.
- k. **Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns. Neither Party shall assign this Agreement, or any portion thereof, without the prior written consent of the other Party. Any attempted assignment or transfer without such prior written consent of the other Party shall be of no force or effect. As to any permitted assignment: (a) reasonable prior notice of any such assignment shall be given to the other Party; and (b) any assignee shall expressly assume the assignor's obligations hereunder, unless otherwise agreed to by the other Party in writing. Notwithstanding the foregoing, as may be required for Tenant to avoid being classified as a Public Utility under Minnesota Statutes Chapter 216B.02, Subd. 4., or to leverage tax benefits as tax owner, Tenant may, at its sole discretion, assign and/or sublease all or part of its full interest under the Lease to a controlled affiliate of Tenant, assign its rights under this Power Purchase Agreement a controlled affiliate of Tenant, or assign this Agreement in connection with any sale of any or all of its Assets to a third party or Bank
- l. **Time is of the Essence.** Time is of the essence with respect to all of the terms of this Agreement.
- m. **Data Practices.** Pursuant to Minnesota Statutes, Section 13.05, subd. 11, all of the data created, collected, received, stored, used, maintained, or disseminated by Tenant in performing this Agreement is subject to the requirements of the Minnesota Government Data Practices Act ("MGDPA"), Minnesota Statutes Chapter 13, and Tenant must comply with those requirements as if it were a government entity. The remedies in Minnesota Statutes, Section 13.08 apply to Tenant. Tenant does not have a duty to provide access to public data to the public if the public data are available from the Customer, except

**Tenant**  
Green2Solar Leasing, LLC  
5810 Nicollet Avenue

as required by the terms of this Agreement.

- n. **Proprietary Information.** Information claimed by Tenant to be proprietary, trade secret or business data shall be governed by the standards required for "Trade Secret Information" as defined in MGDPA, Section 13.37(b) and as it may otherwise be referenced in the MGDPA. All of the data created, collected, received, stored, used, maintained, or disseminated by or to the Customer under this Agreement is subject to the requirements of the MGDPA. The Parties acknowledge that the classification of any government data is governed by the MGDPA and not by the understanding of either the Customer or the Tenant. Notwithstanding any other provision in this Agreement, the Customer's obligation is to maintain and release the data in a manner that is consistent with the MGDPA, provided, however, that Customer agrees to provide prompt written notice to the Tenant when Customer receives a request under the MGDPA for data concerning the terms of the Agreement, including the Agreement itself ("Contract Data"), not including presentations, memoranda and information previously disclosed publicly. When Customer receives a request for Contract Data, Customer shall notify Tenant of the request promptly in writing. Customer shall reasonably wait to disclose the Contract Data until the later of (i) Seller getting a judicial determination by a judicial officer, arbitrator, or administrative law judge on the public or nonpublic designation of the Data or (ii) the last day that, in Customer's sole discretion, Customer must make such disclosure to avoid being at risk of a successful claim from the requester that Customer is in violation of the MGDPA. Customer remains solely responsible for the initial determination of whether the requested Contract Data is public or private/nonpublic, but the parties acknowledge that any final determination by a judicial officer, arbitrator, or administrative law judge, or appellate review thereof, will control. If the Customer determines that some or all of the Contract Data is public under section 13.03 of the MGDPA, Customer shall provide prompt written notice to Tenant prior to Customer's disclosure of such data so that Tenant, at its sole expense, shall have the opportunity to object to such disclosure in writing and seek a determination by a judicial officer, arbitrator, or administrative law judge that such data constitutes trade secret information or business data under the MGDPA and therefore cannot be disclosed under the MGDPA. In no event shall Customer be required by the Tenant under this Agreement to withhold or delay disclosure of public data contrary to requirements of the MGDPA. Notwithstanding the notice and timing provisions in this Subsection 16 n., Customer shall not be liable to Tenant for any failure to give notice or otherwise to timely respond to Tenant regarding a third-party request for data. Tenant's claims against the Customer shall be limited to private actions it may have, if any, for Customer's failure to follow the MGDPA.
- o. **Record Keeping—Availability and Retention.** Pursuant to Minnesota Statutes, Section 16C.05, subd. 5, Tenant agrees that the books, records, documents and accounting procedures and practices of Tenant, that are relevant to the Agreement or transaction, are subject to examination by the Customer and the state auditor for a minimum of six (6) years. Tenant shall maintain such records for a minimum of six (6) years after final payment.
- p. **Non-Discrimination.** Pursuant to Minnesota Statutes, Section 181.59, the Tenant will take affirmative action to ensure that applicants are selected, and that employees are treated during employment, without regard to their

race, color, creed, religion, national origin, sex, sexual orientation, marital status, status with regard to public assistance, membership or activity in a local civil rights commission, disability or age. The Tenant agrees to be bound by the provisions of Section 181.59, that prohibits certain discriminatory practices and the terms of said section are incorporated into this Agreement.

- q. **Indemnification by Tenant.** Tenant shall fully indemnify, save harmless and defend Customer or any of its elected officials, officers, employees, contractors and agents from and against any and all costs, claims, and expenses incurred by such parties in connection with or arising from any claim by a third party for physical damage to or physical destruction of property, or death of or bodily injury to any person, but only to the extent caused by (a) the negligence, gross negligence or willful misconduct of Tenant or its agents or employees or others under Tenant's control or (b) Tenant's default under this Agreement. Tenant shall indemnify, defend and hold harmless all of Customer's Indemnified Parties from and against all Liabilities to the extent arising out of or relating to any Hazardous Substance spilled or otherwise caused by the negligence or willful misconduct of Tenant or any of its contractors, agents or employees.
- r. **Indemnification by Customer.** Customer shall fully indemnify, save harmless and defend Tenant or any of its officers, directors, employees, contractors and agents from and against any and all costs, claims, and expenses incurred by such parties in connection with or arising from any claim by a third party for physical damage to or physical destruction of property, or death of or bodily injury to any person, but only to the extent caused by (a) the negligence, gross negligence or willful misconduct of Customer or its agents or employees or others under Customer's control or (b) Customer's default under this Agreement. Customer shall indemnify, defend and hold harmless all of Tenant's Indemnified Parties from and against all Liabilities arising out of or relating to the existence at, on, above, below or near the Sites of any Hazardous Substance, except to the extent deposited, spilled or otherwise caused by the negligence or willful misconduct of Tenant or any of its contractors, agents or employees.

The Parties acknowledge they have read this Agreement, understand it and agree to be bound by its terms and conditions as of the date first set forth above.

Tenant  
**Green2 Solar Leasing, LLC**

By: \_\_\_\_\_  
Rich Ragatz, its Vice President

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

Customer  
**City of Richfield**

By: \_\_\_\_\_  
Pat Elliott, its Mayor

By: \_\_\_\_\_  
Steve Devich, its City Manager

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

**SIGN HERE**

Trade Secret  
**SCHEDULE A**  
**Power Purchase Payment Schedule**

19.980 kW DC SilfabSLG370M,  
20.00 kW AC SolarEdge SE20k 480V 3Ph Inverter Inverters, SolarEdge P800 Power Optimizers &  
Unirac, Panelclaw (or equivalent) Ballasted Racking @ approximately 10°

**Xcel SolarRewards**

Green2 Solar Leasing, LLC Utility Bill Expense				
Year	Facility Lease Runs Full Term  (Power Purchase Expense)		Put or Call Is Exercised  (Power Purchase Expense)	
	(\$/year)	(\$/month)	(\$/year)	(\$/month)
1	\$ 1849.44	\$ 154.12	\$ 1849.44	\$ 154.12
2	\$ 1874.64	\$ 156.22	\$ 1874.64	\$ 156.22
3	\$ 1949.28	\$ 162.44	\$ 1949.28	\$ 162.44
4	\$ 2026.80	\$ 168.90	\$ 2026.80	\$ 168.90
5	\$ 2107.44	\$ 175.62	\$ 2107.44	\$ 175.62
6	\$ 2191.20	\$ 182.60	\$ 2191.20	\$ 182.60
7	\$ 2278.32	\$ 189.86	\$ 2278.32	\$ 189.86
8	\$ 2369.04	\$ 197.42	\$ 2369.04	\$ 197.42
9	\$ 2463.24	\$ 205.27	\$ 2463.24	\$ 205.27
10	\$ 2561.16	\$ 213.43	\$ 2561.16	\$ 213.43
11	\$ 2663.04	\$ 221.92	\$ 2663.04	\$ 221.92
12	\$ 2769.00	\$ 230.75	\$ 2769.00	\$ 230.75
13	\$ 2879.04	\$ 239.92	\$ 2879.04	\$ 239.92
14	\$ 1560.00	\$ 130.00	\$	\$
15	\$ 1560.00	\$ 130.00	\$	\$
16	\$ 1560.00	\$ 130.00	\$	\$
17	\$ 1560.00	\$ 130.00	\$	\$
18	\$ 1560.00	\$ 130.00	\$	\$
19	\$ 1560.00	\$ 130.00	\$	\$
20	\$ 1560.00	\$ 130.00	\$	\$
21	\$	\$	\$	\$
22	\$	\$	\$	\$
23	\$	\$	\$	\$
24	\$	\$	\$	\$
25	\$	\$	\$	\$
<b>Total</b>	<b>\$ 40901.64</b>		<b>\$ 29981.64</b>	

Trade Secret

**SCHEDULE A-2**  
**Power Purchase Payment Schedule**

Not applicable. No project 2 installed.



Trade Secret

**Schedule B1 & B2**  
Adjustment for Actual Utility Rate Increases

Schedule B1 - Unit Rate adjustment - Put/Call Exercised by parties						
Year	Annual Solar Array production	Tenant's PPA Rate	Utility Rate [example]	Amount Tenant Rate exceeds Utility Rate	Reimbursement per 12b	Additional Power Payment
1	46,953	\$0.0834	\$0.0950	\$0.0000	\$0.00	\$ -
2	46,718	\$0.0872	\$0.0979	\$0.0000	\$0.00	\$ -
3	46,485	\$0.0911	\$0.1008	\$0.0000	\$0.00	\$ -
4	46,252	\$0.0952	\$0.1038	\$0.0000	\$0.00	\$ -
5	46,021	\$0.0995	\$0.1069	\$0.0000	\$0.00	\$ -
6	45,791	\$0.1039	\$0.1101	\$0.0000	\$0.00	\$ -
7	45,562	\$0.1086	\$0.1134	\$0.0000	\$0.00	\$ -
8	45,334	\$0.1135	\$0.1168	\$0.0000	\$0.00	\$ -
9	45,107	\$0.1186	\$0.1203	\$0.0000	\$0.00	\$ -
10	44,882	\$0.1239	\$0.1240	\$0.0000	\$0.00	\$ -
11	44,657	\$0.1295	\$0.1277	\$0.0018	\$82.42	\$ -
12	44,434	\$0.1353	\$0.1315	\$0.0038	\$170.79	\$ -
13	44,212	\$0.1414	\$0.1354	\$0.0060	\$264.80	\$ -
14	43,991	\$0.0000	\$0.1395	\$0.0000	\$0.00	\$518.01
15	43,771	\$0.0000	\$0.1437	\$0.0000	\$0.00	
16	43,552	\$0.0000	\$0.1480	\$0.0000	\$0.00	
17	43,334	\$0.0000	\$0.1524	\$0.0000	\$0.00	
18	43,118	\$0.0000	\$0.1570	\$0.0000	\$0.00	
19	42,902	\$0.0000	\$0.1617	\$0.0000	\$0.00	
20	42,688	\$0.0000	\$0.1666	\$0.0000	\$0.0000	
TOTAL		Actual Utility Rate increase	3.0%		\$ 518.01	\$ 518.01

Schedule B2 - Unit Rate adjustment - Lease Runs Full Term						
Year	Annual Solar Array production	Tenant's PPA Rate	Utility Rate [example]	Amount Tenant Rate exceeds Utility Rate	Reimbursement per 12b	Additional Power Payment
1	46,953	\$0.0834	\$0.0950	\$0.0000	\$0.00	\$ -
2	46,718	\$0.0872	\$0.0979	\$0.0000	\$0.00	\$ -
3	46,485	\$0.0911	\$0.1008	\$0.0000	\$0.00	\$ -
4	46,252	\$0.0952	\$0.1038	\$0.0000	\$0.00	\$ -
5	46,021	\$0.0995	\$0.1069	\$0.0000	\$0.00	\$ -
6	45,791	\$0.1039	\$0.1101	\$0.0000	\$0.00	\$ -
7	45,562	\$0.1086	\$0.1134	\$0.0000	\$0.00	\$ -
8	45,334	\$0.1135	\$0.1168	\$0.0000	\$0.00	\$ -
9	45,107	\$0.1186	\$0.1203	\$0.0000	\$0.00	\$ -
10	44,882	\$0.1239	\$0.1240	\$0.0000	\$0.00	\$ -
11	44,657	\$0.1295	\$0.1277	\$0.0018	\$82.42	\$ -
12	44,434	\$0.1353	\$0.1315	\$0.0038	\$170.79	\$ -
13	44,212	\$0.1414	\$0.1354	\$0.0060	\$264.80	\$ -
14	43,991	\$0.0341	\$0.1395	\$0.0000	\$0.00	\$ -
15	43,771	\$0.0343	\$0.1437	\$0.0000	\$0.00	\$ -
16	43,552	\$0.0344	\$0.1480	\$0.0000	\$0.00	\$ -
17	43,334	\$0.0346	\$0.1524	\$0.0000	\$0.00	\$ -
18	43,118	\$0.0348	\$0.1570	\$0.0000	\$0.00	\$ -
19	42,902	\$0.0350	\$0.1617	\$0.0000	\$0.00	\$ -
20	42,688	\$0.0351	\$0.1666	\$0.0000	\$0.00	\$ 518.01
TOTAL		Actual Utility Rate increase	3.0%		\$ 518.01	\$ 518.01

**Put and Call Agreement**

19.980 kW DC SilfabSLG370M,  
 20.00 kW AC SolarEdge SE20k 480V 3Ph Inverter(s),  
 SolarEdge P800 Power Optimizers & IronRidge, S5!  
 Clips W/ Unistrut Flushmount Racking or equivalent @  
 approximately 15°

<b>Customer / Owner</b>	<b>City of Richfield</b>
<b>Installation Location / Site</b>	0
<b>Xcel Premise #</b>	0

**Xcel SolarRewards**

This **PUT AND CALL AGREEMENT** (this "**Agreement**"), dated **June 19, 2018** is between **Green2 Solar Leasing, LLC**, a Minnesota Limited Liability Company, whose principal place of business is located at **5810 Nicollet Avenue, Minneapolis, MN 55419** ("**Tenant**"), and **City of Richfield**, a Minnesota City, whose principal place of business is located at **6700 Portland Avenue, Richfield, MN 55423** ("**Customer**"). Tenant and Customer are sometimes also referred to in this Agreement jointly as "**Parties**", or individually as a "**Party**".

**RECITALS**

- A. Customer is the purchaser of a photovoltaic solar electric system (the "**Energy System**") located at the installation location described above (the "**Site**") and as described as Project 1 and Project 2 in the Purchase Agreement between Customer and **Ideal Energies, LLC** ("**Seller**") of even date herewith (the "**Purchase Agreement**"); and
- B. Tenant is the lessee of the Energy System and associated rights under the **Facility Lease Agreement** with Customer (the "**Lease**") of even date herewith, and Tenant sells the Energy System generated from the Energy System pursuant to a Power Purchase Agreement with Customer (the "**Power Purchase Agreement**") of even date herewith (Tenant's interests in the Lease and Power Purchase Agreement is referred to herein as an "**Interest**"); and
- C. The Parties hereto now desire to enter into this Agreement to set forth the terms and conditions upon which Tenant has an option, but not the obligation, to put its Interest(s) to the Customer and upon which Customer has an option, but the obligation, to call Tenant's Interest(s) from Tenant.

**AGREEMENT**

**NOW, THEREFORE**, in consideration of the foregoing Recitals, the mutual promises of the Parties hereto and for other good and valuable consideration, the receipt and sufficiency of which hereby are acknowledged, the Parties hereby agree as follows:

1. **Contingency.** The Parties performance under this Agreement is contingent on Final Project Completion (as defined in the Purchase Agreement) occurring for Project 1 in accordance with the terms of the Purchase Agreement.
2. **Put of Tenant's Interest.** Commencing on the **thirteen (13) year anniversary of the Final Project Completion date for any Project**, and for a period of **three (3) months thereafter** (the "**Put Period**"), Tenant shall have the right and option to require Customer to purchase all, but not less than all, of Tenant's Interest the Energy System installed pursuant to that Project (the "**Put**"). Tenant may exercise the Put by delivering notice of exercise of such option in writing to Customer during the Put Period. If exercised, Tenant shall be obligated to sell, and Customer shall be obligated to purchase, all of the Interest owned by Tenant. The purchase price for any Interest shall be **\$1.00** (the "**Put Price**"). The date of the Put closing will be thirty (30) days

following the notice of exercise of the Put, or such earlier date as the Parties may agree in writing (the "**Put Closing Date**"). The Put Price shall be paid by Customer to Tenant in cash on the Put Closing Date. Each Party shall remain liable for any obligations arising under the Lease prior to the Put Closing Date. Notwithstanding the foregoing, an invoice provided by Tenant to Customer stating the Project and its Put Price, and Customer's payment of the same satisfies the requirements of this Section.

3. **Call of Tenant's Interest.** For a period of **nine (9) months beginning the day following the last day of the Put Period** (the "**Call Period**") for any Project, Customer shall have the right and option to purchase all, but not less than all, of Tenant's Interest in the Energy System installed pursuant to that Project (the "**Call**"). Customer may exercise the Call by delivering notice of exercise of such option to Tenant during the Call Period. If exercised and based on a Call Price determined by the method of calculation as set forth below, Customer shall be obligated to purchase, and Tenant shall be obligated to sell, all of the Interest owned by Tenant. The purchase price for the Interest pursuant to the Call shall be an amount equal to the fair market value (the "**Fair Market Value Price**") of such Interest as agreed by the Parties and if no agreement is possible, then by an independent qualified appraiser selected by the Customer and the cost of which is paid for by the Tenant (the "**Call Price**"). The Parties agree, for each Project, that a reasonable method of establishing the Fair Market Value Price is to use a discounted cash flow value of Tenant's power purchase income less expenses remaining under the Power Purchase Agreement and Lease Agreement as of the Call Date. As of the date hereof, the Parties believe that a discount rate of 15% is reasonable and agree that the Parties will use foregoing method in determining the Fair Market Value and resulting Call Price. If and only if Customer accepts the Call Price as agreed upon or determined by independent appraiser, Customer shall purchase the Energy System for the Price and pursuant to a mutually agreed upon purchase and sale agreement. The date of the Call closing shall be thirty (30) days following delivery of the notice of exercise of the Call, or such earlier date as the Parties may agree in writing (the "**Call Closing Date**"). The Call Price shall be paid by Customer to Tenant in cash on the Call Closing Date. Each Party shall remain liable for any obligations arising under the Lease for the Energy System prior to the Call Closing Date.
4. **Obligations following exercise of Put or Call.**
  - a. **Tenant.** After the transfer and assignment of the Interest for the Energy System installed pursuant to each Project, pursuant to the Put or Call, Tenant shall have no further obligations or liability in connection with that Interest, except that Tenant shall indemnify, defend and hold Customer harmless from all third-party claims arising out of Tenant's leasehold interest and

operation of the Energy System prior to the termination of the Lease.

- b. **Customer.** After the transfer and assignment of the Interest pursuant to the Put or Call for the Energy System installed pursuant to a Project, Customer shall make, if not already paid, the Power Payments described in Schedule A of the Power Purchase Agreement between the Parties of even date herewith beginning with the month after that Project's Final Project Completion date through and including the month of the Project's Put or Call Closing date. Customer is not obligated to pay Tenant any Power Purchase Payments after the Put or Call Closing date through the end of the Term for that Project as specified in the Power Purchase Agreement. Customer shall indemnify, defend and hold Tenant harmless from all third-party claims arising out of Customer's ownership or operation of the Energy System as of the date of the transfer and assignment to Customer.

5. **Miscellaneous.**

- a. **Subordination to Utility Rebate Agreement.** No portion of this Agreement is intended to conflict with any Utility Rebate Agreements (the "**Utility Rebate Agreements**") to which Tenant or Customer is a party. In the case of a conflict between the terms or conditions of this Agreement and the Utility Rebate Agreements, the terms and conditions of Utility Rebate Agreements shall control. The utility, or its successors and assigns, is a third-party beneficiary of the provision of this paragraph. Nothing in this Agreement shall prevent the utility, from fully enforcing the terms and conditions of Utility Rebate Agreements.
- b. **Relationship of the Parties.** The Parties shall for all purposes be considered independent contractors with respect to each other, and neither shall be considered an employee, employer, agent, principal, partner or joint venturer of the other.
- c. **Entire Agreement.** This Agreement and all schedules, exhibits and attachments hereto, together with any agreement reference herein, constitute the entire agreement and understanding of the Parties relative to the subject matter hereof. The Parties have not relied upon any promises, representations, warranties, agreements, covenants or undertakings, other than those expressly set forth or referred to herein. This Agreement replaces and supersedes any and all prior oral or written agreements, representations and discussions relating to such subject matter.
- d. **Survival of Representations.** All representations, warranties, covenants and agreements of the Parties contained in this Agreement, or in any instrument, certificate, exhibit or other writing provided for in it, shall survive the execution of this Agreement and the consummation of the transactions contemplated herein.
- e. **Amendment.** This Agreement may be amended or modified only by a writing executed by the Parties to this Agreement. No custom or practice of the Parties at variance with the terms hereof shall have any effect.
- f. **Notices.** All notices to be given under this Agreement shall be in writing and shall be effectively given upon personal delivery, facsimile or email transmission (with

confirmation of receipt), delivery by overnight delivery service or three days following deposit in the United States Mail (certified or registered mail, postage prepaid, return receipt requested).

- g. **No Delay.** No delay or failure on the part of any Party hereto to exercise any right, power or privilege hereunder shall operate as a waiver thereof.
- h. **Force Majeure.** Neither Party will be liable to the other Party for any delay, error, failure in performance or interruption of performance resulting from causes beyond its reasonable control, including without limitation fires, flood, accidents, explosions, sabotage, strikes or other labor disturbances, civil commotion, riots, invasions, wars, acts of God, terrorism or any cause (whether similar or dissimilar to the foregoing) beyond the reasonable control of the Party.
- i. **Governing Law / Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota without regard to its conflicts of laws principals. Any lawsuit brought in connection with this Agreement shall be brought only in a court of general jurisdiction in Hennepin County, Minnesota.
- j. **Severability.** The provisions of this Agreement are severable. If any part of this Agreement is rendered void, invalid or unenforceable, such rendering shall not affect the validity and enforceability of the remainder of this Agreement.
- k. **Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns. Neither Party shall assign this Agreement, or any portion thereof, without the prior written consent of the other Party. Any attempted assignment or transfer without such prior written consent of the other Party shall be of no force or effect. As to any permitted assignment: (a) reasonable prior notice of any such assignment shall be given to the other Party; and (b) any assignee shall expressly assume the assignor's obligations hereunder, unless otherwise agreed to by the other Party in writing. Notwithstanding the foregoing, as may be required for Tenant to avoid being classified as a Public Utility under Minnesota Statutes Chapter 216B.02, Subd. 4., or to leverage tax benefits as tax owner, Tenant may, at its sole discretion, assign and/or sublease all or part of its full interest under the Lease Agreement to a controlled affiliate of Tenant, assign its rights under the Power Purchase Agreement a controlled affiliate of Tenant, assign its rights under this Agreement to a controlled affiliate of Tenant, or assign this Agreement in connection with any sale of any or all of its Assets to a third party or Bank.
- l. **Time is of the Essence.** Time is of the essence with respect to all of the terms of this Agreement.

**[SIGNATURE PAGE FOLLOWS]**

Trade Secret

The Parties acknowledge they have read this Agreement, understand it and agree to be bound by its terms and conditions as of the date first set forth above.

Tenant  
**Green2 Solar Leasing, LLC**

By: \_\_\_\_\_  
Rich Ragatz, its Vice President

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

Customer  
**City of Richfield**

By: \_\_\_\_\_  
Pat Elliott, its Mayor

By: \_\_\_\_\_  
Steve Devich, its City Manager

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



## Utility

- Continues to provide regular electricity service
- Provides net metering credit to Host customer where net metering available

Regular kWh service

Excess PV  
kWh

## Host

- Receives power from on-site PV system
- Predictable electricity prices

## Developer

- Coordinates financing, design, and construction of PV system at Host's site
- Processes all incentives
- Monitors PV system performance

kWh

10 - 25 yr. PPA

Payment for electricity



**STAFF REPORT NO. 108**  
**CITY COUNCIL MEETING**  
**6/26/2018**

REPORT PREPARED BY: Liz Finnegan, Civil Engineer

DEPARTMENT DIRECTOR REVIEW: Kristin Asher, Public Works Director  
6/19/2018

OTHER DEPARTMENT REVIEW: N/A

CITY MANAGER REVIEW: Steven L. Devich, City Manager  
6/21/2018

**ITEM FOR COUNCIL CONSIDERATION:**

**Consideration of the adoption of a resolution approving the submission of the limited use permit with the Minnesota Department of Transportation (MnDOT) for the 66th Street Streetscape elements within MnDOT right-of-way (ROW).**

**EXECUTIVE SUMMARY:**

The City Council approved the 66th Street Streetscape plans at its February 27, 2018 meeting. A portion of the streetscape project is within the State of Minnesota's Department of Transportation right-of-way (ROW). In order to furnish the streetscape elements within the State's ROW, a limited use permit is required. The streetscape elements are identified in Exhibit A of the permit and include: plantings, benches, sidewalk poetry panels and waste receptacles. The City will construct, operate and maintain the amenities in accordance with the Limited Use Permit granted by the Minnesota Department of Transportation.

**RECOMMENDED ACTION:**

**By Motion: Adopt a resolution approving the submission of the limited use permit with MnDOT for the 66th Street Streetscape elements within MnDOT ROW.**

**BASIS OF RECOMMENDATION:**

**A. HISTORICAL CONTEXT**

- As part of the reconstruction of 66th Street, the City Council approved the Cooperative Agreement between the City of Richfield and Hennepin County at its June 14, 2016, meeting which included that the City would lead the design and construction of the 66th Street Streetscape Project.

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

- MnDOT requires a limited use permit for work done in their ROW.

**C. CRITICAL TIMING ISSUES:**

- The approval of the limited use permit allows the streetscape process to continue on schedule.

**D. FINANCIAL IMPACT:**

- None

**E. LEGAL CONSIDERATION:**

- None

**ALTERNATIVE RECOMMENDATION(S):**

- None

**PRINCIPAL PARTIES EXPECTED AT MEETING:**

N/A

**ATTACHMENTS:**

Description		Type
<input type="checkbox"/>	Resolution	Resolution Letter
<input type="checkbox"/>	66th Street LUP	Backup Material
<input type="checkbox"/>	Exhibit A-1	Exhibit
<input type="checkbox"/>	Exhibit A-2	Exhibit

**RESOLUTION NO.**

**RESOLUTION AUTHORIZING CITY OF RICHFIELD LIMITED USE PERMIT WITH  
THE STATE OF MINNESOTA DEPARTMENT OF TRANSPORTATION FOR A  
PEDESTRIAN TRAIL IN THE RIGHT- OF-WAY OF TRUNK HIGHWAY No. 35W AT  
CSAH 53 (66<sup>TH</sup> STREET)**

**WHEREAS**, the City of Richfield is a political subdivision, organized and existing under the laws of the State of Minnesota; and

**WHEREAS**, the City Council of the City of Richfield has approved a plan to construct sidewalks/cycle tracks, and amenities in the right-of-way of Trunk Highway No. 35W to promote the orderly and safe crossing of the highway; and

**WHEREAS**, the State of Minnesota, Department of Transportation requires a limited use permit for the construction and utilization of said sidewalks/cycle tracks and amenities.

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council of the City of Richfield hereby enters into a Limited Use Permit with the State of Minnesota, Department of Transportation for the following purposes:

To construct, operate and maintain sidewalks/cycle tracks and amenities within the right-of-way of Trunk Highway No. 35W of the State of Minnesota along CSAH 53 (66<sup>th</sup> Street). The amenities include: plantings, benches, sidewalk poetry panels and waste receptacles. The City of Richfield shall construct, operate and maintain said amenities in accordance with the Limited Use Permit granted by the Minnesota Department of Transportation.

**NOW, THEREFORE, BE IT FURTHER RESOLVED**, that the Mayor and the City Manager are authorized to execute the limited use permit and any amendments to the Permit.

Adopted by the City Council of the City of Richfield, Minnesota this 26th day of June, 2018.

---

Pat Elliott, Mayor

ATTEST:

---

Elizabeth VanHoose, City Clerk



**STATE OF MINNESOTA  
DEPARTMENT OF TRANSPORTATION**

**LIMITED USE PERMIT**

C.S. 2782 (T.H. 35W)  
County of Hennepin  
LUP # 2782-0194  
Permittee: City of Richfield  
Terminates: 12/14/2027

In accordance with Minnesota Statutes Section 161.434, the State of Minnesota, through its Commissioner of Transportation, ("MnDOT"), hereby grants a Limited Use Permit (the "LUP") to City of Richfield, ("Permittee"), to use the area within the right of way of Trunk Highway No. 35W as shown in red on Exhibit "A", (the "Area") attached hereto and incorporated herein by reference. This Limited Use Permit is executed by the Permittee pursuant to resolution, a certified copy of which is attached hereto as Exhibit B.

**Sidewalk, Amenities, and Highway Beautification**

The Permittee's use of the Area is limited to only the 66<sup>th</sup> Street Streetscape Project ("Facility") to improve the aesthetics of the highway corridor.

In addition, the following special provisions shall apply:

**SPECIAL PROVISIONS**

1. **TERM.** This LUP terminates at 11:59PM on 12/14/2027 ("Expiration Date") subject to the right of cancellation by MnDOT, with or without cause, by giving the Permittee ninety (90) days written notice of such cancellation. This LUP will not be renewed except as provided below.

Provided this LUP has not expired or terminated, MnDOT may renew this LUP for a period of up to ten (10) years, provided Permittee delivers to MnDOT, not later than ninety (90) days prior to the Expiration Date, a written request to extend the term. Any extension of the LUP term will be under the same terms and conditions in this LUP, provided:

- (a) At the time of renewal, MnDOT will review the Facility and Area to ensure the Facility and Area are compatible with the safe and efficient operation of the highway and the Facility and Area are in good condition and repair. If, in MnDOT's sole determination, modifications and repairs to the Facility and Area are needed, Permittee will perform such work as outlined in writing in an amendment of this LUP; and

- (b) Permittee will provide to MnDOT a certified copy of the resolution from the applicable governmental body authorizing the Permittee's use of the Facility and Area for the additional term.

If Permittee's written request to extend the term is not timely given, the LUP will expire on the Expiration Date.

Permittee hereby voluntarily releases and waives any and all claims and causes of action for damages, costs, expenses, losses, fees and compensation arising from or related to any cancellation or termination of this LUP by MnDOT. Permittee agrees that it will not make or assert any claims for damages, costs, expenses, losses, fees and compensation based upon the existence, cancellation or termination of the LUP. Permittee agrees not to sue or institute any legal action against MnDOT based upon any of the claims released in this paragraph.

- 2. REMOVAL. Upon the Expiration Date or earlier termination, at the Permittee's sole cost and expense Permittee will:

- (a) Remove the Facility and restore the Area to a condition satisfactory to the MnDOT District Engineer; and
- (b) Surrender possession of the Area to MnDOT.

If, without MnDOT's written consent, Permittee continues to occupy the Area after the Expiration Date or earlier termination, Permittee will remain subject to all conditions, provisions, and obligations of this LUP, and further, Permittee will pay all costs and expenses, including attorney's fees, in any action brought by MnDOT to remove the Facility and the Permittee from the Area.

- 3. CONSTRUCTION. The construction, maintenance, and supervision of the Facility shall be at no cost or expense to MnDOT.

Before construction of any kind, the plans for such construction shall be approved in writing by the MnDOT's District Engineer. Approval in writing from MnDOT District Engineer shall be required for any changes from the approved plan.

The Permittee will construct the Facility at the location shown in the attached Exhibit "A", and in accordance with MnDOT-approved plans and specifications. Further, Permittee will construct the Facility using construction procedures compatible with the safe and efficient operation of the highway.

Upon completion of the construction of the Facility, the Permittee shall restore all disturbed slopes and ditches in such manner that drainage, erosion control and aesthetics are perpetuated.

The Permittee shall preserve and protect all utilities located on the lands covered by this LUP at no expense to MnDOT and it shall be the responsibility of the Permittee to call the Gopher State One Call System at 1-800-252-1166 at least 48 hours prior to performing any excavation.

Any crossings of the Facility over the trunk highway shall be perpendicular to the centerline of the highway and shall provide and ensure reasonable and adequate stopping sight distance.

4. **MAINTENANCE.** Any and all maintenance of the Facility shall be provided by the Permittee at its sole cost and expense, including, but not limited to, plowing and removal of snow and installation and removal of regulatory signs. No signs shall be placed on any MnDOT or other governmental agency sign post within the Area. MnDOT will not mark obstacles for users on trunk highway right of way.
5. **USE.** Other than as identified and approved by MnDOT, no permanent structures or no advertising devices in any manner, form or size shall be allowed on the Area. No commercial activities shall be allowed to operate upon the Area.

Any use permitted by this LUP shall remain subordinate to the right of MnDOT to use the property for highway and transportation purposes. This LUP does not grant any interest whatsoever in land, nor does it establish a permanent park, recreation area or wildlife or waterfowl refuge Facility that would become subject to Section 4 (f) of the Federal-Aid Highway Act of 1968, nor does this permit establish a Bikeway or Pedestrian way which would require replacement pursuant to Minnesota Statutes Section 160.264. No rights to relocation benefits are established by this LUP.

This LUP is non-exclusive and is granted subject to the rights of others, including, but not limited to public utilities which may occupy the Area.

6. **APPLICABLE LAWS.** This LUP does not release the Permittee from any liability or obligation imposed by federal law, Minnesota Statutes, local ordinances, or other agency regulations relating thereto and any necessary permits relating thereto shall be applied for and obtained by the Permittee.

Permittee at its sole cost and expense, agrees to comply with, and provide and maintain the Area, Facilities in compliance with all applicable laws, rules, ordinances and regulations issued by any federal, state or local political subdivision having jurisdiction and authority in connection with said Area including the Americans with Disabilities Act ("ADA"). If the Area and Facilities are not in compliance with the ADA or other applicable laws MnDOT may enter the Area and perform such obligation without liability to Permittee for any loss or damage to Permittee thereby incurred, and Permittee shall reimburse MnDOT for the cost thereof, plus 10% of such cost for overhead and supervision within 30 days of receipt of MnDOT's invoice.

7. **CIVIL RIGHTS.** The Permittee for itself, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that in the event improvements are

constructed, maintained, or otherwise operated on the Property described in this Limited Use Permit for a purpose for which a MnDOT activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the Permittee will maintain and operate such improvements and services in compliance with all requirements imposed by the Acts and Regulations relative to nondiscrimination in federally-assisted programs of the United States Department of Transportation, Federal Highway Administration, (as may be amended) such that no person on the grounds of race, color, national origin, sex, age, disability, income-level, or limited English proficiency will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said improvements.

8. SAFETY. MnDOT shall retain the right to limit and/or restrict any activity, including the parking of vehicles and assemblage of Facility users, on the highway right of way over which this LUP is granted, so as to maintain the safety of both the motoring public and Facility users.
9. ASSIGNMENT. No assignment of this LUP is allowed.
10. IN WRITING. Except for those which are set forth in this LUP, no representations, warranties, or agreements have been made by MnDOT or Permittee to one another with respect to this LUP.
11. ENVIRONMENTAL. The Permittee shall not dispose of any materials regulated by any governmental or regulatory agency onto the ground, or into any body of water, or into any container on the State's right of way. In the event of spillage of regulated materials, the Permittee shall notify in writing MnDOT's District Engineer and shall provide for cleanup of the spilled material and of materials contaminated by the spillage in accordance with all applicable federal, state and local laws and regulations, at the sole expense of the Permittee.
12. MECHANIC'S LIENS. The Permittee (for itself, its contractors, subcontractors, its materialmen, and all other persons acting for, through or under it or any of them), covenants that no laborers', mechanics', or materialmen's liens or other liens or claims of any kind whatsoever shall be filed or maintained by it or by any subcontractor, materialmen or other person or persons acting for, through or under it or any of them against the work and/or against said lands, for or on account of any work done or materials furnished by it or any of them under any agreement or any amendment or supplement thereto.
13. NOTICES. All notices which may be given, by either party to the other, will be deemed to have been fully given when served personally on MnDOT or Permittee or when made in writing addressed as follows: to Permittee at: and to MnDOT at:

Mayor  
Richfield City Hall  
6700 Portland Avenue South  
Richfield, MN 55423

State of Minnesota  
Department of Transportation  
Metro District Right of Way  
1500 W. County Road B2  
Roseville, MN 55113

The address to which notices are mailed may be changed by written notice given by either party to the other.

14. INDEMNITY. Permittee shall defend, indemnify, hold harmless and release the State of Minnesota, its Commissioner of Transportation and employees and its successors and assigns, from and against:
- (a) all claims, demands, and causes of action for injury to or death of persons or loss of or damage to property (including Permittee's property) occurring on the Facility or connected with Permittee's use and occupancy of the Area, regardless of whether such injury, death, loss or damage is caused in part by the negligence of State of Minnesota or is deemed to be the responsibility of State of Minnesota because of its failure to supervise, inspect or control the operations of Permittee or otherwise discover or prevent actions or operations of Permittee giving rise to liability to any person.
  - (b) claims arising or resulting from the temporary or permanent termination of Facility user rights on any portion of highway right of way over which this LUP is granted;
  - (c) claims resulting from temporary or permanent changes in drainage patterns resulting in flood damages;
  - (d) any laborers', mechanics', or materialmens' liens or other liens or claims of any kind whatsoever filed or maintained for or on account of any work done or materials furnished; and
  - (e) any damages, testing costs and clean-up costs arising from spillage of regulated materials attributable to the construction, maintenance or operation of the Facility.

MINNESOTA DEPARTMENT  
OF TRANSPORTATION

RECOMMENDED FOR APPROVAL

By: \_\_\_\_\_  
District Engineer

Date \_\_\_\_\_

APPROVED BY:

COMMISSIONER OF TRANSPORTATION

By: \_\_\_\_\_  
Acting Director, Office of Land Management

Date \_\_\_\_\_

CITY OF RICHFIELD

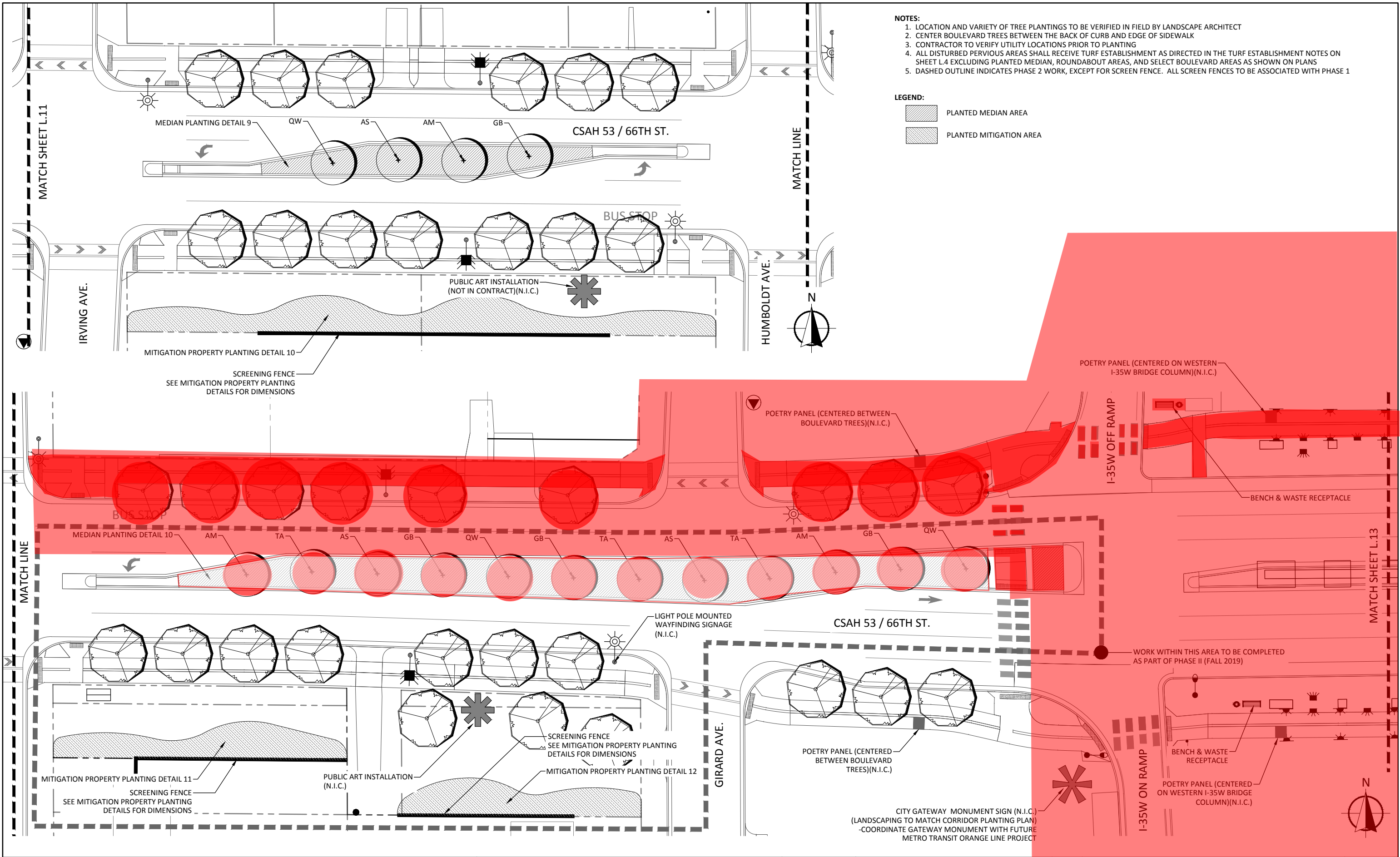
By \_\_\_\_\_

Its : Mayor

And \_\_\_\_\_

Its : City Manager

The Commissioner of Transportation  
by the execution of this permit  
certifies that this permit is  
necessary in the public interest  
and that the use intended is for  
public purposes.



12224 NICOLLET AVENUE  
BURNSVILLE, MINNESOTA 55337  
Phone: (952) 890-0509  
Email: Burns@bolton-menk.com  
www.bolton-menk.com

REV	ISSUED FOR	DATE

I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION, OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED PROFESSIONAL LANDSCAPE ARCHITECT UNDER THE LAWS OF THE STATE OF MINNESOTA.		
JOEL C. ODENS	#####	12-23-2016
LIC. NO.		DATE

DESIGNED JCO/JDN
DRAWN JDN
CHECKED JCO

CITY OF RICHFIELD  
66TH STREET STREETScape-DRAFT SET 10-18-2017  
LANDSCAPE PLAN

SHEET  
L.12



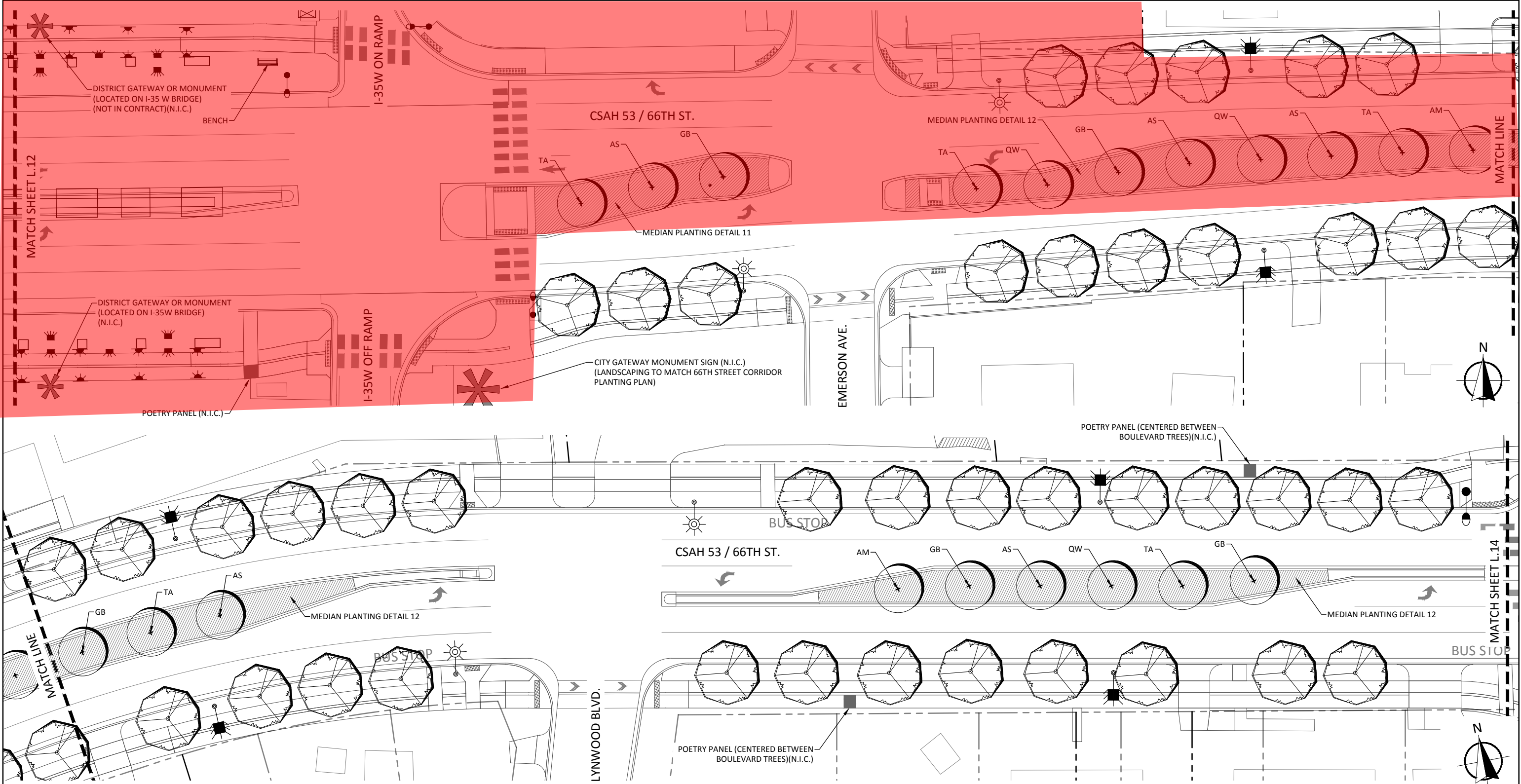


EXHIBIT A REALMS LUP # 2782-0194 (2 of 2)

- NOTES:
- 1. LOCATION AND VARIETY OF TREE PLANTINGS TO BE VERIFIED IN FIELD BY LANDSCAPE ARCHITECT
  - 2. CENTER BOULEVARD TREES BETWEEN THE BACK OF CURB AND EDGE OF SIDEWALK
  - 3. CONTRACTOR TO VERIFY UTILITY LOCATIONS PRIOR TO PLANTING
  - 4. ALL DISTURBED PVIOUS AREAS SHALL RECEIVE TURF ESTABLISHMENT AS DIRECTED IN THE TURF ESTABLISHMENT NOTES ON SHEET L.4 EXCLUDING PLANTED MEDIAN, ROUNDABOUT AREAS, AND SELECT BOULEVARD AREAS AS SHOWN ON PLANS

LEGEND:

PLANTED MEDIAN AREA





**STAFF REPORT NO. 109**  
**CITY COUNCIL MEETING**  
**6/26/2018**

REPORT PREPARED BY: Matt Brillhart, Associate Planner

DEPARTMENT DIRECTOR REVIEW: John Stark, Community Development Director  
6/20/2018

OTHER DEPARTMENT REVIEW: N/A

CITY MANAGER REVIEW: Steven L. Devich, City Manager  
6/21/2018

**ITEM FOR COUNCIL CONSIDERATION:**

**Consideration of the adoption of a resolution approving an agreement related to the Minnesota Department of Transportation's Landscape Partnership Program.**

**EXECUTIVE SUMMARY:**

In 2017, the City Council approved site plans for an expansion of Seven Hills Preparatory Academy's facilities at 1401 76th Street West. The approved plans include plantings along 76th Street, on right-of-way owned by the Minnesota Department of Transportation (MnDOT).

MnDOT administers a Landscape Partnership Program to assist with planning and design of landscaping installations on MnDOT-owned right-of-way. Before Seven Hills can purchase and install plantings in this area, the City must enter into a cooperative agreement with MnDOT to act as a pass-through for the reimbursement to Seven Hills. The City's role in the agreement is strictly as a pass-through entity as MnDOT does not enter into agreements with private landowners. MnDOT will continue to own the right-of-way, while Seven Hills will be responsible for the ongoing maintenance of said plantings.

In May 2018, the City Council adopted a resolution granting the City Manager the authority to enter into an agreement with MnDOT and Seven Hills. That agreement is now before the City Council for approval. Seven Hills plans to install the landscaping this summer, to coincide with the completion of their building addition.

**RECOMMENDED ACTION:**

**By motion: Adopt a resolution approving a cooperative agreement with the Minnesota Department of Transportation, related to the Minnesota Department of Transportation's Landscape Partnership Program installation at Seven Hills Preparatory Academy.**

**BASIS OF RECOMMENDATION:**

A. **HISTORICAL CONTEXT**

- None

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

- None

**C. CRITICAL TIMING ISSUES:**

- An initial approval of this item came before the City Council in May 2018. MnDOT has since prepared a cooperative agreement that is now before the City Council for final approval.
- Seven Hills would like to begin installing landscape materials as soon as possible this planting season.

**D. FINANCIAL IMPACT:**

- There is no financial impact because the City is acting as a pass-through entity between MnDOT and Seven Hills Preparatory Academy. The City will not be responsible for the purchase or maintenance of landscaping related to this agreement.

**E. LEGAL CONSIDERATION:**

- None

**ALTERNATIVE RECOMMENDATION(S):**

- None

**PRINCIPAL PARTIES EXPECTED AT MEETING:**

N/A

**ATTACHMENTS:**

Description	Type
☐ Resolution	Resolution Letter
☐ MNDOT Landscape Partnership Agreement	Contract/Agreement
☐ Landscaping plan	Backup Material

**RESOLUTION NO.**

**RESOLUTION APPROVING COOPERATIVE AGREEMENT  
FOR MNDOT LANDSCAPE PARTNERSHIP PROGRAM**

**WHEREAS**, on August 8, 2017, the City Council approved site plans for Seven Hills Preparatory Academy at 1401 76th Street West; and

**WHEREAS**, the approved plan includes plantings along 76th Street West, on right-of-way owned by the Minnesota Department of Transportation (MnDOT); and

**WHEREAS**, MnDOT administers the Community Roadside Landscape Partnership Program to plan, fund, and manage plantings on MnDOT right-of-way; and

**NOW, THEREFORE, BE IT RESOLVED**, by the City Council of the City of Richfield, Minnesota that the City of Richfield enter into MnDOT Agreement No. 1031419 with the State of Minnesota, Department of Transportation for the following purposes:

To provide for payment by the State to the City for the acquisition of landscape materials to be placed adjacent to Trunk Highway No. 35W at 76th Street under State Project No. 2782-969F (T.H. 35W=394)

**BE IT FURTHER RESOLVED** that the Mayor and the City Manager are authorized to execute the Agreement and any amendments to the Agreement.

Adopted by the City Council of the City of Richfield, Minnesota this 26th day of June, 2018.

---

Pat Elliott, Mayor

ATTEST:

---

Elizabeth VanHoose, City Clerk

**STATE OF MINNESOTA  
DEPARTMENT OF TRANSPORTATION  
And  
CITY OF RICHFIELD  
COOPERATIVE LANDSCAPING  
AGREEMENT**

<b>State Project Number (S.P.):</b>	<b>2782-969F</b>	<b>Original Amount Encumbered</b>
<b>Trunk Highway Number (T.H.):</b>	<b>35W=394</b>	<b><u>\$8,000.00</u></b>

This Agreement is between the State of Minnesota, acting through its Commissioner of Transportation ("State") and the City of Richfield acting through its City Council ("City").

**Recitals**

1. The City will perform landscaping along Trunk Highway No. 35W at 76<sup>th</sup> Street within the City limits according to plans, specifications and special provisions designated as the "Richfield Landscaping Plan" and as State Project No. 2782-969F (T.H. 35W=394); and
2. The City requests the State participate in the acquisition costs of the landscape materials and the State is willing to participate in the acquisition costs of said landscaping materials according to the State's "Community Roadside Landscaping Partnership Program"; and
3. Minnesota Statutes § 161.20, subdivision 2 authorizes the Commissioner of Transportation to make arrangements with and cooperate with any governmental authority for the purposes of constructing, maintaining and improving the trunk highway system.

**Agreement**

**1. Term of Agreement; Survival of Terms; Plans; Incorporation of Exhibits**

- 1.1. *Effective Date.*** This Agreement will be effective the date the State obtains all signatures required by Minnesota Statutes § 16C.05, subdivision 2.
- 1.2. *Expiration Date.*** This Agreement will expire when all obligations have been satisfactorily fulfilled according to the Community Roadside Landscaping Partnership Program Project Application, on file in the State's Office of Environmental Stewardship and incorporated into this Agreement by reference.
- 1.3. *Survival of Terms.*** All clauses which impose obligations continuing in their nature and which must survive in order to give effect to their meaning will survive the expiration or termination of this Agreement, including, without limitation, the following clauses: 2.2. Right-of-Way, Easements and Permits; 2.3. Maintenance by the City; 6. Liability and Worker Compensation Claims; 8. State Audits; 9. Government Data Practices; 10. Governing Law; Jurisdiction; Venue; and 12. Force Majeure.
- 1.4. *Plans, Specifications, Special Provisions.*** Plans, specifications and special provisions designated as the "Richfield Landscaping Plan" and as State Project No. 2782-969F (T.H. 35W=394) are on file in the office of the City and the State's office of Environmental Stewardship and are incorporated into this Agreement by reference ("Landscape Plans").
- 1.5. *Exhibits.*** Exhibit "A" is attached and incorporated into this Agreement.

**2. Agreement Between the Parties**

**2.1. *Acquisition and Installation of Landscape Materials.***

- A. *Acquisition and Installation.*** The City will acquire landscape materials and perform landscaping according to the Landscape Plans.

- B. *Documents Furnished by the City.*** Within 7 days of ordering the landscape materials, the City will submit a copy of the purchase orders to the State's Landscape Partnership Program Coordinator in St. Paul.
- C. *Control and Inspection of Landscape Materials.***
- i. The landscape materials acquired under this Agreement will be under the control of the City; however the materials will be open to inspection by the State's authorized representatives. The City will give the State's Landscape Partnership Program Coordinator five days notice of its intention to receive delivery of the landscape materials.
  - ii. The City must verify that the nursery vendor has a valid nursery certificate as required by the Minnesota Department of Agriculture ("MDA"). Nursery stock originating outside Minnesota must have been certified under all applicable MDA and United States Department of Agriculture ("USDA") quarantines. Certification documents issued by the appropriate regulatory official at origin must accompany all nursery stock shipments, including but not limited to, USDA quarantines for Gypsy Moth, Phytophthora ramorum, Emerald Ash Borer and Black Stem Rust. MDA Japanese Beetle Quarantine nursery stock from Minnesota must be inspected and certified to be free of harmful plant pests, but is not subject to MDA external Japanese Beetle Quarantine.
- D. *Protecting and Locating Utilities.*** The City will preserve and protect all utilities located on lands covered by this Agreement, without cost to the State. As required by Minnesota Statute 216D, the City will notify Gopher State One Call System ([www.gopherstateonecall.org](http://www.gopherstateonecall.org)) (1-800-252-1166) at least 48 hours before any excavation is done on this project.
- E. *Restore Right-of-Way.*** Upon completion of the installation of landscape materials and after performing any ongoing maintenance operations, the City will restore all disturbed areas of State Right-of-Way so as to perpetuate satisfactory drainage, erosion control and aesthetics.
- F. *Completion of Acquisition and Installation.*** The City will cause the acquisition and installation of the landscape materials to be started and completed according to the time schedule in the Community Roadside Landscaping Partnership Program Project Application. The completion date for the acquisition and installation of the landscape materials may be extended, by an exchange of letters between the appropriate City official and the State's Landscape Partnership Program Coordinator, for unavoidable delays encountered in the performance of the acquisition and installation of the landscape materials.
- G. *Compliance with Laws, Ordinances, Regulations.*** The City will comply with all Federal, State and Local laws, and all applicable ordinances and regulations in connection with the acquisition and installation of the landscape materials.

## **2.2. *Right-of-Way, Easements and Permits.***

- A.** The City is authorized to work on State Right-of-Way for the purposes of installing and maintaining the landscape materials, including any necessary replacement of landscape materials that fail to survive. All suppliers, contractors or volunteers under the direction of the City, occupying the State's Right-of-Way must be provided with and wear required reflective clothing.
- B.** The City's use of State Right-of-Way will in no way impair or interfere with the safety or convenience of the traveling public in its use of the highway and any use of State Right-of-Way under this Agreement will remain subordinate to the right of the State to use the property for highway and transportation purposes. No advertising signs or devices of any form or size will be constructed or be permitted to be constructed or placed upon State Right-of-Way. This Agreement does not grant any interest whatsoever in land, nor does it establish a permanent park, recreation area or wildlife or waterfowl refuge facility that would become subject to Section 4(f) of the Federal Aid Highway Act of 1968.

C. The City will obtain all construction permits and any other permits and sanctions that may be required in connection with the installation of the landscape materials without cost to the State.

**2.3. *Maintenance by the City.*** The City will provide for the maintenance of the landscaping without cost to the State. Maintenance includes, but is not limited to, weeding and pruning, and removal and replacement of all materials that fail to survive. Criteria for maintenance and replacement are shown and described in Exhibit "A", Maintenance Responsibilities Plan and Schedule.

### **3. State Cost and Payment by the State**

**3.1. *Basis of State Cost.*** The State's complete share of the costs of the landscaping is the delivered cost of the landscaping materials acquired according to the Landscape Plans.

**3.2. *Estimated State Cost and Maximum Obligation.*** The estimated cost of the landscape materials acquisition is **\$8,000.00**. The maximum obligation of the State under this Agreement will not exceed **\$8,000.00**, unless the maximum obligation is increased by amendment to this Agreement.

**3.3. *Conditions of Payment.*** The State will pay the City the delivered cost of the landscape materials, not to exceed the maximum obligation, after the following conditions have been met:

- A. Encumbrance by the State of the State's total cost share.
- B. Execution of this Agreement and transmittal to the City.
- C. Receipt by the State's Landscape Partnership Program Coordinator, from the City, of the following:
  - i. Copies of the purchase orders for the landscape materials, as provided for in Section 2.1.B of this Agreement.
  - ii. Written request for payment, accompanied by copies of supplier invoices for the landscape materials acquisition and delivery.
- D. Receipt of a memo, from the State's Landscape Partnership Program Coordinator, verifying that the landscaping has been completed and recommending reimbursement.

### **4. Authorized Representatives**

Each party's Authorized Representative is responsible for administering this Agreement and is authorized to give and receive any notice or demand required or permitted by this Agreement.

**4.1.** The State's Authorized Representative will be:

Name/Title: Todd Carroll, Landscape Partnership Program Coordinator (or successor)  
 Address: 395 John Ireland Boulevard, Mailstop 686, St. Paul, MN 55155  
 Telephone: (651) 366-4617  
 E-Mail: todd.carroll@state.mn.us

**4.2.** The City's Authorized Representative will be:

Name/Title: Steven Devich, City Manager (or successor)  
 Address: 6700 Portland Avenue, Richfield, MN 55423  
 Telephone: (612) 861-9702  
 E-Mail: sdevich@richfieldmn.gov

### **5. Assignment; Amendments; Waiver; Contract Complete**

**5.1. *Assignment.*** Neither party may assign or transfer any rights or obligations under this Agreement without the prior consent of the other party and a written assignment agreement, executed and approved by the same parties who executed and approved this Agreement, or their successors in office.

- 5.2. *Amendments.*** Any amendment to this Agreement must be in writing and will not be effective until it has been executed and approved by the same parties who executed and approved the original Agreement, or their successors in office.
- 5.3. *Waiver.*** If a party fails to enforce any provision of this Agreement, that failure does not waive the provision or the party's right to subsequently enforce it.
- 5.4. *Contract Complete.*** This Agreement contains all prior negotiations and agreements between the State and the City. No other understanding regarding this Agreement, whether written or oral, may be used to bind either party.

## **6. Liability; Worker Compensation Claims**

Each party is responsible for its own employees for any claims arising under the Workers Compensation Act. Each party is responsible for its own acts, omissions and the results thereof to the extent authorized by law and will not be responsible for the acts and omissions of others and the results thereof. Minnesota Statutes § 3.736 and other applicable law govern liability of the State. Minnesota Statutes Chapter 466 and other applicable law govern liability of the City.

## **7. Nondiscrimination**

Provisions of Minnesota Statutes § 181.59 and of any applicable law relating to civil rights and discrimination are considered part of this Agreement.

## **8. State Audits**

Under Minnesota Statutes § 16C.05, subdivision 5, the City's books, records, documents, and accounting procedures and practices relevant to this Agreement are subject to examination by the State and the State Auditor or Legislative Auditor, as appropriate, for a minimum of six years from the end of this Agreement.

## **9. Government Data Practices**

The City and State must comply with the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, as it applies to all data provided by the State under this Agreement, and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the City under this Agreement. The civil remedies of Minnesota Statutes § 13.08 apply to the release of the data referred to in this clause by either the City or the State.

## **10. Governing Law; Jurisdiction; Venue**

Minnesota law governs the validity, interpretation and enforcement of this Agreement. Venue for all legal proceedings arising out of this Agreement, or its breach, must be in the appropriate state or federal court with competent jurisdiction in Ramsey County, Minnesota.

## **11. Termination; Suspension**

- 11.1. *By Mutual Agreement.*** This Agreement may be terminated by mutual agreement of the parties or by the State for insufficient funding as described below.
- 11.2. *Termination for Insufficient Funding.*** The State may immediately terminate this Agreement if it does not obtain funding from the Minnesota Legislature, or other funding source; or if funding cannot be continued at a level sufficient to allow for the payment of the services covered here. Termination must be by written or fax notice to the City. The State is not obligated to pay for any services that are provided after notice and effective date of termination. However, the City will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed to the extent that funds are available.
- 11.3. *Suspension.*** In the event of a total or partial government shutdown, the State may suspend this Agreement and all work, activities, performance and payments authorized through this Agreement. Any work performed during a period of suspension will be considered unauthorized work and will be undertaken at the risk of non-payment.

## **12. Force Majeure**

Neither party will be responsible to the other for a failure to perform under this Agreement (or a delay in performance), if such failure or delay is due to a force majeure event. A force majeure event is an event beyond a party's reasonable control, including but not limited to, unusually severe weather, fire, floods, other acts of God, labor disputes, acts of war or terrorism, or public health emergencies.

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**STATE ENCUMBRANCE VERIFICATION**

Individual certifies that funds have been encumbered as required by Minnesota Statutes § 16A.15 and 16C.05.

Signed: \_\_\_\_\_

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

SWIFT Purchase Order: 3000419570

**CITY OF RICHFIELD**

The undersigned certify that they have lawfully executed this contract on behalf of the Governmental Unit as required by applicable charter provisions, resolutions or ordinances.

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

Title: \_\_\_\_\_

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

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

Title: \_\_\_\_\_

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

**DEPARTMENT OF TRANSPORTATION**

Recommended for Approval:

By:  \_\_\_\_\_  
(Landscape Partnership Program Coordinator)

By: \_\_\_\_\_  
(District Engineer)

Approved:

By: \_\_\_\_\_  
(State Design Engineer)

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

**COMMISSIONER OF ADMINISTRATION**

By: \_\_\_\_\_  
(With Delegated Authority)

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

**INCLUDE COPY OF RESOLUTION APPROVING THE AGREEMENT AND AUTHORIZING ITS EXECUTION.**



SEVEN HILLS  
PREPARATORY  
ACADEMY  
GYMNASIUM  
ADDITION

1401 W 76TH STREET  
RICHFIELD, MN 55423



WELSH COMPANIES

4350 BAKER ROAD SUITE 400  
MINNETONKA, MN 55343



PLANNING  
CIVIL ENGINEERING  
LAND SURVEYING  
LANDSCAPE ARCHITECTURE  
ENVIRONMENTAL

7200 Hemlock Lane, Suite 300  
Maple Grove, MN 55369  
763.424.5505  
www.loucksinc.com

CADD QUALIFICATION

CADD files prepared by the Consultant for this project are instruments of the Consultant's professional services for use solely with respect to this project. These CADD files shall not be used on other projects, for additions to this project, or for completion of this project by others without written approval by the Consultant. With the Consultant's approval, others may be permitted to obtain copies of the CADD drawing files for information and reference only. All intentional or unintentional revisions, additions, or deletions to these CADD files shall be made at the full risk of that party making such revisions, additions or deletions and that party shall hold harmless and indemnify the Consultant from any & all responsibilities, claims, and liabilities.

SUBMITTAL/REVISIONS

06/26/17	Preliminary City Submittal
07/10/17	City Comment Resubmittal
08/02/17	City Comments
08/23/17	Permit Issue
11/09/17	Revision #1
02/21/18	Revision #2

PROFESSIONAL SIGNATURE

I hereby certify that this plan, specification or report was prepared by me or under my direct supervision and that I am a duly Licensed Landscape Architect under the laws of the State of Minnesota.

License No. 45591  
Date 08/23/17

QUALITY CONTROL

Loucks Project No.	17273
Project Lead	MJS
Drawn By	DDL
Checked By	DDL
Review Date	02/21/18

SHEET INDEX

C0-1	COVER SHEET
C1-1	EXISTING CONDITIONS
C1-2	DEMOLITION PLAN
C2-1	SITE PLAN
C3-1	GRADING PLAN
C3-2	SWPPP PLAN
C3-3	SWPPP NOTES
C4-1	UTILITY PLAN
C8-1	DETAILS
C8-2	DETAILS
L1-1	LANDSCAPE PLAN

LANDSCAPE  
PLAN

L1-1

GIRARD AVENUE S.

W. 76TH STREET

INTERSTATE 35W

LANDSCAPE REQUIREMENTS:

1 TREE PER 2,500 SQUARE FEET OF DEVELOPABLE LANDSCAPING AREA;

128,158 SF - DEVELOPABLE AREA

128,158 / 2,500 = 51 REQUIRED TREES TOTAL  
12 EXISTING TREES TO REMAIN  
39 NEW TREES REQUIRED  
39 NEW TREES PROPOSED

NOTE: SURVEY WAS PERFORMED BY OTHERS. TREES WERE NOT LOCATED BY SURVEYORS. EXISTING TREES SHOWN ON PLAN WERE LOCATED BY AERIAL PHOTOGRAPHY AND GOOGLE STREETVIEW.

0 30 60  
SCALE IN FEET

CALL BEFORE YOU DIG!

Gopher State One Call

TWIN CITY AREA: 651-454-0002  
TOLL FREE: 1-800-252-1166

PLANT SCHEDULE

DECIDUOUS TREES	QTY	COMMON NAME	BOTANICAL NAME	CONT	SIZE
BL	3	BOULEVARD LINDEN	Tilia americana 'Boulevard'	B & B	2.5" Cal
IH	8	IMPERIAL HONEYLOCUST	Gleditsia triacanthos 'Impcole' TM	B & B	2.5" Cal
NM	4	NORTHWOOD MAPLE	Acer rubrum 'Northwood'	B & B	2.5" Cal
SGM	8	SIENNA GLEN MAPLE	Acer freemanii 'Sienna Glen'	B & B	2.5" Cal
QB	3	SWAMP WHITE OAK	Quercus bicolor	B & B	2.5" Cal

EVERGREEN TREES	QTY	COMMON NAME	BOTANICAL NAME	CONT	SIZE
AP	5	AUSTRIAN PINE	Pinus nigra	B & B	6" HGT
BS	8	BLACK HILLS SPRUCE	Picea glauca 'Densata'	B & B	6" HGT

SHRUBS	QTY	COMMON NAME	BOTANICAL NAME	MIN CONT	MIN SIZE	SPACING
AWS	11	ANTHONY WATERER SPIREA	Spirea x bumalda 'Anthony Waterer'	5 gal	24" HGT	45" o.c.
CV	3	COMPACT AMERICAN VIBURNUM	Viburnum trilobum 'Bailey Compact'	5 gal	24" HGT	60" o.c.
GAC	10	GREEN MOUND ALPINE CURRANT	Ribes alpinum 'Green Mound'	5 gal	24" HGT	48" o.c.
GF	31	GRO-LOW FRAGRANT SUMAC	Rhus aromatica 'Gro-Low'	5 gal	24" SPRD	48" o.c.

GRASSES	QTY	COMMON NAME	BOTANICAL NAME	MIN CONT	MIN SIZE	SPACING
FG	12	FEATHER REED GRASS	Calamagrostis x acutiflora 'Karl Foerster'	1 gal		30" o.c.

PERENNIALS	QTY	COMMON NAME	BOTANICAL NAME	MIN CONT	MIN SIZE	SPACING
BAD	30	BAJA DAYLILY	Hemerocallis x 'Baja'	1 gal		24" o.c.
SD	35	STELLA D' ORO DAYLILY	Hemerocallis x 'Stella de Oro'	1 gal		24" o.c.

GENERAL NOTES

CONTRACTOR SHALL VISIT SITE PRIOR TO SUBMITTING BID. HE SHALL INSPECT SITE AND BECOME FAMILIAR WITH EXISTING CONDITIONS RELATING TO THE NATURE AND SCOPE OF WORK.

VERIFY LAYOUT AND ANY DIMENSIONS SHOWN AND BRING TO THE ATTENTION OF THE LANDSCAPE ARCHITECT ANY DISCREPANCIES WHICH MAY COMPROMISE THE DESIGN AND/OR INTENT OF THE PROJECT'S LAYOUT.

ASSURE COMPLIANCE WITH ALL APPLICABLE CODES AND REGULATIONS GOVERNING THE WORK OR MATERIALS SUPPLIED.

CONTRACTOR SHALL PROTECT ALL EXISTING ROADS, CURBS/GUTTERS, TRAILS, TREES, LAWNS AND SITE ELEMENTS DURING PLANTING OPERATIONS. ANY DAMAGE TO SAME SHALL BE REPAIRED AT NO COST TO THE OWNER.

CONTRACTOR SHALL VERIFY ALIGNMENT AND LOCATION OF ALL UNDERGROUND AND ABOVE GRADE UTILITIES AND PROVIDE THE NECESSARY PROTECTION FOR SAME BEFORE CONSTRUCTION / MATERIAL INSTALLATION BEGINS (MINIMUM 10' - 0" CLEARANCE).

ALL UNDERGROUND UTILITIES SHALL BE LAID SO THAT TRENCHES DO NOT CUT THROUGH ROOT SYSTEMS OF ANY EXISTING TREES TO REMAIN.

EXISTING CONTOURS, TRAILS, VEGETATION, CURB/GUTTER AND OTHER EXISTING ELEMENTS BASED UPON INFORMATION SUPPLIED TO LANDSCAPE ARCHITECT BY OTHERS. CONTRACTOR SHALL VERIFY ANY AND ALL DISCREPANCIES PRIOR TO CONSTRUCTION AND NOTIFY LANDSCAPE ARCHITECT OF SAME.

THE ALIGNMENT AND GRADES OF THE PROPOSED WALKS, TRAILS AND/OR ROADWAYS ARE SUBJECT TO FIELD ADJUSTMENT REQUIRED TO CONFORM TO LOCALIZED TOPOGRAPHIC CONDITIONS AND TO MINIMIZE TREE REMOVAL AND GRADING. ANY CHANGE IN ALIGNMENT MUST BE APPROVED BY LANDSCAPE ARCHITECT.

IRRIGATION NOTES:

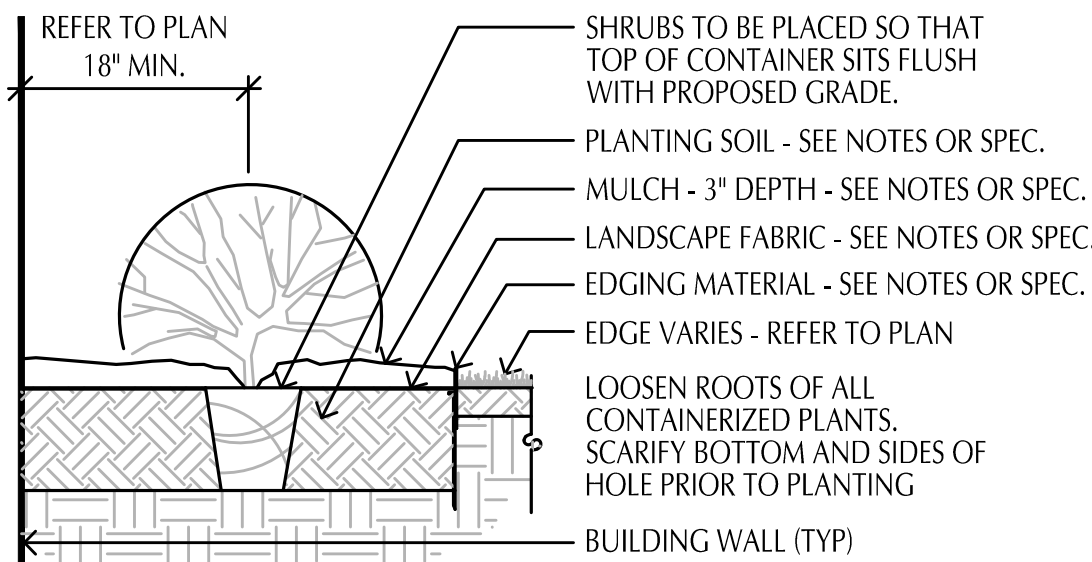
VERIFY EXISTING/PROPOSED IRRIGATION SYSTEM LAYOUT AND CONFIRM COMPLETE LIMITS OF IRRIGATION PRIOR TO SUPPLYING SHOP DRAWINGS.

LANDSCAPE CONTRACTOR SHALL BE RESPONSIBLE FOR PROVIDING AN IRRIGATION LAYOUT PLAN AND SPECIFICATION AS A PART OF THE SCOPE OF WORK WHEN BIDDING. THESE SHALL BE APPROVED BY THE LANDSCAPE ARCHITECT PRIOR TO ORDER AND/OR INSTALLATION. IT SHALL BE THE LANDSCAPE CONTRACTOR'S RESPONSIBILITY TO INSURE THAT ALL SODDED/SEEDED AND PLANTED AREAS ARE IRRIGATED PROPERLY, INCLUDING THOSE AREAS DIRECTLY AROUND AND ABUTTING BUILDING FOUNDATION.

THE LANDSCAPE CONTRACTOR SHALL PROVIDE THE OWNER WITH AN IRRIGATION SCHEDULE APPROPRIATE TO THE PROJECT SITE CONDITIONS AND TO PLANT MATERIAL GROWTH REQUIREMENTS.

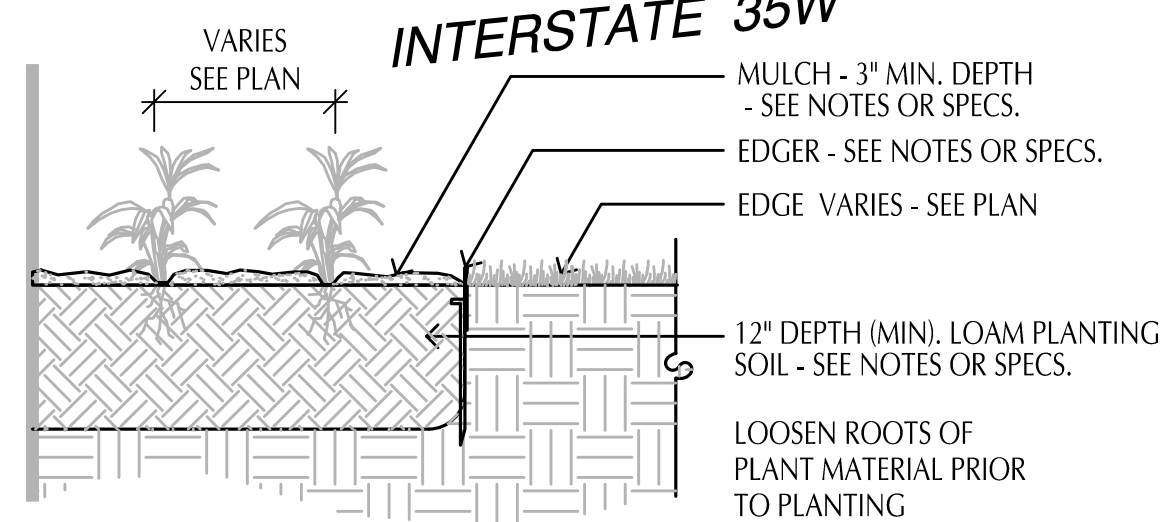
IRRIGATION SYSTEM IS NOT TO SPRINKLE ACROSS PAVEMENT. THE SYSTEM SHALL INCORPORATE A RAIN SENSOR INTO IRRIGATION SYSTEM.

PLANTINGS OUTSIDE THE LIMITS OF IRRIGATION ARE TO BE WATERED REGULARLY UNTIL PLANTING/SOD/SEED HAS BEEN ESTABLISHED.



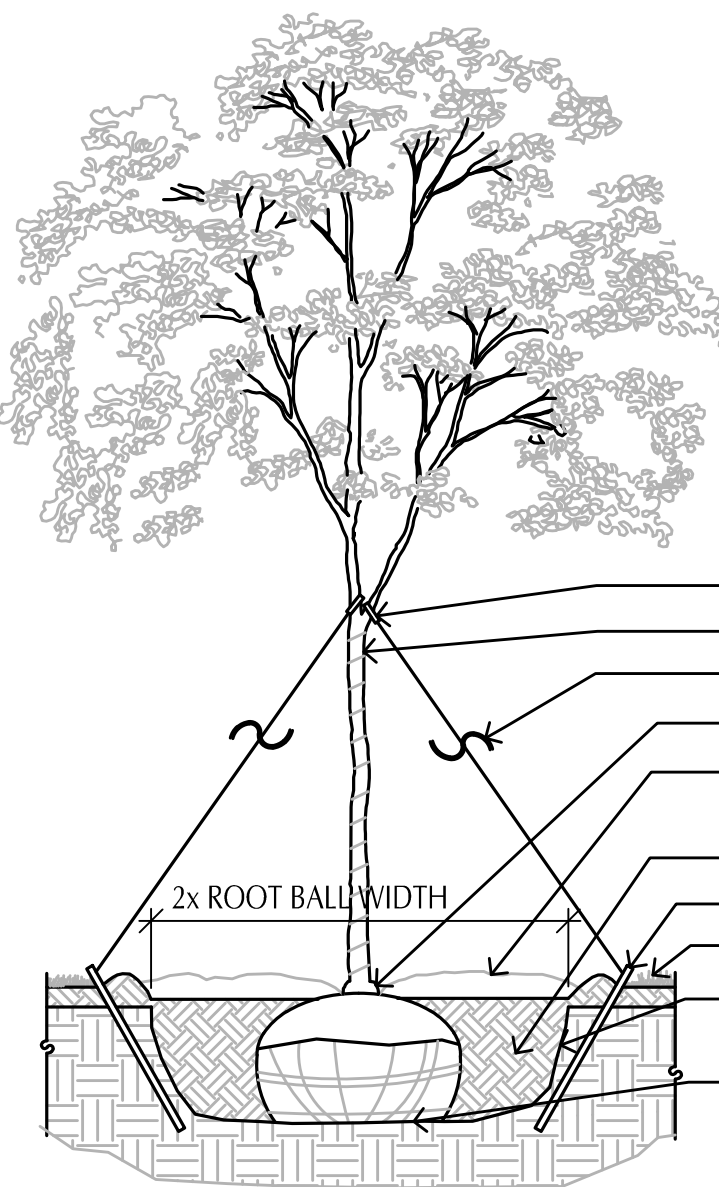
SHRUB PLANTING DETAIL

SCALE: 3/4" = 1'-0"



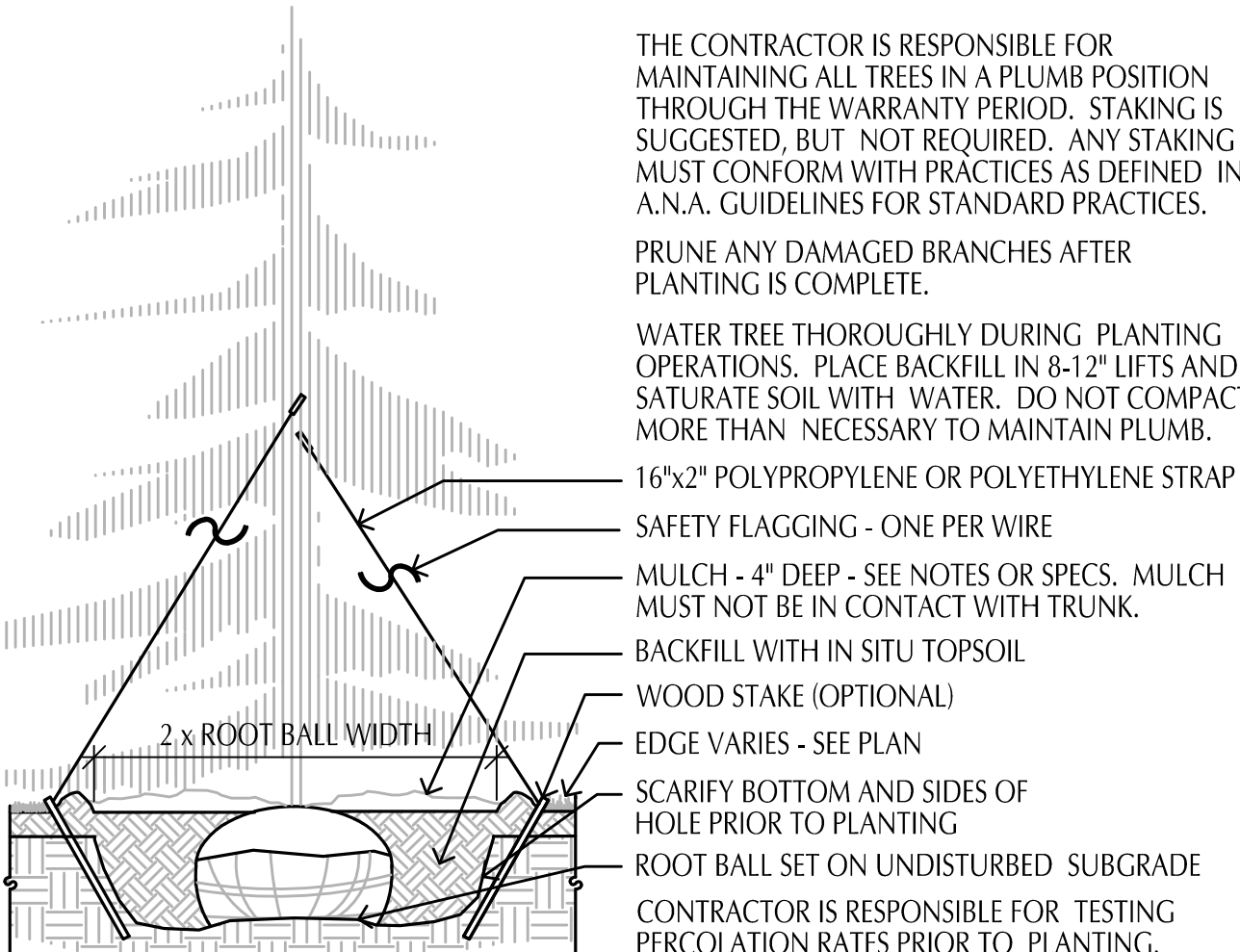
PERENNIAL PLANTING

SCALE: 3/4" = 1'-0"



DECIDUOUS TREE PLANTING DETAIL

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



CONIFEROUS TREE PLANTING DETAIL

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





**STAFF REPORT NO. 110**  
**CITY COUNCIL MEETING**  
**6/26/2018**

REPORT PREPARED BY: Jeff Pearson, City Engineer

DEPARTMENT DIRECTOR REVIEW: Kristin Asher, Public Works Director  
6/20/2018

OTHER DEPARTMENT REVIEW: Melissa Poehlman, Planning & Redevelopment Manager/Assistant CD Director

CITY MANAGER REVIEW: Steven L. Devich, City Manager  
6/21/2018

**ITEM FOR COUNCIL CONSIDERATION:**

**Consideration of the approval of the revised Richfield Parkway Infrastructure Construction Agreement and the Maintenance Parcel Agreement between the City of Richfield and Chamberlain Apartments, LLC.**

**EXECUTIVE SUMMARY:**

The Infrastructure Agreement, which includes the Maintenance Parcel Agreement, replaces the documents approved by City Council at the April 24, 2018, meeting and has been revised in accordance with HUD requirements. The City Attorney, Developer's Attorneys, and City staff have reviewed and approved the revised agreements.

**Background**

The Cedar Corridor Master Plan calls for the extension of Richfield Parkway south of 66th Street and continuing to 77th Street along what is currently 18th Avenue. This construction is expected to take place as development/redevelopment occurs.

In coordination with the construction of the Chamberlain Apartment project, the first two blocks of the extension of Richfield Parkway (from 66th Street to 68th Street) will be constructed by Chamberlain Apartments, LLC (Developer). In order for the construction to take place, the City must enter into an Infrastructure Construction Agreement with the Developer. In addition to the construction of the Parkway, the Agreement includes:

- Construction of sidewalk along both road segments;
- Construction of a multi-use path along the same portion of the Parkway;
- Utility removal and installation;
- Installation of landscaping along the same segment; and
- All improvements will be completed by the end of 2019.

The Maintenance Agreement Includes:

- Chamberlain is responsible for maintaining the Maintenance Parcel (for the area along Richfield Parkway north of the Plaza 66 driveway) and all maintenance obligations.
- The City may maintain the property if Chamberlain fails to do so. The City may then invoice Chamberlain for the costs incurred in maintenance.

The Developer will be reimbursed for costs related to the construction of Richfield Parkway and adjacent sidewalks via grant funds awarded by the Metropolitan Council.

**RECOMMENDED ACTION:**

**By motion: Approve the revised Richfield Parkway Infrastructure Construction Agreement and the Maintenance Parcel Agreement between the City of Richfield and Chamberlain Apartments, LLC.**

**BASIS OF RECOMMENDATION:**

**A. HISTORICAL CONTEXT**

- See Executive Summary

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

- The Richfield Parkway construction and redevelopment is consistent with the City's Comprehensive Plan.
- A more comprehensive maintenance agreement with Chamberlain Apartments, LLC for the site will be completed as part of the final project completion.

**C. CRITICAL TIMING ISSUES:**

- The Construction Agreement and the included Maintenance Agreement needs to be approved prior to the sale of property closing in July.

**D. FINANCIAL IMPACT:**

- Construction of Richfield Parkway will primarily be funded through a grant from the Metropolitan Council.
- Some minor engineering and inspection costs for the construction will be funded through the City's Municipal State Aid program.

**E. LEGAL CONSIDERATION:**

- The City Attorney has reviewed the agreement and will be available for questions at the meeting.

**ALTERNATIVE RECOMMENDATION(S):**

- None

**PRINCIPAL PARTIES EXPECTED AT MEETING:**

None

**ATTACHMENTS:**

Description	Type
▢ Revised Infrastructure Agreement	Contract/Agreement

---

**INFRASTRUCTURE CONSTRUCTION AGREEMENT**

**BY AND BETWEEN**

**THE CITY OF RICHFIELD**

**AND**

**CHAMBERLAIN APARTMENTS, LLC**

---

This document drafted by:

Kennedy & Graven, Chartered  
470 U.S. Bank Plaza  
200 South Sixth Street  
Minneapolis, MN 55402  
(612) 337-9300 (AMB)

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EXHIBIT B GENERAL FORM OF MAINTENANCE AGREEMENT	

This Infrastructure Construction Agreement (the “Agreement”) is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2018, by and between the City of Richfield, a municipal corporation under the laws of Minnesota (the “City”), and Chamberlain Apartments, LLC, a limited liability company formed under the laws of the State of Delaware (the “Developer”).

WITNESSETH:

WHEREAS, the Developer has entered into an Amended and Restated Contract for Private Development (the “Development Agreement”) dated \_\_\_\_\_, 2018 with the Housing and Redevelopment Authority in and for the City of Richfield, Minnesota, a public body corporate and politic under the laws of the State of Minnesota (the “HRA”); and

WHEREAS, the Development Agreement provides for the development of certain real property owned by the HRA (the “Property”) which shall be transferred to the Developer for the construction of the redevelopment project known as the Richfield Redevelopment Project which includes the development of affordable housing on the Property; and

WHEREAS, Section 3.11 of the Development Agreement requires the Developer to construct certain portions of the public streets, which improvements will be accepted by the City as public improvements; and

WHEREAS, the Developer is required to enter into this Agreement outlining the obligations of the Developer with respect to the construction of such improvements.

NOW, THEREFORE, based on the mutual covenants and obligations contained herein, the parties agree as follows:

1. Right to Proceed; Permitted Uses. a) This Agreement governs the construction of an extension of Richfield Parkway between 66<sup>th</sup> Street and 68<sup>th</sup> Street and the repositioning of 67<sup>th</sup> Street East, which is also known as 18<sup>th</sup> Avenue South, between 67<sup>th</sup> Street East/18<sup>th</sup> Avenue South and Cedar Avenue within the City, construction of a sidewalk along both road segments and a multi-use path along the same portion of Richfield Parkway, and landscaping on the same portion of Richfield Parkway (the “Improvements”). The Developer may not construct such Improvements until all the following conditions precedent have been satisfied:

- 1) this Agreement has been executed by the Developer and the City;
- 2) final engineering and construction plans have been submitted by the Developer and approved by the city engineer, which have been submitted prior to the date hereof as Revision #1 by Westwood dated April 20, 2018 (the “Plans”);
- 3) Developer has provided proof of a warranty bond required under paragraph 4(e)
- 4) the Developer has received all required permits and approvals from the Minnehaha Creek Watershed District (which will be obtained by the City), Three Rivers Park District, Minnesota Pollution Control Agency, Hennepin County and any other permitting entity having jurisdiction;

- 5) the Developer or the Developer's engineer has initiated and attended a preconstruction meeting with the City engineer and staff;
- 6) the City has issued a notice that all conditions precedent have been satisfied and that the Developer may proceed.

The City will issue a notice to proceed, as confirmation that the aforementioned conditions have been satisfied, on or before the day of the closing of the loan provided by Dougherty Mortgage LLC, a Delaware limited liability company, to the Developer, which will be insured pursuant to 221(d)(4) of the National Housing Act, as amended.

2. Plans; Improvements. a) The Developer agrees to construct the Improvements in accordance with all required city approvals and in compliance with all applicable city codes. The Developer also agrees that all Improvements constructed shall be materially in accordance with the approved engineering and construction plans (collectively, the "Plans"). The documents which constitute the Plans are those on file with and approved by the City and are listed on Exhibit A attached hereto. The Plans may not be materially modified by the Developer without the prior written approval of the City.

b) All Improvements must be completed no later than December 31, 2019.

c) All work performed by or on behalf of the Developer related to construction of the Improvements shall be restricted to the hours of 7:00 a.m. through 8:00 p.m., Monday through Friday, and 8:00 a.m. through 8:00 p.m. on Saturday.

3. Erosion Control. a) All construction of the Improvements shall be conducted in a manner designed to control erosion and in compliance with all City ordinances and other requirements, including the City's permit with the Minnesota Pollution Control Agency regarding municipal separate storm sewer system program. Before construction of the Improvements begins, the City must approve an erosion control plan submitted by the Developer (which have been approved prior to the date hereof as part of the Plans), and the Developer shall implement such plan. The City may impose additional erosion control requirements after the City's initial approval if the City deems such measures reasonably necessary due to a change in conditions. All areas disturbed by the grading shall be reseeded promptly after the completion of the work in that area unless the construction of buildings or other improvements is anticipated immediately thereafter. Except as otherwise provided in the erosion control plan, seed shall provide a temporary ground cover as rapidly as possible. All seeded areas shall be fertilized, mulched, and disc anchored as necessary for seed retention. The parties recognize that time is of the essence in controlling erosion.

b) If the Developer does not comply with the erosion control plan and schedule or supplementary instructions received from the City and such failure continues for five (5) days after written notice from the City, the City may take such action as it deems reasonably appropriate to control erosion based on the urgency of the situation.

c) The Developer agrees to reimburse all reasonable expenses incurred by the City in connection with erosion control actions. The erosion control measures specified in the Plans or



otherwise required on the Property shall be binding on the Developer and its successors and assigns.

4. Construction of Improvements. a) The Developer will reconstruct, widen, and extend that portion of the Richfield Parkway which is located between 66<sup>th</sup> Street and 68<sup>th</sup> Street within the city of Richfield. The Developer will also reposition that part of 67<sup>th</sup> Street East, which is also known as 18<sup>th</sup> Avenue South, between 67<sup>th</sup> Street East/18<sup>th</sup> Avenue South and Cedar Avenue South. The Developer shall also construct a sidewalk along both road segments and a multi-use path along Richfield Parkway, as well as landscape the area along that portion of roadway. The Developer shall construct such Improvements in accordance with the approved Plans. Upon completion of the construction of such Improvements to the City's satisfaction, the City will accept them as public improvements.

b) All Improvements shall be constructed in accordance with the Plans, any required city approvals, the City's engineering standards (as hereinafter defined) and the requirements of the reports from the city engineer. The Developer shall submit plans and specifications for construction prepared by a registered professional engineer. The Developer shall obtain any necessary permits from the Minnesota Pollution Control Agency, Minnehaha Creek Watershed District (which will be obtained by the City), Three Rivers Park District, Hennepin County and any other agency having jurisdiction over the Property before proceeding with construction. The Developer, its contractors, and subcontractors, shall follow all reasonable instructions received from the City's inspectors regarding compliance with the plans and specifications for the Improvements, with City code requirements or with the City's engineering standards. Prior to beginning construction, the Developer or the Developer's engineer shall schedule a preconstruction meeting with all parties concerned, including the City staff and engineers, to review the program for the construction work.

c) As-built plans for the Improvements will be provided to the City prior to the City's acceptance thereof. Developer shall submit .pdf files of complete civil and site plan set including all updates with as-built information of all utilities installed and removed. Utility plan will also be delivered as an AutoCAD file, ANSI D size Mylar, and ArcMap point and line shapefile with attribute table populated with structure, pipe and invert elevation information; provide benchmark information to all new and adjusted hydrants TNH elevation, vertical datum: NAVD 88.

d) Iron monuments must be installed on the Property in accordance with state law. The Developer's surveyor shall submit a written notice to the City certifying that the monuments have been installed. All Improvements required by this Agreement shall be completed by no later than December 31, 2019. The Developer may, however, request in writing an extension of time from the City to complete the Improvements, but the City shall be under no obligation to approve such request.

e) The Developer agrees to require its contractor to provide to the City a warranty bond, in an amount determined by the City Engineer, for the Improvements described in this Agreement which are to be accepted by the City as public improvements, with such bond covering defects in labor and materials for the Improvements for a period of two years from the date of

their acceptance by the City. During such period, the Developer agrees to repair or replace any Improvement, or portion or element thereof, which shows signs of failure, normal wear and tear excepted. A decision regarding whether an Improvement shows signs of failure shall be made by the City in the reasonable exercise of its judgment following consultation with the Developer. If the defective Improvement is not repaired or replaced by means of the warranty bond or if the Developer otherwise fails to repair or replace a defective Improvement during the warranty period after written notice to the Developer and a 30-day opportunity to cure, the City may repair or replace the defective portion and Developer agrees to reimburse the City fully for the reasonable cost of all Improvement repairs or replacement. Such reimbursement must be made within 45 days of the date upon which the City notifies the Developer of the cost due under this section. If the Developer fails to make required payments to the City, the Developer hereby consents to the City levying special assessments for any unreimbursed amount associated with such costs against the Property. The Developer, on behalf of itself and its successors and assigns, acknowledges the benefit to the Property of the repair or replacement of the Improvements and hereby consents to such assessment and waives the right to a hearing, notice of hearing, and any appeal rights thereon under Minnesota Statutes, Chapter 429.

5. Intentionally Omitted.

6. Developer's Default. In the event of default by the Developer as to construction or repair of any of the Improvements that is not cured within thirty (30) days of written notice by the City to the Developer, the City may, at its option, perform the work and the Developer shall promptly reimburse the City for any expense incurred by the City. This Agreement is a license for the City to act, and it shall not be necessary for the City to seek an order from any court for permission to enter the Property for such purposes. If the City does any such work, the City may, in addition to its other remedies, levy special assessments against the Property to recover the costs thereof. For this purpose, the Developer, for itself and its successors and assigns, expressly waives any and all procedural and substantive objections to the special assessments, including but not limited to, hearing requirements and any claim that the assessments exceed the benefit to the land so assessed. The Developer, for itself and its successors and assigns, also waives any appeal rights otherwise available pursuant to Minnesota Statutes, section 429.081.

7. Insurance. The Developer or its contractor shall maintain, during construction and until at least six months after the City has accepted the Improvements, public liability and property damage insurance covering personal injury, including death, and claims for property damage which may arise out of Developer's work or the work of its contractors or subcontractors. Liability limits shall not be less than \$500,000 when the claim is one for death by wrongful act or omission or for any other claim and \$2,000,000 for any number of claims arising out of a single occurrence. The City shall be named as an additional insured on the policy. The certificate of insurance shall provide that the City must be given the same advance written notice of the cancellation of the insurance as is afforded to the Developer or its contractor.

8. Clean up and Dust Control. The Developer shall daily clean dirt and debris resulting from construction work by the Developer, its contractors, agents, or assigns. The

Developer shall provide dust control to the satisfaction of the City's engineer throughout construction on the Property.

9. Right of Entry. The parties hereto acknowledge that Developer and the HRA shall enter into a separate right of entry agreement which shall provide Developer with the necessary rights of entry to construct the Improvements.

10. Maintenance Agreement. The Developer shall enter into a maintenance agreement (the "Maintenance Agreement") with the City related to that portion of real property which is legally described in the Maintenance Agreement. The City intends to obtain fee title to this tract of real property. The City shall subsequently provide a perpetual driveway easement benefitting the property directly to the west which is generally known as the "Plaza 66" development. The City shall then convey fee title of such property that lies to the south to such driveway easement to the Developer, and the City shall retain the real property which lies to the north of said driveway easement, subject to the Developer's ongoing obligation to maintain such northerly property pursuant to the terms of the Maintenance Agreement, the general form of which is attached hereto as Exhibit B.

11. Compliance With Laws. The Developer agrees to comply with all laws, ordinances, regulations and directives of the state of Minnesota, Hennepin County, and the City applicable to the Property. This Agreement shall be construed according to the laws of Minnesota. Breach of the terms of this Agreement by the Developer shall be grounds for denial of building permits for the Property.

12. Agreement Runs With the Land. This Agreement shall run with the Property and shall be recorded against the title thereto and shall bind the parties hereto and their successors and assigns.

13. Indemnification. The Developer hereby agrees to defend, indemnify and hold the City and its officers, employees, and agents harmless from claims made by third parties for damages sustained or costs incurred resulting from any action taken by Developer pursuant to this Agreement.

14. Assignment. The Developer may not assign this Agreement without the prior written permission of the City, which provision shall not be unreasonably withheld, delayed or conditioned.

15. City to Act Reasonably. The City agrees that any actions, approvals or requests of the City or its employees or agents as set forth in this Agreement will be commercially reasonable and not unreasonably withheld, delayed or conditioned.

16. Notices. Any notice or correspondence to be given under this Agreement shall be deemed to be given if delivered personally or sent by U.S. Mail, postage prepaid, certified mail, return receipt requested:

a) as to Developer: Chamberlain Apartments, LLC  
c/o Kraus Anderson Incorporated  
501 South 8<sup>th</sup> Street  
Minneapolis, MN 55404  
Attn: Bruce Engelsma

With a copy to: Inland Development Partners  
130 Lake Street West  
Suite 101  
Wayzata, MN 55391  
Attn: Kent Carlson

b) as to City: City of Richfield  
6700 Portland Avenue  
Richfield, MN 55423  
Attn: City Manager

with a copy to: Richfield City Attorney  
Kennedy & Graven  
470 U.S. Bank Plaza  
200 South Sixth Street  
Minneapolis, MN 55402

or at such other address as either party may from time to time notify the other in writing in accordance with this Section. The Developer shall notify the City if it changes its name or address.

17. Severability. In the event that any provision of this Agreement shall be held invalid, illegal or unenforceable by any court of competent jurisdiction, such holding shall pertain only to such section and shall not invalidate or render unenforceable any other provision of this Agreement.

18. Non-waiver. Each right, power or remedy conferred upon the City by this Agreement is cumulative and in addition to every other right, power or remedy, express or implied, now or hereafter arising, or available to the City at law or in equity, or under any other agreement. Each and every right, power and remedy herein set forth or otherwise so existing may be exercised from time to time as often and in such order as may be deemed expedient by the City and shall not be a waiver of the right to exercise at any time thereafter any other right, power or remedy. If either party waives in writing any default or nonperformance by the other party, such waiver shall be deemed to apply only to such event and shall not waive any other prior or subsequent default.

19. Counterparts. This Agreement may be executed simultaneously in any number of counterparts, each of which shall be an original and shall constitute one and the same Agreement.

20. Force Majeure. Whenever a period of time is herein prescribed, for action to be taken by City or Developer, City or Developer shall not be liable or responsible for, and there shall be excluded from the computation of any such period of time, any unavoidable delays due to strikes, riots, acts of God, shortages of labor or materials, war, governmental laws, regulations, or restrictions or any other causes of any kind whatsoever which are beyond the reasonable control of the parties, including without limitation, inclement conditions and delays in the issuance of permits and approvals. However, this provision shall not apply to any delay caused, in whole or in part, by the Developer's failure to apply for or diligently pursue all necessary government approvals required under this Agreement.

21. Reimbursement/Indemnity. Notwithstanding the foregoing, for so long as HUD is the insurer or holder of a loan encumbering the Property, any reimbursement to the City, as described in Sections 3(c) and Section 6, and any liability under the indemnity described in Section 13 shall be paid from available liability insurance proceeds, non-Project Assets and/or Surplus Cash, as each term is defined in the Regulatory Agreement for the Multifamily Projects by and between the Borrower and HUD.

\*\*\*\*\*

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be executed on the day and year first above written.

**CITY OF RICHFIELD**

By: \_\_\_\_\_  
Pat Elliot, Mayor

By: \_\_\_\_\_  
Steven Devich, City Manager

STATE OF MINNESOTA    )  
  ) ss.  
COUNTY OF HENNEPIN    )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2018, by Pat Elliot and Steven Devich, the Mayor and City Manager, respectively, of the City of Richfield, a Delaware municipal corporation, on behalf of the municipal corporation.

\_\_\_\_\_  
Notary Public

**CHAMBERLAIN APARTMENTS, LLC**

By: Kraus-Anderson, Incorporated  
Its: Managing Member

By: \_\_\_\_\_  
Bruce W. Engelsma  
Its: Chief Executive Officer

STATE OF MINNESOTA    )  
                                      ) SS.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_\_, 2018,  
by Bruce W. Engelsma, the Chief Executive Officer of Kraus-Anderson, Incorporated, a  
Minnesota corporation, the managing member of Chamberlain Apartments, LLC, on behalf of  
the Developer.

\_\_\_\_\_  
Notary Public

**EXHIBIT A TO  
INFRASTRUCTURE CONSTRUCTION AGREEMENT**

**LIST OF IMPROVEMENT PLAN DOCUMENTS**

Drawings: Prepared by Westwood Professional Services, Inc., 7699 Anagram Drive,  
Eden Prairie MN 55344

<b>SHEET #</b>	<b>SHEET TITLE</b>	<b>Current Issue</b>	<b>Date</b>
1	Cover Sheet	Revision No. 1	4/20/18
2	Overall Existing Conditions and Removal Plan	Revision No. 1	4/20/18
3	Overall Site Plan	Revision No. 1	4/20/18
3.1	Standard Plates List, Traffic Control & Detour Plan	Revision No. 1	4/20/18
4	Striping, Signage and Lighting Plan	Revision No. 1	4/20/18
4.1	Lighting Plan (By Others)	Revision No. 1	4/20/18
4.2	Erosion Control Plan – Phase 1	Revision No. 1	4/20/18
4.3	Erosion Control Plan – Phase II	Revision No. 1	4/20/18
5	Overall Utility Plan	Revision No. 1	4/20/18
6	Sanitary Sewer & Watermain Construction Plan	Revision No. 1	4/20/18
7	Sanitary Sewer & Watermain Construction Plan	Revision No. 1	4/20/18
8	Storm Sewer & Street Construction Plan	Revision No. 1	4/20/18
9	Storm Sewer & Street Construction Plan	Revision No. 1	4/20/18
10	Storm Sewer Extensions Plan	Revision No. 1	4/20/18
11	Overall Intersections Plan	Revision No. 1	4/20/18
12	Intersection Details	Revision No. 1	4/20/18
13	Intersection Details	Revision No. 1	4/20/18
14	Intersection Details	Revision No. 1	4/20/18
15	Intersection Details	Revision No. 1	4/20/18
16	Intersection Details	Revision No. 1	4/20/18
17	Street Section Details	Revision No. 1	4/20/18
18	Details	Revision No. 1	4/20/18
19	Details	Revision No. 1	4/20/18
20	Details	Revision No. 1	4/20/18
21	Boulevard Landscape Plan	Revision No. 1	4/20/18
22	Boulevard Landscape Details	Revision No. 1	4/20/18
23	Boulevard Landscape Details	Revision No. 1	4/20/18



**EXHIBIT B TO  
INFRASTRUCTURE CONSTRUCTION AGREEMENT  
GENERAL FORM OF MAINTENANCE AGREEMENT**

04/04/18

**MAINTENANCE AGREEMENT**

This Maintenance Agreement (the “Agreement”) is made on this \_\_\_\_ day of \_\_\_\_\_, 2018, by and between Chamberlain Apartments, LLC, a limited liability company formed under the laws of the state of Delaware (“Chamberlain”) and the City of Richfield, a municipal corporation under the laws of the state of Minnesota (the “City”).

WITNESSETH:

WHEREAS, Chamberlain and the Housing and Redevelopment Authority in and for the City of Richfield, Minnesota, have entered into an Amended and Restated Contract for Private Development, dated \_\_\_\_\_, 2018, relating to the construction and development of residential apartments in the general area of 68<sup>th</sup> Street South and 18<sup>th</sup> Avenue South, to be known as “The Chamberlain” and legally described on Exhibit A, attached hereto (the “Chamberlain Project”); and

WHEREAS, pursuant to the terms of the Infrastructure Construction Agreement, dated \_\_\_\_\_, 2018, between Chamberlain and the City, Chamberlain has agreed to construct and/or install certain public improvements, including but not limited to the construction and improvement of 18<sup>th</sup> Avenue South between 66<sup>th</sup> Street East and 68<sup>th</sup> Street East; and

WHEREAS, the City and Chamberlain have agreed that the City will retain fee ownership over that certain real property which is legally described in Exhibit A (the “Property”), over which a driveway easement shall be granted in favor of the public to access the development commonly known as “Plaza 66”; and

WHEREAS, Chamberlain shall be responsible for the maintenance of the portion of the Property that is North of the driveway easement area as depicted on Exhibit A-1 (the “Maintenance Parcel”) pursuant to the terms of this Agreement.

NOW, THEREFORE, in consideration of the mutual promises of the parties hereto and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Chamberlain and the City agree as follows:

1. **Maintenance Responsibilities.** Chamberlain and its successors or assigns shall be responsible for maintaining the Maintenance Parcel according to the terms of this Agreement. The specific maintenance obligations (the "Obligations") are those obligations outlined in Exhibit B, attached hereto. For so long as the US Department of Housing and Urban Development ("HUD") is the insurer or holder of a loan encumbering the Chamberlain Project, any fees and costs associated with such Obligations shall be subordinate to any payments due to HUD.
2. **Performance of Maintenance.** Chamberlain and its successors and assigns shall conduct all necessary Obligations as outlined pursuant to this Agreement to the reasonable satisfaction of the City.
3. **City's Maintenance Rights.** The City may maintain the Property, as provided in this paragraph, if the City reasonably believes that Chamberlain or its successors or assigns has failed to maintain the Property in accordance with its Obligations hereunder and such failure continues for 30 days after the City gives Chamberlain written notice of such failure or, if such tasks cannot be completed within 30 days, after such time period as may be reasonably required to complete the required tasks provided that Chamberlain is making a good faith effort to complete said task. The City's notice shall specifically state which Obligations are to be performed. If Chamberlain does not complete the Obligations within the required time period after such notice is given by the City, the City shall have the right to enter upon the Property to perform such Obligations. In such case, the City shall send an invoice of its reasonable maintenance costs to Chamberlain or its successors or assigns, which shall include all reasonable staff time, engineering and legal and other reasonable costs and expenses incurred by the City. Chamberlain must pay the invoice within 30 days after its receipt of such charges.
4. **Hold Harmless.** Chamberlain hereby agrees to defend, indemnify and hold harmless the City and its agents and employees against any and all claims, demands, losses, damages, and expenses (including reasonable attorneys' fees) arising out of or resulting from Chamberlain's, or Chamberlains' agents' or employees' negligent or intentional acts, or any violation of any safety law, regulation or code in the performance of this Agreement, without regard to any inspection or review made or not made by the City, its agents or employees or failure by the City, its agents or employees to take any other prudent precautions. Notwithstanding the foregoing, for so long as HUD is the insurer or holder of a loan encumbering the Chamberlain Project, the Chamberlain's liability hereunder will be limited to available liability insurance proceeds and/or Surplus Cash, as such term is defined in the Regulatory Agreement for the Multifamily Projects by and between the Borrower and HUD. Additionally, HUD shall not be liable for any liability under this Section should HUD become a successor in interest to the Developer. However, such requirements may be imposed on a subsequent purchaser from HUD.
5. **Costs of Enforcement.** Chamberlain agrees to reimburse the City for all reasonable costs prudently incurred by the City in the enforcement of this Agreement, or any portion thereto, including court costs and reasonable attorneys' fees.

6. **Rights Not Exclusive.** No right of the City under this Agreement shall be deemed to be exclusive and the City shall retain all rights and powers it may have under any applicable rule or law.
7. **Notice.** All notices required under this Agreement shall either be personally delivered or sent by United States certified or registered mail, postage prepaid, and addressed as follows:

- |    |                    |   |
|----|--------------------|---|
| a) | as to Chamberlain: | Chamberlain Apartments, LLC<br>c/o Kraus Anderson Incorporated<br>501 South 8 <sup>th</sup> Street<br>Minneapolis, MN 55404<br>Attn: Bruce Engelsma |
| b) | with a copy to:    | Inland Development Partners<br>130 Lake Street West, Suite 101<br>Wayzata, MN 55391<br>Attn: Kent Carlson   |
| c) | as to City:        | City of Richfield<br>6700 Portland Avenue<br>Richfield, MN 55423<br>Attn: City Manager  |
| d) | with a copy to:    | Richfield City Attorney<br>Kennedy & Graven, Chartered<br>470 U.S. Bank Plaza<br>200 South Sixth Street<br>Minneapolis, MN 55402                    |

or at such other address as any party may from time to time notify the others in writing in accordance with this paragraph.

8. **Successors.** All duties and obligations of Chamberlain under this Agreement shall also be duties and obligation of Chamberlain's successors and assigns. The terms and conditions of this Agreement shall run with the Property.
9. **Effective Date.** This Agreement shall be binding and effective as of the date first written above.
10. **Governing Law.** This Agreement shall be construed under the laws of Minnesota.

[SIGNATURE PAGES FOLLOW]

**CHAMBERLAIN APARTMENTS, LLC**

By: Kraus-Anderson, Incorporated  
Its: Managing Member

By: \_\_\_\_\_  
Bruce W. Engelsma  
Its: Chief Executive Officer

STATE OF MINNESOTA    )  
  ) SS.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_\_, 2018,  
by Bruce W. Engelsma, the Chief Executive Officer of Kraus-Anderson, Incorporated, a  
Minnesota corporation, the managing member of Chamberlain Apartments, LLC, on behalf of  
the Developer.

\_\_\_\_\_  
Notary Public

**CITY OF RICHFIELD**

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

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

STATE OF MINNESOTA    )  
  ) ss.  
COUNTY OF HENNEPIN    )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2018, by Pat Elliott and Steven Devich, the Mayor and the City Manager, respectively, of the City of Richfield, a Minnesota municipal corporation, on behalf of the municipal corporation.

\_\_\_\_\_  
Notary Public

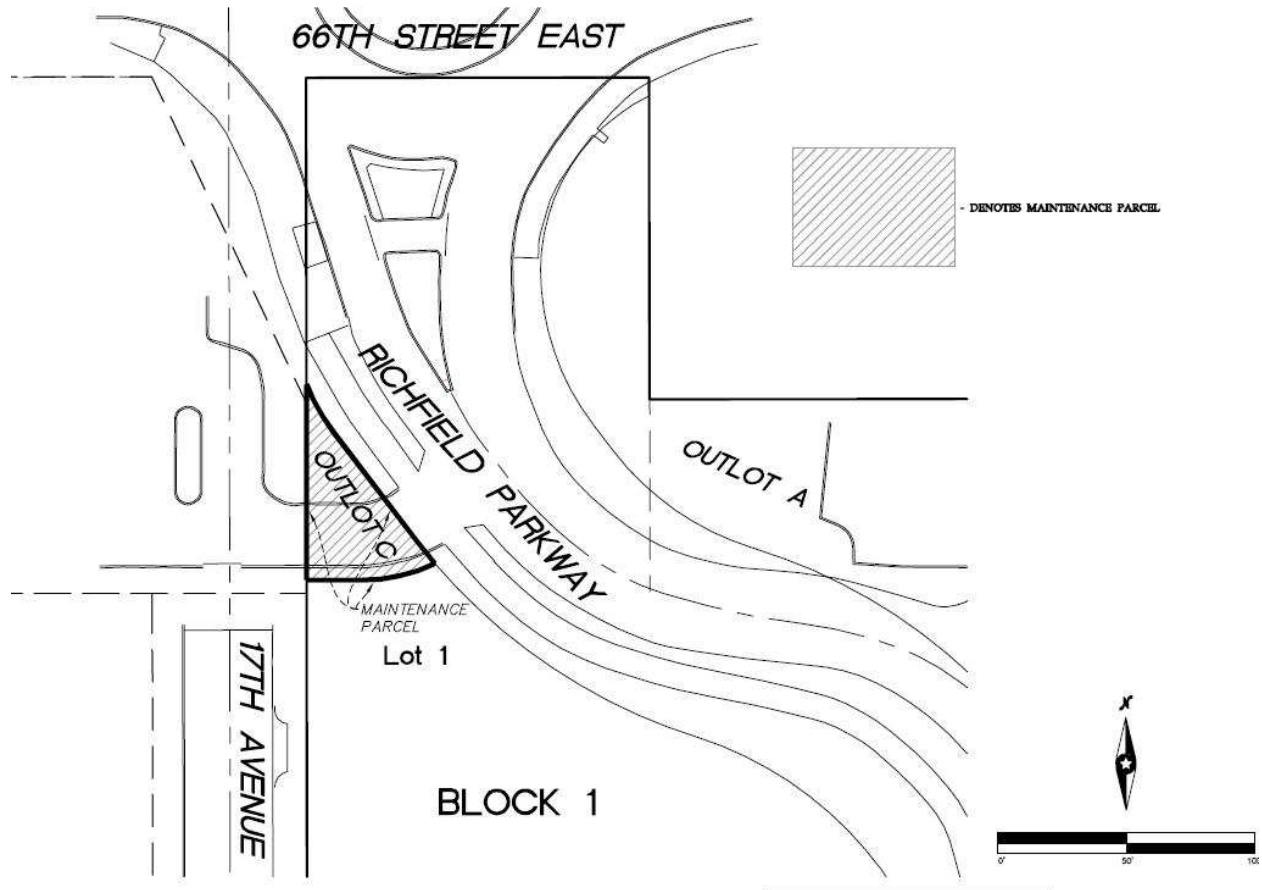
This instrument drafted by:  
Kennedy & Graven, Chartered  
470 U.S. Bank Plaza  
200 South Sixth Street  
Minneapolis, MN 55402  
(612) 337-9300

63707391.1

**EXHIBIT A**  
**Legal Description**

Lots 1 and 2, Block 1; Lots 1 and 2, Block 2; and Outlot B, Wexlers Second Addition,  
according to the recorded plat thereof, Hennepin County, Minnesota.

**EXHIBIT A-1**  
**Depiction of Maintenance Parcel**



**EXHIBIT B**  
**Maintenance Obligations**

To maintain, weed, and fertilize consistent with landscape industry standards all plant and grass material in the Maintenance Parcel.



AGENDA SECTION:	PROPOSED ORDINANCES
AGENDA ITEM #	6.



**STAFF REPORT NO. 111**  
**CITY COUNCIL MEETING**  
**6/26/2018**

REPORT PREPARED BY: Matt Brillhart, Associate Planner

DEPARTMENT DIRECTOR REVIEW: John Stark, Community Development Director  
6/21/2018

OTHER DEPARTMENT REVIEW: N/A

CITY MANAGER REVIEW: Steven L. Devich, City Manager  
6/21/2018

**ITEM FOR COUNCIL CONSIDERATION:**

**Consideration of a variety of land use approvals related to a proposal for a mixed use development at 101 66th Street East (66th Street and 1st Avenue).**

**EXECUTIVE SUMMARY:**

PLH & Associates (Developer) is proposing a planned unit development that includes a 3-story mixed use building with 31 residential units and approximately 6,000 square feet of commercial space. The proposed development provides active building uses and pedestrian emphasis along 66th Street, with parking provided underground and in a surface lot behind the building. The site is adjacent to the large commercial area centered on Nicollet Avenue and 66th Street, with low density residential properties located to the south and east.

Based on feedback from the open house meetings and the public hearing, the Developer has provided a letter (attached) summarizing plan changes and responding to other comments. Plans have been revised to include additional landscaping along the eastern perimeter of the site and a raised berm to block headlights to the south. Landscaping will be placed atop the berm to provide additional screening height. Stipulations have been included in the resolution to further clarify parking lot screening requirements and to require the Developer to work with adjacent property owners to devise mutually agreeable landscaping plans along shared property lines. The Developer has also shifted the entrance to the underground parking back from the intersection, as requested. Plans include "No Right Turn" signage to prohibit traffic exiting from the property onto southbound Stevens Avenue. A stipulation has been included in the resolution to require a curb extension to physically prevent that right turn movement.

Policies in the Comprehensive Plan that support approval of the proposed development include the following:

- Expand the vision of the Lakes at Lyndale (Lyndale & 66th) area to include the HUB and Nicollet Shoppes.
- Promote development that broadens the tax base.
- Encourage and support the development of strong commercial districts that respect the values and standards of the citizens of Richfield.

- Encourage the development of viable and responsive neighborhood commercial services.

The proposed density of 31 units per acre is within the draft Comprehensive Plan guidance of 25-50 units per acre at the edges of the Mixed Use District. The zoning ordinance states that when multifamily, office, small scale retail or pedestrian intensive retail are planned as part of a mixed use development, the less intensive uses or the more community serving uses may be used as transitions to adjacent residential uses. By focusing commercial activity at the west end of the building, the proposed building serves as logical transition between the large commercial area at Nicollet Avenue and the predominantly residential area to the south and east.

Along with the application for a planned unit development, the Developer applied to amend the Comprehensive Plan and zoning designations of the property to Mixed Use. On May 22, the City Council voted (5-0) to amend the Comprehensive Plan designation of the property and on June 12 voted to approve a first reading of rezoning. The Planning Commission conducted a public hearing for the proposed development on April 23 and heard additional public testimony on May 29. Several residents testified at the Planning Commission meetings and submitted email comments in opposition to the proposed development. Citing a lack of new multifamily housing in the community and a desire to see quality high density housing around The Hub, the Planning Commission voted (7-0) to recommend approval of rezoning the property and the final development plans. The Planning Commission's recommendation included stipulations related to landscaping and parking lot screening along the south and east edges of the property. Staff finds that the proposal meets the policies and intent of the Comprehensive Plan and code requirements for mixed use development and recommends approval.

### **RECOMMENDED ACTION:**

#### **By Motion:**

1. **Approve a second reading of an ordinance rezoning 101 66th Street East from Single-family Residential (R) to Planned Mixed Use (PMU); and**
2. **Adopt a resolution granting a conditional use permit and final development plan for a planned unit development at 101 66th Street East.**

### **BASIS OF RECOMMENDATION:**

#### **A. HISTORICAL CONTEXT**

- Southview Baptist Church vacated the property and began marketing it for sale in 2013.
- The Developer purchased the property in 2016.
- The Planning Commission and City Council were first made aware of a possible development on this site in August 2016; joint Council/Planning Commission work sessions were held on August 23, 2016 and November 20, 2017.
- An incomplete land use application was submitted in December 2017, but was put on hold at the Developer's request before the administrative review process had begun. Plans were re-submitted in March 2018 and staff determined that the application was complete on April 9, 2018.
- The Developer held open house meetings to discuss the proposal with the neighborhood on April 19 and May 14.
- Work on the Comprehensive Plan update (Richfield 2040) began in early 2017, and has continued over the past 18 months. As part of this update, a small area plan for the 66th Street and Nicollet Avenue area was prepared. Given its proximity to the intersection and the fact that it had been vacant for many years, this property was included in the small area study. See "Policy" section for additional information about the 66th & Nicollet market study and small area plan.

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

##### **Comprehensive Plan and Zoning Designations**

The Comprehensive Plan is an expression of the community's vision for the future. Over the past 18 months, the City has been engaging the community to update the Comprehensive Plan.

As part of this update, a small area plan for the 66th Street and Nicollet Avenue area was prepared. Given its proximity to the intersection and the fact that it had been vacant for many years, the property at 101 66th Street East was included in the small area study. A market study identifying the types of uses that the area could support was prepared as part of this work. That study indicated that larger format retail, prominent in the Hub Shopping Center, was unlikely to regain prominence due to the migration of this type of retail to freeway corridors. The study also confirmed the strength of the Richfield housing market, indicating that there was an opportunity to build additional higher income multi-family housing in this area. A small amount of office space was also indicated as a possibility for the area, specifically as a complement to new residential buildings in a mixed-use development pattern. Based on the market study and the input of the community, the Comprehensive Plan update designates the site as Mixed Use.

Along with the applications for rezoning and a planned unit development, the Developer applied to amend the Comprehensive Plan designation of the property to Mixed Use. On May 22, 2018, the City Council voted (5-0) to approve the Comprehensive Plan amendment. Now that the Comprehensive Plan designation has been changed to Mixed Use, the property can be rezoned accordingly.

### **Planned Unit Development**

Planned Unit Developments are intended to encourage the efficient use of land and resources and to encourage innovation in planning and building. In exchange for these efficiencies and superior design, flexibility in the application of dimensional requirements is available. There are a number of sets of review criteria that apply to this proposal. A full discussion of all requirements is included as an attachment to this report. Generally, the criteria require that the Council find that the proposal conforms to the goals and policies of the Comprehensive Plan and Zoning Code without having undue adverse impacts on public health, safety, and welfare.

The proposed development meets the intent of the Mixed Use District regulations and the proposed plans are consistent with all but three Zoning Code requirements:

1. Residential parking requirements in the Mixed Use Districts are 1.5 per unit. 33 spaces are provided underground and the Developer has indicated that a number of spaces in the surface lot would be reserved for resident and guest parking. If 6-8 surface spaces are reserved for residential and guest parking, that would provide a ratio of 1.26-1.32 spaces per unit. Lower parking requirements exist elsewhere in the City, as the High Density Residential District allows parking ratio as low as 1.25 spaces per unit. Recent multifamily projects have been approved at or below that level (e.g. The Chamberlain). High frequency bus lines operate on Nicollet Avenue and 66th Street, offering local service and express service to downtown. Additionally, 66th Street is being reconstructed with protected bicycle facilities connecting to places of employment and other regional destinations.
2. On the west half of the site, the proposed buffer between the parking lot and the adjacent residential property line is 4 feet 10 inches narrower than required (10.17 feet vs. 15 feet). The intent of this provision is to provide adequate area to attractively screen the parking lot and buffer adjacent properties from headlights and vehicle noise. The proposed buffer provides 100% screening of the parking lot through a combination of fencing and landscaping. The buffer area is large enough to support the plants selected and will provide an attractive barrier between the development and the adjacent property to south (6613 1st Avenue).
3. As a corner lot and a through lot (extending through a block), the building could be interpreted to have three "front" sides facing 66th Street, 1st Avenue, and Stevens Avenue. The building exceeds the maximum front/side setback of 15 feet along both 1st Avenue (19.4 feet) and Stevens Avenue (52.6 feet); however, the proposed design nicely balances the need for customer entrance and patio space adjacent to the commercial uses on the west side of the building, while providing a larger setback to the residential areas to the south and east along Stevens Avenue.

### **C. CRITICAL TIMING ISSUES:**

60-DAY RULE: A complete application was received and the 60-day clock started on April 9, 2018. The deadline for a decision was extended by an additional 60 days (120 days total). The Council must make a decision by August 7, 2018.

**D. FINANCIAL IMPACT:**

As a religious facility, the site was exempt from property taxes. If completed as planned, the proposal would grow the City's overall tax base, contributing property taxes to the city, county, school district, and other taxing jurisdictions.

**E. LEGAL CONSIDERATION:**

- A public hearing was held before the Planning Commission on April 23. Notice of the public hearing was mailed to properties within 350 feet of the proposed development and published in the Sun Current newspaper. After the Planning Commission continued the item to their May 29 meeting, a second postcard providing an updated timeline of Planning Commission and City Council meetings was mailed to those same properties on May 8.
- Now that the Comprehensive Plan designation for the property has been changed to Mixed Use, as approved by the Council on May 22, the current zoning designation of Single family Residential (R) is no longer consistent with the Comprehensive Plan. Per Minnesota Statutes 473.858, zoning must be brought into conformance with the Comprehensive Plan within nine months of approval.

**ALTERNATIVE RECOMMENDATION(S):**

- Approve the proposed zoning ordinance and planned unit development resolution with additional and/or modified conditions.
- Deny the rezoning and planned unit development applications with findings that requirements are not met.

**PRINCIPAL PARTIES EXPECTED AT MEETING:**

Paul Lynch, PLH & Associates

**ATTACHMENTS:**

Description	Type
❑ Ordinance - Rezoning	Ordinance
❑ PUD Resolution	Resolution Letter
❑ Requirements attachment	Backup Material
❑ Developer narrative	Backup Material
❑ Developer response letter	Backup Material
❑ Updated site plan	Backup Material
❑ Planting plan & building visualizations	Backup Material
❑ Site plans	Backup Material
❑ Aerial photos & Zoning Map	Backup Material
❑ Correspondence/comments received	Exhibit

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE RELATING TO ZONING;  
AMENDING APPENDIX I TO THE RICHFIELD  
CITY CODE BY REZONING  
LOTS 7 AND 8 EXCEPT THE SOUTH 50 FEET  
OF THE WEST HALF OF LOT 8,  
GOODSPEED'S FIRST PLAT  
AS PLANNED MIXED USE (PMU)**

**THE CITY OF RICHFIELD DOES ORDAIN:**

Section 1. Section 8, of Appendix I of the Richfield Zoning Code is amended by adding new Paragraph (7) as follows:

(7) M-8 (1st Avenue to Stevens Avenue, South of 66th). Lots 7 and 8 except the south 50 feet of the west half of Lot 8, Goodspeed's First Plat

Sec. 2. This ordinance is effective in accordance with Section 3.09 of the Richfield City Charter.

Passed by the City Council of the City of Richfield, Minnesota this 26th day of June, 2018.

\_\_\_\_\_  
Pat Elliott, Mayor

ATTEST:

\_\_\_\_\_  
Elizabeth VanHoose, City Clerk

**RESOLUTION NO.**

**RESOLUTION APPROVING A FINAL DEVELOPMENT PLAN  
AND CONDITIONAL USE PERMIT  
FOR A PLANNED UNIT DEVELOPMENT  
TO BE BUILT AT 101 66TH STREET EAST**

**WHEREAS**, an application has been filed with the City of Richfield which requests approval of a final development plan and conditional use permit for a planned unit development to allow construction of a three-story mixed-use building on the parcel of land located at 101 66th Street East (“subject property”), legally described as:

Lots 7 and 8 except the south 50 feet of the west half of Lot 8, Goodspeed’s First Plat, Hennepin County, Minnesota

**WHEREAS**, the Planning Commission of the City of Richfield held a public hearing at its April 23, 2018 meeting, and recommended approval of the requested final development plan and conditional use permit at its May 29, 2018 meeting; and

**WHEREAS**, notice of the public hearing was mailed to properties within 350 feet of the subject property on April 10, 2018 and published in the Sun Current newspaper on April 12, 2018; and

**WHEREAS**, the requested final development plan and conditional use permit meet those requirements necessary for approving a planned unit development as specified in Richfield’s Zoning Code, Section 542.09, Subd. 3 and as detailed in City Council Staff Report No. \_\_\_\_; and

**WHEREAS**, the request meets those requirements necessary for approving a conditional use permit as specified in Richfield’s Zoning Code, Section 547.09, Subd. 6 and as detailed in City Council Staff Report No. \_\_\_\_; and

**WHEREAS**, the City has fully considered the request for approval of a planned unit development, final development plan and conditional use permit; and

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

1. The City Council adopts as its Findings of Fact the **WHEREAS** clauses set forth above.
2. A planned unit development, final development plan and conditional use permit are approved for a mixed-use development as described in City Council Report No. \_\_\_\_, on the Subject Property legally described above.
3. The approved planned unit development, final development plan and conditional use permit are subject to the following conditions:

- The Developer shall continue to work with Community Development staff to finalize the following items. Items must be approved by the Community Development Director prior to the issuance of a building permit:
  - Continue to discuss architectural features including the type and number of building materials used on the north façade, particularly the design of the commercial storefronts and material transitions between the commercial and residential portion of the building.
  - If elevations allow, the walkway on the south side of the building should be connected to the Stevens Avenue sidewalk, whether at grade or with stairs through the retaining wall.
  - Continue to discuss transformer screening and/or artistic wrap treatment. Continue to discuss landscape and hardscape in this area. The fenced area shall not be larger than necessary to screen the transformer and shall not be chain link fence.
  - If space allows without reducing parking, residential trash storage shall be accommodated in the underground level or designed within the building.
- Plans must include signage and a larger curb extension to physically prohibit right turns from the development onto southbound Stevens Avenue.
- Raised berm and landscaping shall fully screen parking lot views from the south. Screening opacity requirements shall be as follows: 100% opacity to 3-4 feet height and 50% opacity to 6 feet height. Developer shall work with the property owner at 6616 Stevens Avenue to devise a mutually acceptable screening solution along the shared property line, in accordance with the above opacity requirement.
- With the consent and cooperation of the property owner at 6615 Stevens Avenue, the developer shall install plantings on the property or boulevard area to mitigate headlight impacts. A boulevard feature permit from Richfield Public Works is required before planting on public right-of-way.
- The existing wood fence abutting the property at 6613 1st Avenue shall be replaced with new fence pickets/panels. Existing fence posts may be reused.
- Permitted uses shall include those uses permitted in the Mixed-Use Neighborhood District. Additionally, the following uses from the Mixed-Use Community District are permitted: offices/clinics, health/athletic clubs, spas, yoga studios and class III restaurants without drive-thru/drive-in service.
- Space dedicated to restaurant uses shall not exceed 2,000 gross square feet. Odor control systems are required to mitigate cooking odors in accordance with City Code Subsection 544.27.
- Commercial doors facing 66th Street and 1st Avenue shall not be locked during business hours.
- Signage on the south and east building facades shall not be lit between the hours of 10:00 p.m. and 6:00 a.m., except any signage related to underground parking or resident entry. Large-scale wall or projecting signage shall not be used on the south or east elevation.
- Bicycle parking is required for commercial uses, with a minimum capacity of six (6) bicycles. An artistic or unique design/color is recommended. Enclosed or underground bicycle parking is required for the residential uses.

- All parking spaces shall remain available year round.
  - All new utility service must be underground.
  - All utilities must be grouped away from public right-of-way and screened from public view in accordance with Ordinance requirements. A screening plan is required prior to the issuance of a building permit.
  - The property owner is responsible for the ongoing maintenance and tending of all landscaping in accordance with approved plans.
  - The applicant is responsible for obtaining all required permits, compliance with all requirements detailed in the City's Administrative Review Committee Report dated April 5, 2018 and compliance with all other City and State regulations. Separate sign permits are required.
  - A recorded copy of the approved resolution must be submitted to the City prior to the issuance of a building permit.
  - Prior to the issuance of an occupancy permit the developer must submit a surety equal to 125% of the value of any improvements not yet complete.
  - Final stormwater management plan must be approved by the Public Works Director. Infiltration not allowed in high-vulnerability wellhead protection area.
  - As-builts or \$7,500 cash escrow must be submitted to the Public Works Department prior to issuance of a final certificate of occupancy.
  - The Public Works Department will monitor traffic counts and patterns following completion of the development.
4. The approved planned unit development, final development plan and conditional use permit shall expire one year from issuance unless the use for which the permit was granted has commenced, substantial work has been completed or upon written request by the developer, the Council extends the expiration date for an additional period of up to one year, as required by the Zoning Ordinance, Section 547.09, Subd. 9.
5. The approved planned unit development, final development plan and conditional use permit shall remain in effect for so long as conditions regulating it are observed, and the conditional use permit shall expire if normal operation of the use has been discontinued for 12 or more months, as required by the Zoning Ordinance, Section 547.09, Subd. 10.

Adopted by the City Council of the City of Richfield, Minnesota this 26th day of June, 2018.

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Pat Elliott, Mayor

ATTEST:

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Elizabeth VanHoose, City Clerk



## Required Findings

**Part 1:** Development proposals in the Mixed Use Districts shall be reviewed for compliance with the following (537.01, Subd.2):

1. *Consistency with the elements and objectives of the City's development guides, including the Comprehensive Plan and any redevelopment plans established for the area.* Over the past 18 months, the City has been engaging the community to update the Comprehensive Plan. As part of this update, a small area plan for the 66th Street and Nicollet Avenue area was prepared. Given its proximity to the intersection and the fact that it had been vacant for many years, the property at 101 66th Street East was included in the small area study. A market study identifying the types of uses that the area could support was prepared as part of this work. That study indicated that larger format retail, prominent in the HUB Shopping Center, was unlikely to regain prominence due to the migration of this type of retail to freeway corridors. The study also confirmed the strength of the Richfield housing market; indicating that there was an opportunity to build some additional higher income multi-family units in this area. A small amount of additional office space was also indicated as a possibility for the area, specifically as a complement to the introduction of new residential buildings in a mixed-use development pattern. On May 22, the City Council voted to amend the Comprehensive Plan, designating the property as Mixed Use.

Policies in the Comprehensive Plan that support this proposal include the following:

- Expand the vision of the Lakes at Lyndale (Lyndale & 66th) area to include the HUB and Nicollet Shoppes.
- Promote development that broadens the tax base.
- Encourage and support the development of strong commercial districts that respect the values and standards of the citizens of Richfield.
- Encourage the development of viable and responsive neighborhood commercial services.
- The proposed density of 31 units per acre is within the Comprehensive Plan guidance of 25-50 units per acre at the edges of the Mixed Use Zoning District.

2. *Consistency with the regulations of the Mixed Use Districts as described by Section 537 of the Code.* The Mixed Use Zoning District states that when multifamily, office, small-scale retail or pedestrian intensive retail are planned as part of a mixed use development, the lesser intensive uses or the more community serving uses may be used as transitions to adjacent residential uses. By focusing commercial activity at the west end of the building, the proposed building serves as logical transition between the commercial area at Nicollet Avenue and the predominantly residential areas to the south and east. The proposed development meets the intent of the Mixed Use District regulations. The proposal only deviates from regulations as follows:

- As a corner lot and a through lot (extending through a block), the building could be interpreted to have three “front” sides facing 66th Street, 1st Avenue, and Stevens Avenue. The building exceeds the maximum front/side setback of 15’ along both 1st Avenue (19.4’) and Stevens Avenue (52.6’); however, the proposed design nicely balances the need for customer entrance and patio space adjacent to the commercial uses on the west side of the building, while providing a larger setback to the residential areas to the south and east along Stevens Avenue.
- Residential parking requirements in the Mixed Use Districts are 1.5 per unit. 33 spaces are provided underground and the developer has indicated that a number of spaces in the surface lot would be reserved for resident and guest parking. If 6-8 surface spaces are reserved for residential and guest parking, that would provide a ratio of 1.26-1.32 spaces per unit. Lower parking requirements exist elsewhere in the City, as the High-Density Residential district allows parking ratio as low as 1.25 spaces per unit. Recent multifamily projects have been approved at or below that level (e.g. The Chamberlain). High frequency bus lines operate on Nicollet Avenue and 66th Street, offering local service and express service to downtown. Additionally, 66th Street is being reconstructed with protected bicycle facilities connecting to places of employment and other regional destinations.

71 total parking spaces are provided. Commercial parking requirements range from 3 to 4 spaces per 1,000 square feet of retail/office/service. As no commercial tenants have been announced, that requirement has been averaged at 3.5 spaces per 1,000 square feet. Restaurants carry a higher parking requirement of 10 spaces per 1,000 square feet. Parking requirements can be reduced by 10% based on proximity to frequent public transit service, which would apply in this location. Calculating the total parking requirement for this project is dependent on whether a restaurant space is included. Please see the chart below for details:

Commercial space allocation	Requirement after 10% transit reduction
6,000 sq. ft. retail (no restaurant space)	19 spaces
4,500 sq. ft. retail + 1,500 sq. ft. restaurant	28 spaces
4,000 sq. ft. retail + 2,000 sq. ft. restaurant	31 spaces

Depending on the type of commercial user, between 19 and 31 spaces would be required for the commercial component of the project. With 38 spaces available in the surface lot, this leaves a surplus of anywhere from 7 to 19 spaces available to be dedicated for resident parking.

3. *Creation of a design for structures and site features which promotes the following:*
  - i. *An internal sense of order among the buildings and uses.* The location of the building, drive aisle and parking lot, amenities and walkways provide a safe and accessible site that will adequately serve residents and customers arriving by all transportation modes. Pedestrian connections to 66th Street

are strong and active uses & building frontages are included on all sides, with the exception of the ground floor facing Stevens Avenue.

- ii. *The adequacy of vehicular and pedestrian circulation, including walkways, interior drives and parking in terms of location and number of access points to the public streets, width of interior drives and access points, general interior circulation, separation of pedestrian and vehicular traffic and arrangement and amount of parking.* See above
- iii. *Energy conservation through the design of structures and the use of landscape materials and site grading.* See above
- iv. *The minimization of adverse environmental effects on persons using the development and adjacent properties.* The proposal includes buffering and landscaping along property boundaries and exceeds the minimum amount of pervious surfaces required.

**Part 2:** The following findings are necessary for approval of a PUD application (542.09 Subd. 3):

1. *The proposed development conforms to the goals and objectives of the City's Comprehensive Plan and any applicable redevelopment plans.* See above Part 1, #1
2. *The proposed development is designed in such a manner as to form a desirable and unified environment within its own boundaries.* See above – Part 1, #3.
3. *The development is in substantial conformance with the purpose and intent of the guiding district, and departures from the guiding district regulations are justified by the design of the development.* The development is in substantial compliance with the intent of the guiding Mixed-Use District. Departures from requirements are minimal and the proposal meets the intent of requirements.
4. *The development will not create an excessive burden on parks, schools, streets or other public facilities and utilities that serve or area proposed to serve the development.* The City's Public Works, Engineering, and Recreation Departments have reviewed the proposal and do not anticipate any issues.
5. *The development will not have undue adverse impacts on neighboring properties.* Undue adverse impacts are not anticipated. The site and the conditions of the resolution are designed to minimize any potential negative impacts on neighboring properties. Most traffic is expected to reach the development via 66th Street, rather than from the south via 1st or Stevens Avenue. Entering or exiting the development through the neighborhood would be slower than directly via 66<sup>th</sup> Street. Furthermore, 1st and Stevens Avenues do not continue south of 68th Street (the street grid is interrupted) making neighborhood traffic increases unlikely. The plan includes signage and curb modifications to prohibit right turns from the development onto southbound Stevens Avenue.

6. *The terms and conditions proposed to maintain the integrity of the plan are sufficient to protect the public interest.* The final development plan and conditional use permit resolution establish conditions sufficient to protect the public interest.

**Part 3:** All uses are conditional uses in the PMU District. The findings necessary to issue a Conditional Use Permit (CUP) are as follows (Subd. 547.09, Subd. 6):

1. *The proposed use is consistent with the goals, policies, and objectives of the City's Comprehensive Plan.* See above – Part 1, #1.
2. *The proposed use is consistent with the purposes of the Zoning Code and the purposes of the zoning district in which the applicant intends to locate the proposed use.* The use is consistent with the intent of the Planned Mixed Use District and the underlying Mixed Use District.
3. *The proposed use is consistent with any officially adopted redevelopment plans or urban design guidelines.* See above – Part 1, #1
4. *The proposed use is or will be in compliance with the performance standards specified in Section 544 of this code.* The proposed development is in substantial compliance with performance standards. Deviation from Code requirements is requested as follows:

Parking lot setback – The applicant has proposed a 10.17 ft. setback from the south property line; the Code requires a 15-ft. setback. The intent of this provision is to provide adequate area to attractively screen the parking lot and buffer adjacent properties from headlights and vehicle noise. The proposed buffer provides 100% screening of the parking lot through a combination of fencing and landscaping. The buffer area is large enough to support the plants selected and will provide an attractive barrier between the development and the adjacent property to south (6613 1st Avenue).

5. *The proposed use will not have undue adverse impacts on governmental facilities, utilities, services, or existing or proposed improvements.* The City's Public Works and Engineering Departments have reviewed the proposal and do not anticipate any adverse impacts.
6. *The use will not have undue adverse impacts on the public health, safety, or welfare.* Adequate provisions have been made to protect the public health, safety and welfare from undue adverse impacts.
7. *There is a public need for such use at the proposed location.* See above – Part 1, #1.
8. *The proposed use meets or will meet all the specific conditions set by this code for the granting of such conditional use permit.* This requirement is met.

March 22, 2018

Matt Brillhart  
Associate Planner  
Community Development Department  
City of Richfield  
6700 Portland Avenue South  
Richfield, MN 55423

**RE: Project Description and Application Narrative for Planning Consideration  
PLH Mixed-Use Development  
Richfield, Minnesota**

Matt,

Please consider the following project description and narrative during the review process for the attached Planning & Zoning Application which includes the following types of requests.

- Comprehensive Plan Amendment
- Planned Unit Development (PUD)

All supplemental information required by the application for each of these requests has also been included to provide a comprehensive review.

The subject project area is located near the corner of 1st Avenue South and 66th Street in Richfield, Minnesota (PID No.: 2702824420134), and totals approximately 1.06 acres. Note that the subject project area was divided into four parcels (PID Nos.: 2702824420071, 2702824420069, 2702824420070, and 2702824420073), prior to recently being combined administratively through Hennepin County.

PLH is proposing construction of a new approximate 52,705 square foot mixed-use building and parking areas, which provide 71 stalls between the above ground and lower level parking areas. Additionally, associated site improvements including drive isles, stormwater facilities, landscaping, and utilities are also proposed as part of the development. A preliminary breakdown of the building layout is provided below.

- Lower Level: Underground parking (approximately 33 spaces)
- First Floor: 6,122 SF of commercial tenant space + 5 residential units with community and fitness rooms
- Second Floor: 13 Residential Units
- Third Floor: 13 Residential Units

Per the Richfield Zoning Map, the parcel is currently zoned R1 – Low-Density Single-Family Residential. As part of the PUD, and to accommodate development of the proposed new mixed-use development, we are requesting to rezone the parcels to PMU – Planned Mixed-Use. We are also requesting a Comprehensive Plan Amendment to change the designation of these parcels from Low Density Residential and Public/Quasi-Public to Mixed-Use. In addition to rezoning the parcels as part the PUD, we are also requesting reduced parking requirements, a reduced buffer area along the south property line, and a zero foot setback along 66<sup>th</sup> Street as indicated on the attached site plans.

The requested PUD combines several unique characteristics of the proposed land use and site to provide a development that is designed in a manner which forms a desirable and unified environment, while meeting the intent of the City's future proposed 2018 Comprehensive Plan by providing a well-designed development that complements the existing and surrounding neighborhood character.

The development as proposed is in conformance with the purpose and intent of the guiding district, which allows for both residential and non-residential land uses to be included in a single PUD district, to provide a balanced mix of higher density residential, commercial, and retail service uses.

As designed, the development promotes efficient use of the land and surrounding resources, including public and utility services. Furthermore, due to the intended use and consistent mix of both residential and retail / commercial traffic flow expected, no traffic impacts to the transportation network, subject property, or neighboring properties, nor excessive burdens to other public facilities are anticipated.

These considerations along with the supplemental information provided within this submittal support approval of the requested Comprehensive Plan Amendment and Planned Unit Development. Please contact me at 952.426.0699 if there is any additional information we can provide in support of this request on behalf of PLH & Associates.

Sincerely,



Ryan Anderson  
Designer  
Civil Engineering Group

June 20, 2018

Matt Brillhart  
Associate Planner  
Community Development Department  
City of Richfield  
6700 Portland Avenue South  
Richfield, MN 55423

**RE: Summary of Resident Comments for Proposed PLH Mixed-Use Development  
6605 1st Avenue, Richfield, Minnesota**

Matt,

On behalf of PLH & Associates, LLC, we have prepared the following letter to provide a summary of the comments received from the surrounding property owners/residents to date, along with formal responses to each of these comments. Note that any repeat comments were only reiterated and responded to once as part of this summary.

#### **Open House (April 19, 2018)**

1. The neighborhood would like a smaller development that fits with the residential character of the neighborhood, such as 2 story townhouses with walk up entries - this would mitigate the negative impacts to the single family neighborhood of traffic noise and safety issues, parking issues, privacy concerns, general noise, concerns about mechanicals, etc. More green space and mature trees. A building and parking areas that do not require variances to the current city zoning code.

*Response: The project being proposed is a 3-story mixed-use building with underground parking. This project is following the guidance of the city's comprehensive plan as well as historical development patterns along 66<sup>th</sup> Street. The small market study has identified that this area is in need of multi-family residential and could support small scale commercial. Other options for this site have been explored, as requested, but it has been determined that due to the price of the land and current construction costs that a building of this scale would be needed in order to be economically feasible.*

2. Neighbors would prefer a residential-only option vs mixed-use.

*Response: A residential-only option has been explored but it was determined that commercial space would be needed in order to make this project economically feasible.*

3. Special consideration must be given to the needs of neighbors immediately adjacent to the property, in order to preserve their well-being and the value of their properties.

*Response: These special considerations have been recognized and we have made modifications to the site to address these items. Some of the changes include additional landscaping, adding earth berms, and restricting the access onto Stevens. Special considerations will continue to be addressed as they are brought to attention in order to minimize the impact to the neighboring properties.*

4. No restaurants or high traffic volume businesses.

*Response: The City has put a restriction on the amount of commercial space that can be used for restaurant area. It is not anticipated that a restaurant style business will become a tenant but if something like a small scale coffee shop were to become a tenant it could be a benefit to both the neighboring residents and the building residents.*

5. More mechanical specs available in design specs. First floor mechanical room to ensure enough space for equipment and get back additional parking spots.

*Response: The mechanical areas shown in the current design are a place holder until the actual mechanical system is designed. The area shown is conservative to ensure adequate space for the mechanical system, but is likely not all needed. The actual design of the system will not take place until this project is further along in the City's review and approvals process as typical with most commercial projects. Any unused mechanical space will be utilized for additional parking if possible.*

6. No protruding balconies – Juliet style balconies.

*Response: The apartment units are designed and sized to best attract potential tenants which a Juliet style balcony would impede upon. A protruding balcony has been identified as a high priority for tenants and therefore it is important to this project that they remain.*

7. Appropriate and appealing barrier to neighborhood.

*Response: Many site modifications have been made to provide an appropriate and appealing barrier to the neighborhood. The combination of the dense landscaping and earth berm in addition to the existing fence and Arborvitaes should meet and hopefully exceed these expectations.*

8. Provisions for snow removal.

*Response: The site has been modified to create a space for snow storage within the property. The changes consisted of removing the above ground basin, adding drive-over curb, modifying landscaping and adding additional storm sewer infrastructure for drainage.*

9. Wrap lower parking lot to exit into parking from underground.

*Response: The initial conceptual design of this site had the underground parking connecting into the above ground lot instead of onto Stevens. Once the survey of the site was completed and the detailed design was underway it was determined that this connection was not feasible due to the change in elevation. Placing the underground access into the above ground lot would have also caused the loss of at least two parking stalls which was not desirable.*

10. Break away barriers on Stevens exit.

*Response: It is more desirable for residents and customers to have a parking lot that provides through access. In order to attract commercial and residential tenants it has been determined that keeping both access open is of high importance to this project.*

11. Underground parking exit set back from 66th.

*Response: The original access location was acceptable by city requirements. In order to lessen this concern the access was made narrower and was shifted farther back from 66<sup>th</sup> Street.*

12. Revised plans showing items that we have been told are being included but never seen in documentation, including traffic control signage, “porkchop” cut out, security plans, and tenant guidelines.

*Response: The plans showing all current proposed conditions are now included. The traffic control signage has been added. The Stevens Ave exit has been modified to no longer allow right turn exits. Comments have been*



*received from residents who want this restricted further, and comments have been received from residents who do not want right turn exits removed from this access. At this point the access is proposed as a right-in, left-in, left-out access. Further modifying the curb would only remove left-in access which has not been identified as an area of concern.*

#### **Planning Commission (April 23, 2018)**

1. Overflow parking in front of their yard.

*Response: It is not intended for parking to take place on Stevens Ave. Parked cars can be removed from Stevens Ave, if that is the direction the City wants to take with residents that do not follow the City's ordinances as it relates to this issue.*

2. Garbage concerns – trash in neighborhood.

*Response: The site will be managed to maintain cleanliness and ensure the site is presentable. Policies will be enforced on tenants regarding trash and keeping the site presentable. City Code requires trash containers to be fully enclosed as currently shown with this project.*

3. Light into house.

*Response: Landscaping and earth berms have been added to prevent this. A site study has been completed as well for exiting out onto Stevens for residence across the street.*

4. Balconies – noise/parties/looking into houses.

*Response: There will be policies in place to keep residents from creating disturbances while using their patios.*

5. Ice & snow on 66<sup>th</sup> Street.

*Response: The sidewalks on the PLH property will be maintained appropriately. It is in the best interest of the property owner to do so as to avoid any liability and potential insurance claims. The walks along 66<sup>th</sup> street will be maintained by Hennepin County.*

6. Concerns with children / renter will not be invested in the neighborhood.

*Response: The intent will be for the residents to be respectful of the neighborhood and policies will be in place to facilitate this.*

7. Handicap stalls – only two.

*Response: There are three handicap stalls being provided. Two stalls are proposed aboveground and one below ground. The amount of handicap stalls being provided meets state requirements.*

8. Building height/shade one lane of 66<sup>th</sup>.

*Response: The height currently proposed is consistent with other buildings along 66<sup>th</sup> Street.*

9. Sidewalk/building without buffer.

*Response: The 66<sup>th</sup> street project is intended to create better pedestrian connectivity. Locating the building close to 66<sup>th</sup> street is intended to further the pedestrian connectivity which is the direction that was provided early on by the city. The zoning for this property requires buildings to be within 15 ft of the property line which the proposed building is.*

10. Stop sign – approach site lines.

*Response: The building and site elements do not encroach within the required site triangles. The access to the underground parking has been shifted farther away from 66<sup>th</sup> Street to help alleviate this concern.*

11. Trash issues with going down in ramp (taking parking stalls).

*Response: Different trash options are continuing to be investigated. At this time the trash enclosure is proposed as shown. If a more appropriate option is determined then the project will be modified as applicable.*

12. Drainage off of lot onto City.

*Response: A large underground stormwater system is being provided that exceeds city requirements for stormwater retention and treatment. Additional stormwater infrastructure has been added to capture stormwater prior to it exiting the property.*

13. Bike to work / danger with driveway.

*Response: Sidewalk connections have been added to improve pedestrian/biker safety as no sidewalks are currently in place along Stevens or 1<sup>st</sup> Ave.*

14. Heating/cooling – where does it go?

*Response: The apartments will have individual units within each apartment. The commercial space utilities will be located on the west end of the building within the screened in area.*

15. Balcony – BBQ grilles / cigarette smokers.

*Response: Policies will be put in place that details what will be allowed on balconies that will also meet city ordinances.*

16. Green space.

*Response: The project will consist of 73% impervious area which is somewhat less than a typical multi-use project. This amount of impervious is allowable per City code. It should be noted that the existing site consists of 0.48 acres of impervious area, and this project will only add 0.26 acres to that amount. Furthermore, additional landscaping has been added to help offset the amount of impervious area on site.*

## **Second Open House (May 14, 2018)**

1. Downsize building – land cost/construction costs.

*Response: Refer to Item 1 response on page 1.*

2. Apartment 3<sup>rd</sup> level.

*Response: Refer to Item 1 response on page 1.*

3. Doors slamming all hours of night.

*Response: Policies will be put in place to prevent this.*

4. Commercial shops – delivery (service type).

*Response: This will have to be worked through as potential users come into the project. Putting blanket restrictions in place now could negatively impact potential users. Policies will be implemented to limit impact to neighborhood residents as well as building residents.*

5. Remove commercial / can it be all residential?

*Response: Refer to Item 1 response on page 1.*

6. Cut through from 1<sup>st</sup> to Stevens.

*Response: Cut through from 1<sup>st</sup> to Stevens would have a negative impact on the residents and commercial customers as well. If this becomes an issue, measures such as speed bumps can be added to prevent this.*

7. Residential “look”.

*Response: The building will be constructed of high quality and attractive materials while remaining economically feasible. Some of the input provided, such as a “New York Brownstone”, would not be economically feasible.*

8. Worried about traffic crossing 66<sup>th</sup> & driving north on Stevens. Worried about traffic crossing 66<sup>th</sup> & dangerous intersection on 66<sup>th</sup>.

*Response: This project should not impact the amount of cars crossing 66<sup>th</sup> and driving on Stevens headed north. The majority of commuters should be traveling on 66<sup>th</sup> Street and Nicollet Avenue.*

#### **Planning Commission (May 29, 2018)**

1. Can Stevens “dead end” between project site and residential neighborhood?

*Response: This change would need to be proposed by the residents in cooperation with the city.*

2. Headlights into neighbor’s yard across Stevens.

*Response: Additional landscaping will be added. Discussions with the property owner’s about planting landscaping in residents yard will be had.*

3. Can a rock gabion wall be installed on south property line?

*Response: This option has been investigated. These style of walls would add a significant additional cost and it has been discussed that not all neighborhood residents prefer this style of screening.*

4. Thinks this response letter was not accommodating/snarky.

*Response: The intent of this memo is to keep track of neighborhood concerns and questions as they are received and provide a response to each item. It was brought to attention that the residents felt that they were not receiving any straight answers and that they were not sure what exactly was being proposed. The responses in this memo were initially written to be direct and remove any uncertainty as to what was being proposed. This was received poorly and subsequently the responses have been rewritten to provide better explanation as to the reasoning behind each response.*

#### **City Council Work Session (June 12, 2018)**

1. The building is too large.

*Response: Due to the current high cost of construction the building has been sized in a way that makes this project economically feasible. The building is designed using a depth of 66' 8" which is a standard depth for commercial/multi-residential buildings so the only feasible way to shrink the building would be decreasing the length. The current length was determined by deciding how many units are needed to make this project economically feasible using the most efficient layout.*

2. How does the building tie into the neighborhood?

*Response: The building placement along 66<sup>th</sup> Street provides a direct connection to the new concrete walkways that are currently being constructed. The entrances to the commercial space will be on grade with these walkways and will promote a pedestrian friendly environment with the outdoor patio space and bicycle storage racks.*

3. What is being proposed for the entrance onto Stevens?

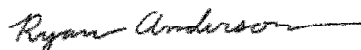
*Response: Previously it was proposed to prohibit exiting cars from turning right onto Stevens by installing a "No Right Turns" sign. The entrance has also now been reconfigured geometrically to prohibit cars from exiting right in addition to the "No Right Turns Sign".*

Feel welcome to contact us at 952.426.0699 with any questions regarding the received comments or the proposed development.

Sincerely,



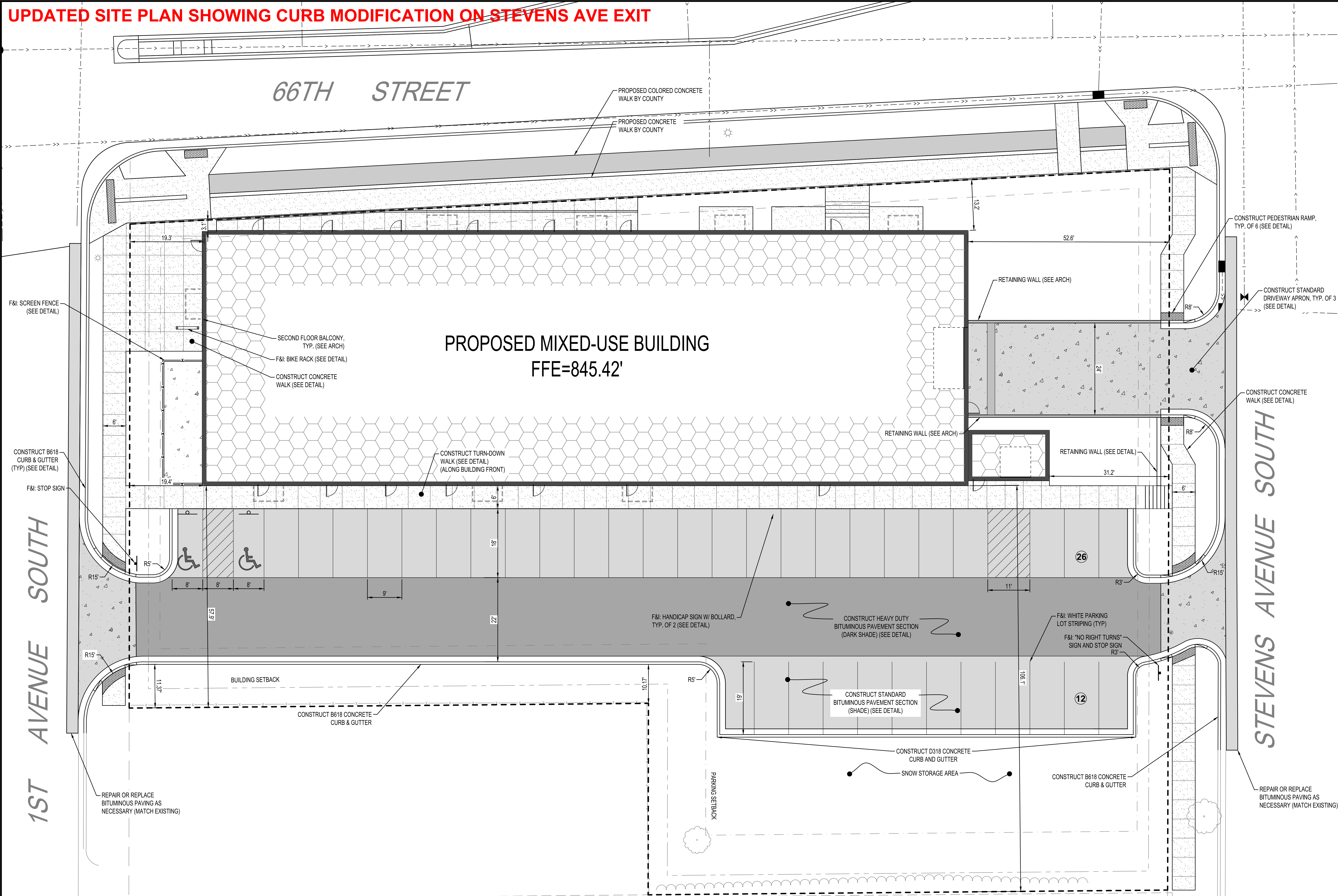
Joe Wagner, CDT  
Project Manager, Construction Administrator



Ryan Anderson  
Graduate Engineer



UPDATED SITE PLAN SHOWING CURB MODIFICATION ON STEVENS AVE EXIT



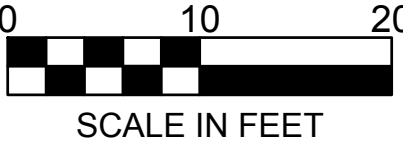
1ST AVENUE SOUTH

66TH STREET

STEVENS AVENUE SOUTH

PROPOSED MIXED-USE BUILDING  
FFE=845.42'

PAVEMENT LEGEND	
SYMBOL	DESCRIPTION
[Pattern]	BITUMINOUS PAVEMENT
[Pattern]	HEAVY DUTY BITUMINOUS PAVEMENT
[Pattern]	HEAVY DUTY CONCRETE PAVEMENT
[Pattern]	CONCRETE SIDEWALK



PRELIMINARY  
NOT FOR CONSTRUCTION

**B.M. ELEVATION=841.76**  
TOP NUT OF HYDRANT LOCATED ON THE NORTH  
WEST CORNER OF THE STEVENS AVENUE AND  
66TH STREET INTERSECTION.

I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION, OR  
REPORT WAS PREPARED BY ME OR UNDER MY DIRECT  
SUPERVISION AND THAT I AM A DULY LICENSED  
PROFESSIONAL ENGINEER UNDER THE LAWS OF THE  
STATE OF MINNESOTA.  
**ANDREW T. BRANDEL**

DATE: \_\_\_\_\_ LIC. NO. 47078

I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION, OR  
REPORT WAS PREPARED BY ME OR UNDER MY DIRECT  
SUPERVISION AND THAT I AM A DULY LICENSED  
PROFESSIONAL ENGINEER UNDER THE LAWS OF THE  
STATE OF MINNESOTA.

DATE: \_\_\_\_\_ LIC. NO. \_\_\_\_\_

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WITHOUT PRIOR WRITTEN CONSENT.

PROJECT

**PLH MIXED USE  
BUILDING**

RICHFIELD MINNESOTA

REVISION SCHEDULE		
DATE	DESCRIPTION	BY
5/16/18	CITY RESUBMITTAL	ART

PROJECT NO.	17-20746
FILE NAME	20746 C3 - SITE
DRAWN BY	MNA
DESIGNED BY	MNA
REVIEWED BY	ATB
ORIGINAL ISSUE DATE	3/23/18
CLIENT PROJECT NO.	

TITLE

**SITE PLAN**

SHEET

**C3-10**

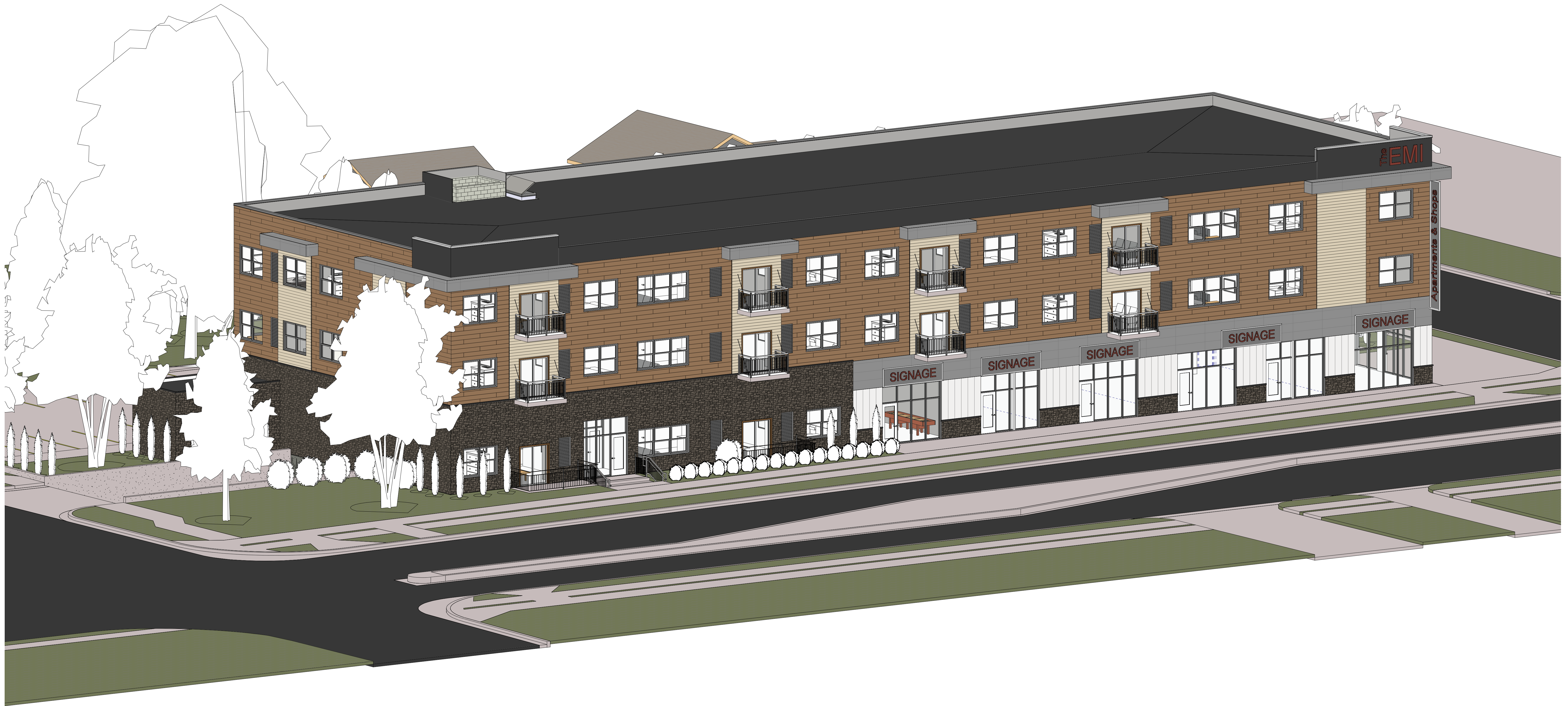




PLANTING PLAN







NORTHEAST

ARCHITECTURE + ENGINEERING + ENVIRONMENTAL + PLANNING

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PLH MIXED USE BUILDING

RICHFIELD, MINNESOTA

09/27/17

ISG Project No. 17-20746

ISG





NORTHWEST

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09/27/17

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SOUTHEAST

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## PLH MIXED USE BUILDING

RICHFIELD, MINNESOTA

09/27/17

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SOUTHWEST

ARCHITECTURE + ENGINEERING + ENVIRONMENTAL + PLANNING

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PLH MIXED USE BUILDING

RICHFIELD, MINNESOTA

09/27/17

ISG Project No. 17-20746

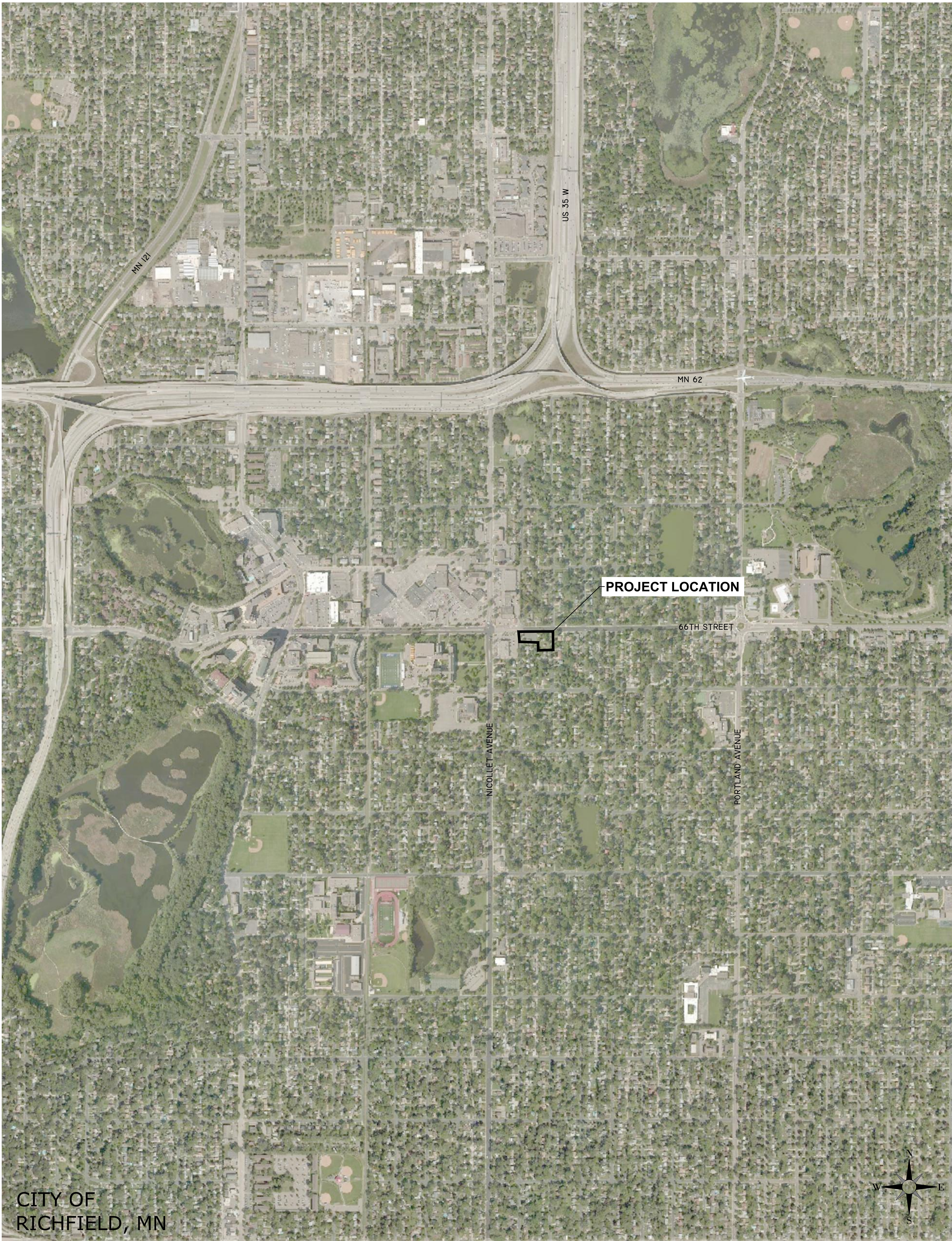
ISG





EXTERIOR CONCEPTUAL RENDERING





LOCATION MAP



PROJECT ADDRESS / LOCATION:  
6600 STEVENS AVENUE SOUTH  
RICHFIELD, MN 55423

S27, T28, R24

RICHFIELD, HENNEPIN, MINNESOTA

SITE SUMMARY

PROPOSED ZONING:	PMU, PLANNED MIXED USE
SITE AREA:	0.88 AC.
IMPERVIOUS AREA PROPOSED:	0.72 AC. / 73%
GREENSPACE PROPOSED:	0.26 AC. / 27%
BUILDING COVERAGE PROPOSED:	0.30 AC. / 31%
RETAIL SF:	6,122 SF
RESIDENTIAL SF:	33,250 SF
UNDERGROUND SF:	13,333 SF
BUILDING SF:	52,705 SF
RESIDENTIAL UNITS:	31 UNITS

PARKING REQUIREMENTS (PER CITY CODE)

TYPE	UNIT / AREA	STALLS REQUIRED	STALLS PROVIDED
19' x 9'	1.5 / UNIT	47	33
19' X 9'	3.5 / 1000 SF	22	38
HANDICAP STALL		2	2
TOTAL:		69	71

SETBACKS

	PARKING	BUILDING
FRONT YARD	3'	0'
SIDE YARD	3'	0'
REAR YARD	3'	0'
RESIDENTIAL	3'	15'

PROJECT GENERAL NOTES

- ALL WORK SHALL CONFORM TO THE CONTRACT DOCUMENTS, WHICH INCLUDE, BUT ARE NOT LIMITED TO, THE OWNER - CONTRACTOR AGREEMENT, THE PROJECT MANUAL (WHICH INCLUDES GENERAL SUPPLEMENTARY CONDITIONS AND SPECIFICATIONS), DRAWINGS OF ALL DISCIPLINES AND ALL ADDENDA, MODIFICATIONS AND CLARIFICATIONS ISSUED BY THE ARCHITECT/ENGINEER.
- CONTRACT DOCUMENTS SHALL BE ISSUED TO ALL SUBCONTRACTORS BY THE GENERAL CONTRACTOR IN COMPLETE SETS IN ORDER TO ACHIEVE THE FULL EXTENT AND COMPLETE COORDINATION OF ALL WORK.
- WRITTEN DIMENSIONS TAKE PRECEDENCE OVER SCALED DIMENSIONS. NOTIFY ARCHITECT/ENGINEER OF ANY DISCREPANCIES OR CONDITIONS REQUIRING INFORMATION OR CLARIFICATION BEFORE PROCEEDING WITH THE WORK.
- FIELD VERIFY ALL EXISTING CONDITIONS AND DIMENSIONS. NOTIFY ARCHITECT/ENGINEER OF ANY DISCREPANCIES OR CONDITIONS REQUIRING INFORMATION OR CLARIFICATION BEFORE PROCEEDING WITH THE WORK.
- DETAILS SHOWN ARE INTENDED TO BE INDICATIVE OF THE PROFILES AND TYPE OF DETAILING REQUIRED THROUGHOUT THE WORK. DETAILS NOT SHOWN ARE SIMILAR IN CHARACTER TO DETAILS SHOWN. WHERE SPECIFIC DIMENSIONS, DETAILS OR DESIGN INTENT CANNOT BE DETERMINED, NOTIFY ARCHITECT/ENGINEER BEFORE PROCEEDING WITH THE WORK.
- ALL MANUFACTURED ARTICLES, MATERIALS AND EQUIPMENT SHALL BE APPLIED, INSTALLED, CONNECTED, ERECTED, CLEANED AND CONDITIONED ACCORDING TO MANUFACTURERS' INSTRUCTIONS. IN CASE OF DISCREPANCIES BETWEEN MANUFACTURERS' INSTRUCTIONS AND THE CONTRACT DOCUMENTS, NOTIFY ARCHITECT/ENGINEER BEFORE PROCEEDING WITH THE WORK.
- ALL DISSIMILAR METALS SHALL BE EFFECTIVELY ISOLATED FROM EACH OTHER TO AVOID GALVANIC CORROSION.
- THE LOCATION AND TYPE OF ALL INPLACE UTILITIES SHOWN ON THE PLANS ARE FOR GENERAL INFORMATION ONLY AND ARE ACCURATE AND COMPLETE TO THE BEST OF THE KNOWLEDGE OF I & S GROUP, INC. (ISG). NO WARRANTY OR GUARANTEE IS IMPLIED. THE CONTRACTOR SHALL VERIFY THE SIZES, LOCATIONS AND ELEVATIONS OF ALL INPLACE UTILITIES PRIOR TO CONSTRUCTION. CONTRACTOR SHALL IMMEDIATELY NOTIFY ENGINEER OF ANY DISCREPANCIES OR VARIATIONS FROM PLAN.
- THE CONTRACTOR IS TO CONTACT "GOPHER STATE ONE CALL" FOR UTILITY LOCATIONS, MINIMUM 3 BUSINESS DAYS PRIOR TO ANY EXCAVATION / CONSTRUCTION (811 OR 1-800-252-1166).

SPECIFICATIONS REFERENCE

ALL CONSTRUCTION SHALL COMPLY WITH THE CITY OF RICHFIELD REQUIREMENTS AND MNDOT STANDARD SPECIFICATIONS FOR CONSTRUCTION, 2016 EDITION, AND THE STANDARD SPECIFICATIONS FOR SANITARY SEWER, STORM DRAIN AND WATERMAIN AS PROPOSED BY THE CITY ENGINEERS ASSOCIATION OF MINNESOTA 2013, UNLESS DIRECTED OTHERWISE.

PROJECT DATUM

HORIZONTAL COORDINATES HAVE BEEN REFERENCED TO THE NORTH AMERICAN DATUM OF 1983 (NAD83), 1996 ADJUSTMENT (NAD83(1996)) ON THE HENNEPIN COUNTY COORDINATE SYSTEM, IN U.S. SURVEY FEET.

TOPOGRAPHIC SURVEY

THIS PROJECT'S TOPOGRAPHIC SURVEY CONSISTS OF DATA COLLECTED IN JUNE 2017 BY ISG.

FLOOD ZONE

THE FLOOD ZONE CLASSIFICATION/LIMITS DEPICTED HEREON, IF ANY, ARE SUBJECT TO MAP SCALE UNCERTAINTY. THE SURVEYED PROPERTY SHOWN ON THIS SURVEY MAP IS NOT IN A HAZARDOUS FLOOD AREA, ACCORDING TO FLOOD INSURANCE RATE MAP COMMUNITY PANEL NO. 27053C0369F, PUBLISHED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY, EFFECTIVE DATE NOVEMBER 4, 2016. FLOOD AREAS ARE SHOWN ON THIS SURVEY.

LEGEND

EXISTING	
--- --- ---	CITY LIMITS
---	SECTION LINE
---	QUARTER SECTION LINE
---	RIGHT OF WAY LINE
---	PROPERTY / LOT LINE
---	EASEMENT LINE
---	ACCESS CONTROL
---	WETLAND BOUNDARY
---	WETLAND / MARSH
---	FENCE LINE
---	CULVERT
---	STORM SEWER
---	SANITARY SEWER
---	SANITARY SEWER FORCEMAIN
---	WATER
---	GAS
---	OVERHEAD ELECTRIC
---	UNDERGROUND ELECTRIC
---	UNDERGROUND TELEPHONE
---	UNDERGROUND TV
---	OVERHEAD UTILITY
---	UNDERGROUND UTILITY
---	UNDERGROUND FIBER OPTIC
---	CONTOUR (MAJOR)
---	CONTOUR (MINOR)
---	DECIDUOUS TREE
---	CONIFEROUS TREE
---	TREE LINE
---	MANHOLE/STRUCTURE
---	CATCH BASIN
---	HYDRANT
---	VALVE
---	CURB STOP
---	POWER POLE
---	UTILITY PEDESTAL / CABINET
PROPOSED	
---	LOT LINE
---	RIGHT OF WAY
---	EASEMENT
---	CULVERT
---	STORM SEWER
---	STORM SEWER (PIPE WIDTH)
---	SANITARY SEWER
---	WATER
---	GAS
---	UNDERGROUND ELECTRIC
---	UNDERGROUND TV
---	CONTOUR
---	SANITARY CLEAN OUT
---	STORM MANHOLE
---	CATCH BASIN
---	HYDRANT
---	VALVE
---	CURB STOP
---	LIGHT POLES

CIVIL SHEET INDEX

C0-10	SITE DATA
C0-20	SITE DETAILS
C0-21	SITE DETAILS
C0-22	SITE DETAILS
C0-23	SITE DETAILS
C0-24	SITE DETAILS
C1-10	STORMWATER POLLUTION PREVENTION PLAN (SWPPP) EXISTING CONDITIONS
C1-20	STORMWATER POLLUTION PREVENTION PLAN (SWPPP) PROPOSED CONDITIONS
C1-30	STORMWATER POLLUTION PREVENTION PLAN NOTES
C1-31	STORMWATER POLLUTION PREVENTION PLAN NOTES
C1-32	STORMWATER POLLUTION PREVENTION PLAN NOTES
C1-33	STORMWATER POLLUTION PREVENTION PLAN DETAILS
C2-10	EXISTING SITE & REMOVALS PLAN
C3-10	SITE PLAN
C3-20	SITE UTILITY PLAN
C4-10	SITE GRADING PLAN
C5-10	SITE RESTORATION PLAN
C5-20	PLANTING PLAN
C5-21	PLANT SCHEDULE, NOTES, & DETAILS
C6-10	PHOTOMETRICS PLAN

ISG

PRELIMINARY  
NOT FOR CONSTRUCTION

**B.M. ELEVATION=841.76**  
TOP NUT OF HYDRANT LOCATED ON THE NORTH  
WEST CORNER OF THE STEVENS AVENUE AND  
66TH STREET INTERSECTION.

I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION, OR  
REPORT WAS PREPARED BY ME OR UNDER MY DIRECT  
SUPERVISION AND THAT I AM A DULY LICENSED  
PROFESSIONAL ENGINEER UNDER THE LAWS OF THE  
STATE OF MINNESOTA.  
**ANDREW T. BRANDEL**

DATE: \_\_\_\_\_ LIC. NO.: 47078

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PROJECT

PLH MIXED USE  
BUILDING

RICHFIELD MINNESOTA

REVISION SCHEDULE		
DATE	DESCRIPTION	BY
5/16/18	CITY RESUBMITTAL	ART

PROJECT NO.	17-20746
FILE NAME	20746 C0 - DETAILS
DRAWN BY	ART
DESIGNED BY	ART
REVIEWED BY	ATB
ORIGINAL ISSUE DATE	3/23/18
CLIENT PROJECT NO.	-

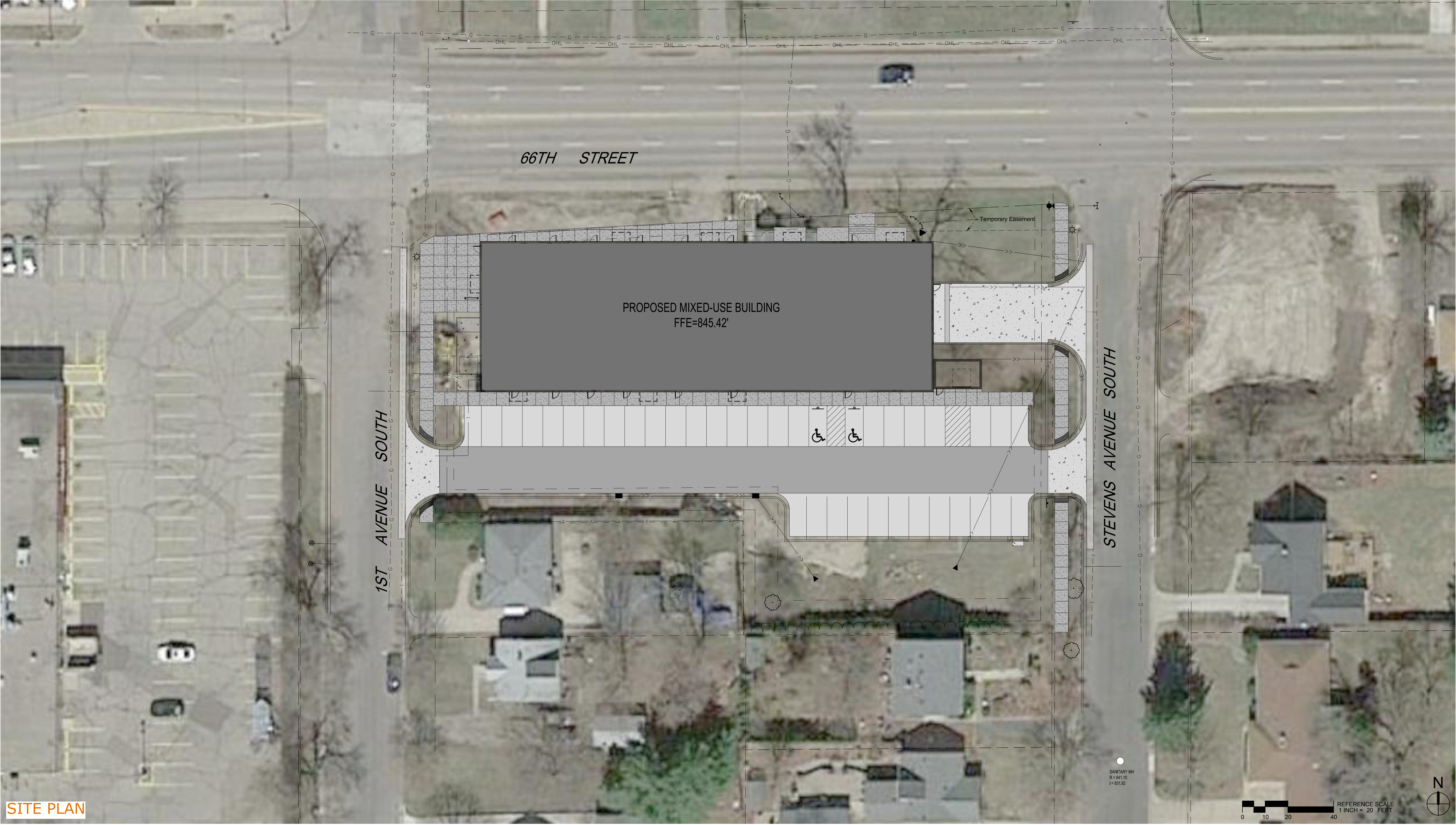
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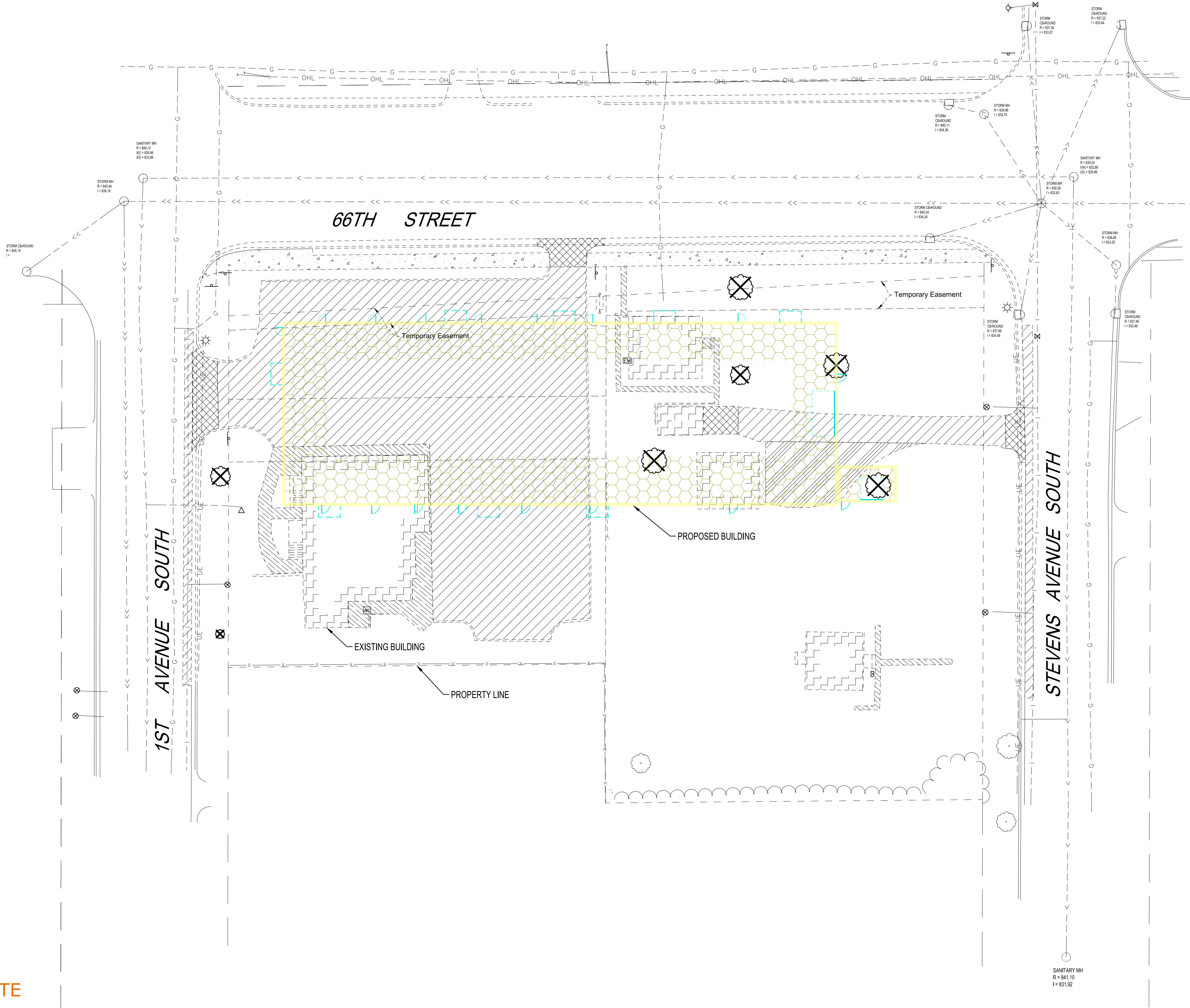
SITE DATA

SHEET

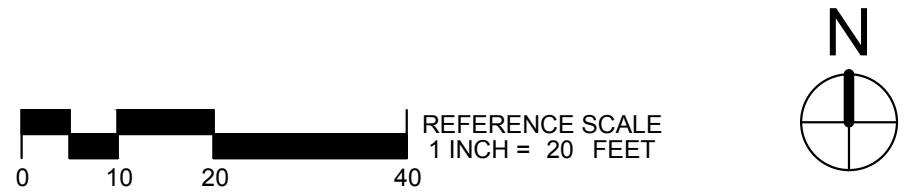
**C0-10**



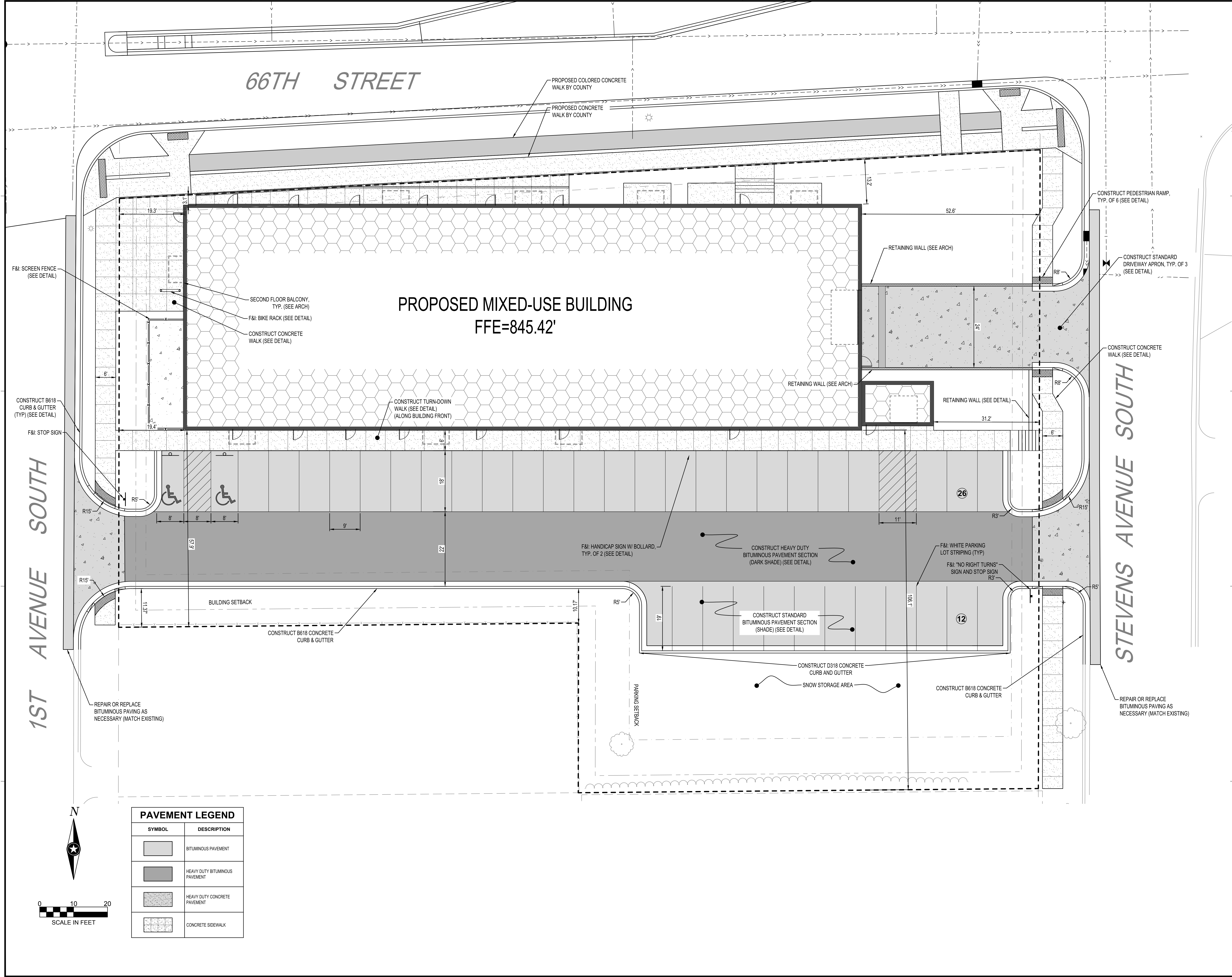




EXISTING AND PROPOSED SITE







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PROJECT

**PLH MIXED USE  
BUILDING**

RICHFIELD MINNESOTA

REVISION SCHEDULE		
DATE	DESCRIPTION	BY
5/16/18	CITY RESUBMITTAL	ART

PROJECT NO.	17-20746
FILE NAME	20746 C3 - SITE
DRAWN BY	MNA
DESIGNED BY	MNA
REVIEWED BY	ATB
ORIGINAL ISSUE DATE	3/23/18
CLIENT PROJECT NO.	

TITLE

**SITE PLAN**

SHEET  
**C3-10**

PRELIMINARY  
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PROJECT

**PLH MIXED USE  
BUILDING**

RICHFIELD MINNESOTA

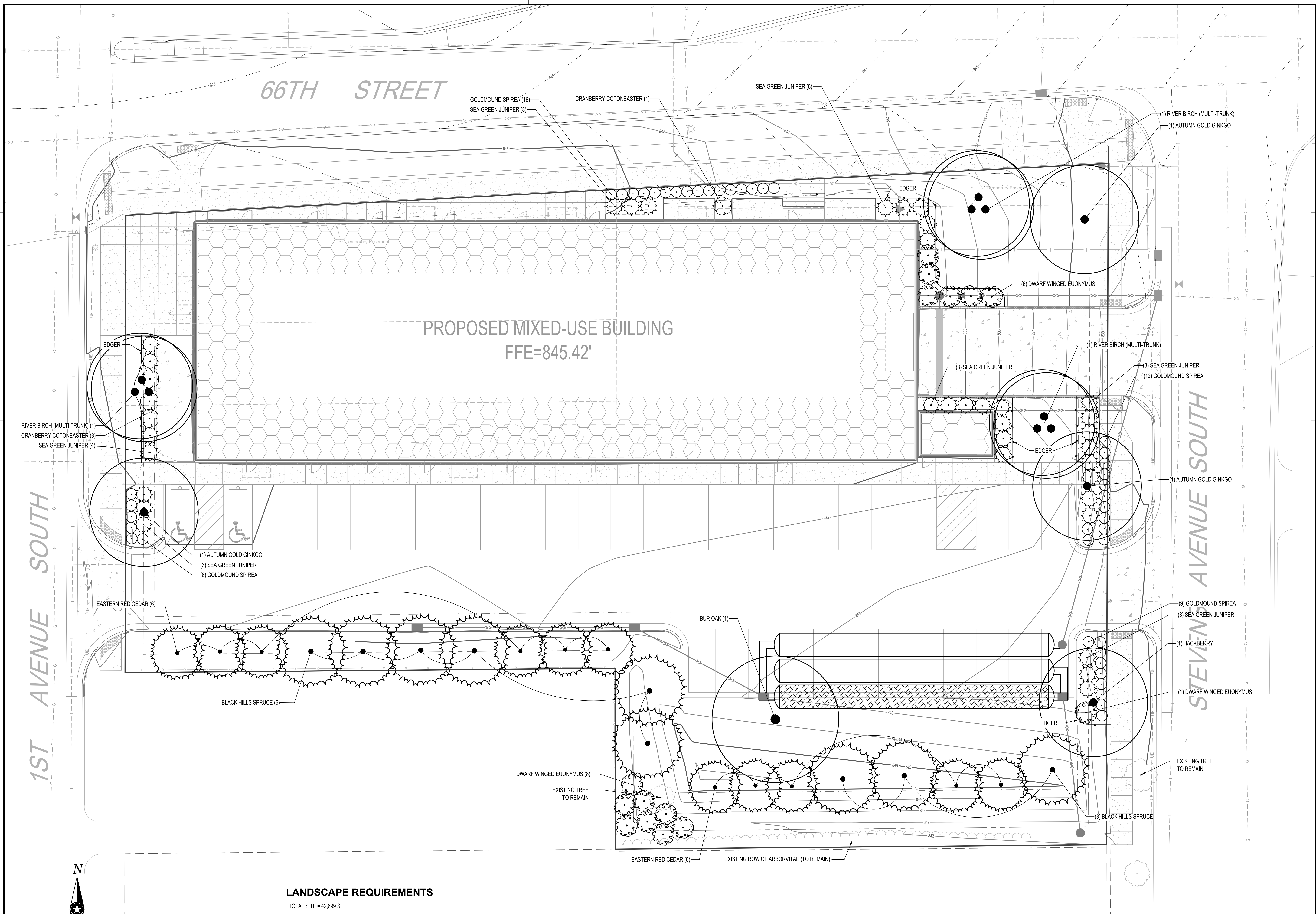
REVISION SCHEDULE		
DATE	DESCRIPTION	BY
5/16/18	CITY RESUBMITTAL	ART

PROJECT NO.	17-20746
FILE NAME	20746 CS - LANDSCAPE
DRAWN BY	—
DESIGNED BY	—
REVIEWED BY	—
ORIGINAL ISSUE DATE	3/23/18
CLIENT PROJECT NO.	—

TITLE

**PLANTING PLAN**

SHEET

**C5-20****LANDSCAPE REQUIREMENTS**

TOTAL SITE = 42,699 SF

30 TREES SHOWN  
2 EXISTING TREES (TO BE SAVED)  
28 PROPOSED TREES  
96 SHRUBS SHOWN

17 TREES REQUIRED  
CODE: 1 TREE PER 2500 SF OF DEVELOPABLE LANDSCAPE AREA  
(42,699 / 2500 = 17.1 OR 17 TREES)  
43 SHRUBS REQUIRED  
CODE: 1 SHRUB PER 1000 SF OF DEVELOPABLE LANDSCAPE AREA  
(42,699 / 1000 = 42.7 OR 43 SHRUBS)

UTILITY LOCATIONS SHOWN ARE APPROXIMATE.  
CONTRACTOR IS RESPONSIBLE FOR LOCATING UTILITIES  
ON-SITE PRIOR TO CONSTRUCTION.



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PROJECT

**PLH MIXED USE  
BUILDING**

RICHFIELD MINNESOTA

REVISION SCHEDULE		
DATE	DESCRIPTION	BY
5/16/18	CITY RESUBMITTAL	ART

PROJECT NO. 17-20746  
FILE NAME 20746 C3 - SITE  
DRAWN BY MNA  
DESIGNED BY MNA  
REVIEWED BY ATB  
ORIGINAL ISSUE DATE 3/23/18  
CLIENT PROJECT NO. \_\_\_\_\_

TITLE

**SITE UTILITY PLAN**

SHEET

**C3-20****66TH STREET****PROPOSED MIXED-USE BUILDING**  
**FFE=845.42'****1ST AVENUE SOUTH****STEVENS AVENUE SOUTH****UTILITY LEGEND**

EXISTING		PROPOSED
-->>--	STORM DRAIN	-->>--
- - - -	SANITARY SEWER	- - - -
- - - -	SANITARY SEWER FORCEMAIN	- - - -
- - - -	WATER MAIN	- - - -
- - - -	GAS	- - - -
- - - -	OVERHEAD ELECTRIC	- - - -
- - - -	UNDERGROUND ELECTRIC	- - - -
- - - -	UNDERGROUND TELEPHONE	- - - -
- - - -	UNDERGROUND TV	- - - -
- - - -	OVERHEAD UTILITY	- - - -
- - - -	UNDERGROUND UTILITY	- - - -
- - - -	FIBER OPTIC	- - - -

NOTE:  
CONTRACTOR SHALL FIELD VERIFY THE LOCATIONS OF ALL EXISTING UTILITIES.

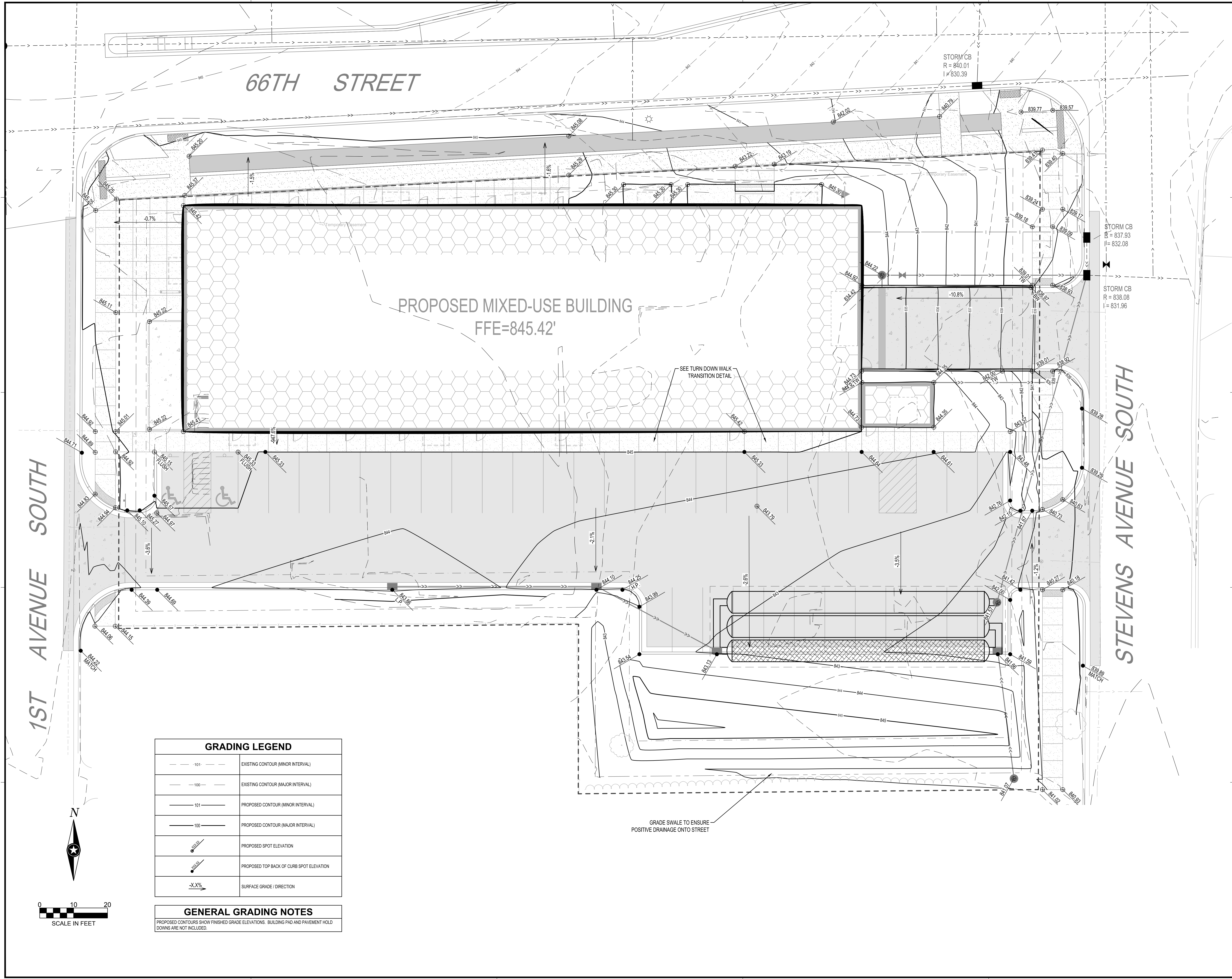
**STORM DRAIN PIPE SCHEDULE**

PIPE NO.	DRAIN FROM	INLET ELEVATION	DRAIN TO	OUTLET ELEVATION	PIPE SIZE (IN)	MATERIAL	PIPE CLASS	PIPE GRADE	PIPE LENGTH (FT)
P-2	ACO Drain	832.35	A-1	832.28	12	PVC	SCH 40	1.50%	5
P-3	ROOF LEADER	840.92	A-1	840.80	12	PVC	SCH 40	2.00%	6
P-4	A-2	841.04	EX-1	834.00	12	PVC	SCH 40	7.03%	100
P-6	A-5	839.20	A-4	838.40	12	PVC	SCH 40	2.00%	40
P-6	A-6	840.00	A-5	838.40	12	PVC	SCH 40	1.00%	60
P-7	A-7	840.57	A-3	835.75	12	PVC	SCH 40	12.68%	38
P-118	A-1	832.28	EX-1	832.05	12	PVC	SCH 40	0.38%	60

**STORM DRAIN SCHEDULE**

STRUCTURE NO.	STRUCTURE TYPE	STRUCTURE SIZE (IN)	STRUCTURE MATERIAL	CASTING	PAY HEIGHT LN FT	TOP OF CASTING ELEVATION	INVERT ELEVATION	OUTLET PIPE
A-1	DRAIN BASIN	15 0	PVC	Frame Grate Cover	11.94	844.22	832.28	P-118
A-2	SEE DETAIL	48 0	RC	NEENAH R-1926-7	6.99	842.74	835.75	P-4
A-3	MnDOT 4020	48 0	RC	NEENAH R-3015 TYPE VB	5.66	841.41	835.75	MC-3500 (ACCESS PIPE)
A-4	MnDOT 4020	48 0	RC	NEENAH R-3015 TYPE VB	7.15	842.90	835.75	MC-3500 (ISOLATOR ROW)
A-5	CATCH BASIN (TYPE 1)	36 x 24	RC	NEENAH R-3067 TYPE VB	4.90	844.10	839.20	P-6
A-6	CATCH BASIN (TYPE 1)	36 x 24	RC	NEENAH R-3067 TYPE VB	3.86	843.86	840.00	P-6
A-7	INLINE DRAIN	12 0	PVC	Frame Grate Cover	1.70	842.27	840.57	P-7

NOTE: RIM AND TOP OF CASTING EQUALS TOP BACK OF CURB



PRELIMINARY  
NOT FOR CONSTRUCTION

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PROJECT

**PLH MIXED USE  
BUILDING**

RICHFIELD MINNESOTA

REVISION SCHEDULE		
DATE	DESCRIPTION	BY
5/16/18	CITY RESUBMITTAL	ART

PROJECT NO.	17-20746
FILE NAME	20746 C4 - GRADING
DRAWN BY	MNA
DESIGNED BY	MNA
REVIEWED BY	ATB
ORIGINAL ISSUE DATE	3/23/18
CLIENT PROJECT NO.	

TITLE

**SITE GRADING  
PLAN**

SHEET

**C4-10**



**PLAN SHEET NOTES**  
1. ALL INTERIOR PARTITION WALLS SHALL BE WALL TYPE \_\_\_\_ UNLESS OTHERWISE NOTED.

**KEYNOTE LEGEND**



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PROJECT

**PLH MIXED USE BUILDING**

RICHFIELD MINNESOTA

REVISION SCHEDULE		
DATE	DESCRIPTION	BY
05/16/18	CITY RESUBMITTAL	DJR

PROJECT NO. 17-20746

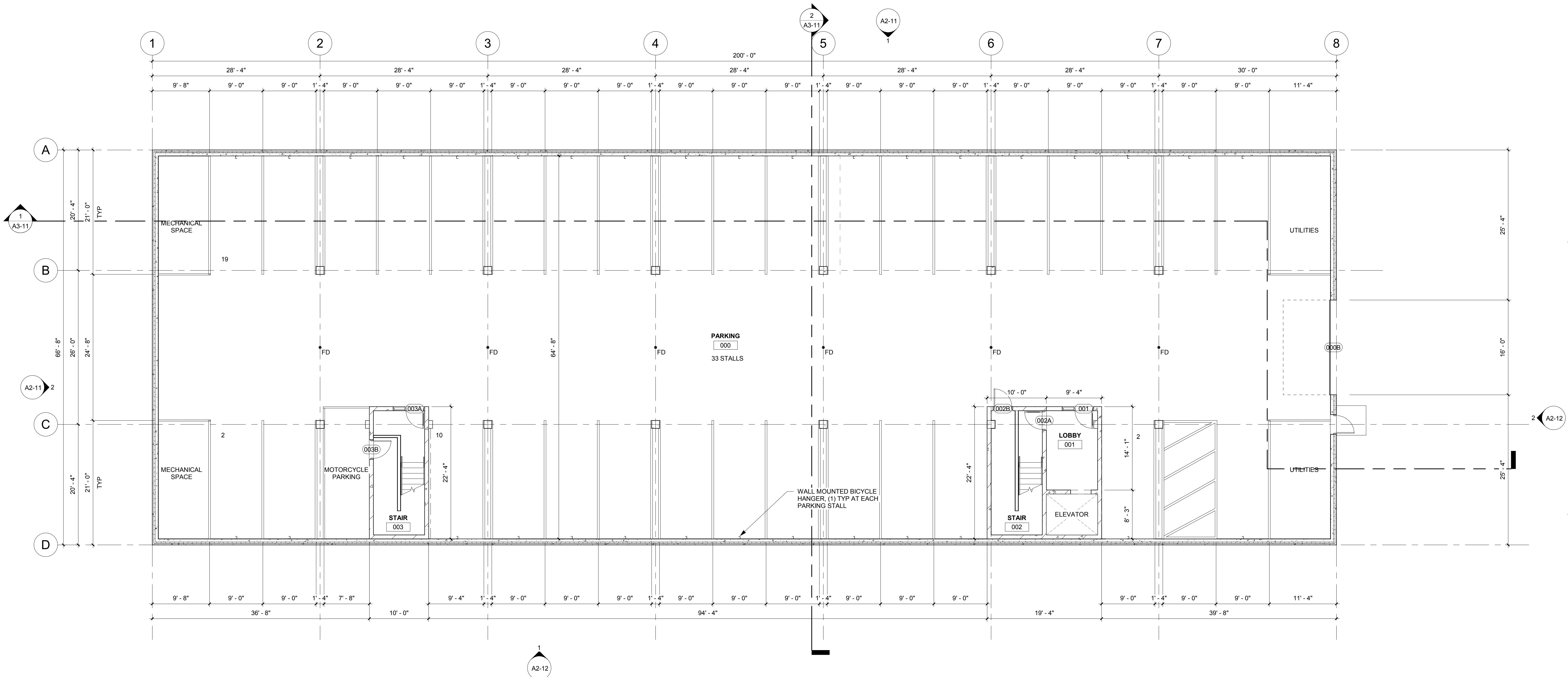
FILE NAME  
DRAWN BY  
DESIGNED BY  
REVIEWED BY  
ORIGINAL ISSUE DATE  
CLIENT PROJECT NO.

TITLE

**LOWER LEVEL PLAN**

SHEET

**A1-20**



**1 LOWER LEVEL FLOOR PLAN**  
1/8" = 1'-0"





UNIT LEGEND
STUDIO - 1 BED TYPES - 10 UNITS 1ST FLOOR - 2 2ND FLOOR - 4 3RD FLOOR - 4
1 BEDROOM TYPE - 10 UNITS 1ST FLOOR - 2 2ND FLOOR - 4 3RD FLOOR - 4
2 BEDROOM TYPES - 11 UNITS 1ST FLOOR - 1 2ND FLOOR - 5 3RD FLOOR - 5
TOTAL UNIT MIX 10 - STUDIO - 32% 10 - 1 BEDROOM - 32% 11 - 2 BEDROOM - 35% 31 TOTAL UNITS
TOTAL FLOOR SQUARE FOOTAGES LOWER LEVEL: 13,333 PARKING = 13,333 SF TOTAL FIRST FLOOR: 7,016 RESIDENTIAL + 6,124 RETAIL = 13,138 SF TOTAL SECOND FLOOR: 13,117 RESIDENTIAL = 13,117 SF TOTAL THIRD FLOOR: 13,117 RESIDENTIAL = 13,117 SF TOTAL 52,705 TOTAL SQUARE FOOTAGE

PLAN SHEET NOTES
1. ALL INTERIOR PARTITION WALLS SHALL BE WALL TYPE ____, UNLESS OTHERWISE NOTED.

KEYNOTE LEGEND
----------------

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PROJECT

## PLH MIXED USE BUILDING

RICHFIELD MINNESOTA

REVISION SCHEDULE		
DATE	DESCRIPTION	BY
05/16/18	CITY RESUBMITTAL	DJR

PROJECT NO. 17-20746

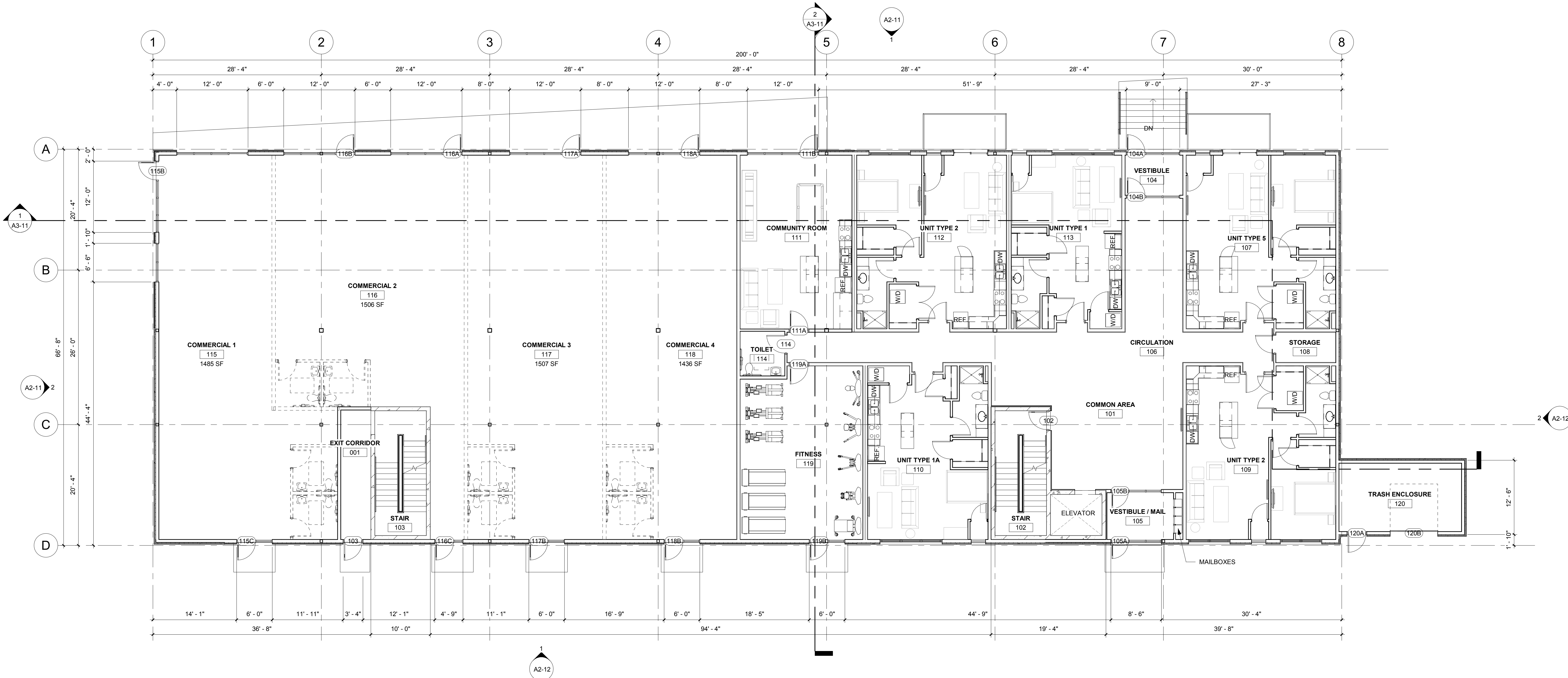
FILE NAME
DRAWN BY
DESIGNED BY
REVIEWED BY
ORIGINAL ISSUE DATE
CLIENT PROJECT NO.

TITLE

## FIRST FLOOR PLAN

SHEET

A1-21



1 FIRST FLOOR PLAN  
1/8" = 1'-0"



**PLAN SHEET NOTES**  
1. ALL INTERIOR PARTITION WALLS SHALL BE WALL TYPE \_\_\_\_ UNLESS OTHERWISE NOTED.

**KEYNOTE LEGEND**



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PROJECT

**PLH MIXED USE BUILDING**

RICHFIELD MINNESOTA

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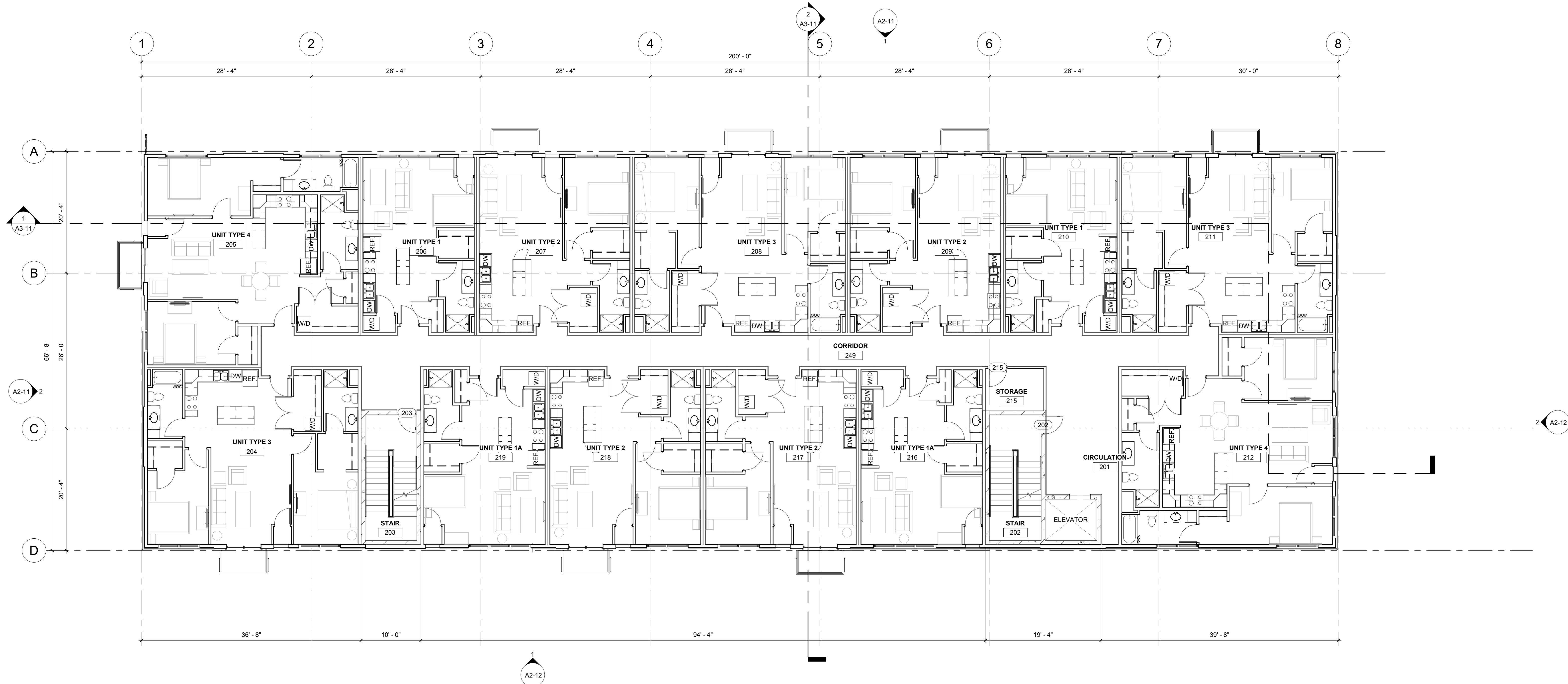
PROJECT NO. 17-20746  
FILE NAME  
DRAWN BY  
DESIGNED BY  
REVIEWED BY  
ORIGINAL ISSUE DATE  
CLIENT PROJECT NO.

TITLE

**SECOND FLOOR PLAN**

SHEET

**A1-22**



**1 SECOND FLOOR PLAN**  
1/8" = 1'-0"





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RICHFIELD MINNESOTA

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05/16/18	CITY RESUBMITTAL	DJR

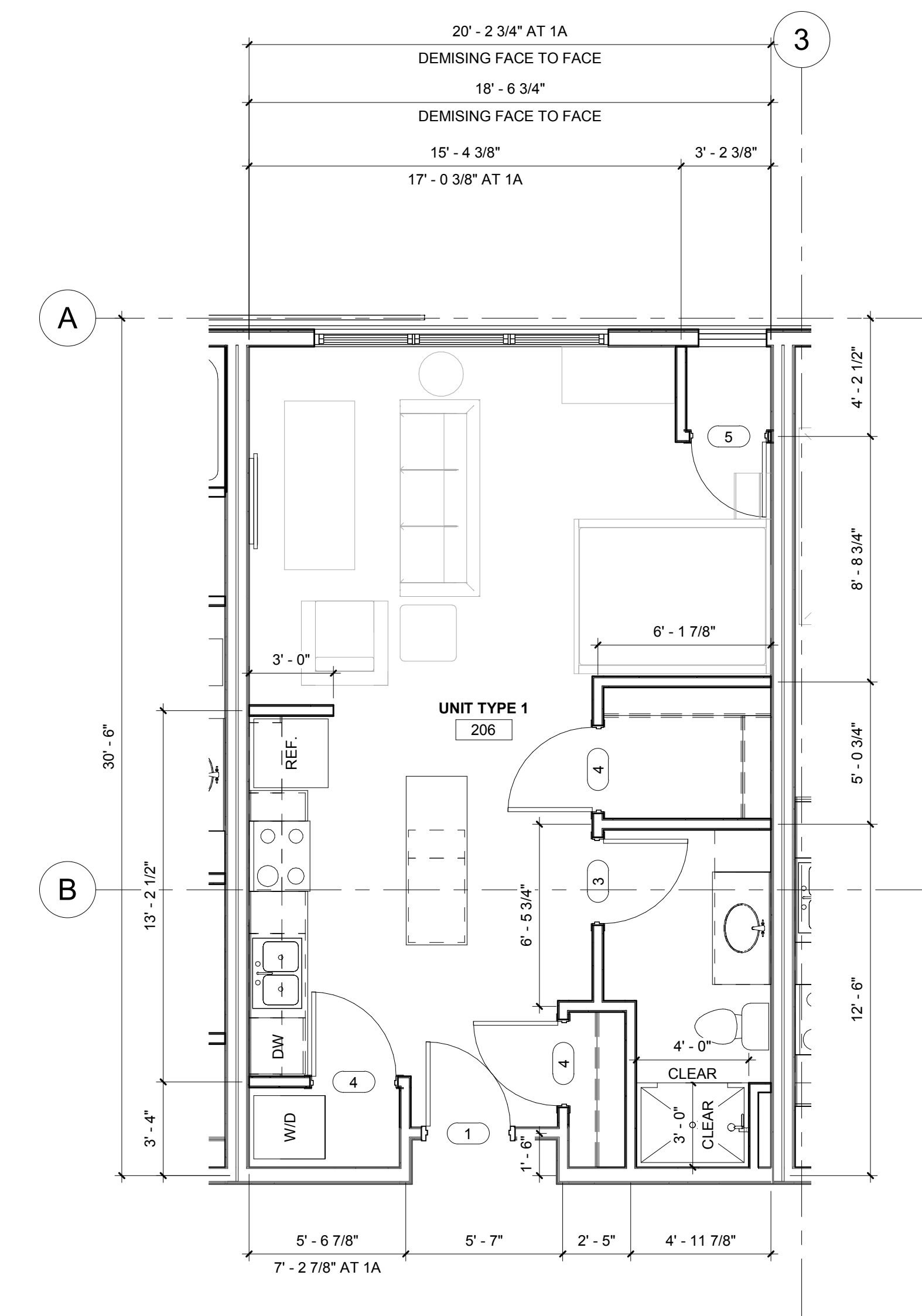
PROJECT NO.	17-20746
FILE NAME	
DRAWN BY	
DESIGNED BY	
REVIEWED BY	
ORIGINAL ISSUE DATE	10/17/17
CLIENT PROJECT NO.	

TITLE

## TYPICAL UNIT PLANS

SHEET

A1-24





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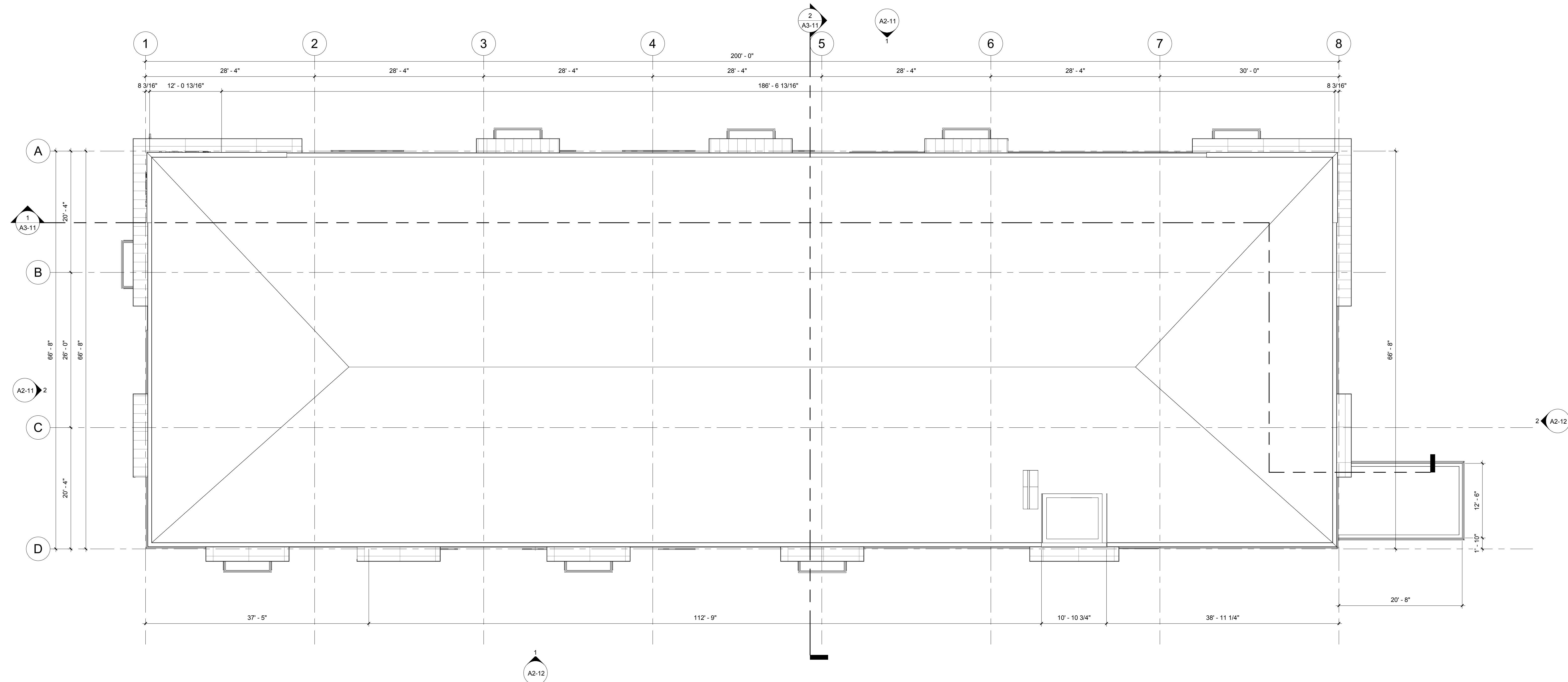
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DRAWN BY  
DESIGNED BY  
REVIEWED BY  
ORIGINAL ISSUE DATE  
CLIENT PROJECT NO.

TITLE

## ROOF PLAN

SHEET

# A1-71



1 ROOF PLAN  
1/8" = 1'-0"

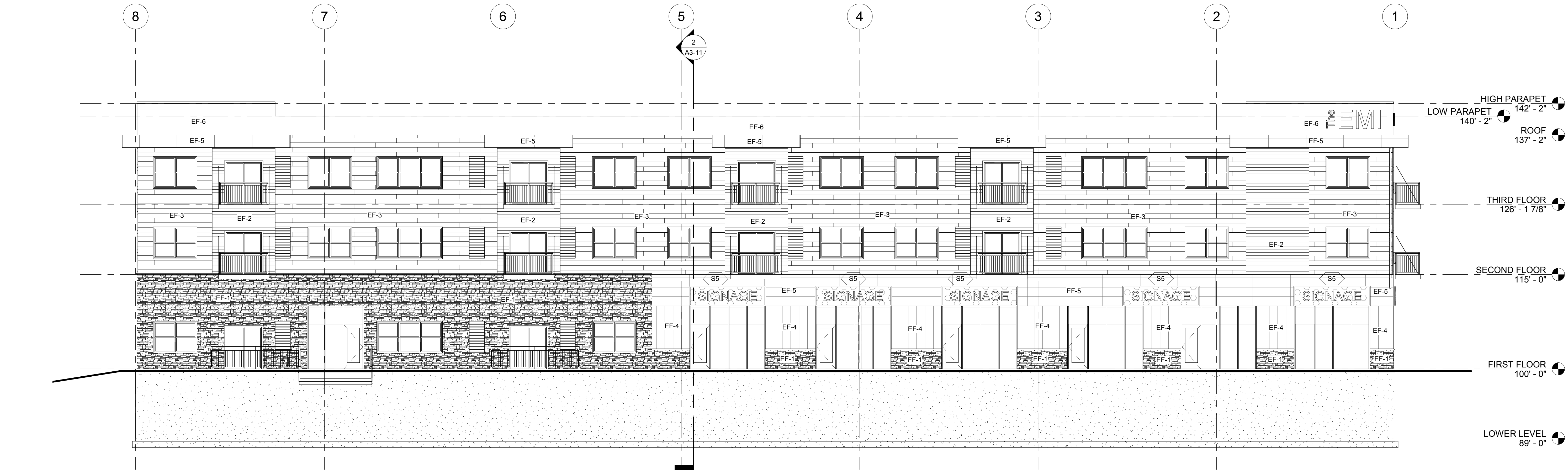




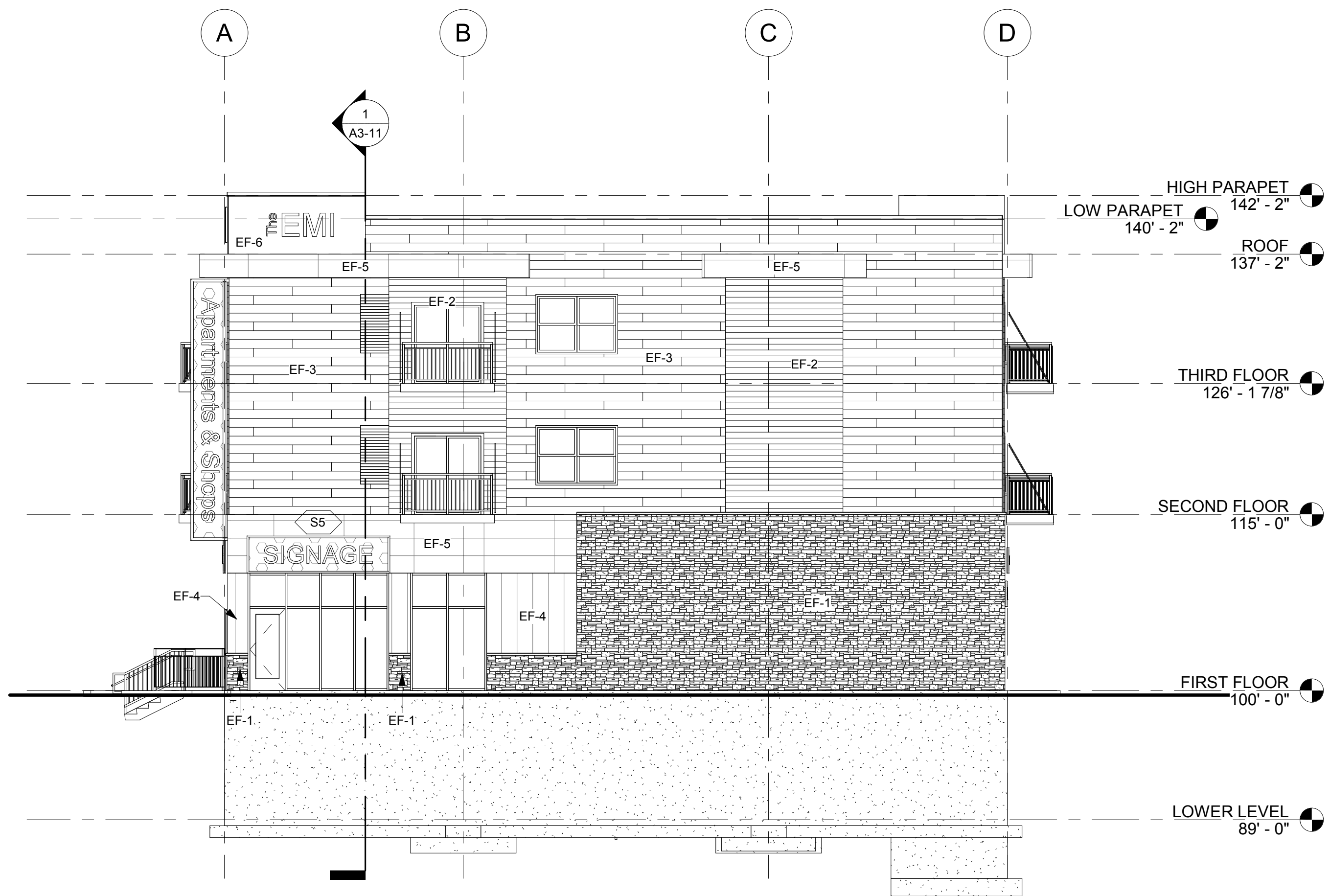
SIGNAGE				
MARK	WIDTH	HEIGHT	TEXT HEIGHT	COUNT
S1	4' - 0"	2' - 0"	0' - 9"	1
S2	6' - 0"	2' - 0"	0' - 9"	4
S3	8' - 6"	2' - 0"	1' - 0"	1
S5	12' - 0"	3' - 0"	1' - 6"	6

EXTERIOR WALL MATERIAL SCHEDULE AND TAKEOFF				
MARK	MATERIAL DESCRIPTION	MANUFACTURER	MODEL / COLOR	COMMENTS
EF-1	STONE VENEER			
EF-2	LAP SIDING	LP SMARTSIDE	LITE COLOR	INSTALL HORIZONTALLY
EF-3	18" x 120" FIBER CEMENT SIDING	NICHA VINTAGE WOOD	LITE CEDAR COLOR	INSTALL HORIZONTALLY
EF-4	BOARD AND BATTEN SIDING	LP SMARTSIDE	WHITE COLOR	INSTALL VERTICALLY
EF-5	16" x 72" FIBER CEMENT PANELS	NICHA	GREY COLOR	INSTALL HORIZONTALLY
EF-6	PAINT		BLACK	

NOTE:  
ALL QUANTITIES IN "AREA" ARE APPROXIMATE  
AND FOR REFERENCE ONLY. THESE  
NUMBERS ARE NOT GUARANTEED AND NOT  
INTENDED TO BE REPLACEMENTS FOR SHOP  
DRAWINGS OR PHYSICAL DRAWING  
EVALUATIONS AND TAKEOFFS.



1 NORTH ELEVATION  
1/8" = 1'-0"



2 WEST ELEVATION  
1/8" = 1'-0"



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TITLE

## EXTERIOR ELEVATIONS

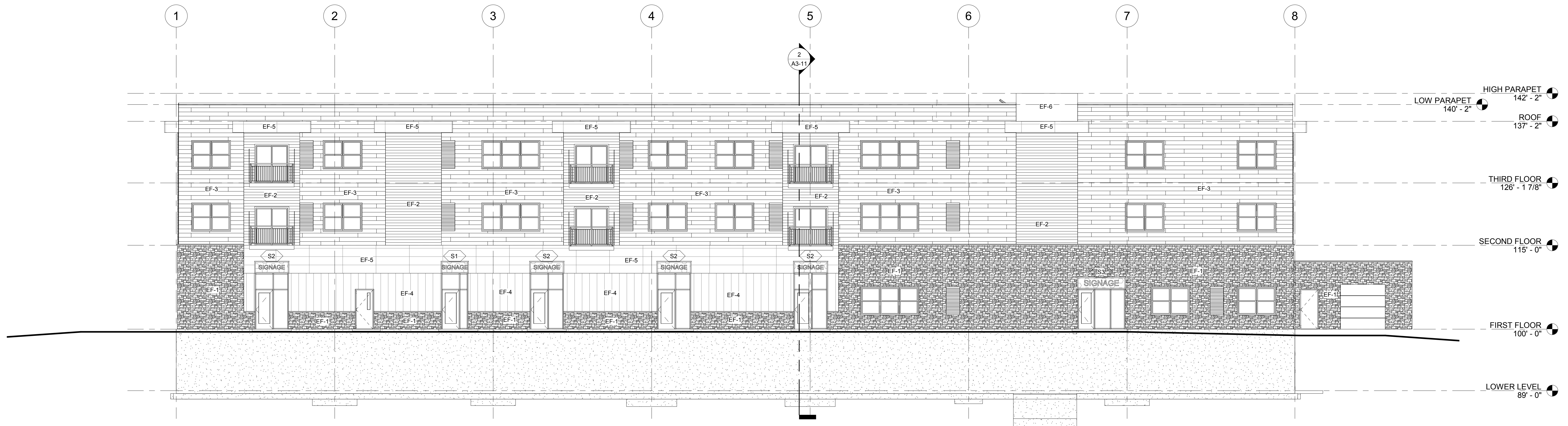
SHEET

A2-11

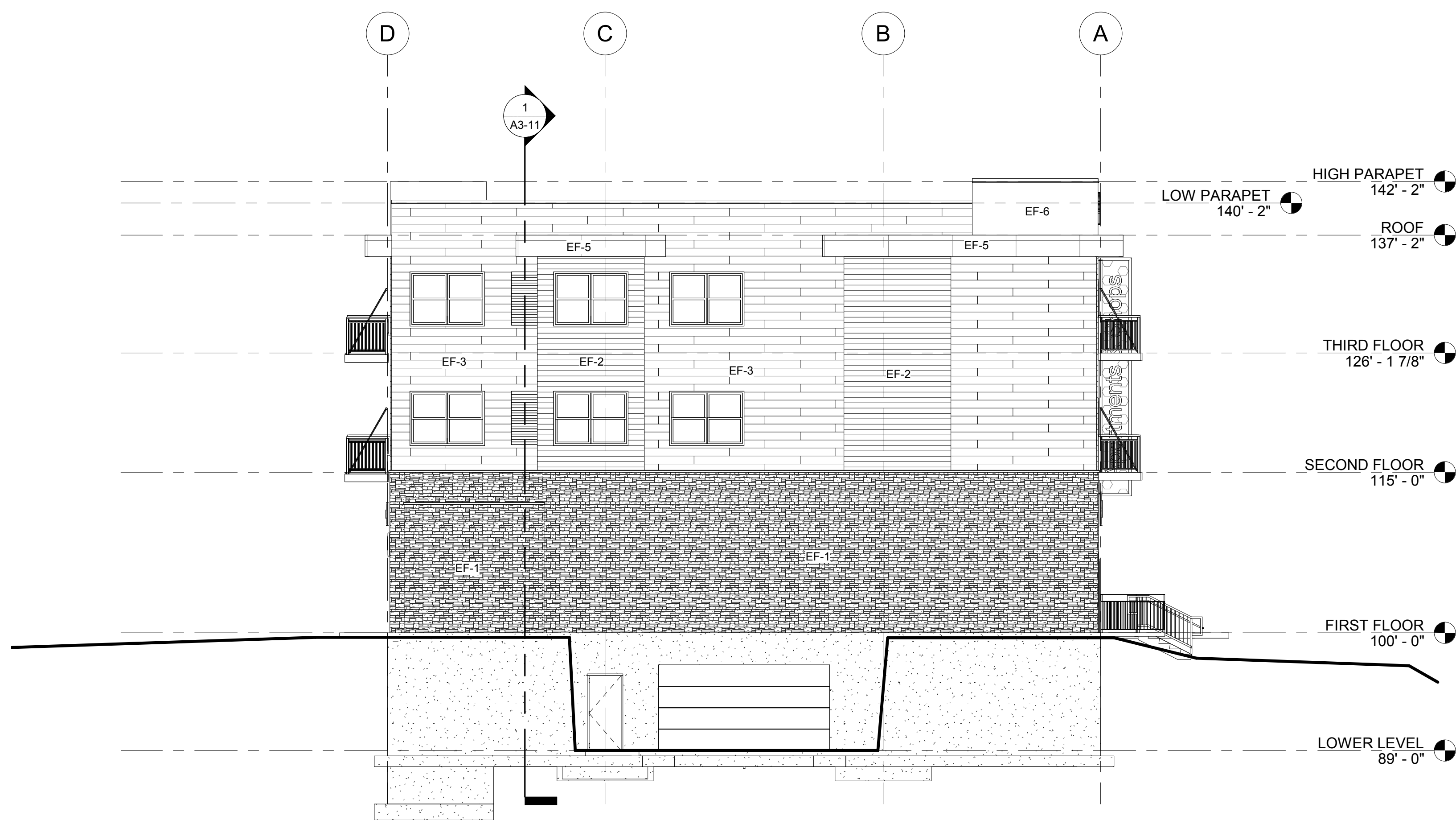
PRELIMINARY NOT FOR CONSTRUCTION



PRELIMINARY NOT FOR CONSTRUCTION



1 SOUTH ELEVATION  
1/8" = 1'-0"



2 EAST ELEVATION  
1/8" = 1'-0"



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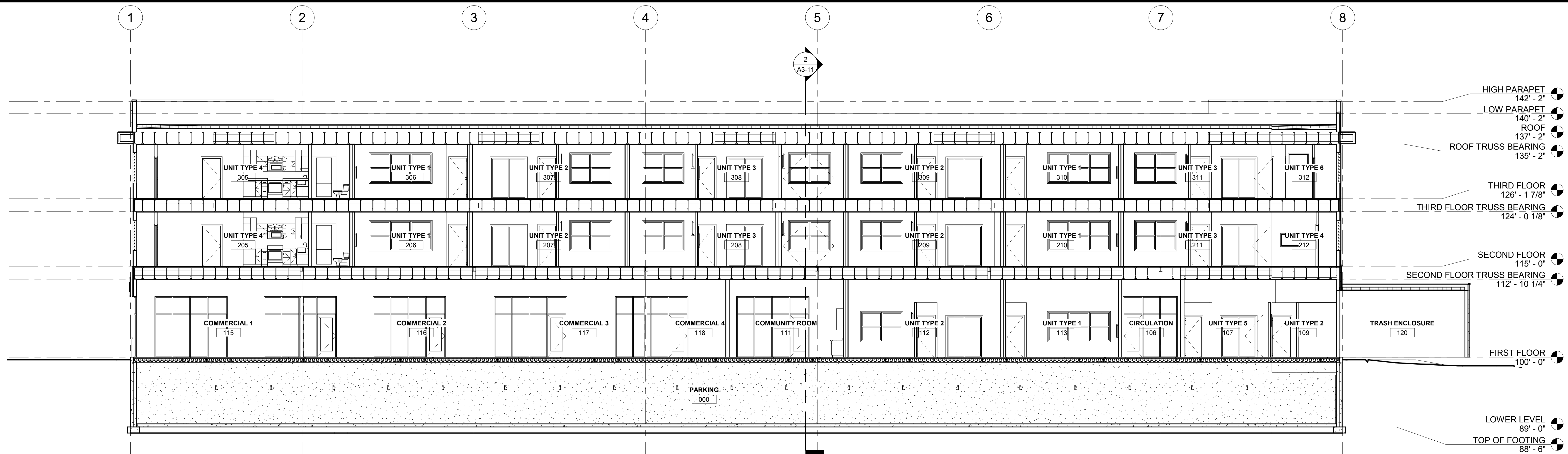
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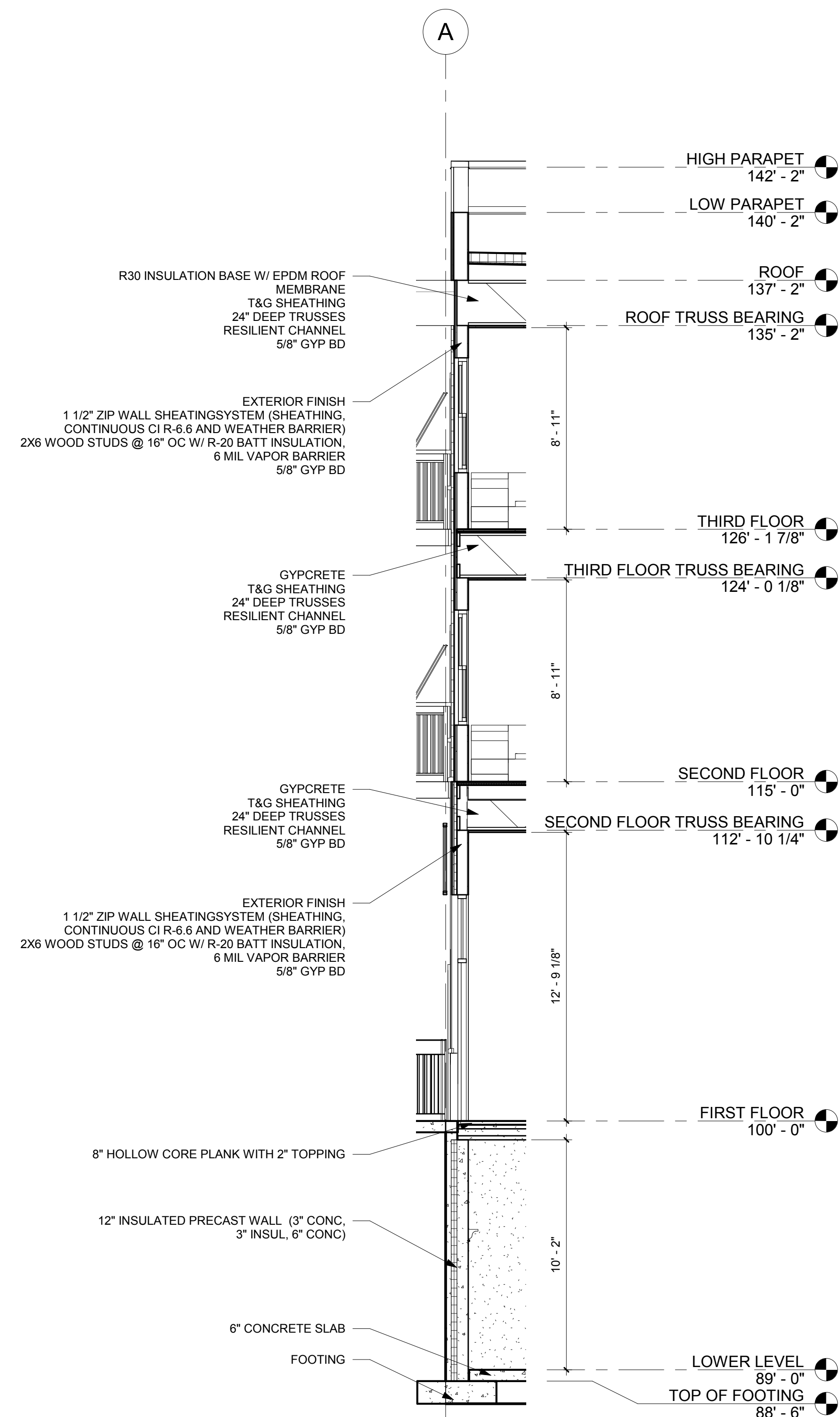
## EXTERIOR ELEVATIONS

SHEET

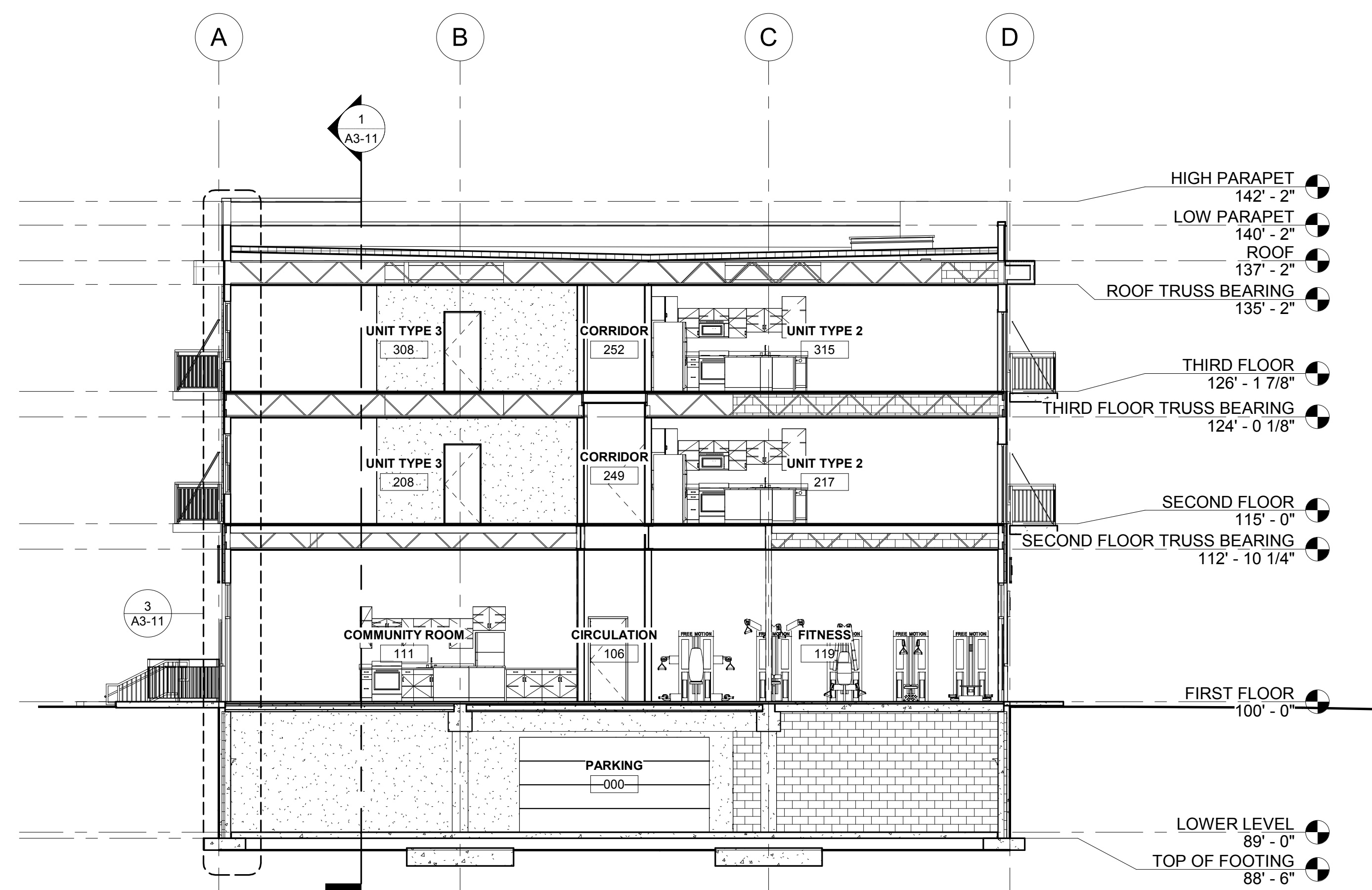
A2-12



1 BUILDING SECTION  
1/8" = 1'-0"



3 TYPICAL WALL SECTION  
1/4" = 1'-0"



2 BUILDING SECTION  
1/8" = 1'-0"



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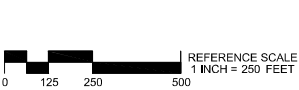
TITLE

## BUILDING SECTIONS

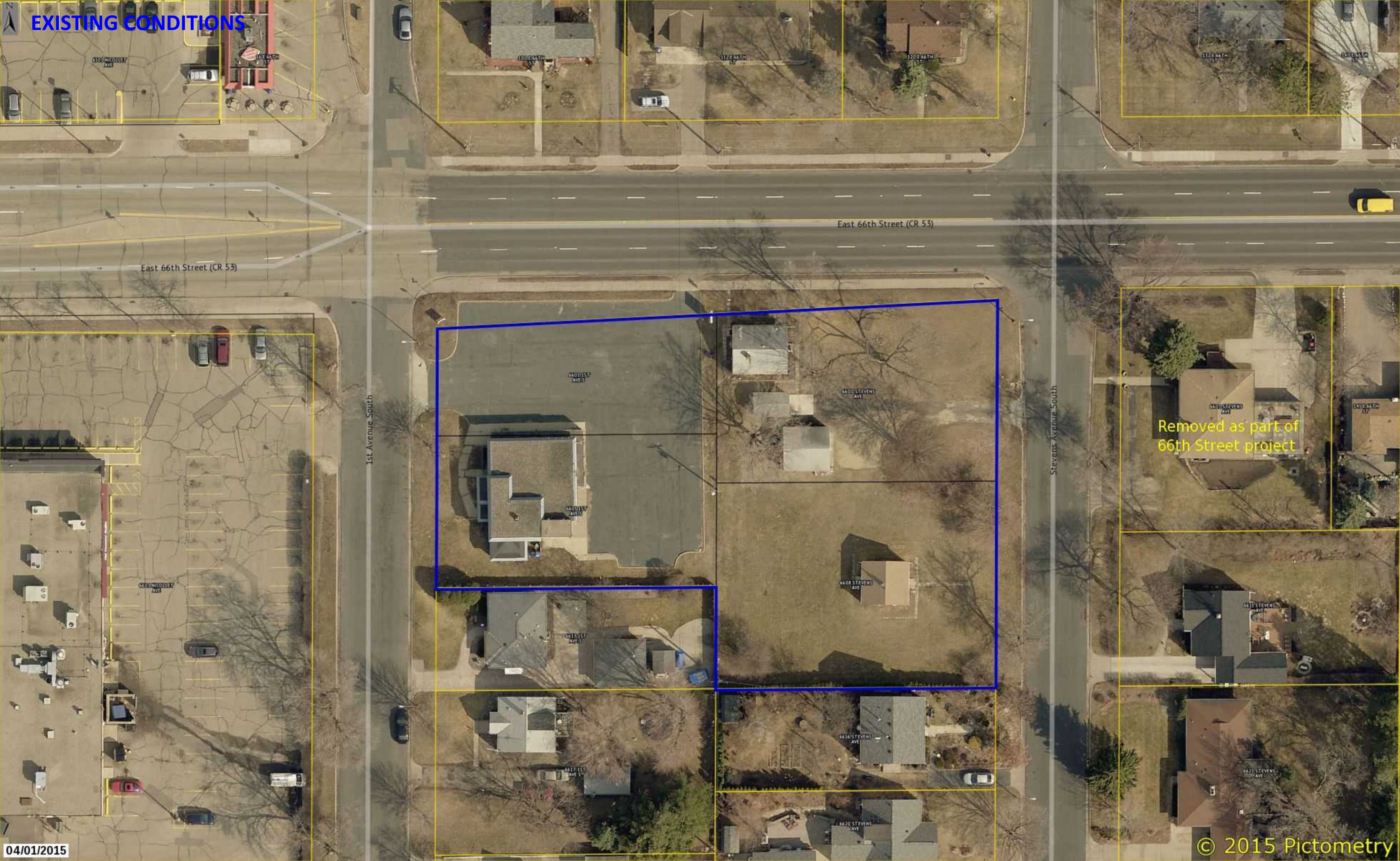
SHEET

A3-11









EXISTING CONDITIONS

East 66th Street (CR 53)

1st Avenue South

Stevens Avenue South

Removed as part of  
66th Street project

04/01/2015



© 2015 Pictometry



# 66th Street East Development Pattern



## Land Use

-  Non-Single Family Residential Land Use
-  PLH Development Site

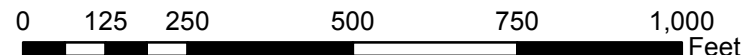
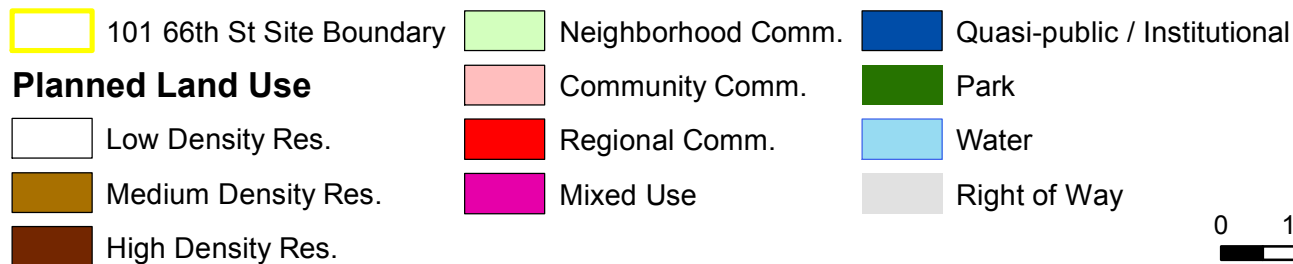
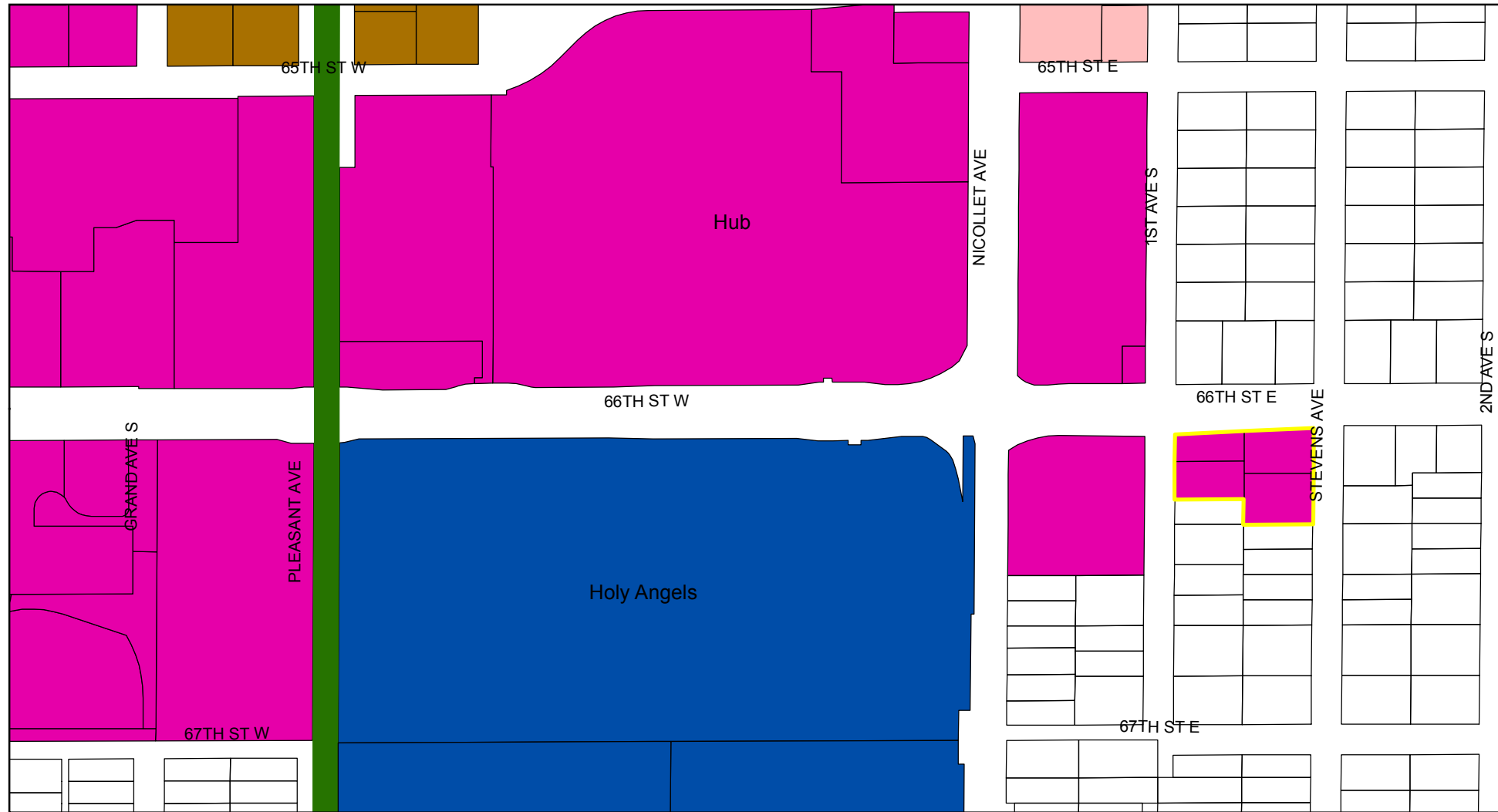


# 66th Street Land Use - Nicollet Avenue to Portland Avenue





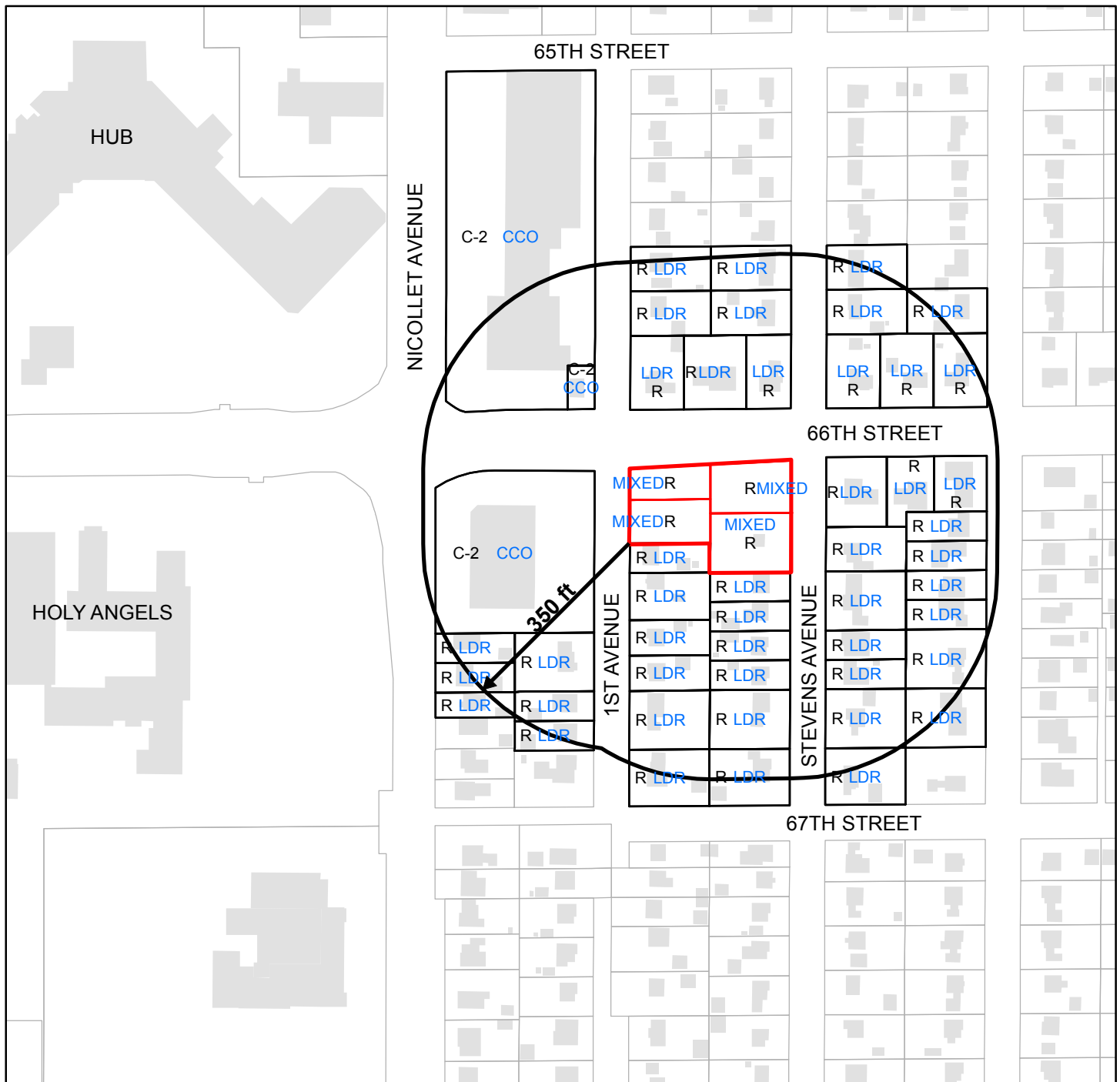
# DRAFT Comprehensive Plan Designations - 66th Street & Nicollet Avenue Area





# 101 66th Street E - CP RZN PUD 5/2018

## Surrounding Zoning and Comprehensive Plan



Zoning:  
 C-2 - General Commercial  
 R - Single Family Residential

Comp Plan:  
 CCO - Community Commercial/Office  
 LDR - Low Density Residential  
 MIXED - Mixed Use

0 125 250 500 750 1,000 Feet

### Legend

- Development site
- 350 ft. notification area



**From:** Kathleen Balaban <kbalaban@emcorganics.com>  
**Sent:** Thursday, May 31, 2018 7:51 AM  
**To:** Pat Elliott; Michael Howard; Edwina Garcia; Simon Trautmann; Maria Regan Gonzalez; John Stark; Melissa Poehlman; soleary@richfield.gov; dkitzberger@richfield.gov; srosenberg@richfield.gov; ahoberg@richfield.gov; bpynn@richfield.gov; kquam@richfield.gov; jrudolph@richfield.gov; Matt Brillhart  
**Cc:** jml8839@comcast.net  
**Subject:** 66th and Stevens Mixed Use Zone

To My Elected and Appointed City Representatives:

My name is Kathleen Balaban and I own the home at 6526 Stevens Ave So and was unable to attend the Planning Commission Meeting on May 29<sup>th</sup>. However, I was able to view the session on-line and was disappointed with the decision for mixed-use zoning, but I understand the need for increased density in our growing city. I thank the Planning Commission and City Council members for working with the residents by requiring the developer, Paul Lynch, to work closer with us in the next few weeks and am unsure if that will truly happen. It was quite evident that the developer's last efforts were surface based and miniscule at best and made no real effort to meet with us as noted by Julie Lapensky during the meeting. I am asking my elected and appointed city officials to hold this developer and our 'city staff' accountable to his efforts or lack thereof to work with us before the June 12<sup>th</sup> meeting. Personally, I think small group meetings can be more productive than open houses and am expecting Mr. Lynch to, at the very least, reach out to Julie Lapensky, as our neighborhood representative to further consider and make needed changes.

It was noted during a City Council meeting that the developer didn't communicate enough with the residents, when the onus of this and any other project belongs to the city of Richfield. I applaud Edwina for her comments at the City Council meeting pertaining to the lack of communication and potentially lack of experience by this specific developer. We may want and need additional density in our city, but we may not want and/or need this specific developer's lack of experience, lack of communication and lack of flexibility in design and scope. Brick walls, deaf ears, heels dug in the dirt and enlarged egos make it very difficult to come to any common ground. If the project on Lyndale can be passed with lowered number of units from the original proposal, this project can be successful too with less residential units to better fit the lot size and residential neighborhood.

One of the requested items noted by the residents is 'no thru' traffic going north and/or south on Stevens. This is not a developer's decision, but yours. Due to the new zoning and proposed development with added retail, my neighbors and I would like to change that intersection to a pedestrian use crossing only. This would lower the traffic from drivers going north/south on Stevens to 67<sup>th</sup>, 65<sup>th</sup> or 64<sup>th</sup> to avoid the round-a-bout.

This is an opportune time to make that change and a chance to further support us with this unwanted mixed use zoning. It is going to take your action now to require that change while the crews are working on the sewer system and have not begun that intersection's reconstruction yet. One of my neighbors is blind and there are no sidewalks on Stevens forcing her into the street, as she uses public transportation. The lack of thru traffic on 66<sup>th</sup> and Stevens will lower the traffic making our street safer and quieter once again.

Thank you again for your demonstrated support for our efforts to communicate with the developer and the appropriate city representatives with any concerns pertaining to this specific project and am hoping that there is some downsizing of this proposed building and no thru traffic on Stevens when this and the 66<sup>th</sup> Street project is completed.

Respectfully,

Kathleen Balaban  
6526 Stevens Ave So  
612-869-8311

## Matt Brillhart

---

**From:** Husniyah Dent Bradley <dent\_h@hotmail.com>  
**Sent:** Thursday, April 26, 2018 11:29 AM  
**To:** Melissa Poehlman; John Stark; Matt Brillhart; Pat Elliott; Michael Howard; Edwina Garcia; Simon Trautmann; Maria Regan Gonzalez; J Dent  
**Subject:** Comments about Zoning Ordinance Change on 66th between Stevens Ave and 1st Ave in Richfield

Hello,

I wanted to send along several of the comments that I made at the community section of the Richfield Planning Commission held on Monday, April 23, 2018, concerning the mixed use zoning ordinance for the property at 66th Street between 1st Avenue and Stevens Avenue in Richfield.

I am a long time resident of 66th and Stevens Avenue in Richfield and have driven down that street at different times of the day and night.

Things to consider for this project:

- ) It is a fairly quiet street and does not have a lot of traffic driving down it. We do have children that walk down the street from time-to-time due to there being no sidewalks
- ) Proper notice of the public meeting was not done - residents complained of receiving the notice a day before or after the date, typically a notice is sent 10 days in advance
- ) When there was construction on 66th street last year more traffic drove down the street in order to get around the barriers that were placed in the middle of 66th street.
- ) If a mixed use complex is built on that corner it will cause a lot more traffic in the area
- ) It is currently sometimes difficult to see oncoming traffic when you are stopped at the stop sign, especially when a driver is driving fast or the sun is blocking the view, a lot of vehicles do not see who is at that corner until they reach the top of the hill driving East towards Portland
- ) Traffic speeds up after they leave Nicollet Avenue and it is sometimes hard to make a stop before turning right on to 66th and Stevens - when snow is on the ground or ice, your vehicle will slide into the turn
- ) If a large building is built on that corner then it will make it even more difficult to see on-coming traffic at the stop sign and snow removal will be a problem
- ) As you drive from East to West on 66th street you can tell that there is a hill and the top of the hill meets on 1st avenue - is the building going to level this area out or will the hill remain?
- ) There are people that live on the street that sleep during the day and work at night - a lot of noise will disrupt their sleep and sleep patterns
- ) If a popular restaurant leases space in the complex then there will be parking issues as seen in St. Paul and Minneapolis, where residents are complaining about the patrons taking all of the parking spaces on the street so they do not have spaces for their family or guests - the same thing will occur if the complex has a meeting room or hospitality room
- ) If people are not able to find parking on the same street as the complex then they will park on 65th and Stevens or 65th and 1st Avenue
- ) If residents or customers of the complex take up all of the street parking on Stevens Ave on both sides then there will not be a lot of room for EMS - the other week when EMS had to respond to an incident

they had to park in between two vehicles that were parked on either side of the street and could not make it up the driveway of the home.

- ) The mixed use complex will have an open ended driveway where people can drive through the driveway and this could cause an issue
- ) The parking lot entrance and underground parking entrance is across the street from other driveways - this could make it difficult for the homeowner to get out of their driveway at peak times of the day
- ) On 1st Ave and 66th they are about to allow restaurant patrons from Lakeside Grill to park on that side of the street so they will be competing for parking spots as well
- ) Can the lot on 1st Ave and 66th be turned into a parking lot?
- ) Brixmor Properties has had a tough time leasing spaces at the Hub (maybe due to high lease rates and building issues - roof, upkeep, etc.) - how are the developers going to ensure that their spaces will be leased?
- ) There are no affordable housing units planned for the project, not even 10%
- ) The developers are asking for additional changes to the space that were not initially disclosed when the project was presented - building it out to the corner, etc.
- ) The developers do not know exactly where trash will be collected, where deliveries for commercial space will come in through or other delicate details that need to be ironed out
- ) It is great that the developers want to redevelop the property. They are not from MN and are not connected to the community but they have purchased the property and are eager to get started. Hopefully this project will not have a huge impact on the value of the homes in the area, etc.

I hope that everyone is able to visit the location and observe it for 10 minutes or so to get a feel of the type of area it is.

Thanks,

Husniyah Dent Bradley



## Matt Brillhart

---

**From:** Cynthia Norton <cnorton54@comcast.net>  
**Sent:** Tuesday, April 24, 2018 11:51 AM  
**To:** Pat Elliott; Michael Howard; Edwina Garcia; Maria Regan Gonzalez; John Stark; Melissa Poehlman; Matt Brillhart  
**Subject:** Post 04/23 Meeting Re Mixed-Use Development at 6601 & 6605 1st Ave & 6600 & 6608 Stevens Ave

If the Planning Commission approves the **highly opposed** zoning change to multi-use for the parcel at 66th Street and Stevens and First Ave. South after receiving numerous phone calls, emails and after listening to 3 hours of heartfelt opposition from longtime and new homeowners directly impacted by changing zoning to this parcel it will be clear **none of you** sitting on the volunteer Planning Commission or the elected City Council care about the long-time loyal homeowner's in Richfield.

Remember **we** are the citizens who pay the taxes that support Richfield. It is our tax dollars that allow volunteers and elected officials to sit like stoic statues with your eyes glued to monitor screens instead of looking into the eyes and faces of citizens whose daily lives are impacted by the unwanted decisions you impose upon us.

\*Since Sean, the volunteer Commission Chair does not have an email address please forward my email to him.

Cynthia Norton

132 E. 66th St.

Richfield, MN 55423

## Matt Brillhart

---

**From:** Nancy Norton <[nnorton9977@gmail.com](mailto:nnorton9977@gmail.com)>  
**Sent:** Tuesday, April 24, 2018 12:29 AM  
**To:** Pat Elliott; Michael Howard; Edwina Garcia; Maria Regan Gonzalez; John Stark; Melissa Poehlman; Matt Brillhart; Michael Howard; Edwina Garcia; Simon Trautmann  
**Subject:** Re: NO Mixed-Use Development at 6601 & 6605 1st Ave & 6600 & 6608 Stevens Ave

One more very important item the Richfield taxpaying residents said:

1. Home prices will go DOWN as people don't want to live next to apartment buildings.
2. People who purchased homes within the last 1-3 years said they WOULD NOT HAVE PURCHASED if they knew about the mixed use development.

This alone is a HUGE reason to NOT approve the mixed use development. Richfield will not only have 35% - 45% of commercial buildings vacant at The Hub but Richfield homes may also sit vacant or the Richfield house prices may get so low and will negatively impact Richfield.

Don't approve the mixed use development, it will negatively impact Richfield.

Nancy Norton

On Mon, Apr 23, 2018, 11:05 PM Nancy Norton <[nnorton9977@gmail.com](mailto:nnorton9977@gmail.com)> wrote:

Hi, You missed a great Planning Commission Meeting tonight. The taxpaying Richfield residents learned the City Members have been working with this Wisconsin builder since 2015 and has known about the Zoning Changes for years and only sent out a small card to the Richfield residents a few weeks ago. The builder sent out a letter a few days ago, which I received the day AFTER the meeting, that the builder wanted to share his building plans with the Richfield residents.

It was VERY CLEAR the Richfield taxpaying residents DON'T WANT mixed use development as about 15-20 Richfield residents spoke tonight AGAINST mixed use development and how they would APPROVE single family homes built on this property. Not one Richfield resident had anything positive to say about mixed use development, everyone is AGAINST it.

We also learned traffic volumes at peak times will increase to about 91 vehicles per hour from our current volume 10-15 vehicles per hour. There is also not enough parking for residents, workers, handicapped, visitors of residents and Stevens Avenue & 1st Avenue should expect both sides of our streets to be used as additional parking. This will cause issues for Emergency Vehicles and Police as well as residents trying to get into their own driveway. In the winter it will be awful for residents as the snow plows will not be able to clear our streets. Residents are also concerned about the volume of vehicles making turns out of Stevens Avenue & 1st Avenue to 66th Street and not being able to clearly see traffic, bikers and pedestrian with the huge cement building blocking the view.

PLEASE, don't approve Mixed Use Development for this area, as it's very clear, this is not the correct location, Richfield taxpaying residents don't want the additional traffic and congestion.

Thank You  
Nancy Norton

On Fri, Apr 20, 2018, 10:40 AM Nancy Norton <[nnorton9977@gmail.com](mailto:nnorton9977@gmail.com)> wrote:

CRIME will also be increased with additional unnecessary businesses and traffic. We had crime already at the Dairy Queen, Country Buffet, Best Buy and other businesses. Richfield should be making efforts to eliminate crime not bring it into our neighborhood.

Single family homes would be the best use for this property.

Nancy Norton  
132 East 66th Street

On Fri, Apr 20, 2018, 10:09 AM Nancy Norton <[nnorton9977@gmail.com](mailto:nnorton9977@gmail.com)> wrote:

I should also add the additional noise, traffic and congestion this huge ugly dark chunk of cement will attract will NOT be welcomed. The taxpaying homeowners living access the street do NOT want this.

We would be much happier with single family homes on this property.

Nancy Norton  
132 East 66th Street  
Richfield, MN 55423

On Fri, Apr 20, 2018, 8:52 AM Nancy Norton <[nnorton9977@gmail.com](mailto:nnorton9977@gmail.com)> wrote:

I live across the street and **DO NOT WANT** to look at this huge cement building. **I DO NOT WANT** to have semi-trucks delivering and unloading product to the businesses anytime 24 hours a day 7 days a week, disturbing me. This cement building will only provide shade to 66<sup>th</sup> street. There is no place for snow removal and not enough parking space available. I only see NEGATIVE from this proposed mixed-use development. As a Richfield homeowner for over 50 years living across the street on Stevens Avenue and 66<sup>th</sup> Street.

The Hub commercial buildings are 35%-45% EMPTY. Commercial buildings on Nicollet Avenue from 66<sup>th</sup> Street to 64<sup>th</sup> Street are 45%-50% EMPTY. YOU should be spending your time getting the empty commercial buildings filled with businesses. Richfield certainly does not need more EMPTY commercial buildings.

I PROPOSE you build 4 (four) beautiful Richfield style **single family homes** that will enhance the area between 1<sup>st</sup> Avenue and Stevens Avenue on 66<sup>th</sup> Street. This will enrich Richfield and will not negatively impact the long time tax paying Richfield residents.

Again I say, **ABSOLUTELY NO** Mixed-Use Development at 6601 & 6605 1<sup>st</sup> Ave & 6600 & 6608 Stevens Ave.

Nancy Norton  
132 East 66<sup>th</sup> Street  
Richfield, MN 55423

## Matt Brillhart

---

**From:** Nancy Norton <nnorton9977@gmail.com>  
**Sent:** Tuesday, April 24, 2018 11:31 AM  
**To:** Pat Elliott; Michael Howard; Edwina Garcia; Maria Regan Gonzalez; John Stark; Melissa Poehlman; Matt Brillhart; Michael Howard; Edwina Garcia; Simon Trautmann  
**Subject:** NO Zoning Change for 6601 & 6605 1st Ave & 6600 & 6608 Stevens Ave

If the Planning Commission approves the zoning change to multi-use development for the parcel at Stevens Avenue and 1st Avenue South on 66<sup>th</sup> Street after receiving numerous phone calls, emails and additionally listening to 3 hours of heartfelt opposition from longtime and new Richfield homeowners who will be directly negatively impacted by the zoning changes it will be very clear none of you sitting on the Planning Commission or the Richfield City Council care about the taxpaying Richfield residents.

Remember we are the citizens who pay the taxes that support your paycheck. The paycheck that allows you sit like stoic statues with your eyes glued to monitor screens instead of looking into the eyes and faces of the Richfield taxpayers who are speaking directly to you and who've elected you.

Thank You,  
Nancy Norton  
132 East 66th Street



## Matt Brillhart

---

**From:** Cynthia Norton <cnorton54@comcast.net>  
**Sent:** Friday, April 20, 2018 1:54 PM  
**To:** Pat Elliott; Michael Howard; Edwina Garcia; STrautman@RichfieldMN.gov; Maria Regan Gonzalez; John Stark; Matt Brillhart; Melissa Poehlman  
**Subject:** Mixed-Use Development at 6601 & 6605 1st Ave & 6600 & 6608 Stevens Ave

As a long time resident and homeowner in Richfield, I am opposed to changing the zoning on the parcel that is across 66th St. from my residence.

**I DO NOT WANT** this huge cement building that will house commercial and residential. **I DO NOT WANT** the noise and pollution of semi-trucks delivering and unloading product to the businesses anytime 24 hours a day 7 days a week. **I DO NOT WANT** the residential single-family nature of my neighborhood changed to become a place where families are unfamiliar and will change monthly as they move in and out.

This unattractive cement monstrosity that resembles a non-descript Soviet Union styled high-rise will block the sunshine. 66th Street will look dark and shaded and the view will be blocked towards the southwest.

There is not enough space for snow removal. This terrible idea will only add more traffic and congestion to an already busy crime-ridden area of 66th St and Nicollet Ave.

I see nothing positive for me from this proposed mixed-use development. As a Richfield homeowner for over 50 years I embrace the suburban feeling of single-family homes with a yard for kids to play. I do not want my quaint suburb to feel like it is a busy noisy downtown corner.

The Hub commercial buildings are 35%-45% EMPTY. Commercial buildings on Nicollet from 66<sup>th</sup> Street to 64<sup>th</sup> Street are 45%-50% EMPTY. Spending your time getting the empty commercial buildings filled with businesses that will provide you with the tax dollars this city needs would be time better spent by the city council. Richfield does not need additional EMPTY commercial buildings.

The Dairy Queen, Best Buy, Rainbow Foods, and The Country Buffet were recent victims of robbery and vandalism. More commercial shops closer to my home only puts me at higher risk of being robbed, raped and/or killed in my own home.

I PROPOSE you build 4 (four) new **single-family homes with a yard** that will enhance the area between 1<sup>st</sup> Avenue and Stevens Avenue on 66<sup>th</sup> Street. This will enrich Richfield. It will not negatively impact the long time and loyal tax paying Richfield residents.

I am 100% against changing the zoning classification. I vote **ABSOLUTELY NO** to Mixed-Use Development at 6601 & 6605 1<sup>st</sup> Ave & 6600 & 6608 Stevens Ave.

Cynthia Norton

132 East 66<sup>th</sup> Street

Richfield, MN55423

## Matt Brillhart

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**From:** Melissa Poehlman  
**Sent:** Monday, May 14, 2018 1:47 PM  
**To:** Matt Brillhart  
**Subject:** FW: Questions RE: Mixed-Use Development between Stevens Ave and 1st Ave  
  
**Importance:** High

### Melissa Poehlman, AICP

Asst. Director of Community Development | City of Richfield  
☎ 612.861.9766

---

From: Steve Devich  
Sent: Monday, May 14, 2018 10:35 AM  
To: Elizabeth VanHoose (bethjvanhoose@hotmail.com); John Stark  
Cc: Mary Tietjen; Melissa Poehlman  
Subject: FW: Questions RE: Mixed-Use Development between Stevens Ave and 1st Ave  
Importance: High

I believe that this email is actually a data request that we will have to respond to in the normal fashion. Correct?



**Steven L. Devich** | City Manager  
**City of Richfield**  
Tel: (612) 861-9702 | Fax: (612) 861-9749  
[sdevich@richfieldmn.gov](mailto:sdevich@richfieldmn.gov)  
*...A great place to thrive*



---

From: Pat Elliott  
Sent: Monday, May 14, 2018 8:13 AM  
To: Nancy Norton  
Cc: Steve Devich  
Subject: RE: Questions RE: Mixed-Use Development between Stevens Ave and 1st Ave

Good morning to both Nancy and Cynthia. In response to your questions I must confess to not being the best person to answer them but will do my best. In regards to No.1 I'm not certain meetings between staff and developers or those interested in commercial ventures in Richfield require minutes or other formal record keeping but will check with the City Manager to see if I am wrong. Not being a party to the homeowners inquiries about future plans before or after Mr. Lynch's acquisition and not having been provided the names of the Richfield members who allegedly had the information sought I'm afraid I can't answer this question either. In regards to No. 3 I would suggest you direct this question to the Planning Commission members.

Pat

---

From: Nancy Norton [nnorton9977@gmail.com]  
Sent: Saturday, May 12, 2018 11:13 AM

To: Pat Elliott

Subject: Questions RE: Mixed-Use Development between Stevens Ave and 1st Ave

Mayor Elliott, Can you provide a response to the following questions regarding Mixed-Use Development between Stevens Avenue and 1<sup>st</sup> Avenue:

1. How can I obtain all the minutes of the "Richfield staff meetings" with PLH & Associates from 2016 to the present?
2. Can you provide the reason why the homeowners that inquired about future plans of this property before and after Mr. Lynch purchased the property were never provided any details when they contacted various Richfield members who would have knowledge of future plans for this parcel? Why did the City wait until April 2018 to **FIRST** inform the homeowners directly impacted of the zoning change yet the City has been actively working and meeting with this developer since 2015/2016? During this same time period many homeowners inquired with the city of Richfield about the plans for this property and unquestionably no information was provided to them
3. Why did the planning commission put the desires of a **Wisconsin businessman and a non Richfield resident** ahead of the desires and wishes of the residents of Richfield? Why did the planning commission immediately approved the zoning change to Mixed-Use Development for this property moments after listening to **overwhelming opposition** from the homeowners directly impacted?

**Link to RICHFIELD SUN Article:**

[https://www.hometownsource.com/sun\\_current/planning-commission-approves-change-of-comprehensive-plan-tables-decision-on/article\\_fbe1a37a-53f8-11e8-ae59-3b4731908eb7.html](https://www.hometownsource.com/sun_current/planning-commission-approves-change-of-comprehensive-plan-tables-decision-on/article_fbe1a37a-53f8-11e8-ae59-3b4731908eb7.html)

At the April 23 Richfield Planning Commission meeting, several residents who live between First and Stevens avenues spoke at the public hearing **against the approval** of an amendment of the comprehensive plan to change a property to a mixed-used development on 66th Street at the former Southview Baptist Church property at 101 66th St. E.

**Despite an overwhelming opposition** to a mixed-use development in the neighborhood of First and Stevens Avenues, the **Planning Commission voted unanimously to recommend approval** of the change to the comprehensive plan. The comprehensive plan for 2040 has yet to be approved and the deadline for submission to the Metropolitan Council is July 1.

**The project and timing details**

PLH & Associates, the builder for the project, purchased the property in August 2016 and presented its initial design concepts to the planning commission and city council at work sessions on Aug. 23, 2016, and Nov. 20, 2016.

Paul Lynch of PLH & Associates, a real estate investment construction service and property management company, said that after he received **positive feedback from the staff meetings and sessions**, he purchased the property at the corner of 66th Street and First Avenue and began designing the project.

**Residents' input**

During the public comment portion of the meeting, 22 residents and business owners approached the stand to make comments **opposed** to the project's designation as a mixed-use property.

Thank You,  
Nancy Norton  
Cynthia Norton



**Matt Brillhart**

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**From:** Mike Plantan <mike.plantan@gmail.com>  
**Sent:** Tuesday, May 15, 2018 9:30 PM  
**To:** Paul Lynch  
**Cc:** Matt Brillhart; cathyandjeffbender@earthlink.net; jml8839@comcast.net; tlurv2travl@aol.com; Michael Howard; Edwina Garcia  
**Subject:** Re: The EMI  
**Attachments:** neighborhood input.docx

Hi Paul,

Attached is a list of input items from the neighborhood. Please let me know if there are any questions, comments, or concerns and I look forward to discussing this further.

Thanks,  
Mike

On Tue, May 15, 2018 at 4:10 PM, Plantan, Mike <[mike.plantan@optum.com](mailto:mike.plantan@optum.com)> wrote:

Hi Paul,

Sorry for the delay, I did not have an opportunity to compile those last night. The notes are on my personal computer, I will get those sent out this evening.

Thanks for hosting the open house. I will follow up with Ryan on the more technical questions we asked and be sure to CC you on those emails.

Thanks,

Mike

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**Mike Plantan | Optum**

Associate Director Healthcare Economics Consultant, OptumCare

[11000 Optum Circle, Eden Prairie, MN 55344](#)

○ +1 952-205-1440

[mike.plantan@optum.com](mailto:mike.plantan@optum.com)

[www.optum.com](http://www.optum.com)

---

From: Paul Lynch [mailto:[lynchp@plh-associates.com](mailto:lynchp@plh-associates.com)]

Sent: Tuesday, May 15, 2018 2:57 PM

To: Plantan, Mike

Cc: Matt Brillhart; [cathyandjeffbender@earthlink.net](mailto:cathyandjeffbender@earthlink.net); [jml8839@comcast.net](mailto:jml8839@comcast.net); [tluv2travl@aol.com](mailto:tluv2travl@aol.com); Michael Howard; Paul Lynch

Subject: RE: The EMI

Mike,

Thank you for attending last night and presenting questions and concerns from the neighborhood group.

Can you please reply back with the questions and concerns from last night?

Thank you,

**Paul Lynch Jr.,** Managing Member



**MADISON | MINNEAPOLIS**

PO BOX 390157, Minneapolis, MN 55439-0157 | 608-206-7596 | [www.plh-associates.com](http://www.plh-associates.com) | [lynchp@plh-associates.com](mailto:lynchp@plh-associates.com)

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**From:** Plantan, Mike <[mike.plantan@optum.com](mailto:mike.plantan@optum.com)>

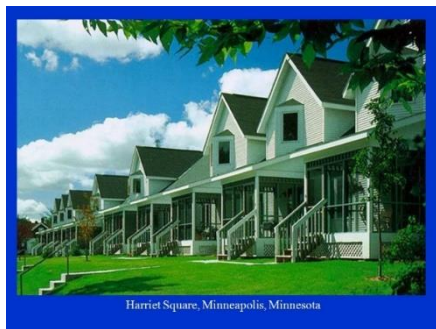
**Sent:** Monday, May 7, 2018 8:54 AM

**To:** Paul Lynch <[lynchp@plh-associates.com](mailto:lynchp@plh-associates.com)>

1. The neighborhood would like a smaller development that fits with the residential character of the neighborhood, such as 2 story townhouses with walk up entries - this would mitigate the negative impacts to the single family neighborhood of traffic noise and safety issues, parking issues, privacy concerns, general noise, concerns about mechanicals, etc.

- more green space and mature trees

- a building and parking areas that do not require variances to the current city zoning code



2. Neighbors would prefer a residential-only option vs mixed-use

3. Special consideration must be given to the needs of neighbors immediately adjacent to the property, in order to preserve their well-being and the value of their properties.

4. No restaurants or high traffic volume businesses

- Businesses be 9-8

- Limits on delivery hours

5. More mechanical specs available in design specs

- First floor mechanical room to ensure enough space for equipment and get back additional parking spots

6. No protruding balconies

- Juliet style balconies

7. Appropriate, and appealing barrier to neighborhood

8. Provisions for snow removal

- Bond for snow removal if being provided by city to ensure continued maintenance

9. Wrap lower parking lot to exit into parking from underground

10. Break away barriers on Stevens exit

- Rumble strip in parking lot or other cut through prevention measure

11. Underground parking exit set back from 66<sup>th</sup>

12. revised plans showing items that we have been told are being included but never seen in documentation, including traffic control signage, “porkchop” cut out, security plans, and tenant guidelines.





**STAFF REPORT NO. 112**  
**CITY COUNCIL MEETING**  
**6/26/2018**

REPORT PREPARED BY: Melissa Poehlman, Assistant CD Director

DEPARTMENT DIRECTOR REVIEW: John Stark, Community Development Director  
6/20/2018

OTHER DEPARTMENT REVIEW: N/A

CITY MANAGER REVIEW: Steven L. Devich, City Manager  
6/21/2018

**ITEM FOR COUNCIL CONSIDERATION:**

**Consideration of a variety of land use requests related to a proposal to construct condominiums, townhomes, and apartments on the northern portion of the former Lyndale Garden Center property and an adjacent single-family property.**

**EXECUTIVE SUMMARY:**

The Lyndale Garden Center closed its doors in 2006. The property was purchased by The Cornerstone Group in 2011 and an overall development plan including 151 apartments, a grocery store, 11,000 square feet of retail/restaurant space, and outdoor activity spaces was approved by the City Council in March of 2013. The Lakewinds Cooperative opened for business in 2014 on the south half of the site, but plans for the housing and additional retail space stalled and approvals have expired. The Cornerstone Group has continued to work on the project, completing shoreline improvements last year and now moving forward with partner North Bay Companies (North Bay) to redevelop the northern portion of the site with a variety of housing types. In addition to the former Lyndale Garden Center land, the Cornerstone Group has purchased one single family home to the north (6328 Aldrich Ave). This property is proposed to be rezoned and included in the development.

The current proposal includes 30 for-sale condominiums along the shoreline of Richfield Lake, 8 rental townhomes, and 66 apartments in a 3-story building adjacent to Lyndale Avenue. Parking for the condominiums will be provided underground and in an accessory garage building that takes advantage of the elevation change to the north of the property. Parking for the townhomes and apartments will be provided in a parking podium that occupies approximately 2/3 of the street level of the apartment building and a surface lot. Along Lyndale Avenue, the street level of the apartment building includes common areas and walk out units. The proposed density of the project is lower than originally proposed and lower than currently permitted by the Comprehensive Plan; however, the draft Comprehensive Plan calls for allowing lower densities at the edges of Richfield's downtown Mixed Use District where a lower density could be used to transition to an adjacent single-family neighborhood. The proposed 33 unit/acre development fits within the proposed transitional density range and the developers have requested a Comprehensive Plan amendment to allow this density now rather than waiting for final approval of the Comprehensive Plan this fall.

Parking for the apartment/townhome portion of the project is provided at a lower ratio than normally allowed. North Bay has submitted a statement in support of their proposed parking, indicating that the proposal provides two spaces for each townhome and one for each apartment. North Bay believes that the studio units will almost entirely be occupied by a single person and that in some cases these renters may not even own a car and instead rely on bicycles and mass transit. Additionally, the future retail development to south will provide overflow parking. Retail parking will not be constructed until final plans for a retail development have been approved.

The proposed project meets a number of goals of the Comprehensive Plan and the vision that the community has for this area. The project diversifies Richfield's housing offerings, improves the Lyndale Avenue "gateway" to the community, takes full advantage of the amenity of Richfield Lake, provides quality open space and public art, and minimizes the need for vehicle use by providing housing immediately adjacent to recreation and grocery. Staff recommends approval of the proposed project.

### **RECOMMENDED ACTION:**

**Conduct and close a public hearing and by motion:**

- 1. Adopt a resolution that amends the Richfield Comprehensive Plan to designate Lots 1-2, Block 1, Lyndale Gardens Addition and 6328 Aldrich Avenue as Mixed Use and allow a housing development that is less than 50 dwelling units per acre;**
- 2. Approve a second reading of an ordinance that amends Richfield Zoning Code Appendix I to designate 6328 Aldrich Avenue as Planned Mixed Use; and**
- 3. Adopt a resolution approving a Conditional Use Permit and Final Development Plans for a Planned Unit Development on Lots 1 and 2, Block 1, Lyndale Gardens 2nd Addition.**

### **BASIS OF RECOMMENDATION:**

#### **A. HISTORICAL CONTEXT**

- This site is located within the Lakes at Lyndale area of the City. For many years, this has been considered Richfield's downtown and redevelopment has been a priority.
- The Lyndale Garden Center closed in 2006 and this site suffered frequent vandalism and occasional criminal activity for many years.
- The Cornerstone Group purchased the property in 2011 and has been working steadily toward redevelopment since that time.
- The Cornerstone Group has held a number of open houses related to the proposed condominium project and an open house related to both the condominium and apartment portions of the development on May 12, 2018.

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

- Planned unit developments (PUDs) are intended to encourage the efficient use of land and resources and to encourage innovation in planning and building. PUDs provide flexibility in the application of requirements if the proposed development is well-designed and can be successfully integrated into the neighborhood.
- The proposed development thoughtfully reacts to the existing character on all sides. Buildings are located to take advantage of Richfield Lake, create street activity and interest along Lyndale Avenue and minimize bulk/mass along the single-family edge.
- Parking provided for the apartments is lower than what has been approved elsewhere in the city. North Bay is confident that enough parking has been provided. City staff is cognizant of changes related to automobile ownership and anticipates further reduction in individual ownership, particularly in this type of development. The availability of shared parking on the retail site provides comfort in allowing this reduced parking number. The resolution requires that shared parking agreements be recorded to memorialize this relationship.

#### **C. CRITICAL TIMING ISSUES:**

- **60-DAY RULE:** The 60-day clock 'started' when a complete application was received on May 14,

2018. A decision is required by July 13, 2018 or the Council must notify the applicant that it is extending the deadline (up to a maximum of 60 additional days or 120 days total) for issuing a decision.

**D. FINANCIAL IMPACT:**

- Required application fees have been paid.

**E. LEGAL CONSIDERATION:**

- A public hearing was held by the Planning Commission on May 29, 2018.
- Notice of this public hearing was published in the Sun Current newspaper and mailed to properties within 500 feet of the site on May 15.
- The Planning Commission unanimously voted to recommend approval of the proposed project.
- The City Council approved a first reading of the ordinance to rezone 6328 Aldrich Avenue on June 12.

**ALTERNATIVE RECOMMENDATION(S):**

- Recommend approval of the proposal with additional/modified stipulations.
- Recommend denial of the proposal with findings that requirements are not met.

**PRINCIPAL PARTIES EXPECTED AT MEETING:**

Representatives of The Cornerstone Group and North Bay Companies

**ATTACHMENTS:**

Description	Type
▢ Resolution - Comp Plan	Resolution Letter
▢ Ordinance - Rezone 6328 Aldrich Ave	Ordinance
▢ Resolution - PUD	Resolution Letter
▢ Plans - Master PUD & Condominiums (Lakeside)	Exhibit
▢ Plans - Apartment/Townhome	Exhibit
▢ Applicant Narrative	Exhibit
▢ Parking Narrative	Exhibit
▢ Zoning/Comp Plan Map	Exhibit

RESOLUTION NO. \_\_\_\_\_

**RESOLUTION AMENDING THE CITY'S COMPREHENSIVE PLAN  
CHANGING THE DESIGNATION OF  
6328 ALDRICH AVENUE TO "MIXED USE"  
AND ALLOWING A DENSITY  
LOWER THAN 50 UNITS PER ACRE**

**WHEREAS**, the City's Comprehensive Plan provides a Guide Plan establishing particular planning needs for specific segments of the City; and

**WHEREAS**, the Comprehensive Plan designates 6328 Aldrich Avenue as "Low-Density Residential;" and

**WHEREAS**, the Comprehensive Plan designates land immediately adjacent (south) to 6328 Aldrich Avenue as "Mixed Use"; and

**WHEREAS**, the 2008 Comprehensive Plan calls for densities of 50 or more units per acre in the Mixed Use District; and

**WHEREAS**, the Draft 2018 Comprehensive Plan calls for densities of 25-50 units per acre on the edges of the Mixed Use District; and

**WHEREAS**, the Draft 2018 Comprehensive Plan has been sent out to adjacent and affected jurisdictions and the Metropolitan Council for comment; and

**WHEREAS**, the proposed density of the development meets the guidelines of the Draft 2018 Comprehensive Plan; and

**WHEREAS**, the property boundary of 6328 Aldrich Avenue extends into the property to the Mixed Use property to the south; and

**WHEREAS**, the City has reviewed the 2008 and Draft 2018 Comprehensive Plan classification and determined that it would be appropriate to designate 6328 Aldrich Avenue as "Mixed Use" and allow development that meets the densities prescribed by the Draft 2018 Comprehensive Plan; and

**WHEREAS**, the Planning Commission conducted a public hearing on May 29, 2018 concerning modifying the Guide Plan and recommended approval of the modifications; and

**WHEREAS**, the City Council considered the amendment on June 26, 2018;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Richfield, Minnesota that the City's Comprehensive Plan is hereby amended to designate 6328 Aldrich Avenue as "Regional Commercial" and allow development densities between 25-50 units per acre, all contingent upon the following:

1. The revision is submitted to and approved by the Metropolitan Council.

Adopted by the City Council of the City of Richfield, Minnesota this 26th day of June, 2018.



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Pat Elliott, Mayor

ATTEST:

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Elizabeth VanHoose, City Clerk

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE RELATING TO ZONING;  
AMENDING APPENDIX I TO THE RICHFIELD CITY  
CODE BY REZONING 6328 ALDRICH AVENUE  
FROM SINGLE FAMILY RESIDENTIAL (R)  
TO PLANNED MIXED USE (PMU)**

**THE CITY OF RICHFIELD DOES ORDAIN:**

Section 1. Section 8, Paragraph 3 of Appendix 1 of the Richfield Zoning Code is amended to read as follows:

(3) M-3 (Lyndale Gardens Area). Lots ~~1, 2~~, 3, 4, Block 1 and Outlots B ~~and C~~, Lyndale Gardens Addition.

Sec. 2. Section 8, Appendix 1 of the Richfield Zoning Code is amended to add a new Paragraph 8 to read as follows:

(8) M-3 (Lyndale Gardens Area). Lots 1-3, Block 1, Lyndale Gardens 2nd Addition.

Sec. 3. This ordinance is effective in accordance with Section 3.09 of the Richfield City Charter.

Passed by the City Council of the City of Richfield, Minnesota this 26th day of June, 2018.

\_\_\_\_\_  
Pat Elliott, Mayor

ATTEST:

\_\_\_\_\_  
Elizabeth VanHoose, City Clerk

**RESOLUTION NO. \_\_\_\_\_**

**RESOLUTION APPROVING A FINAL DEVELOPMENT PLAN  
AND CONDITIONAL USE PERMIT  
FOR A PLANNED UNIT DEVELOPMENT**

**WHEREAS**, an application has been filed with the City of Richfield which requests approval of a final development plan and conditional use permit for a planned unit development to include 30 condominiums, 8 townhomes, 66 apartments, and approximately 6,000 square feet of retail space that will coordinate with already-constructed outdoor activity areas and retail space, on land that is legally described in the attached Exhibit A; and

**WHEREAS**, the Planning Commission of the City of Richfield held a public hearing and recommended approval of the requested final development plan and conditional use permit at its May 29, 2018 meeting; and

**WHEREAS**, notice of the public hearing was published in the Sun-Current and mailed to properties within 500 feet of the subject property on May 15, 2018; and

**WHEREAS**, the requested final development plan and conditional use permit meets those requirements necessary for approving a planned unit development as specified in Richfield's Zoning Code, Section 542.09, Subd. 3 and as detailed in City Council Staff Report No. \_\_\_\_\_; and

**WHEREAS**, the request meets those requirements necessary for approving a conditional use permit as specified in Richfield's Zoning Code, Section 547.09, Subd. 6 and as detailed in City Council Staff Report No. \_\_\_\_\_; and

**WHEREAS**, the City has fully considered the request for approval of a planned unit development, final development plan and conditional use permit; and

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

1. The City Council adopts as its Findings of Fact the **WHEREAS** clauses set forth above.
2. A planned unit development, final development plan and conditional use permit are approved for a mixed use development as described in City Council Report No. \_\_\_\_\_, on the Subject Property legally described above.
3. The approved planned unit development, final development plan and conditional use permit are subject to the following conditions:
  - A recorded copy of the approved resolution must be submitted to the City prior to the issuance of a building permit.
  - The property must be platted and the plat recorded prior the issuance of a building permit.
  - Cross-access and shared parking agreements must be recorded against all parcels prior to the issuance of a certificate of occupancy.

- Executed maintenance agreements for sidewalks that cross/straddle property lines must be submitted to City prior to the issuance of final occupancy permits.
  - Signage for the various elements of this development may be placed on other parcels within the development (off-site signs) with the permission of the property owner. This approval does not constitute approval of specific signs. Sign permits are required and must be applied for separately.
  - Wayfinding signage for public access to Richfield Lake required.
  - Public art required in accordance with City policies and development agreement.
  - Approval of final site plans, building plans, elevations, etc. for the retail building must be submitted as a minor amendment. If the proposal varies significantly from conceptual plans, a major amendment may be required.
  - Final lighting plans must be submitted to and approved by the Community Development and Public Works Directors.
  - A final sediment and erosion control plan must be submitted to and approved by the Public Works Director.
  - Final stormwater management plans must be submitted to and approved by the Public Works Director. All applicable stormwater fees must be paid to the Public Works Department.
  - Final plans for sidewalks and improvements in and along the right-of-way must be submitted to and approved by the Community Development and Public Works Directors.
  - A maintenance agreement related to sidewalks and landscaping must be executed prior to issuance of a Certificate of Occupancy.
  - Final utility plans must be submitted to and approved by the Public Works Director.
  - The applicant is responsible for obtaining all required permits, compliance with all requirements detailed in the City's Administrative Review Committee Report and compliance with all other City and State regulations.
  - Prior to the issuance of an occupancy permit the Developer must submit a surety equal to 125% of the value of any improvements not yet complete.
  - The property owner is responsible for replacing any required landscaping that dies.
  - This permit shall expire one year after it has been issued unless: 1) the use for which the permit was granted has commenced; 2) building permits have been issued and substantial work performed; or 3) upon written request of the applicant, the Council extends the expiration date for an additional period not to exceed one year.
4. The approved planned unit development, final development plan and conditional use permit shall expire one year from issuance unless the use for which the permit was granted has commenced, substantial work has been completed or upon written request by the Developer, the Council extends the expiration date for an additional period of up to one year, as required by the Zoning Ordinance, Section 547.09, Subd. 9.
  5. The approved planned unit development, final development plan and conditional use permit shall remain in effect for so long as conditions regulating it are observed,



and the conditional use permit shall expire if normal operation of the use has been discontinued for 12 or more months, as required by the Zoning Ordinance, Section 547.09, Subd. 10.

Adopted by the City Council of the City of Richfield, Minnesota this 26th day of June, 2018

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Pat Elliott, Mayor

ATTEST:

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Elizabeth VanHoose, City Clerk

## **EXHIBIT A**

### **LEGAL DESCRIPTIONS**

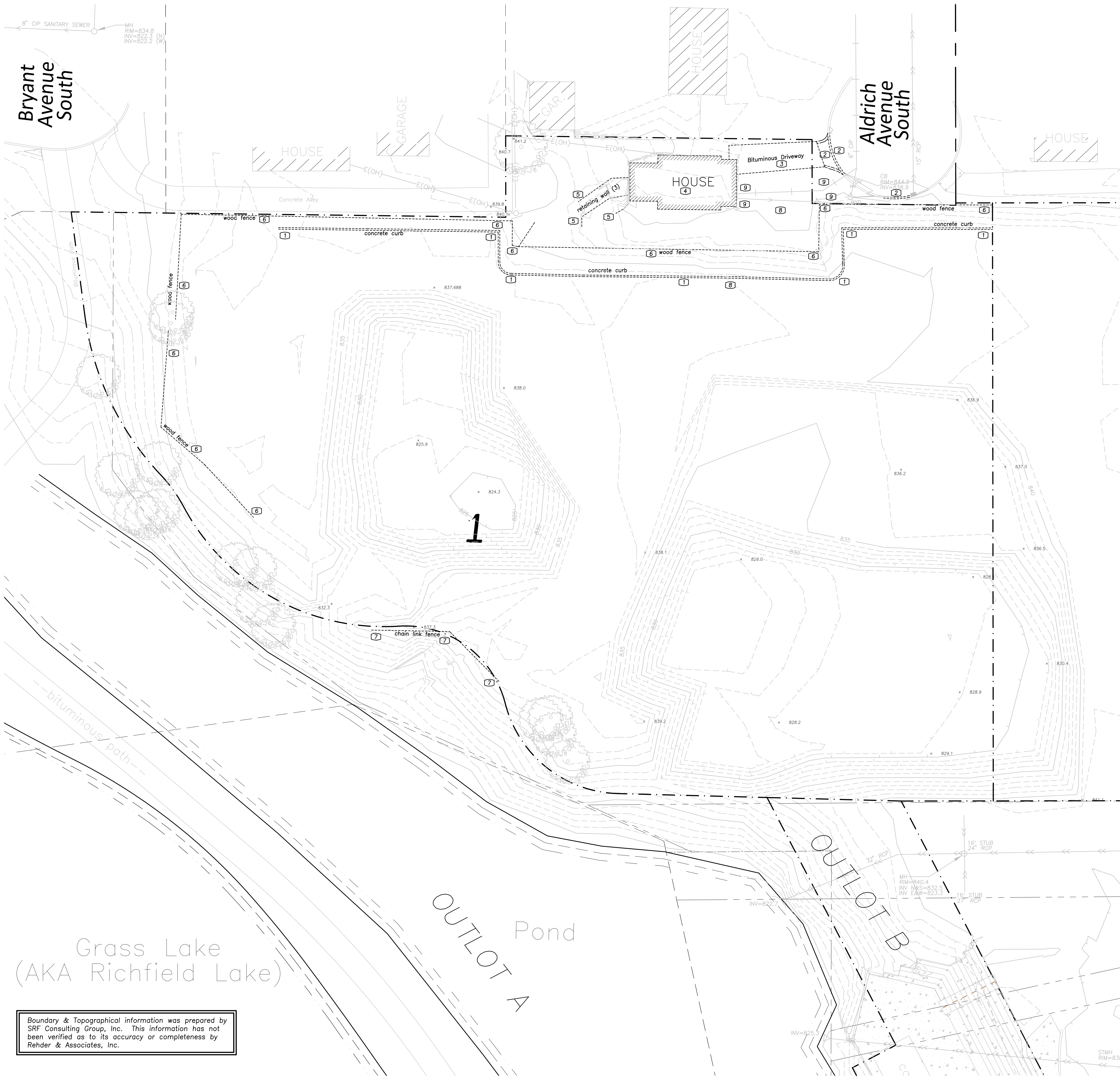
**6328 Aldrich Avenue:** The South 45.00 feet of the North 225.00 feet of that part of Government Lot 3, Section 28, Township 28, Range 24, lying south of the south line of Lot 4, Block 2, Ray's Lynnhurst 2nd Addition, which lies between the southerly extension of the East line of said Block 2 and the East line of the alley in said Block 2 and its southerly extension.

And

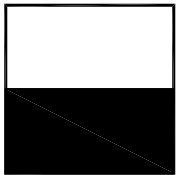
Lots 1-2, Block 1, Lyndale Gardens and Outlot C, Lyndale Gardens

### **PROPOSED PLATTED LEGAL DESCRIPTIONS**

Lots 1-3, Block 1, Lyndale Gardens 2nd Addition



**Rehder & Associates, Inc.**  
*Civil Engineers, Planners and Land Surveyors*  
3440 Federal Drive, Suite 110 • Eagan, Minnesota 55122  
651-452-5051 • Fax: 651-452-9797 • email: info@rehder.com  
PROJECT NO.: 181-3034.010  
DRAWING FILE: 3034010.DWG



I hereby certify that this plan, specification or report was prepared by me or under my direct supervision and that I am a duly Licensed Architect under the laws of the State of Minnesota.

Signed

PRINTED NAME: BENTON G. FORD

DATE:

LICENSE NO.:

NOT FOR  
CONSTRUCTION

DEMOLITION NOTES

- ① - Remove concrete curb.
- ② - Remove concrete driveway apron.
- ③ - Remove bituminous driveway.
- ④ - Remove house.
- ⑤ - Remove retaining wall.
- ⑥ - Remove wood fence.
- ⑦ - Remove chain link fence.
- ⑧ - Remove tree.
- ⑨ - Remove/abandon sanitary sewr & water service to house per city requirements.

NOTE: SEE ARCHITECTURAL FOR DEMOLITION OF EXISTING HOUSE

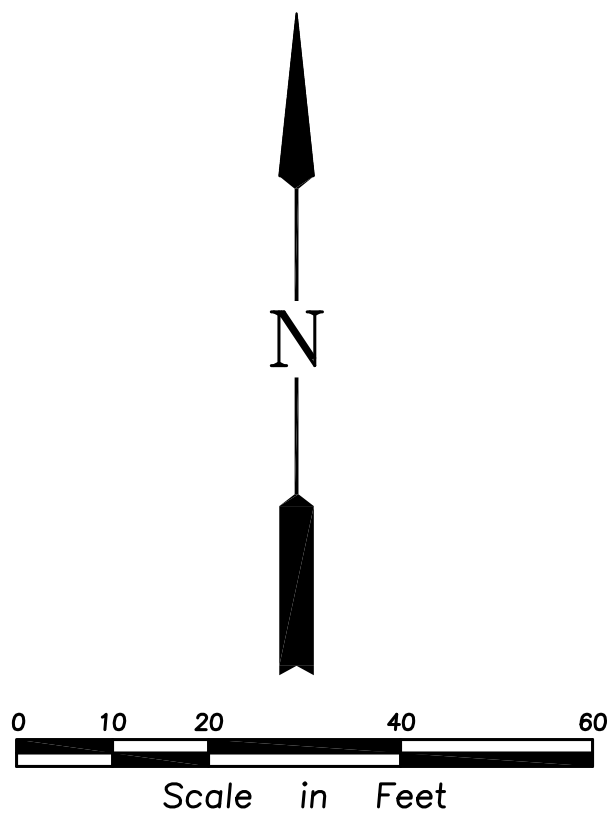
Boundary & Topographical information was prepared by SRF Consulting Group, Inc. This information has not been verified as to its accuracy or completeness by Rehder & Associates, Inc.

SITE DEMOLITION PLAN  
LAKESIDE AT LYNDALE GARDENS  
THE CORNERSTONE GROUP

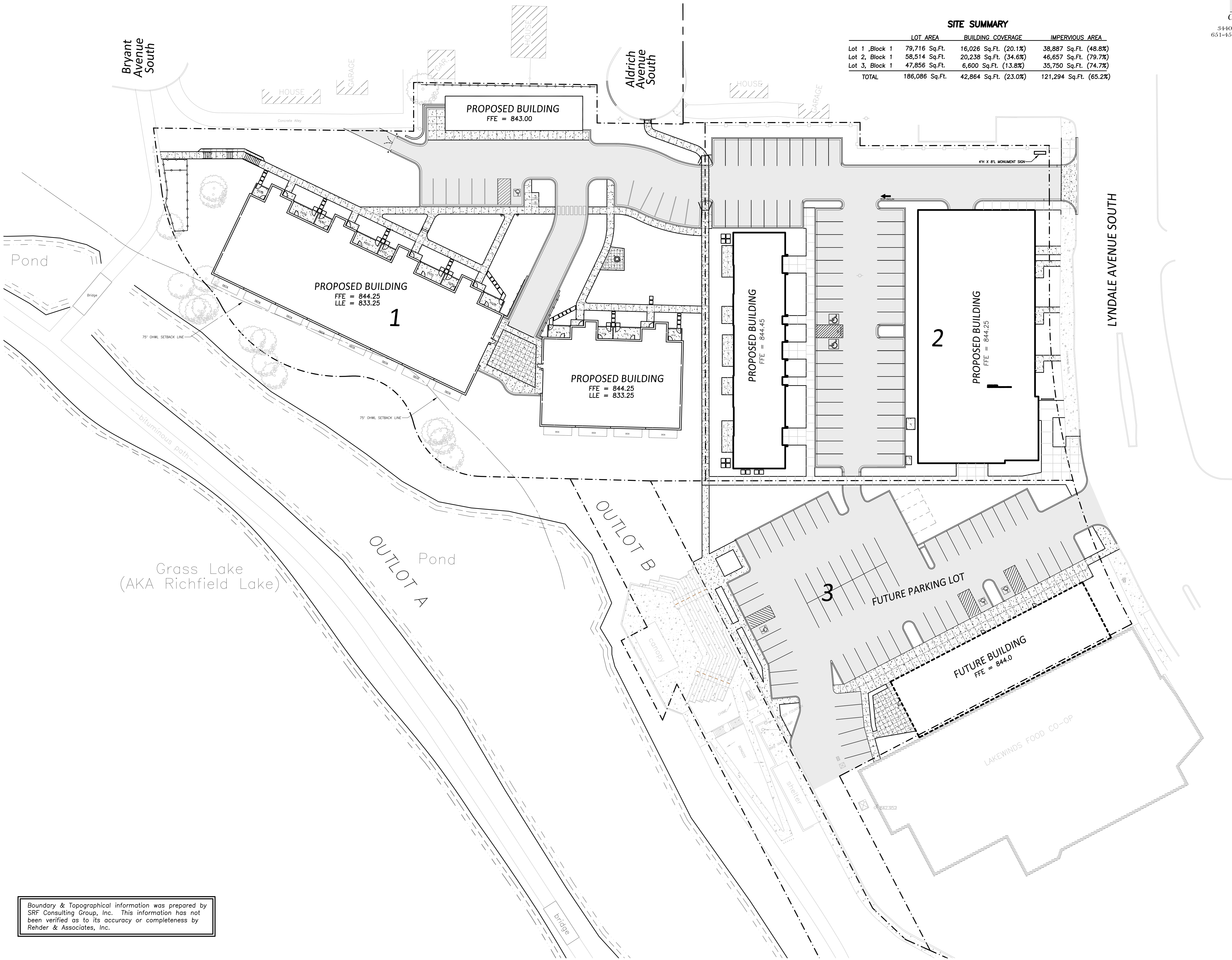
REVISIONS	
City Site Plan Review Resubmittal	5-14-18

DATE ISSUED	5-14-18
JOB NO.	1709
FILE NAME	3034010

CO





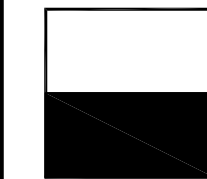


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Rehder & Associates, Inc.

**SITE SUMMARY**

	LOT AREA	BUILDING COVERAGE	IMPERVIOUS AREA
Lot 1 ,Block 1	79,716 Sq.Ft.	16,026 Sq.Ft. (20.1%)	38,887 Sq.Ft. (48.8%)
Lot 2, Block 1	58,514 Sq.Ft.	20,238 Sq.Ft. (34.6%)	46,657 Sq.Ft. (79.7%)
Lot 3, Block 1	47,856 Sq.Ft.	6,600 Sq.Ft. (13.8%)	35,750 Sq.Ft. (74.7%)
TOTAL	186,086 Sq.Ft.	42,864 Sq.Ft. (23.0%)	121,294 Sq.Ft. (65.2%)

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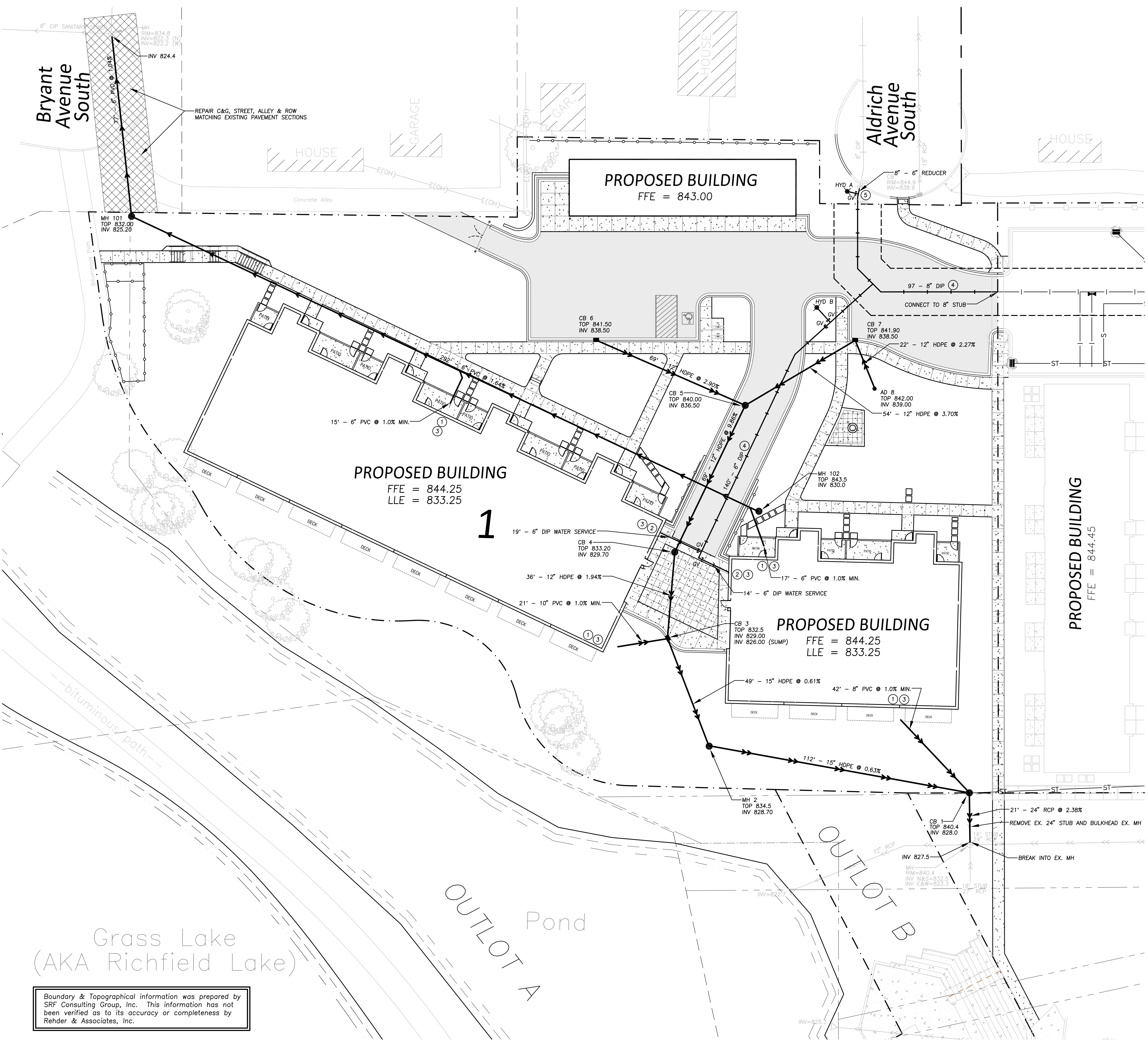
**NOT FOR  
CONSTRUCTION**

**MASTER SITE PLAN**  
**LYNDALE GARDENS 2ND ADDITION**  
THE CORNERSTONE GROUP

REVISIONS	
City Site Plan Review Resubmittal	5-14-18
DATE ISSUED	5-14-18
JOB NO.	1709
FILE NAME	3034010

**PUD-1**

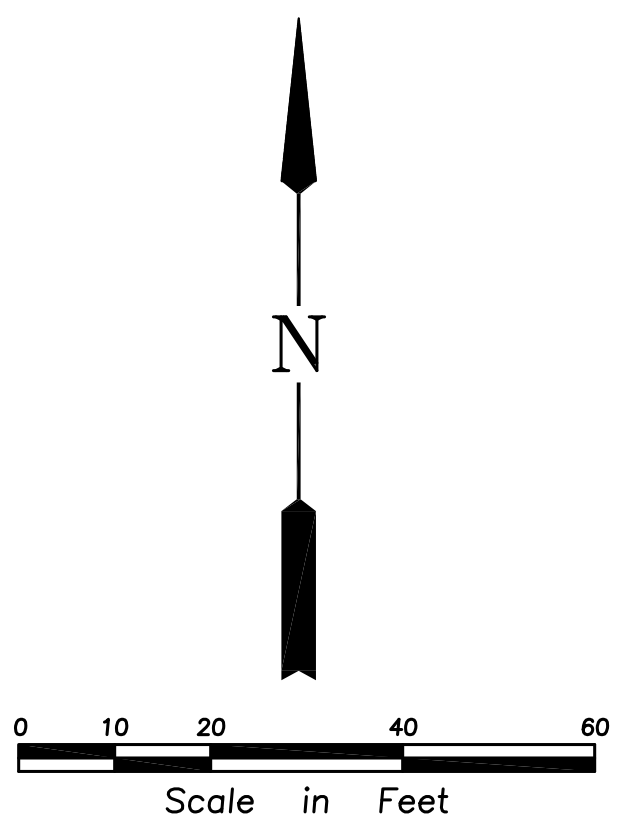




- UTILITY NOTES
- ① - All sewer services to extend to a point 5' from proposed building.
  - ② - Bring water main into proposed building and cap at the floor.
  - ③ - Verify all service locations and inverts with mechanical engineer before construction.
  - ④ - All watermain to have a minimum of 7.5' of cover.
  - ⑤ - Remove and relocate existing hydrant. Connect to existing 6" CIP water main.

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PROJECT NO.: 181-3034.010  
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- LEGEND**
- PROPOSED MANHOLE/CATCH BASIN
  - PROPOSED CATCH BASIN
  - ◆ PROPOSED HYDRANT
  - ⋈ PROPOSED GATE VALVE
  - PROPOSED AREA DRAIN
  - PROPOSED STORM SEWER
  - PROPOSED SANITARY SEWER
  - PROPOSED WATERMAIN
  - ▨ PROPOSED CONCRETE
  - ▩ PROPOSED STD. DUTY BITUMINOUS
  - PROPOSED CONTOUR
  - (ELEV.) PROPOSED ELEVATION
  - SILT FENCE
  - INLET PROTECTION DEVICE
  - - - BOUNDARY/ROW/BLOCK LINE
  - - - EASEMENT
  - - - BUILDING/PARKING SETBACK LINE
  - SOIL BORING
  - DRAINAGE ARROW
  - EXISTING WATERMAIN
  - EXISTING SANITARY SEWER
  - EXISTING STORM SEWER
  - E(OH) EXISTING OVERHEAD ELECTRIC
  - COM(UG) EXISTING BURIED TELEPHONE LINE
  - 980 EXISTING CONTOUR
  - × 995.50 EXISTING ELEVATION



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CERMAK RHOADES ARCHITECTS

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Signed

PRINTED NAME: BENTON G. FORD

DATE:

LICENSE NO.:

NOT FOR CONSTRUCTION

UTILITY PLAN

LAKESIDE AT LYNDALE GARDENS

THE CORNERSTONE GROUP

REVISIONS

City Site Plan Review Resubmittal 5-14-18

DATE ISSUED 5-14-18

JOB NO. 1709

FILE NAME 3034010

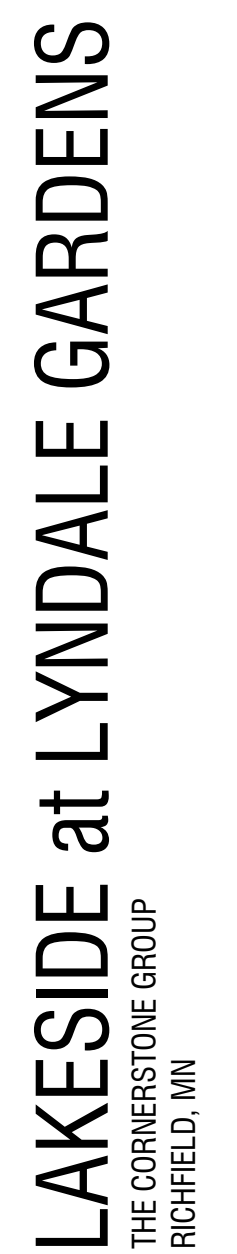
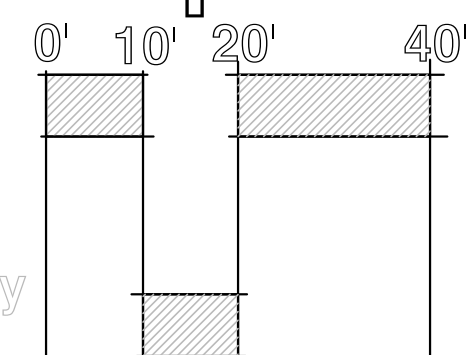
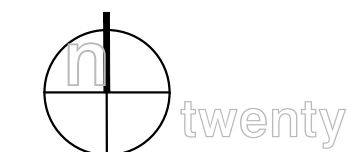
C2





IMPERVIOUS SURFACE	
TOTAL IMPERVIOUS AREA=	38,888 sq. ft.
BUILDING AREA =	16,026 sq. ft.
SITE IMPERVIOUS AREA=	22,862 sq. ft.
LOT AREA =	79,716 sq. ft.
IMPERVIOUS COVER PERCENTAGE =	48.8%

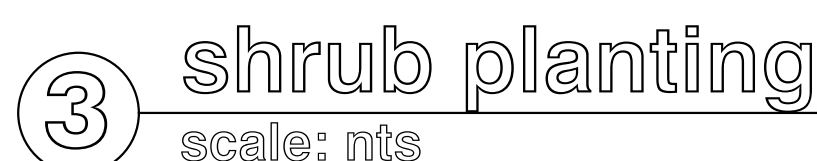
# site plan



REVISIONS	
CITY SITE PLAN REVIEW	
RESUBMITTAL	04/14/2018
DATE ISSUED : 04/14/2018	
JOB NO.	
FILE NAME	

# L1.0





1. CONFIRM ALL QUANTITIES, SHAPES AND LOCATIONS OF BEDS, AND ADJUST AS REQUIRED TO CONFORM TO THE SITE CONDITIONS. CONFIRM ANY ADJUSTMENTS WITH THE LANDSCAPE ARCHITECT.
2. LOCATE ALL UTILITIES. NOTIFY THE LANDSCAPE ARCHITECT OF ANY CONFLICTS WITH NEW CONSTRUCTION.
3. THE CONTRACTOR SHALL REMOVE FROM THE SITE ALL SOIL/TURF WHICH HAS BEEN REMOVED FOR NEW PLANT BEDS. ANY PLANT STOCK NOT PLANTED ON DAY OF DELIVERY SHALL BE HEeled IN AND WATERED UNTIL INSTALLATION. PLANTS NOT MAINTAINED IN THIS MANNER WILL BE REJECTED.
4. THE PLAN TAKES PRECEDENCE OVER THE PLANT SCHEDULE IF DISCREPANCIES EXIST. ADVISE LANDSCAPE ARCHITECT OF ANY DISCREPANCIES.
5. THE CONTRACTOR SHALL AVOID DAMAGING EXISTING TREES. DO NOT STORE OR DRIVE HEAVY MATERIAL OVER TREE ROOTS. DO NOT DAMAGE TREE BARK OR BRANCHES.
6. THE CONTRACTOR SHALL KEEP PAVEMENTS, FIXTURES AND BUILDINGS CLEAN AND UNSTAINED. ANY DAMAGE TO EXISTING FACILITIES SHALL BE REPAIRED AT THE CONTRACTOR'S EXPENSE. THE PROJECT SITE SHALL BE KEPT CLEAR OF CONSTRUCTION WASTES AND DEBRIS.
7. THE LANDSCAPE CONTRACTOR SHALL BE RESPONSIBLE FOR PLANTING SOIL QUANTITIES TO COMPLETE THE WORK SHOWN ON THE PLAN. MULCH, PLANTING SOIL AND OTHER MISCELLANEOUS PLANTING COMPONENTS SHALL BE CONSIDERED INCIDENTAL TO THE RELATED PLAN. VERIFY ALL QUANTITIES.
8. CONTRACTOR IS RESPONSIBLE FOR WATERING AND ALL PLANT CARE UNTIL FINAL ACCEPTANCE BY THE OWNER.
9. PLANT MATERIAL SHALL BE PROTECTED AND MAINTAINED UNTIL THE INSTALLATION OF PLANTINGS IS COMPLETE. INSPECTION HAS BEEN MADE AND PLANTING IS ACCEPTED EXCLUSIVE OF THE GUARANTEE
10. MAINTENANCE SHALL INCLUDE WATERING, SEEDING, MULCHING, REMOVAL OF DEAD MATERIAL PRIOR TO GROWING SEASON, RE-SETTING PLANTS AND PROPER GRADE. AND KEEPING PLANT BEDS FREE OF WEEDS. AFTER ACCEPTANCE BY THE OWNER SHALL ASSUME MAINTENANCE RESPONSIBILITIES. HOWEVER, THE CONTRACTOR SHALL CONTINUE TO BE RESPONSIBLE FOR KEEPING THE TREES PLUMB THROUGHOUT THE GUARANTEE PERIOD.
11. WATERING: MAINTAIN A WATERING SCHEDULE WHICH WILL THOROUGHLY WATER ALL PLANTS ONCE A WEEK AND SO D EVERY OTHER DAY UNTIL ACCEPTANCE BY THE OWNER. IN EXTREME DRY WEATHER, WATERING MAY BE REQUIRED OFTEN AS REQUIRED BY INDICATIONS OF PLANT STRESS SUCH AS WILTING LEAVES. CHECK MOISTURE UNDER MULCH PRIOR TO WATERING TO DETERMINE NEED. CONTRACTOR SHALL MAKE THE NECESSARY ARRANGEMENTS FOR WATER.

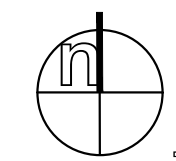


- A ALL PLANTING BEDS SHALL RECEIVE 12" PULVERIZED LOAM TOPSOIL BORROW MN DOT SPEC.  
3877-2B ENHANCE WITH AGED AND SCREEN COMPOST
- B ALL SODDED [LAWN] AREA SHALL RECEIVE 6" MIN. COMMON TOPSOIL BORROW MN DOT SPEC.  
3877-1A

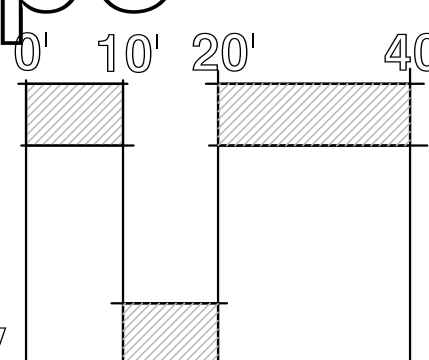
## key notes

- 11 LANDSCAPE EDGING SHALL BE 4" CLEAN LINE MILL FINISH ALUMINUM EDGING IN ALL PLANTING BEDS
- 12 HARDWOOD SHREDDED MULCH; APPLY TO A 4" DEPTH WITH PELLET WEED PREVENTER.
- 13 2" DRESSER TAP ROCK INSTALLED TO A 4" DEPTH ON NON-WOVEN GEO-TEXTILE FABRIC. AREAS ON PLAN SHOWN AS HATCH.
- 14 IRRIGATION: PROVIDE IRRIGATION FOR SOD AREAS WITHIN THE PROJECT BOUNDARIES FOR 100% COVERAGE. IRRIGATION IN SHRUB AREAS IS DRIP IRRIGATION. REFER TO DESIGN BUILD IRRIGATION SPECIFICATION. PROVIDE SHOP DRAWING FOR IRRIGATION SYSTEM INCLUDING HEAD LAYOUT, SPACING, TYPE, BACKFLOW PREVENTER LOCATIONS, POINT OF CONNECTION, SLEEVES, CONTROLLER, VALVE BOX LOCATIONS, ZONE INDICATIONS AND PIPE SIZING. PROVIDE ON-SITE OPERATION TUTORIAL FOR OWNER AN INCLUDE ALL MANUALS AND INFORMATION ON THE SYSTEM.

# landscape plan



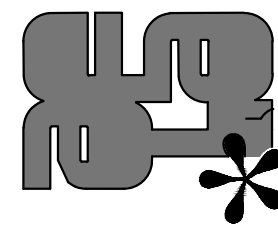
twenty



I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly registered Landscape Architect under the laws of the State of Minnesota.

Signed \_\_\_\_\_

DATE:	01/03/2011
REG. NO.	42162

aune fernandez  
landscape

# LAKESIDE at LYNDALE GARDENS

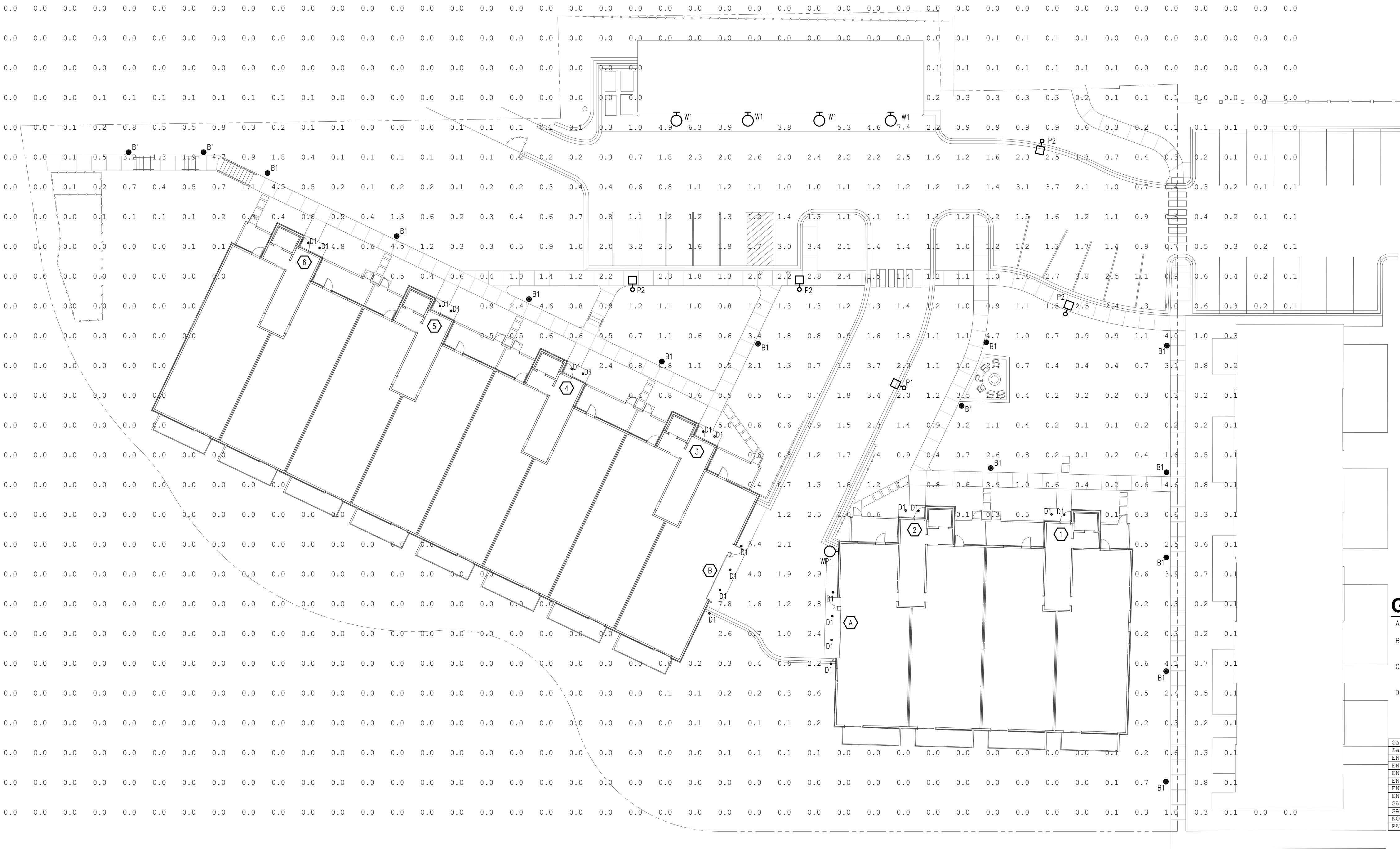
THE CORNERSTONE GROUP

## REVISIONS

CITY SITE PLAN REVIEW	
RESUBMITTAL	04/14/2018
DATE ISSUED : 04/14/2018	
JOB NO.	
FILE NAME	

# L2.0





## GENERAL NOTES

- A. REFER TO SHEET E0.2A, FOR FIXTURE SCHEDULE AND BOLLARD/POLE BASE DETAIL.
- B. LIGHTING LEVELS SHOWN ARE MAINTAINED. LIGHT LOSS FACTOR OF 0.90 WAS USED TO ACCOUNT FOR DIRT AND LUMEN DEPRECIATION.
- C. ALL EXTERIOR FIXTURES SHALL BE CONTROLLED VIA PHOTOCELL. CONTROL STRATEGY EMPLOYED SHALL COMPLY WITH MN ENERGY CODE.
- D. ENTRANCE STATISTICS ARE TAKEN WITHIN A RADIUS OF 5' OF THE ENTRANCE. PRIMARY ENTRANCES INDICATED BY

Calculation Summary - Lyndale Gardens						
Label	CalcType	Units	Avg	Max	Min	Max/Min
ENTRANCE 1	Illuminance	Fc	9.14	10.6	6.6	1.61
ENTRANCE 2	Illuminance	Fc	9.22	10.7	6.7	1.60
ENTRANCE 3	Illuminance	Fc	9.26	10.7	6.5	1.65
ENTRANCE 4	Illuminance	Fc	9.26	10.7	6.5	1.65
ENTRANCE 5	Illuminance	Fc	9.25	10.7	6.5	1.65
ENTRANCE 6	Illuminance	Fc	9.21	10.7	6.4	1.67
GARAGE ENTRANCE A	Illuminance	Fc	7.77	8.9	5.2	1.71
GARAGE ENTRANCE B	Illuminance	Fc	7.43	8.9	5.2	1.71
NORTH PROPERTY LINE	Illuminance	Fc	0.11	0.8	0.0	N.A.
PARKING LOT	Illuminance	Fc	1.54	3.8	0.3	12.67

**1 SITE PLAN - PHOTOMETRIC**  
SCALE: 1" = 20'-0"



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DATE

REG. NO.

NOT FOR  
CONSTRUCTION

SITE PLAN - PHOTOMETRIC  
**LAKESIDE AT LYNDALE GARDENS**  
THE CORNERSTONE GROUP

REVISIONS

DATE ISSUED 04/20/2018

JOB NO. 4144.0000

E0.2

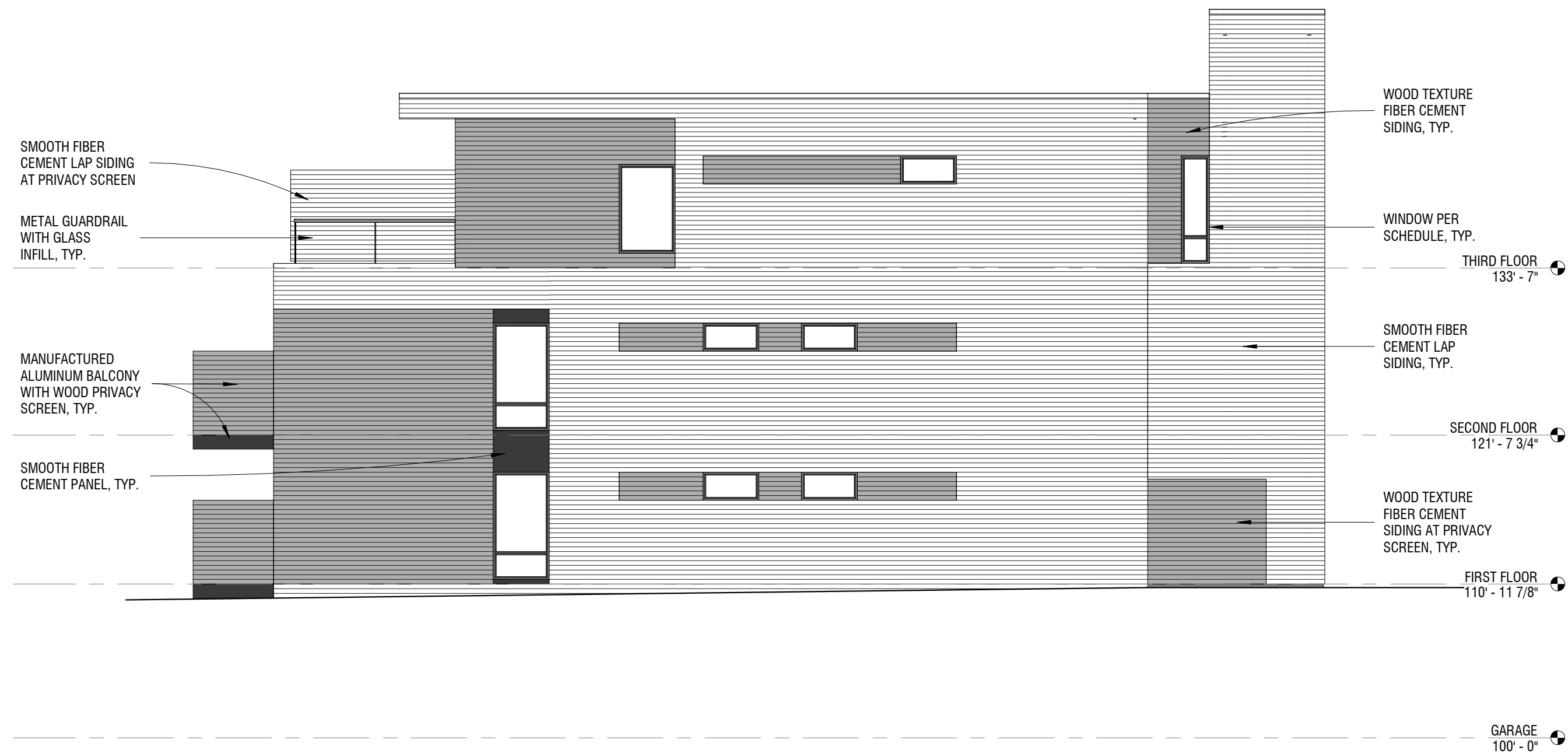




4 WEST ELEVATION - BUILDING A  
1/8" = 1'-0"



3 SOUTH ELEVATION - BUILDING A  
1/8" = 1'-0"



2 EAST ELEVATION - BUILDING A  
1/8" = 1'-0"



1 NORTH ELEVATION - BUILDING A  
1/8" = 1'-0"



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Signed:

Printed Name:	Approver
Date:	12/19/09
License No:	Approver

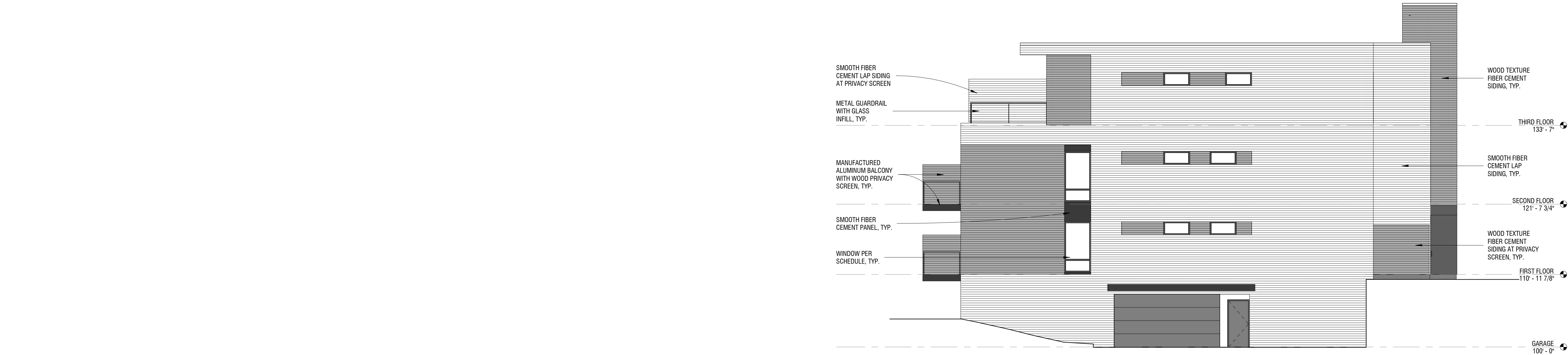
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EXTERIOR ELEVATIONS - BUILDING A  
LAKESIDE AT LYNDALE GARDENS  
THE CORNERSTONE GROUP

Revisions:

Date issued:	04-20-18
Job No:	1709

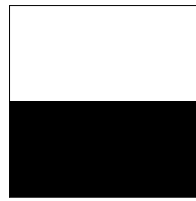
A4.1



2 EAST ELEVATION - BUILDING B  
1/8" = 1'-0"



1 NORTH ELEVATION - BUILDING B  
1/8" = 1'-0"



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Printed Name: Approver

Date: 04/19/18

License No: Approver

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CONSTRUCTION

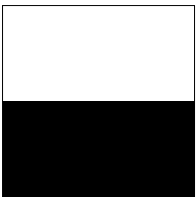
EXTERIOR ELEVATIONS - BUILDING B  
LAKESIDE AT LYNDALE GARDENS  
THE CORNERSTONE GROUP

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A4.2



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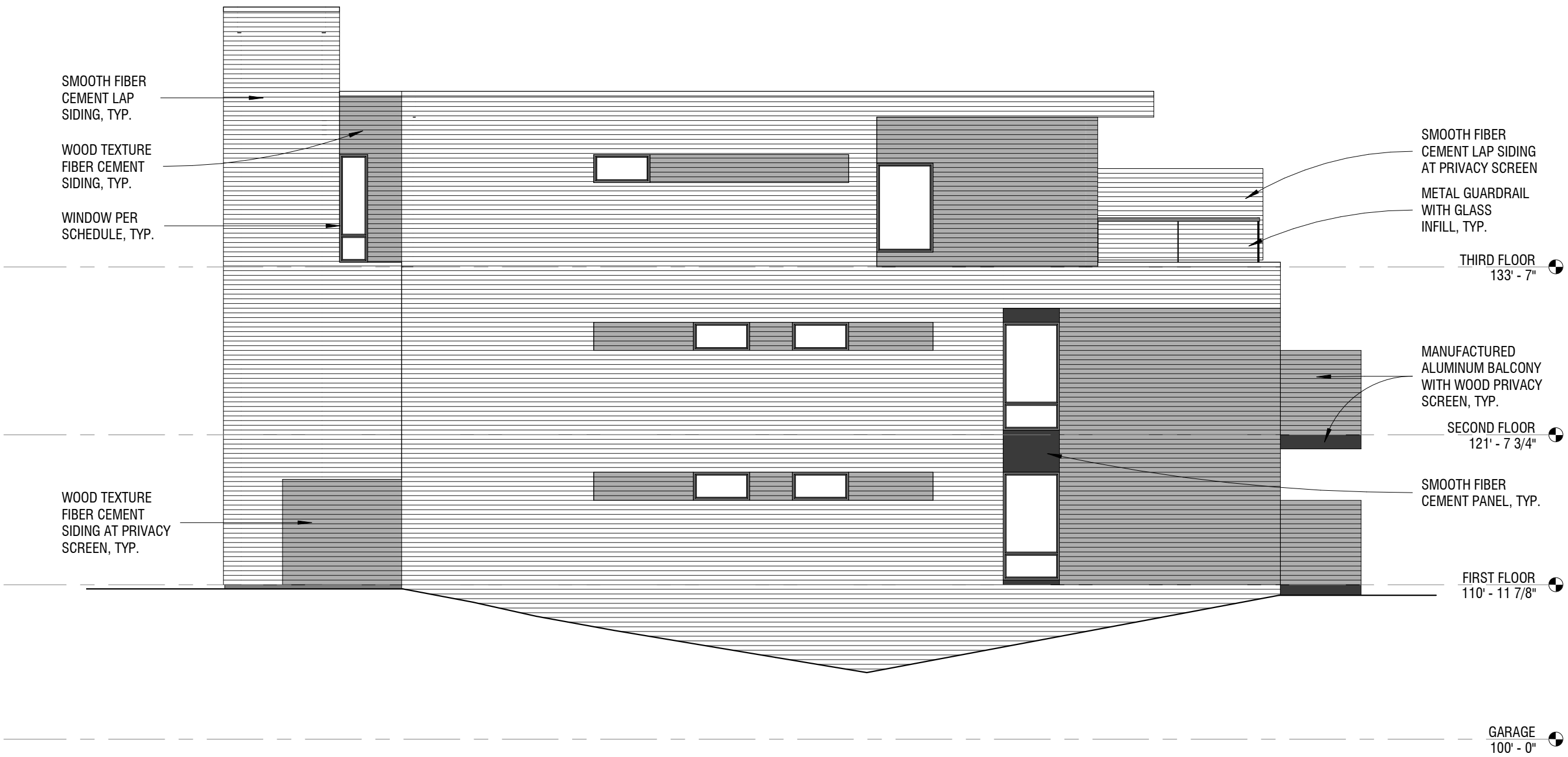
EXTERIOR ELEVATIONS - BUILDING B  
LAKESIDE AT LYNDALE GARDENS  
THE CORNERSTONE GROUP

Revisions:

Date issued: 04-20-18

Job No: 1709

A4.3



2 WEST ELEVATION - BUILDING B

1/8" = 1'-0"



1 SOUTH ELEVATION - BUILDING B

1/8" = 1'-0"





VIEW OF SOUTH/LAKE-FACING ELEVATION



**LAKESIDE AT LYNDALE GARDENS**  
Cornerstone Group  
04.20.2018

CERMAK RHOADES ARCHITECTS





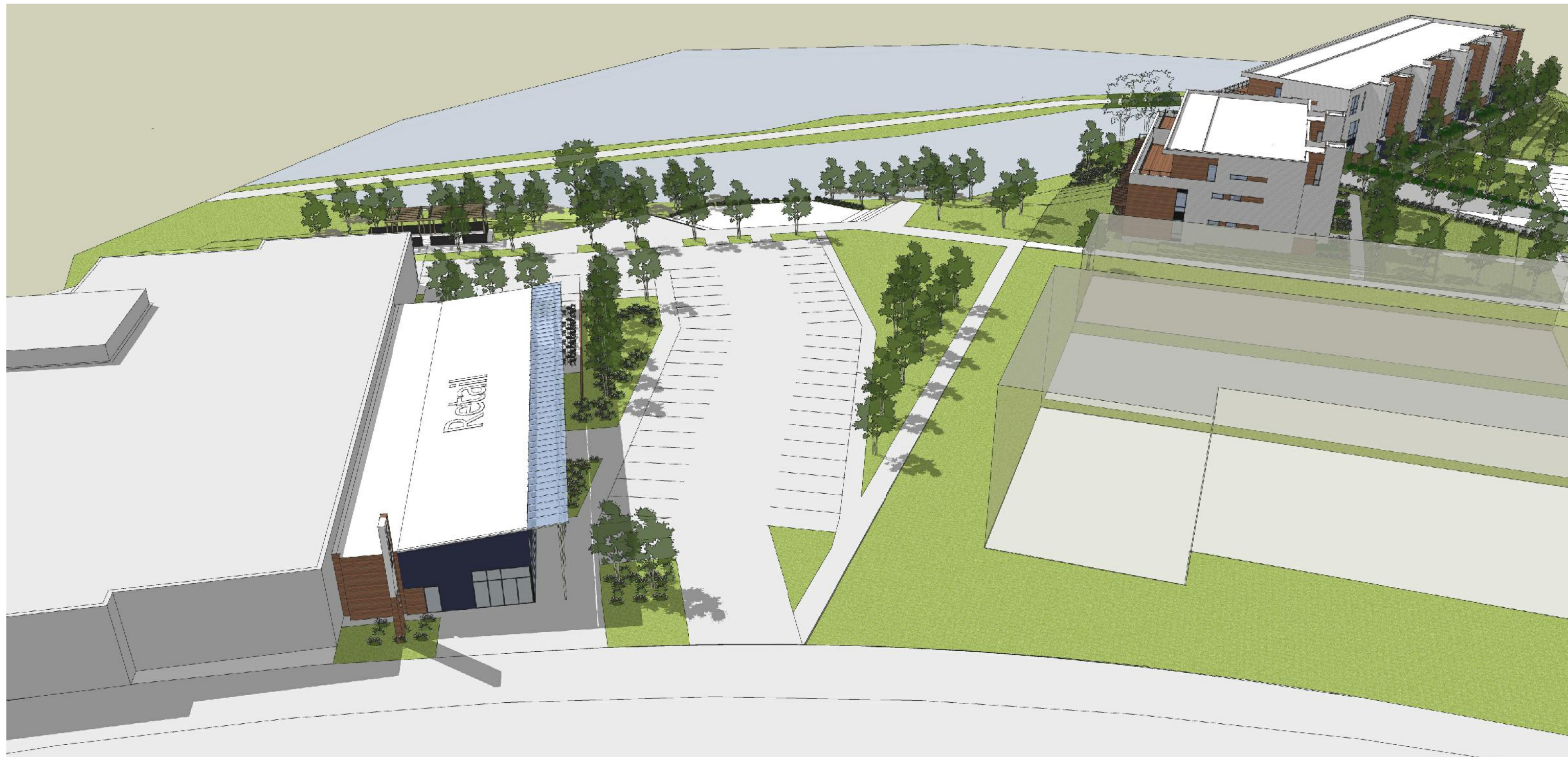
VIEW OF NORTH-FACING ELEVATION



**LAKESIDE AT LYNDALE GARDENS**  
Cornerstone Group  
04-20-18

CERMAK RHOADES ARCHITECTS





OVERHEAD VIEW FROM LYNDALDE LOOKING WEST



**LAKESIDE AT LYNDALDE GARDENS**  
 Cornerstone Group  
 05.14.2018

CERMAK RHOADES ARCHITECTS





VIEW FROM LYNDALE LOOKING WEST TOWARD AMPHITHEATER



**LAKESIDE AT LYNDALE GARDENS**  
Cornerstone Group  
05.14.2018

CERMAK RHOADES ARCHITECTS





VIEW FROM ALDRICH LOOKING SOUTH



**LAKESIDE AT LYNDALE GARDENS**  
Cornerstone Group  
05.14.2018

CERMAK RHOADES ARCHITECTS





LYNDALE  
GARDENS  
APARTMENTS  
PLANNING & ZONING  
APPLICATION

RICHFIELD, MN  
MAY 14, 2018

DJR ARCHITECTURE, INC.  
333 WASHINGTON AVE. N  
UNION PLAZA, SUITE 210  
MINNEAPOLIS, MN 55401

PROJECT DATA

SITE AREA: 58,400 SF

APARTMENTS:  
4 stories – 48'-4"  
66 Units

Building Gross Area	
Level 1 (including garage)	14,468 sf
Level 2	12,918 sf
Level 3	12,918 sf
Level 4	12,918 sf
Gross Area with Garage	53,222 sf

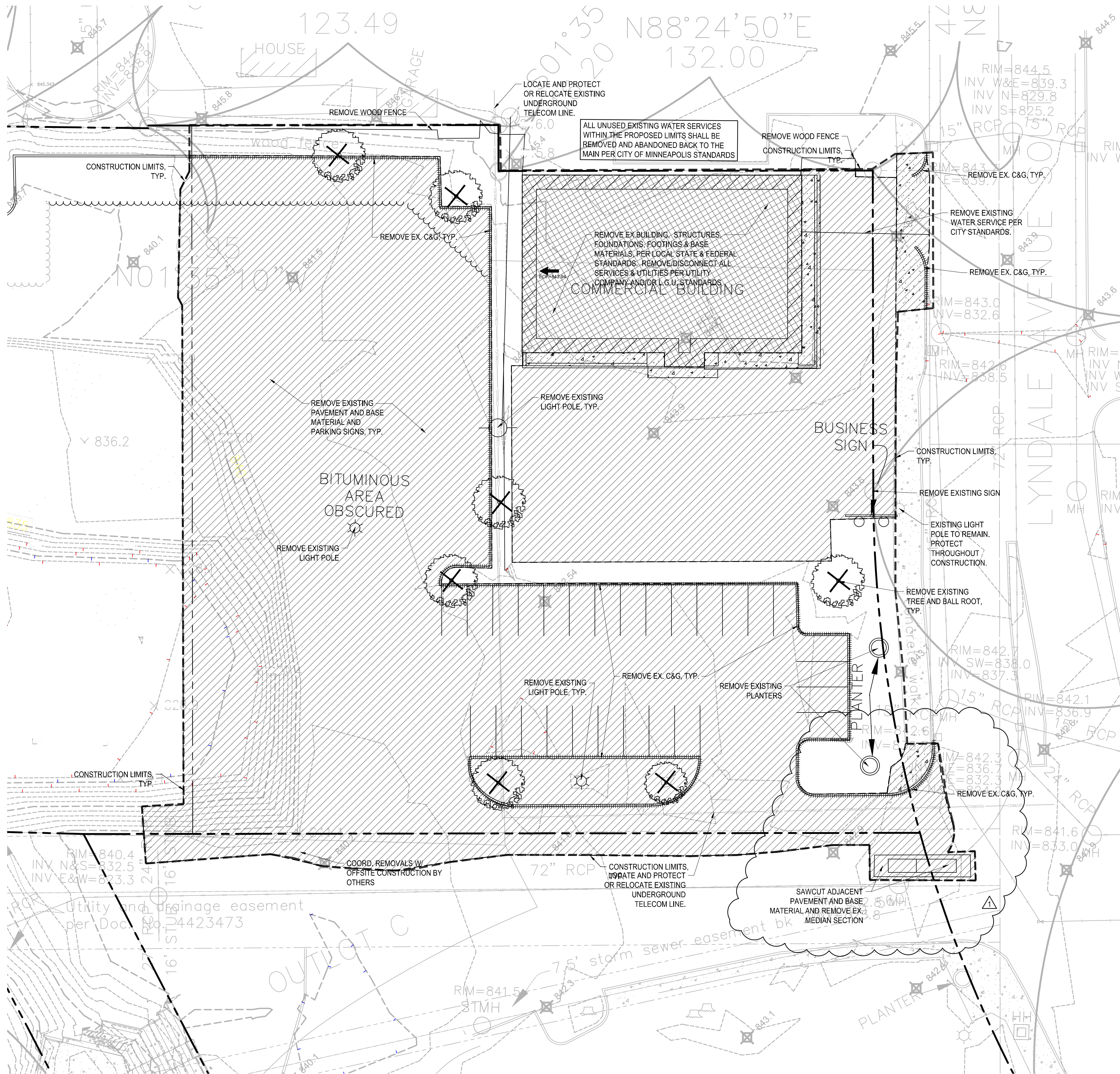
TOWNHOMES:  
2 stories – 24'-3 3/4"  
8 Units – 6 - 3 BD and 2 - 2BD

Building Gross Area	
Level 1	5,852 sf
Level 2	5,824 sf
Gross Area	11,676 sf

Parking Provided	
Total Indoor Parking Spaces	27 spaces
Total Outdoor Parking Spaces	55 spaces
Grand total:	82 spaces

PROJECT  
INFORMATION





REMOVAL NOTES:

1. SEE STORM WATER POLLUTION PREVENTION PLAN (SWPPP) PLAN FOR CONSTRUCTION STORM WATER MANAGEMENT PLAN.
2. REMOVAL OF MATERIALS NOTED ON THE DRAWINGS SHALL BE IN ACCORDANCE WITH MNDOT, STATE AND LOCAL REGULATIONS.
3. REMOVAL OF PRIVATE UTILITIES SHALL BE COORDINATED WITH UTILITY OWNER PRIOR TO CONSTRUCTION ACTIVITIES.
4. EXISTING PAVEMENTS SHALL BE SAWCUT IN LOCATIONS AS SHOWN ON THE DRAWINGS OR THE NEAREST JOINT FOR PROPOSED PAVEMENT CONNECTIONS.
5. REMOVED MATERIALS SHALL BE DISPOSED OF TO A LEGAL OFF-SITE LOCATION AND IN ACCORDANCE WITH STATE AND LOCAL REGULATIONS.
6. ABANDON, REMOVAL, CONNECTION, AND PROTECTION NOTES SHOWN ON THE DRAWINGS ARE APPROXIMATE. COORDINATE WITH PROPOSED PLANS.
7. EXISTING ON-SITE FEATURES NOT NOTED FOR REMOVAL SHALL BE PROTECTED THROUGHOUT THE DURATION OF THE CONTRACT.
8. PROPERTY LINES SHALL BE CONSIDERED GENERAL CONSTRUCTION LIMITS UNLESS OTHERWISE NOTED ON THE DRAWINGS. WORK WITHIN THE GENERAL CONSTRUCTION LIMITS SHALL INCLUDE STAGING, DEMOLITION AND CLEAN-UP OPERATIONS AS WELL AS CONSTRUCTION SHOWN ON THE DRAWINGS.
9. MINOR WORK OUTSIDE OF THE GENERAL CONSTRUCTION LIMITS SHALL BE ALLOWED AS SHOWN ON THE PLAN AND PER CITY REQUIREMENTS.
10. DAMAGE BEYOND THE PROPERTY LIMITS CAUSED BY CONSTRUCTION ACTIVITY SHALL BE REPAIRED IN A MANNER APPROVED BY THE ENGINEER/LANDSCAPE ARCHITECT OR IN ACCORDANCE WITH THE CITY.
11. PROPOSED WORK (BUILDING AND CIVIL) SHALL NOT DISTURB EXISTING UTILITIES UNLESS OTHERWISE SHOWN ON THE DRAWINGS AND APPROVED BY THE CITY PRIOR TO CONSTRUCTION.
12. SITE SECURITY MAY BE NECESSARY AND PROVIDED IN A MANNER TO PROHIBIT VANDALISM, AND THEFT, DURING AND AFTER NORMAL WORK HOURS, THROUGHOUT THE DURATION OF THE CONTRACT. SECURITY MATERIALS SHALL BE IN ACCORDANCE WITH THE CITY.
13. VEHICULAR ACCESS TO THE SITE SHALL BE MAINTAINED FOR DELIVERY AND INSPECTION ACCESS DURING NORMAL OPERATING HOURS. AT NO POINT THROUGHOUT THE DURATION OF THE CONTRACT SHALL CIRCULATION OF ADJACENT STREETS BE BLOCKED WITHOUT APPROVAL BY THE CITY PRIOR TO CONSTRUCTION ACTIVITIES.
14. ALL TRAFFIC CONTROLS SHALL BE PROVIDED AND ESTABLISHED PER THE REQUIREMENTS OF THE MINNESOTA MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES (MMUTCD) AND THE CITY. THIS SHALL INCLUDE, BUT NOT BE LIMITED TO, SIGNAGE, BARRICADES, FLASHERS, AND FLAGGERS AS NEEDED. ALL PUBLIC STREETS SHALL REMAIN OPEN TO TRAFFIC AT ALL TIMES. NO ROAD CLOSURES SHALL BE PERMITTED WITHOUT APPROVAL BY THE CITY.
15. SHORING FOR BUILDING EXCAVATION MAY BE USED AT THE DISCRETION OF THE CONTRACTOR AND AS APPROVED BY THE OWNERS REPRESENTATIVE AND THE CITY PRIOR TO CONSTRUCTION ACTIVITIES.
16. STAGING, DEMOLITION, AND CLEAN-UP AREAS SHALL BE WITHIN THE PROPERTY LIMITS AS SHOWN ON THE DRAWINGS AND MAINTAINED IN A MANNER AS REQUIRED BY THE CITY.

CITY OF RICHFIELD REMOVAL NOTES:

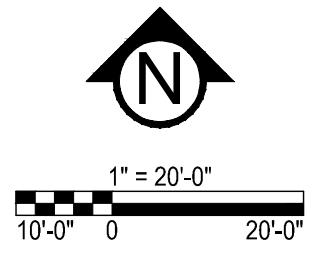
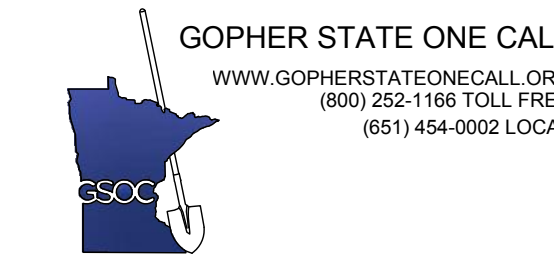
1. RESERVED FOR CITY SPECIFIC REMOVAL NOTES.

EROSION CONTROL NOTES:

SEE SWPPP ON SHEETS SW1.0-SW1.5

REMOVALS LEGEND:

- EX. 1' CONTOUR ELEVATION INTERVAL
- REMOVAL OF PAVEMENT AND ALL BASE MATERIAL, INCLUDING BIT., CONC., AND GRAVEL PVMTS.
- REMOVAL OF STRUCTURE INCLUDING ALL FOOTINGS AND FOUNDATIONS.
- REMOVE CURB AND GUTTER. IF IN RIGHT-OF-WAY, COORDINATE WITH LOCAL GOVERNING UNIT.
- TREE PROTECTION
- TREE REMOVAL - INCLUDING ROOTS AND STUMPS



I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION, OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MINNESOTA

Matthew R. Pavsek  
DATE 04/20/18 LICENSE NO. 44283

ISSUE/SUBMITTAL SUMMARY  
DATE DESCRIPTION  
04/20/18 PLANNING & ZONING APPLICATION

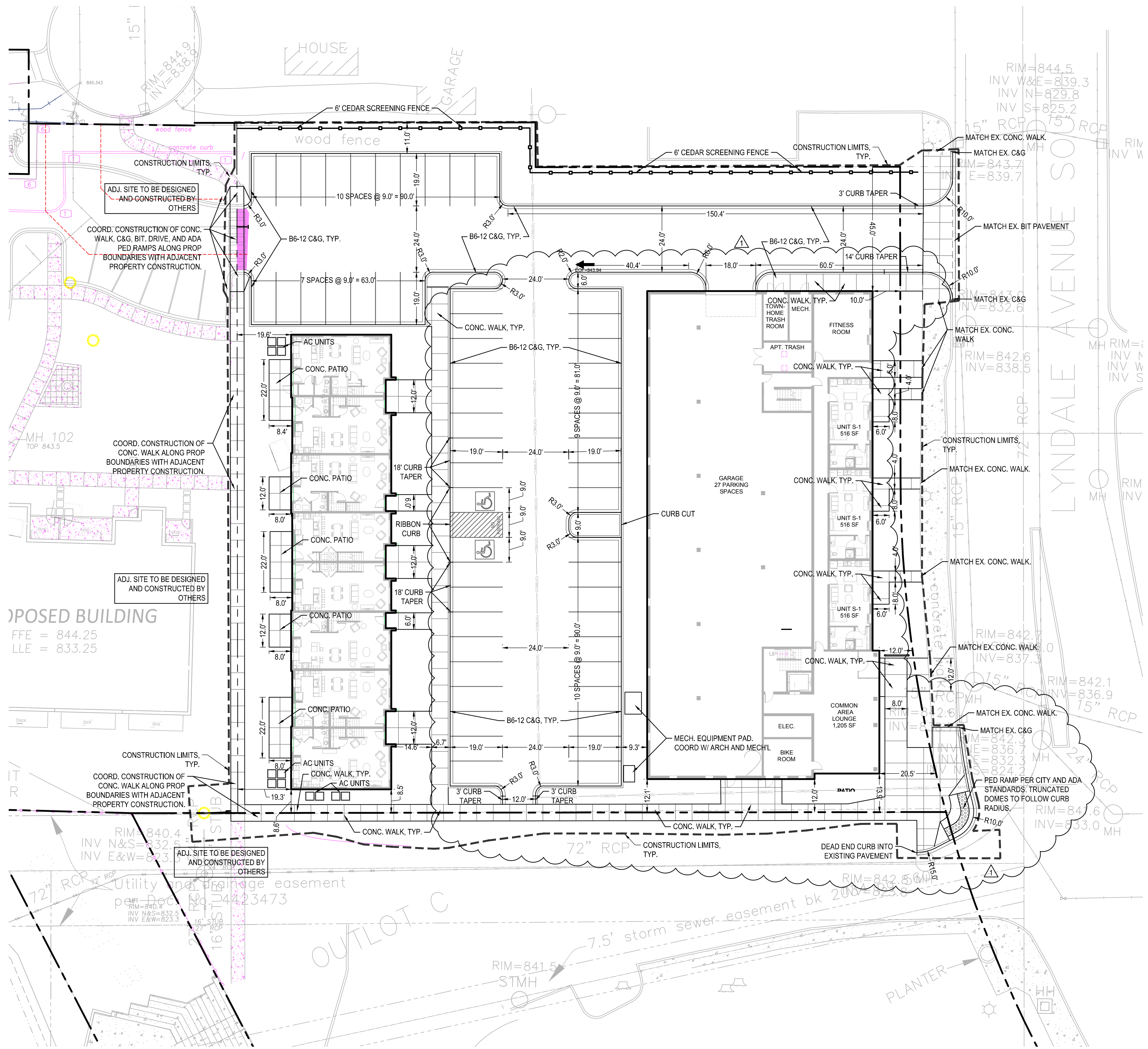
REVISION SUMMARY	
DATE	DESCRIPTION
5/14/18	ARC REVISION 1

PROJECT NUMBER: 18079

REMOVALS PLAN

C1.0  
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- SITE LAYOUT NOTES:**
1. CONTRACTOR SHALL VERIFY LOCATIONS AND LAYOUT OF ALL SITE ELEMENTS PRIOR TO BEGINNING CONSTRUCTION, INCLUDING BUT NOT LIMITED TO, LOCATIONS OF EXISTING AND PROPOSED PROPERTY LINES, EASEMENTS, SETBACKS, UTILITIES, BUILDINGS AND PAVEMENTS. CONTRACTOR IS RESPONSIBLE FOR FINAL LOCATIONS OF ALL ELEMENTS FOR THE SITE. ANY REVISIONS REQUIRED AFTER COMMENCEMENT OF CONSTRUCTION, DUE TO LOCATIONAL ADJUSTMENTS SHALL BE CORRECTED AT NO ADDITIONAL COST TO OWNER. ADJUSTMENTS TO THE LAYOUT SHALL BE APPROVED BY THE ENGINEER/LANDSCAPE ARCHITECT PRIOR TO INSTALLATION OF MATERIALS. STAKE LAYOUT FOR APPROVAL.
  2. THE CONTRACTOR SHALL OBTAIN ALL NECESSARY PERMITS PRIOR TO CONSTRUCTION, INCLUDING A RIGHT-OF-WAY AND STREET OPENING PERMIT.
  3. THE CONTRACTOR SHALL VERIFY RECOMMENDATIONS NOTED IN THE GEO TECHNICAL REPORT PRIOR TO INSTALLATION OF SITE IMPROVEMENT MATERIALS.
  4. CONTRACTOR SHALL FIELD VERIFY COORDINATES AND LOCATION DIMENSIONS OF THE BUILDING AND STAKE FOR REVIEW AND APPROVAL BY THE OWNERS REPRESENTATIVE PRIOR TO INSTALLATION OF FOOTING MATERIALS.
  5. LOCATIONS OF STRUCTURES, ROADWAY PAVEMENTS, CURBS AND GUTTERS, BOLLARDS, AND WALKS ARE APPROXIMATE AND SHALL BE STAKED IN THE FIELD, PRIOR TO INSTALLATION, FOR REVIEW AND APPROVAL BY THE ENGINEER/LANDSCAPE ARCHITECT.
  6. CURB DIMENSIONS SHOWN ARE TO FACE OF CURB. BUILDING DIMENSIONS ARE TO FACE OF CONCRETE FOUNDATION. LOCATION OF BUILDING IS TO BUILDING FOUNDATION AND SHALL BE AS SHOWN ON THE DRAWINGS.
  7. THE CONTRACTOR SHALL SUBMIT SHOP DRAWINGS OR SAMPLES AS SPECIFIED FOR REVIEW AND APPROVAL BY THE ENGINEER/LANDSCAPE ARCHITECT PRIOR TO FABRICATION FOR ALL PREFABRICATED SITE IMPROVEMENT MATERIALS SUCH AS, BUT NOT LIMITED TO THE FOLLOWING. FURNISHINGS, PAVEMENTS, WALLS, RAILINGS, BENCHES, FLAGPOLES, LANDING PADS FOR CURB RAMPS, AND LIGHT AND POLES. THE OWNER RESERVES THE RIGHT TO REJECT INSTALLED MATERIALS NOT PREVIOUSLY APPROVED.
  8. PEDESTRIAN CURB RAMPS SHALL BE CONSTRUCTED WITH TRUNCATED DOME LANDING AREAS IN ACCORDANCE WITH A.D.A. REQUIREMENTS-SEE DETAIL.
  9. CROSSWALK STRIPING SHALL BE 24" WIDE WHITE PAINTED LINE, SPACED 48" ON CENTER PERPENDICULAR TO THE FLOW OF TRAFFIC. WIDTH OF CROSSWALK SHALL BE 5' WIDE. ALL OTHER PAVEMENT MARKINGS SHALL BE WHITE IN COLOR UNLESS OTHERWISE NOTED OR REQUIRED BY ADA OR LOCAL GOVERNING BODIES.
  10. SEE SITE PLAN FOR CURB AND GUTTER TYPE. TAPER BETWEEN CURB TYPES-SEE DETAIL.
  11. ALL CURB RADII ARE MINIMUM 3' UNLESS OTHERWISE NOTED.
  12. CONTRACTOR SHALL REFER TO FINAL PLAN FOR LOT BOUNDARIES, NUMBERS, AREAS AND DIMENSIONS PRIOR TO SITE IMPROVEMENTS.
  13. FIELD VERIFY ALL EXISTING SITE CONDITIONS, DIMENSIONS.
  14. PARKING IS TO BE SET PARALLEL OR PERPENDICULAR TO EXISTING BUILDING UNLESS NOTED OTHERWISE.
  15. ALL PARKING LOT PAINT STRIPING TO BE WHITE, 4" WIDE TYP.
  16. BITUMINOUS PAVING TO BE "LIGHT DUTY" UNLESS OTHERWISE NOTED. SEE DETAIL SHEETS FOR PAVEMENT SECTIONS.
  17. ALL TREES THAT ARE TO REMAIN ARE TO BE PROTECTED FROM DAMAGE WITH A CONSTRUCTION FENCE AT THE DRIP LINE. SEE LANDSCAPE DOCUMENTS.

**CITY OF RICHFIELD SITE SPECIFIC NOTES:**

1. RESERVED FOR CITY SPECIFIC NOTES.

**SITE AREA TABLE:**

	EXISTING CONDITION		PROPOSED CONDITION	
BUILDING COVERAGE	6,247 SF	10.7%	20,238 SF	34.7%
ALL PAVEMENTS	45,039 SF	77.1%	26,419 SF	45.2%
ALL NON-PAVEMENTS	7,114 SF	12.2%	11,743 SF	20.1%
TOTAL SITE AREA	58,400 SF	100.0%	58,400 SF	100.0%
IMPERVIOUS SURFACE				
EXISTING CONDITION	51,286 SF	87.8%		
PROPOSED CONDITION	46,657 SF	79.9%		
DIFFERENCE (EX. VS PROP.)	-4,629 SF	-7.9%		

**OPERATIONAL NOTES:**

**SNOW REMOVAL:**

ALL SNOW SHALL REMOVAL SHALL OCCUR ON SITE IN THE LAWN SPACE LABELED ON THE LANDSCAPE PLAN.

**TRASH REMOVAL:**

TRASH REMOVAL SHALL OCCUR: AT THE GARAGE ENTRANCE DRIVE, OR BINS WILL BE ROLLED OUT TO THE CURB AREA NEAR THE DRIVEWAY APRON CONNECTING TO LYNDALE.

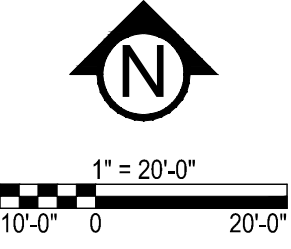
**DELIVERIES:**

DELIVERIES SHALL OCCUR AT THE GARAGE ENTRANCE DRIVE OF THE WESTERN BUILDING.

**SITE PLAN LEGEND:**

- [Symbol] LIGHT DUTY BITUMINOUS PAVEMENT. SEE GEOTECHNICAL REPORT FOR AGGREGATE BASE & WEAR COURSE DEPTH, SEE DETAIL.
- [Symbol] CONCRETE PAVEMENT AS SPECIFIED (PAD OR WALK) SEE GEOTECHNICAL REPORT FOR AGGREGATE BASE & CONCRETE DEPTHS, SEE DETAIL.
- [Symbol] PROPERTY LINE
- [Symbol] CONSTRUCTION LIMITS
- [Symbol] CURB AND GUTTER-SEE NOTES (T.O.) TIP OUT GUTTER WHERE APPLICABLE-SEE PLAN
- [Symbol] TRAFFIC DIRECTIONAL ARROW PAVEMENT MARKINGS
- [Symbol] SIGN AND POST ASSEMBLY. SHOP DRAWINGS REQUIRED.  
HC = ACCESSIBLE SIGN  
NP = NO PARKING FIRE LANE  
ST = STOP  
CP = COMPACT CAR PARKING ONLY

GOPHER STATE ONE CALL  
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(800) 252-1168 TOLL FREE  
(651) 454-0002 LOCAL



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Matthew R. Pavlek  
DATE 04/20/18 LICENSE NO. 44263

ISSUE/SUBMITTAL SUMMARY  
DATE DESCRIPTION  
04/20/18 PLANNING & ZONING APPLICATION

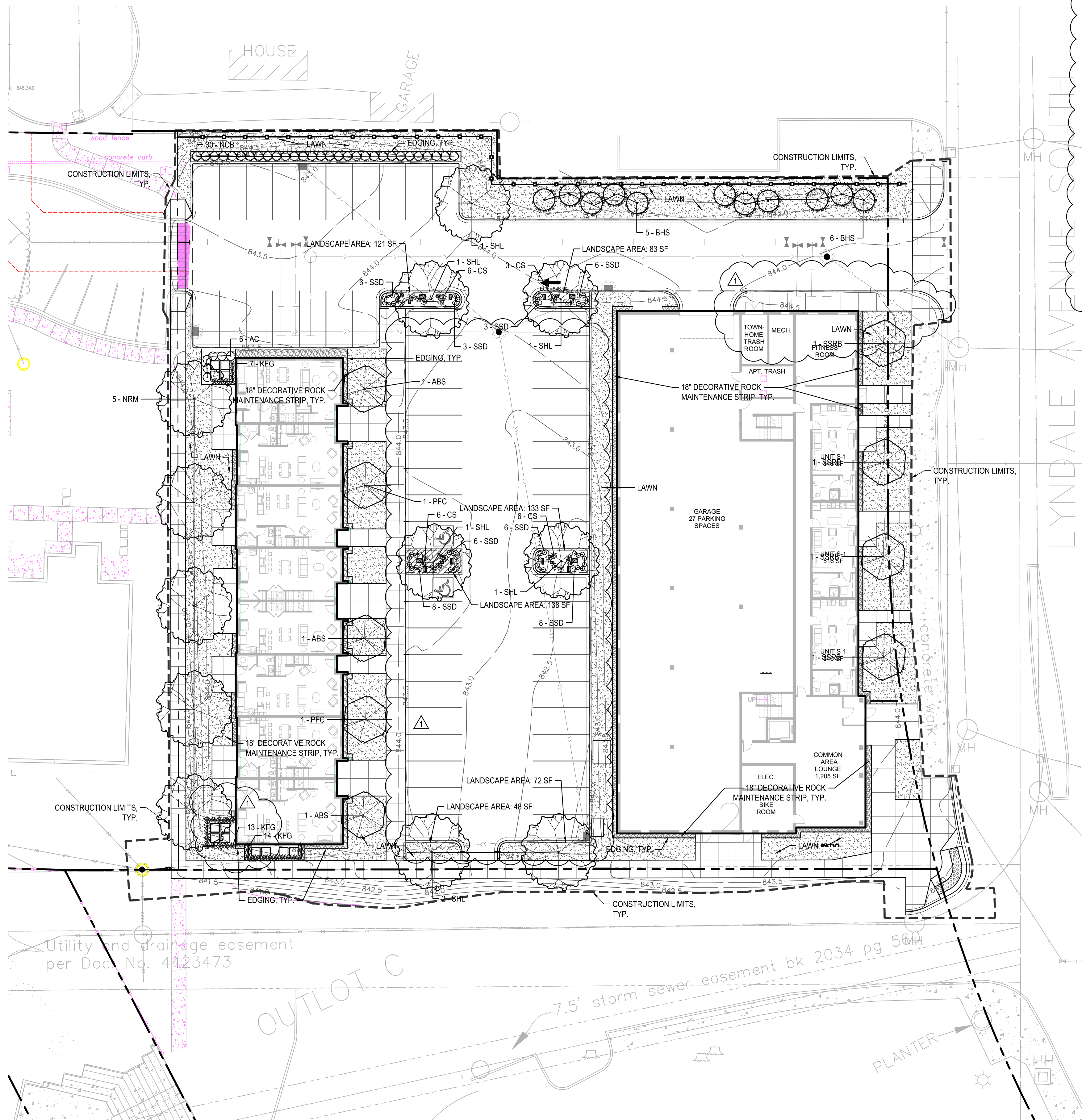
REVISION SUMMARY  
DATE DESCRIPTION  
5/14/18 ARC REVISION 1

PROJECT NUMBER: 18079

**SITE PLAN**

**C2.0**





PLANT SCHEDULE - ENTIRE SITE

SYM	QUANT.	COMMON NAME	BOTANICAL NAME	SIZE	ROOT	COMMENTS
DECIDUOUS TREES						
NRM	5	NORTHWOOD RED MAPLE	Acer rubrum 'Northwood'	2.5" CAL.	B&B	STRAIGHT LEADER, FULL FORM
SHL	7	SKYLINE HONEYLOCUST	Gleditsia triacanthos 'Skycole'	2.5" CAL.	B&B	STRAIGHT LEADER, FULL FORM
SSRB	4	SHILOH SPLASH RIVER BIRCH	Betula nigra 'Shiloh Splash'	2.5" CAL.	B&B	STRAIGHT LEADER, FULL FORM
ORNAMENTAL TREES						
PFC	2	PRAIRIEFIRE FLOWERING CRAB	Malus 'Prairiefire'	1.5" CAL.	B&B	STRAIGHT LEADER, FULL FORM
ABS	3	AUTUMN BRILLIANCE SERVICEBERRY	Amelanchier x grandiflora 'Autumn Brilliance (tree form)'	1.5" CAL.	B&B	STRAIGHT LEADER, FULL FORM
EVERGREEN TREES						
BHS	11	BLACK HILLS SPRUCE	Picea glauca 'Densata'	6' ht.	B&B	STRAIGHT LEADER, FULL FORM
SHRUBS - CONIFEROUS & EVERGREEN						
AC	6	ALPINE CURRANT	Ribes alpinum	24" HT.	CONT.	
NCB	30	NORTHERN CHARM BOXWOOD	Buxus 'Wilson'	24" HT.	CONT.	
PERENNIALS & GRASSES						
KFG	34	KARL FOERSTER GRASS	Calamagrostis x acutiflora 'Karl Foerster'	#1	CONT.	
SSD	36	STELLA SUPREME DAYLILY	Hemerocallis 'Stella Supreme'	#1	CONT.	
CS	21	CARADONNA SALVIA	Salvia x sylvestris 'Caradonna'	#1	CONT.	

LANDSCAPE NOTES:

- WHERE SHOWN, SHRUB & PERENNIAL BEDS SHALL BE MULCHED WITH 4" DEPTH (MINIMUM AFTER INSTALLATION AND/OR TOP DRESSING OPERATIONS) OF SHREDDED CYPRESS MULCH.
- ALL TREES SHALL BE MULCHED WITH SHREDDED CYPRESS MULCH TO OUTER EDGE OF SAUCER OR TO EDGE OF PLANTING BED, IF APPLICABLE. ALL MULCH SHALL BE KEPT WITHIN A MINIMUM OF 2" FROM TREE TRUNK.
- IF SHOWN ON PLAN, RANDOM SIZED LIMESTONE BOULDERS COLOR AND SIZE TO COMPLIMENT NEW LANDSCAPING. OWNER TO APPROVE BOULDER SAMPLES PRIOR TO INSTALLATION.
- PLANT MATERIALS SHALL CONFORM WITH THE AMERICAN ASSOCIATION OF NURSERYMEN STANDARDS AND SHALL BE OF HARDY STOCK, FREE FROM DISEASE, DAMAGE AND DISFIGURATION. CONTRACTOR IS RESPONSIBLE FOR MAINTAINING PLUMPNESS OF PLANT MATERIAL FOR DURATION OF ACCEPTANCE PERIOD.
- UPON DISCOVERY OF A DISCREPANCY BETWEEN THE QUANTITY OF PLANTS SHOWN ON THE SCHEDULE AND THE QUANTITY SHOWN ON THE PLAN, THE PLAN SHALL GOVERN.
- CONDITION OF VEGETATION SHALL BE MONITORED BY THE LANDSCAPE ARCHITECT THROUGHOUT THE DURATION OF THE CONTRACT. LANDSCAPE MATERIALS PART OF THE CONTRACT SHALL BE WARRANTED FOR ONE (1) FULL GROWING SEASONS FROM SUBSTANTIAL COMPLETION DATE.
- ALL AREAS DISTURBED BY CONSTRUCTION ACTIVITIES SHALL RECEIVE 4" LAYER TOPSOIL LOAM AND SOD AS SPECIFIED UNLESS OTHERWISE NOTED ON THE DRAWINGS.
- COORDINATE LOCATION OF VEGETATION WITH UNDERGROUND AND OVERHEAD UTILITIES, LIGHTING FIXTURES, DOORS AND WINDOWS. CONTRACTOR SHALL STAKE IN THE FIELD FINAL LOCATION OF TREES AND SHRUBS FOR REVIEW AND APPROVAL BY THE LANDSCAPE ARCHITECT PRIOR TO INSTALLATION.
- ALL PLANT MATERIALS SHALL BE WATERED AND MAINTAINED UNTIL ACCEPTANCE.
- REPAIR AT NO COST TO OWNER ALL DAMAGE RESULTING FROM LANDSCAPE CONTRACTOR'S ACTIVITIES.
- SWEEP AND MAINTAIN ALL PAVED SURFACES FREE OF DEBRIS GENERATED FROM LANDSCAPE CONTRACTOR'S ACTIVITIES.
- REPAIR AT NO COST TO THE OWNER IRRIGATION SYSTEM DAMAGED FROM LANDSCAPE CONSTRUCTION ACTIVITIES.
- PROVIDE SITE WIDE IRRIGATION SYSTEM DESIGN AND INSTALLATION. SYSTEM SHALL BE FULLY PROGRAMMABLE AND CAPABLE OF ALTERNATE DATE WATERING. THE SYSTEM SHALL PROVIDE HEAD TO HEAD OR DRIP COVERAGE AND BE CAPABLE OF DELIVERING ONE INCH OF PRECIPITATION PER WEEK. SYSTEM SHALL EXTEND INTO THE PUBLIC RIGHT-OF-WAY TO THE EDGE OF PAVEMENT/BACK OF CURB.
- CONTRACTOR SHALL SECURE APPROVAL OF PROPOSED IRRIGATION SYSTEM INCLUDING PRICING FROM OWNER, PRIOR TO INSTALLATION.

LANDSCAPE CALCULATIONS:

PROPOSED LANDSCAPE:  
1 TREE/ 2500 SF OF DEVELOPABLE LANDSCAPING AREA  
58,400 SF / 2,500 = 23 TREES REQUIRED  
SEE PLANT SCHEDULE  
  
1 SHRUB/1000 SF OF DEVELOPABLE LANDSCAPING AREA  
58,400 SF / 1,000 = 58 SHRUBS REQUIRED  
SEE PLANT SCHEDULE

LEGEND

- SEED TYPE 1 - MNDOT 34-262 WET PRAIRIE, PER MNDOT SEEDING MANUAL SPECIFICATIONS (2014)
- SEED TYPE 2 - MNDOT 35-221 DRY PRAIRIE GENERAL, PER MNDOT SEEDING MANUAL SPECIFICATIONS (2014)
- 1" DIA. DECORATIVE ROCK MAINTENANCE STRIP OVER FILTER FABRIC, SAMPLES REQUIRED. PROVIDE EDGING AS SHOWN ON PLAN
- 1" DIA. DECORATIVE ROCK MULCH, SAMPLES REQUIRED
- SHREDDED CYPRESS MULCH, SAMPLES REQUIRED
- PROVIDE EDGING AS SHOWN ON PLAN
- SOD
- PROPOSED CANOPY & EVERGREEN TREE SYMBOLS - SEE SCHEDULE AND PLAN FOR SPECIES AND PLANTING SIZES
- PROPOSED DECIDUOUS AND EVERGREEN SHRUB SYMBOLS - SEE SCHEDULE AND PLAN FOR SPECIES AND PLANTING SIZES
- PROPOSED PERENNIAL PLANT SYMBOLS - SEE SCHEDULE AND PLAN FOR SPECIES AND PLANTING SIZES
- DECORATIVE BOULDERS, 18"-30" DIA.

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(651) 454-0002 LOCAL

1" = 20'-0"

10'-0" 0 20'-0"

4931 W. 35TH ST., SUITE 200  
ST. LOUIS PARK, MN 55416  
CivilSiteGroup.com

Matt Pavlek  
763-213-3844

Pat Sarver  
852-250-2003

333 Washington Ave N, Suite 210  
Minneapolis, Minnesota 55401  
612.876.2700 www.djr-arc.com

PROJECT

LYNDALE GARDENS

LYNDALE AVENUE, RICHFIELD, MN

THE CORNERSTONE GROUP INC

5324 OLIVER AVENUE SOUTH, MINNEAPOLIS, MN 55419

I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION, OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED LANDSCAPE ARCHITECT UNDER THE LAWS OF THE STATE OF MINNESOTA.

Patrick J. Sarver  
DATE 04/20/18 LICENSE NO. 24904

ISSUE/SUBMITTAL SUMMARY

DATE	DESCRIPTION
04/20/18	PLANNING & ZONING APPLICATION

REVISION SUMMARY

DATE	DESCRIPTION
5/14/18	ARC REVISION 1

PROJECT NUMBER: 18079

LANDSCAPE PLAN

L1.0

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**LYNDALE GARDENS  
APARTMENTS**

Richfield, MN  
May 14, 2018

18-017.00

**FLOOR PLANS**



**LYNDALE GARDENS  
APARTMENTS**

Richfield, MN  
May 14, 2018

18-017.00

**FLOOR PLANS**







**2 WEST EXTERIOR ELEVATION**  
1/8" = 1'-0"



**1 EAST EXTERIOR ELEVATION**  
1/8" = 1'-0"

**LYNDALE GARDENS  
APARTMENTS**

Richfield, MN  
May 14, 2018

18-017.00

**EXTERIOR  
ELEVATIONS**





4 NORTH EXTERIOR ELEVATION  
1/8" = 1'-0"



3 SOUTH EXTERIOR ELEVATION  
1/8" = 1'-0"

## LYNDALE GARDENS APARTMENTS

Richfield, MN  
May 14, 2018

18-017.00

EXTERIOR  
ELEVATIONS





4 NORTH ELEVATION - TOWNHOMES  
1/8" = 1'-0"



3 SOUTH ELEVATION - TOWNHOMES  
1/8" = 1'-0"



2 WEST ELEVATION - TOWNHOMES  
1/8" = 1'-0"



1 EAST ELEVATION - TOWNHOMES  
1/8" = 1'-0"





OVERALL BUILDING - VIEW LOOKING TOWARDS THE SOUTHWEST



**LYNDALE GARDENS  
APARTMENTS**

Richfield, MN  
May 14, 2018

18-017.00

**RENDERINGS**





**LYNDALE GARDENS  
APARTMENTS**

Richfield, MN  
May 14, 2018

18-017.00

**RENDERINGS**

OVERALL BUILDING - VIEW LOOKING TOWARDS THE NORTHWEST





**LYNDALE GARDENS  
APARTMENTS**

Richfield, MN  
May 14, 2018

18-017.00

TOWNHOME FRONT ENTRIES

RENDERINGS



## Summary

Please find attached our submission documents for the redevelopment of the former Lyndale Garden Center property, the property currently containing the addresses 6330-6346 Lyndale Ave South and 6328 Aldrich Ave South (PID: 28-028-24 11 0012). The legal description for the properties noted above and in the Lyndale Gardens addition are Lot 1 Blk 1 (PID: 28-028-24 11 089), Lot 2 Blk 1 (28-028-24 11 0090), and Outlot C (28-028-24 14 0371).

The development will involve a new plat for the properties which is included in the attached documents. The parcels will be identified by the proposed use of the property and also by lots and blocks. The for-sale/condo parcel (Lot 1, Block 1), the apartment parcel (Lot 2, Block 1), and the retail parcel (Lot 3, Block 1). For the proposed redevelopment, we are asking to rezone the 6328 lot that we purchased in August in order for it to be added to the condo parcel. The remainder of the properties are currently zoned as Planned Mixed Use (PMU).

<b>Zoning.</b> Existing = PMU, LDR (6328 Aldrich) Proposed = PMU.	<b>Gross Floor Area.</b> Existing = N/A Proposed = Condos, 73,020; Apartment, 53,222; Townhomes, 11,396; Retail, 6,400
<b>Parcel Size.</b> Existing divisions (Square Feet): Lot 1, Block 1 = 105,573 Lot 2, Block 1 = 66,647 Outlot C = 8,108 6328 Aldrich = 5,723  Proposed parcels: Lot 1, Block 1 = 79,717 Lot 2, Block 1 = 58,514 Lot 3, Block 1 = 47,856	<b>Building Envelope SF.</b> Existing = N/A Proposed = Condos, 45,130 + below grade; Apartment, 26,286; Townhomes, 15,651; Retail, 6,616.
<b>Total Parking spaces.</b> Grand total = 198 Condo = 73 total (42 underground, 13 surface, 8 detached garage) Apartment/Townhome = 82 total (27 indoor, 55 surface) Retail = 63	<b>Number of Floors.</b> Existing = N/A Proposed = Condos, 4 (3 above grade); Apartment 4, ; Townhomes, 2; Retail, 1.
<b>Handicap parking.</b> Grand total = 10 Condo = 2 underground, 1 surface Apartment/Townhome = 2 indoor, 2 surface Retail = 3	<b>Number of Employees.</b> Existing = N/A Condos, Apartments = 2-4 Retail = TBD
<b>Use of Property.</b> Existing = Vacant Proposed = Multi-family residential @ 138,231 SF Retail @ 47,856 SF	<b>Multi-Family Projects, number of units.</b> Grand total = 104 Condos, 30; Apartments, 66; Townhomes, 8.

## Ownership

The 6328 Aldrich property is owned by The Cornerstone Group, Inc. The remaining properties listed above are owned by Lyndale Gardens LLC. Colleen Carey is owner and president of both companies.

## Proposed use

The proposed use of the condo parcel will be 30 for sale condominiums. The mix of units will be: 8 - 1 bedroom (~1400SF), 16 - 2 bedroom (~1400SF) and 6 - 3 bedroom (~2500SF) units. Current designs show 42 underground parking spaces, with an additional 13 surface spaces and 8 in a proposed exterior parking structure. The total of 63 spaces would bring the project to an average of just over 2 spaces per unit.

The apartment parcel will feature 66 rental apartments and 8 rental townhomes. Apartment mix will be 57 studios (~450SF) and 9 - 1 bedroom (~700SF). Townhomes will include 6 - 3 bedroom units (~1470SF) and 2 - 2 bedroom units (~1260SF). Amenities will be shared amongst all units and will consist of a large commons area with a patio, two fitness rooms and a bike storage and repair station. Total parking is 82 spaces or 1.24 per unit.

The retail site proposal includes a single story commercial building directly north of Lakewinds co-op and 63 parking spots. The approximately 6400 SF building would be divided into 2-4 retail/office spaces.

## Schedule

The for-sale condo and the apartment projects have a projected construction start date of Autumn 2018. It is estimated that the duration of the construction will be 10-12 months, leading to a proposed completion date sometime in the summer of 2019.

The retail project construction will commence once a tenant or tenants have been identified. It would be our goal to begin construction in the Spring or Summer of 2019. Depending on the tenant and primary use of the space, construction would take between 9 and 18 months.

## Easements

The site is subject to a number of easements, which are listed on the attached document, Exhibit A.

## Impact

Adjacent properties are:

- Northern boundary = Single and multi-family residential.
- Western boundary = City owned shoreline, Stormwater management ponds, Richfield Lake.
- Eastern boundary = Lyndale Avenue.
- Southern boundary = Lakewinds Natural Food Cooperative.

The below sections regarding the *Comp plan amendment* and the *Richfield Lake shoreline* each speak to the positive effect we hope our project will have on our neighbors and adjacent properties.

Overall, we feel like the project will bring much more life, light and vitality to an area that has been vacant for a long time. In speaking to neighbors, they are hopeful that our project will bring a sense of greater security to the area that has become a vacant space where loitering is a reality and vandalism and littering are common.

Adding to this vitality is the vision for a space that has access and connectivity. It will bring a higher level of pedestrian traffic to the whole area, benefitting all in terms of safety and social health. This increased foot traffic should benefit the local businesses close to the development. The apartment developer expects to improve the streetscape along Lyndale Avenue. The street level of the apartment building includes active use common areas and residential units with front entries, which provide access directly to the street and contribute to public safety. In addition, there will be an outdoor patio, sidewalk lighting and attractive landscaping to enhance the pedestrian experience along this section of Lyndale Avenue. Finally, the apartment developer is proposing a new bus shelter just north of the current access point to the property at 64th and Lyndale Avenue.

Each of the buildings is thoughtfully placed in a way that should minimize any shadowing effect on the single family residential homes north of the proposed development areas. The height of the tallest building will be the 4-story apartment building, which is one story less than The Cornerstone Group's previously approved site concept. Plus, the proposed apartment building is now along Lyndale Avenue and will have little to no impact on the single family homes.

The site will continue to provide easy access to the Richfield Lake Amphitheater public space as well as the walking paths around the lake. Please see Exhibit B for a site map that shows access points to the site and adjacent properties.

Lakewinds co-op should gain more customers from having neighbors directly to the north of their business as they already have from the scheduled music events at the Richfield Lake Amphitheater.

## Comprehensive Plan Amendment Narrative

Due to the above proposed uses, we feel that our development will require a comp plan amendment. The following demonstrate our arguments for the requested amendment.

The Cornerstone Group and Northbay Companies (collectively the developers) are requesting an amendment to the current comprehensive plan density requirements. A Mixed Use District in the Richfield area currently requires residential densities of 50+ units per acre. However, our project (with a combination of apartments, townhomes and condominiums) is estimated to have a density of about 33 units per acre. There are many reasons that our concepts and designs do not reach the required density as well as some ideas that will be proposed to show that the lower density in many ways, will be beneficial and more appropriate for the site and the surrounding neighborhoods.

The mixed use development site in question is the former Lyndale Garden Center between the eastern shore of Richfield Lake and Lyndale Ave S. This site is unique in many ways. Some of the challenges that are limiting how we can use the site as well as the ability to maximize density are as follows:

1. High water table. Many parts of the site, especially close to Richfield Lake, have a high water table, which makes underground construction unfeasible and/or very costly.



2. Poor soils and debris. Debris and garbage from the Highway 62 construction project was buried on the site in the 1960's. Between depths of approximately 4 ft and 14ft, the percentage of construction debris, contamination and garbage is extremely high. This makes the construction on the site challenging and very expensive. As noted in point one, underground construction, especially the parking required for higher density projects is not feasible.
3. Lake Setback. Richfield Lake has a setback from the OHWL of 75ft. Due to the high amount of shoreline, the setback decreases the buildable area of the site by more than 20%. Again, this works against the maximization of density.
4. Area rents. One of the reason that higher costs of construction and site work are not feasible is due to the lack of high rent units available in the surrounding area to make a direct comparison required from lenders and financial support agencies. Without these comps, it is not possible to justify the higher rents that would be required to make up for the higher construction costs.

Besides the above reasons that make higher density construction challenging, there are at least two arguments to be made that a lower density project would be more appropriate for this are of Richfield.

1. Transitional density. The City of Richfield is currently proposing some new language in the Comp Plan that would allow lower densities at the edges of the mixed use districts. Although this isn't in place yet, the intent of the language and description of the effected area (66th and Lyndale) match up perfectly with the Lyndale Gardens mixed use development. The general idea is that between a high density area and a residential area, there would be a transitional area where lower densities would be appropriate. The entire northern boundary of the development site is bordered by a single family, residential neighborhood where such a transition would be beneficial to the existing homeowners.
2. Lake classification. A final consideration, is the current development classification of Richfield Lake. The DNR currently has the lake classified as "Recreational Development". This classification lists the appropriate density around this type of lake to be between 3 and 25 dwellings per mile of shoreline.

## Richfield Lake Shoreline

One feature of the condo parcel is that it borders shoreline property owned by the City of Richfield. We feel that it is to our advantage to proactively think about how we may partner with the city to improve the shoreline.

To date, we have performed the following activities that have contributed to an improved natural environment and lakeshore.

*-Environmental clean up work ongoing.* To date, 18,000+ tons of contaminated soils have been removed from the housing development site including 235 tons of asbestos removed from an area near the lakeshore.

*-Less impervious surface.* Previously, about 80% of site was paved. Post development, 50 percent or more of the site will be green space.

Our plans for the site would include the following goals that will improve the natural environment further. All plans for parts of the shoreline that are owned by city would have to be approved and completed in a collaborative manner.

- Erosion control measures and management of run-off waters will mean less debris, sediment, trash ending up in the water.
- Clean up and removal of trash and debris from the former garden center.
- Cooperative restoration of shoreline and a reintroduction of native plants in harmony with current efforts and strategies employed by the City and the DNR.
- Removal of invasive and diseased plants and the preservation of existing trees wherever possible.
- Protection of habitats for birds and the introduction of new bird habitats.

### Pedestrian Access

For reference, please see Exhibit B for a map of access points to and from the property.

A goal of the redevelopment of the former Lyndale Gardens Center involved public use and pedestrian access. The Cornerstone Group has already installed a bridge that connects the Lakewinds Co-op and the Richfield Lake Amphitheater with existing walking paths in order to provide a direct connection to the southern portion of the site.

Our plans will show intentional connections to both Lyndale Ave and the neighborhood to the North of the property. In order to connect the Amphitheater and Richfield Lake walking paths to Lyndale Avenue, a sidewalk will be installed for direct pedestrian access. The site will also have sidewalk connections to both Aldrich Ave S and Bryant Ave S. The Bryant Ave connection will act as the northern connection point to the Richfield Lake walking paths, creating a full loop on the site.

*Document submitted by:*

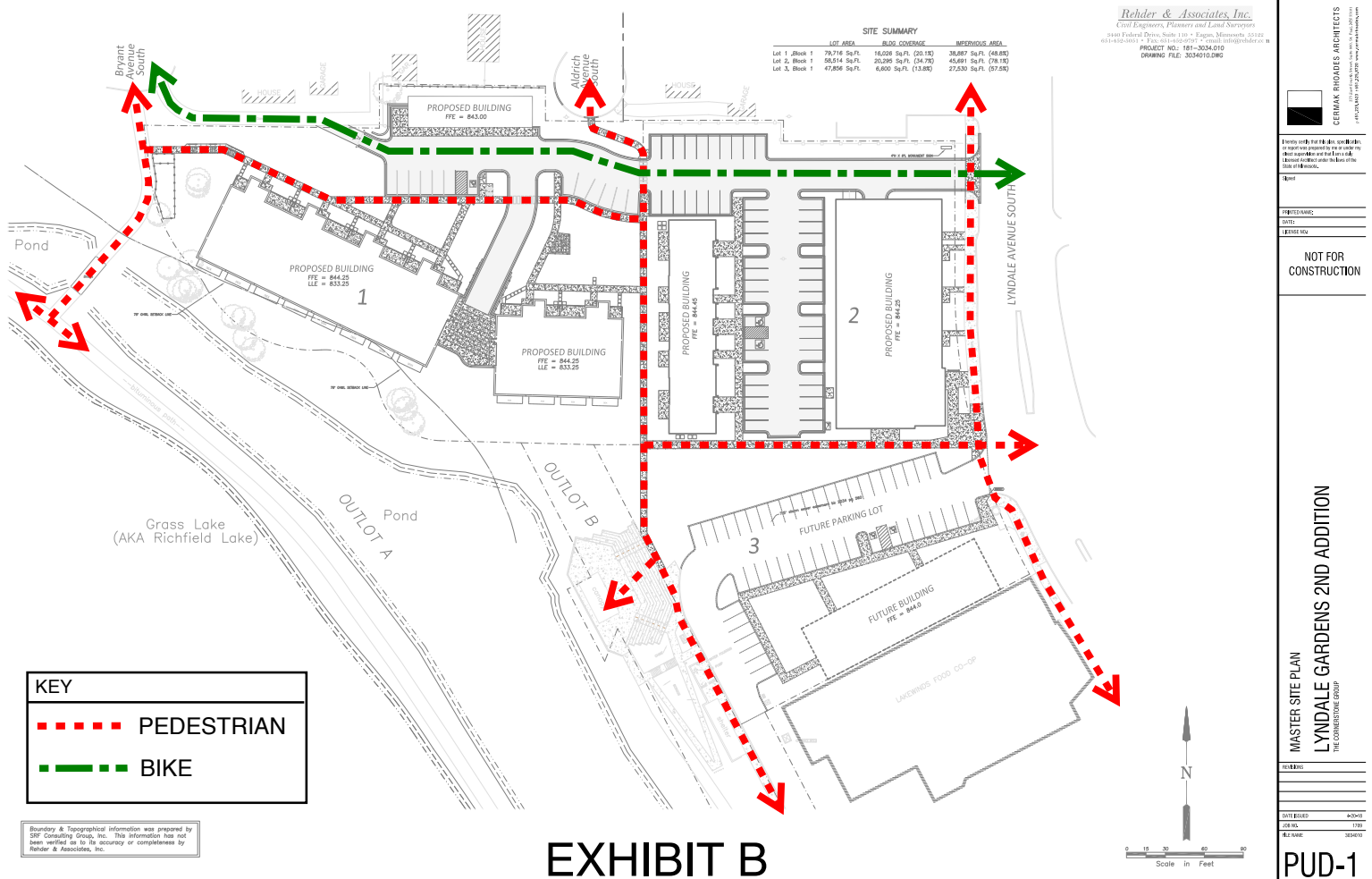
*Lawrence Black, Project Manager - The Cornerstone Group. 612-991-8372*  
*Colleen Carey, President - The Cornerstone Group. 952-484-6857*

## EXHIBIT A

### List of easements

1. Doc. Nos. 2928405 and 2917948. Utility and drainage easements. City of Richfield.
2. Document No. T4423473. Utility and drainage easements. City of Richfield, filed September 6, 2007.
3. Document No. T5109577. Easement for drainage, utilities and driveway access. Lakewinds Natural Foods Cooperative, filed August 23, 2013.
4. Document No. T5109576. Easement for party wall of Coop. Lakewinds Natural Foods Cooperative, filed April 23, 2013.
5. Document No. T5163361. Declaration for maintenance of Outlots B and C. City of Richfield, filed April 7, 2014.
6. Document No. T5377266. Conditional Use Permit for Outlot B. City of Richfield, filed September 2, 2016.
7. Document No. T5382874. Easement regarding access to and parking for Outlot B. Lyndale Gardens LLC. September 19, 2016.

## Pedestrian Access Map





## Parking Narrative

The 66-unit apartment building and 8-unit rental townhome building will be provided with 82 on-site parking spaces. We believe this will be adequate based on providing two spaces for each townhome unit equaling 16 spaces and one for each apartment unit for a total of 82.

The apartment units are small; mostly 500 square foot studios, and we believe that most, if not all, will be occupied by only one person. Thus the 1:1 ratio for apartments should work. We also believe this unit type is often rented by younger residents new to the workforce who don't own cars and rely on bicycles and mass transit; so a few residents will not need parking spaces.

In addition, the future retail development to the south will provide additional overflow parking for residents or guests and a direct connection to this lot will be provided when it is complete.

# LYNDALE GARDENS - CP RZN PUD 5/2018

## Surrounding Zoning and Comprehensive Plan



Zoning:  
C-2 - General Commercial  
R - Single Family Residential

Comp Plan:  
CCO - Community Commercial/Office  
LDR - Low Density Residential

0 125 250 500 750 1,000 Feet

### Legend

500 ft. notification area





**STAFF REPORT NO. 113**  
**CITY COUNCIL MEETING**  
**6/26/2018**

REPORT PREPARED BY: Jennifer Anderson, Support Services Manager

DEPARTMENT DIRECTOR REVIEW: Jay Henthorne, Director of Public Safety/Chief of Police  
6/20/2018

OTHER DEPARTMENT REVIEW: N/A

CITY MANAGER REVIEW: Steven L. Devich, City Manager  
6/21/2018

**ITEM FOR COUNCIL CONSIDERATION:**

**Consideration of the adoption of a resolution of denial for a Therapeutic Massage Enterprise Licence for Longshi, Inc.**

**EXECUTIVE SUMMARY:**

On May 14, 2018, staff received a Therapeutic Massage Enterprise License application for Longshi, Inc.

The required background investigation was completed and the Public Safety Director is recommending the application for the Therapeutic Massage Enterprise license be denied because the Applicant misrepresented or falsified information on the license application and did not meet the eligibility criteria under City Code.

Adoption of a resolution is necessary to formalize the denial of licensure and provide a written record of the Council's basis for denial.

**RECOMMENDED ACTION:**

**By motion: Adopt a resolution of denial of the therapeutic massage enterprise license application of Longshi, Inc.**

**BASIS OF RECOMMENDATION:**

**A. HISTORICAL CONTEXT**

- On May 14, 2018, staff received a Therapeutic Massage Enterprise license application for Longshi, Inc.
- The required background investigation revealed the following:
  - The applicant provided a copy of a diploma in Advanced Massage Therapy from US PC Tech, Jersey City, NJ., dates of attendance from July 9, 2010 - September 13, 2011. US PC Tech closed in February 2010 per the Department of Labor and Workforce Development located in the State of New Jersey.
  - The applicant is not listed as a member of the American Massage Therapy Association.
  - The applicant provided a letter from the Office of Minnesota Secretary of State addressed to LONSHI, Inc., included was the Certificate of Incorporation name: LONSHI, Inc.



However, the applicant lists the company name as LONGSHI, Inc. in the city application packet.

- Mr. Deming Lai, sole owner of the Applicant, also applied for a Massage Therapist license, which was denied by the Public Safety Director on June 6, 2018. Mr. Lai has the right to appeal the denial of the therapist license to the City Council if he so chooses. If he files a timely appeal, a hearing will be held before the City Council at its meeting on July 10, 2018.

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

- Richfield City Code Subsection 1188.15 requires the Public Safety Director to verify the information supplied on the Therapeutic Massage Enterprise license application and investigate the background, including the criminal background of the applicant to assure compliance with this section. Within 21 days of receipt of a completed application and fee, the Public Safety Director must make a written recommendation to the City Council as to issuance or non-issuance of the license. The City Council may order an additional investigation if it deems necessary.
- Section 1188.11 subd 2. states Therapeutic Massage Therapist license application must contain the following: (i) Evidence that the applicant (1) is a member in good standing of the American Massage Therapy Association, the Associated Bodywork and Massage Professionals or other organizations of therapeutic massage professionals which has similar written and enforceable code of ethics and has been currently approved by the Public Safety Director.
- Additionally, Section 1188.17 subd. 1, Therapeutic Massage Enterprise license states a therapeutic massage enterprise license may not be issued to an individual who (f) has misrepresented or falsified information on the license application.

**C. CRITICAL TIMING ISSUES:**

- N/A

**D. FINANCIAL IMPACT:**

- N/A

**E. LEGAL CONSIDERATION:**

- N/A

**ALTERNATIVE RECOMMENDATION(S):**

- The City Council could choose to allow the issuance of the Massage Therapist Enterprise License or direct staff to conduct additional investigation.

**PRINCIPAL PARTIES EXPECTED AT MEETING:**

Deming Lai, Applicant

**ATTACHMENTS:**

Description	Type
□ Resolution	Resolution Letter

RESOLUTION NO. \_\_\_\_\_

**RESOLUTION OF DENIAL OF THE THERAPEUTIC MASSAGE ENTERPRISE  
LICENSE APPLICATION OF LONGSHI INC.**

WHEREAS, Longshi Inc. (“Applicant”), a Minnesota company, applied for a therapeutic massage enterprise license to be operated at 7610 Lyndale Avenue S., Ste. 400, Richfield, MN; and

WHEREAS, pursuant to Richfield City Code Subsection 1188.05, therapeutic massage enterprises and individual massage therapists are required to be licensed by the City; and

WHEREAS, Subsection 1188.15, subd. 1, of the Richfield City Code provides that the Public Safety Director must verify the information supplied on the enterprise license application and investigate the background, including the criminal background, of the applicant to assure compliance with this section. Within 21 days of receipt of a completed application and fee for a therapeutic massage enterprise license, the Public Safety Director must make a written recommendation to the City Council as to issuance or non-issuance of the license. The City Council may order additional investigation if it deems necessary; and

WHEREAS, Subsection 1188.17 of the Richfield City Code states that a therapeutic massage enterprise license may not be issued to an individual who,:

- 1) Has misrepresented or falsified information on the license application.

WHEREAS, Deming Lai, sole owner of Applicant, has also applied for an individual massage therapist license, indicating that he not only intends to operate and manage the business enterprise, but also provide massage services as part of the operation of the business;

WHEREAS, the Public Safety Director denied Mr. Lai’s application for a therapist license pursuant to Subsection 1188.15, subd. 2, and Mr. Lai has the right to appeal that denial to the City Council if he chooses;

WHEREAS, after a thorough background investigation by the City of Richfield Police Department, it was determined that the Applicant misrepresented or falsified information on the license application, and did not meet the eligibility criteria, including the following:

- 1) The applicant provided a copy of a diploma in Advanced Massage Therapy from US PC Tech, Jersey City, NJ, dates of attendance from July 9, 2010 – September 13, 2011. However, US PC Tech closed in February 2010 per the Department of Labor and Workforce Development located in the State of New Jersey.
- 2) Mr. Lai, sole owner of the Applicant, is not listed as a member of the American Massage Therapy Association, or any other professional therapeutic massage organization, which is a requirement for a business owner if they intend to also provide massage services.

WHEREAS, on June 6, 2018, the City sent a notice to the Applicant stating the staff's intent to recommend to the City Council that its application be denied based on the failure to meet the eligibility criteria.

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

1. The recitals outlined above are hereby adopted by the Council as factual findings and are fully incorporated herein.
2. The therapeutic massage enterprise license application for Longshi Inc., intended to operate out of 7610 Lyndale Avenue South, Suite 400, Richfield, MN 55423, is hereby denied.

Adopted this 26<sup>th</sup> day of June, 2018.

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Pat Elliott, Mayor

ATTEST:

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Elizabeth VanHoose, City Clerk