Agenda
Minnetonka City Council
Regular Meeting, Monday, Aug. 6, 2018
6:30 p.m.
Council Chambers

1. Call to Order
2. Pledge of Allegiance
3. Roll Call: Bergstedt-Ellingson-Schack-Acomb-Happe-Calvert-Wiersum
4. Approval of Agenda
5. Approval of Minutes: None
6. Special Matters:
   A. Appoint Rebecca K. Schack as Ward 2 Councilmember and administer Oath of Office
      Recommendation: Make the appointment and administer the oath
7. Reports from City Manager & Council Members
8. Citizens Wishing to Discuss Matters Not on the Agenda
9. Bids and Purchases: None
10. Consent Agenda - Items Requiring a Majority Vote:
    A. Resolutions approving use of Hennepin County Affordable Housing Incentive Funds by Homes Within Reach
    B. Resolution awarding sale of approximately $10,000,000 General Obligation Utility Revenue Bonds, Series 2018A
11. Consent Agenda - Items Requiring Five Votes:
    A. Resolution approving a conditional use permit, with wetland setback variance, for an accessory apartment at 2201 Hillside Circle
12. Introduction of Ordinances:
   A. Ordinance amending the Minnetonka Corporate Center Master Development Plan for a two level parking ramp at 12501 Whitewater Drive
      Recommendation: Introduce the ordinance and refer it to the planning commission (4 votes)
   B. Ordinance regarding senior citizens advisory board member terms
      Recommendation: Introduce the ordinance

13. Public Hearings:
   A. Surplus CDBG Block Grant Funds from program years 2015, 2016, and 2017
      Recommendation: 1) Hold the public hearing and adopt the resolution (4 votes), 2) approve the sub recipient agreement (4 votes)
   B. Items related to grant funding agreements for Newport Midwest LLC, dba The Mariner, at 10400, 10500 and 15500 Bren Road E.
      Recommendation: 1) Approve the Metropolitan Council Transit Oriented Design (TOD) grant program agreement and subrecipient agreement, 2) Approve the Metropolitan Council LHIA grant agreement and subrecipient agreement, 3) Adopt the resolution authorizing the use of Hennepin County Affordable Housing Incentive Funds (AHIF) (4 votes)
   C. Temporary on-sale liquor license for The Rotary Club of Minnetonka Foundation, 12401 Wayzata Blvd.
      Recommendation: Hold the public hearing and grant the license (5 votes)
   D. Temporary on-sale liquor license for The Rotary Club of Minnetonka Foundation, 14350 County Road 62
      Recommendation: Hold the public hearing and grant the license (5 votes)

14. Other Business:
   A. Consideration of petition for environmental assessment worksheet for Lone Lake Park – Mountain Bike Trail
      Recommendation: Adopt a resolution denying the petition for an environmental assessment worksheet (4 votes)
   B. New Park at Ridgedale community outreach process & timeline
      Recommendation: Provide comment and feedback

15. Appointments and Reappointments: None

16. Adjournment
City Council Agenda Item #6A
Meeting of Aug. 6, 2018

Brief Description: Appoint Rebecca K. Schack as Ward 2 Councilmember and administer Oath of Office

Recommended Action: Make the appointment and administer the oath

Background

At the June 4, 2018 City Council meeting, Councilmember Tony Wagner, Ward 2 representative, announced he and his family planned to move their primary residence outside of the Ward 2 boundary. Wagner represented Ward 2 since his election in 2003. This move made him ineligible to represent that ward according to the City Charter. At its June 18, 2018 City Council meeting the council deliberated the options of calling for a special election or using an appointment process as provided for under City Charter and selected to fill the vacancy using an appointment process.

On Tuesday, June 19, staff began the process to notify residents in Ward 2 of the appointment process. Information was posted on the city’s website, social media accounts, an email was pushed to the subscription network and a brief article was included in the July edition of the Minnetonka Memo. Announcements were sent to the Lakeshore Weekly and Sun Sailor newspapers. The application was posted on the city’s website and available at city hall. Staff also mailed postcards to Ward 2 residents announcing the upcoming vacancy and appointment process.

Applications and supporting materials were received from 26 individuals and each application was scored by the City Council. At the July 23 meeting, the City Council selected five applicants to interview and subsequently one applicant withdrew from the process. The council at a special meeting on Monday, July 30 interviewed four applicants.

Following the interviews on July 30, council completed an evaluation form to rank the candidates using a two-pronged evaluation scale. The scales were:

1. Rating each candidate on a scale where one is the lowest and ten is the highest. To ensure consistency, every candidate that interviewed was assigned a rating within this range, and more than one candidate could have been assigned the same rating.

2. Ranking each candidate in order from first choice to last choice. To ensure consistency, every candidate was ranked from first to last, with no repeats or ties.

The evaluation summary reflects that candidate Rebecca Schack had the highest rating (8.68 average) and was the highest choice (1.6 average) of the council.
At the conclusion of the interviews and review of the scoring summary, the council discussed the scoring results and ultimately moved to direct staff to prepare the appointment of Rebecca Schack as the Ward 2 City Council representative.

**Recommendation**

That Rebecca K. Schack, 3201 Plymouth Road, be appointed to replace Tony Wagner as the Ward 2 Minnetonka City Council member, and will fill the term of office through the end of 2019. The required oath of office will then be administered.

Submitted through:
Geralyn Barone, City Manager

Originated by:
Corrine Heine, City Attorney
David Maeda, City Clerk
Perry Vetter, Assistant City Manager
City Council Agenda Item #10A  
Meeting of Aug. 6, 2018

Brief Description  
Resolutions approving use of Hennepin County Affordable Housing Incentive Funds by Homes Within Reach

Recommendation  
Adopt the resolutions

1) 2017/2018 Hennepin County Affordable Housing Incentive Funds
2) 2018/2019 Hennepin County Affordable Housing Incentive Funds

Background

The Hennepin County Housing and Redevelopment Authority (HCHRA) Board of Commissioners created the Affordable Housing Incentive Fund (AHIF) Program to work with municipalities, other government and nonprofit agencies, private and nonprofit housing developers, and lenders to encourage the preservation and/or creation of long-term affordable housing throughout Hennepin County.

In 2017, the AHIF program awarded a $200,000 loan to Homes Within Reach to fund the development of scattered site units affordable to households at or below 50 percent of area median income. Additionally, in 2018, they awarded Homes Within Reach another $100,000. These funds will provide assistance with land acquisition, rehabilitation, and holding costs. The funds from both funding awards will be used to acquire and rehabilitate approximately 15 homes, with a portion of the funds being used in Minnetonka. In order for Homes Within Reach to use the AHIF funds in the city, a resolution must be adopted at the time the funds are expended allowing the participation of the HCHRA in the project.

Recommendation

Staff recommends the city council adopt the resolutions for the 2017/2018 and 2018/2019 funds authorizing Hennepin County Affordable Housing Incentive Funds in Minnetonka by Homes Within Reach.

Submitted through:
- Geralyn Barone, City Manager
- Julie Wischnack, AICP, Community Development Director
- Alisha Gray, Economic Development and Housing Manager

Originated by:
- Rob Hanson, Economic Development Coordinator
Resolution No. 2018-
Resolution approving use of 2017/2018 Hennepin County Affordable Housing Incentive Funds by Homes Within Reach

Be it resolved by the City Council of the City of Minnetonka, Minnesota as follows:

Section 1. Background.

1.01. The Hennepin County Housing and Redevelopment Authority (HCHRA) in Resolution No. 17-HCHRA-0020 has approved the use of a $200,000 Affordable Housing Incentive Fund loan for Homes Within Reach contingent upon the city of Minnetonka’s consent to the HCHRA’s participation in the project.

1.02. The purchase of six homes by Homes Within Reach, of which some of the homes will be located within the city of Minnetonka and the rest within suburban Hennepin County, will preserve the supply of affordable housing in the city by providing permanent affordability.

1.03. The grant from the HCHRA will complete the financing required for the project to go forward.

Section 2. Council Action.

2.01. The City Council approves the participation of the Hennepin County Housing and Redevelopment Authority in the Homes Within Reach project.

Adopted by the City Council of the City of Minnetonka, Minnesota, on August 6, 2018.

_________________________________________
Brad Wiersum, Mayor

Attest:

_________________________________________
David E. Maeda, City Clerk
Action on this resolution:

Motion for adoption:
Seconded by:
Voted in favor of:
Voted against:
Abstained:
Absent:
Resolution adopted.

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a duly authorized meeting held on August 6, 2018.

__________________________________________

David E. Maeda, City Clerk
Resolution No. 2018-

Resolution approving use of 2018/2019 Hennepin County Affordable Housing Incentive Funds by Homes Within Reach

Be it resolved by the City Council of the City of Minnetonka, Minnesota as follows:

Section 1. Background.

1.01. The Hennepin County Housing and Redevelopment Authority (HCHRA) in Resolution No. 18-HCHRA-0014 has approved the use of a $100,000 Affordable Housing Incentive Fund loan for Homes Within Reach contingent upon the city of Minnetonka’s consent to the HCHRA’s participation in the project.

1.02. The purchase of nine homes by Homes Within Reach, of which some of the homes will be located within the city of Minnetonka and the rest within suburban Hennepin County, will preserve the supply of affordable housing in the city by providing permanent affordability.

1.03. The grant from the HCHRA will complete the financing required for the project to go forward.

Section 2. Council Action.

2.01. The city council approves the participation of the Hennepin County Housing and Redevelopment Authority in the Homes Within Reach project.

Adopted by the City Council of the City of Minnetonka, Minnesota, on August 6, 2018.

Brad Wiersum, Mayor

Attest:

David E. Maeda, City Clerk
Action on this resolution:

Motion for adoption:
Seconded by:
Voted in favor of:
Voted against:
Abstained:
Absent:
Resolution adopted.

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a duly authorized meeting held on August 6, 2018.

_______________________________________
David E. Maeda, City Clerk
**City Council Agenda Item #10B**  
**Meeting of Aug. 6, 2018**

**Brief Description:** Resolution awarding sale of approximately $10,000,000 General Obligation Utility Revenue Bonds, Series 2018A

**Recommended Action:** Adopt the resolution

**Background**

Over the last four years, the city council has deliberated over a financial blueprint and taken actions to ensure the city’s aging water and sewer infrastructure will continue to serve the city well into the future. The city’s management plan for its water and sewer utilities incorporates needed capital improvements for the utility enterprise along with estimated user rates with the intention to sell city obligations to finance the work over the next 13 years. Execution of the plan began in 2015 and continues today, and staff has completed $17.5 million in capital improvements as part of the city's adopted Capital Improvement Program (CIP) to date.

The city always seeks to meet its objectives regarding debt and secure the lowest cost for borrowing by securing bank qualification (“BQ”) status whenever possible. In addition, actual progress of capital construction is closely monitored to only issue debt at appropriate intervals to ensure construction cost needs are met without “over” subscribing. Utility debt proceeds from the 2016 bonds will be fully exhausted by the end of July, and the current adopted CIP anticipates additional utility construction of over $10 million through 2019. Despite some modest increases since our last issuance in 2016, the cost of municipal bonding continues to be low. Depending upon actual progress of the capital construction financed by the new debt, the city will likely delay the next planned utility bond issuance after this year until 2020.

On July 9, 2018, the city council adopted a resolution authorizing the issuance and sale of bonds by the city. The action proposed this evening is to issue that planned obligation for 2018, and the aggregate approximately $10 million General Obligation utility revenue bonds are to fund various water and sanitary sewer system improvements to be made during 2018 and 2019. As guided by the city’s debt policy, Council Policy 2.19, the issuance will qualify by IRS rules for bank qualified (BQ) status, which should lower the interest rate for the debt.

**Recommendation**

Staff recommends the city council adopt the attached resolution awarding the sale of approximately $10,000,000 General Obligation Utility Revenue Bonds, Series 2018A. Bids will be received prior to the council meeting on August 6, 2018, and staff will provide an addendum with results for the resolution and associated exhibits.

Submitted through:  
Geralyn Barone, City Manager

Originated by:  
Merrill King, Finance Director
Resolution No. 2018-

Resolution awarding the sale of General Obligation Utility Revenue Bonds, Series 2018A, in the original aggregate principal amount of $10,000,000; fixing their form and specifications; directing their execution and delivery; and providing for their payment

Be it resolved by the City Council of the City of Minnetonka, Minnesota as follows:

Section 1. Sale of Bonds.

1.01. Authorization for Sale of Bonds. Pursuant to a resolution adopted by the Council on June 9, 2018, the City authorized the sale of its General Obligation Utility Revenue Bonds, Series 2018A (the “Bonds”), to finance the construction of improvements to the City’s water system and sanitary sewer system (the “Project”), pursuant to Minnesota Statutes, Chapters 444 and 475, as amended (the “Act”).

1.02. Award to the Purchaser and Interest Rates. The proposals received for the purchase of the Bonds are attached hereto as EXHIBIT A. The proposal of ___________________ (the “Purchaser”) to purchase the Bonds of the City is hereby found and determined to be a reasonable offer and is hereby accepted, the proposal being to purchase the Bonds at a price of $___________ (par amount of $10,000,000, [plus original issue premium of $_______,] [less original issue discount of $________], less underwriter’s discount of $_________), plus accrued interest to date of delivery, if any, for Bonds bearing interest as follows:

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True interest cost: ____________________%

1.03. Purchase Contract. The sum of $________, being the amount proposed by the Purchaser in excess of $10,000,000, shall be credited to the Debt Service Fund hereinafter created or deposited in the Construction Fund hereinafter created, as determined by the Finance Director of the City in consultation with the City’s municipal advisor. The Finance Director is directed to deposit the good faith check or deposit of the Purchaser, pending completion of the sale of the Bonds, and to return the good faith deposits of the unsuccessful proposers. The Mayor and City Manager are directed to execute a contract with the Purchaser on behalf of the City.
1.04. **Terms and Principal Amounts of the Bonds.** The City will forthwith issue and sell the Bonds pursuant to the Act in the total principal amount of $10,000,000, originally dated September 5, 2018, in the denomination of $5,000 each or any integral multiple thereof, numbered No. R-1, upward, bearing interest as above set forth, and maturing serially on February 1 in the years and amounts as follows:

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1.05. **Optional Redemption.** The City may elect on February 1, 2026, and on any day thereafter to prepay Bonds due on or after February 1, 2027. Redemption may be in whole or in part and if in part, at the option of the City and in such manner as the City will determine. If less than all Bonds of a maturity are called for redemption, the City will notify DTC (as defined in Section 7 hereof) of the particular amount of such maturity to be prepaid. DTC will determine by lot the amount of each participant’s interest in such maturity to be redeemed and each participant will then select by lot the beneficial ownership interests in such maturity to be redeemed. Prepayments will be at a price of par plus accrued interest.

1.06. **Mandatory Redemption; Term Bond.** TO BE COMPLETED IF TERM BONDS REQUESTED BY THE PURCHASER: The Bonds maturing on February 1, 20___ and February 1, 20___ and shall hereinafter be referred to collectively as the “Term Bonds.” The principal amount of the Term Bond subject to mandatory sinking fund redemption on any date may be reduced through earlier optional redemptions, with any partial redemptions of the Term Bonds credited against future mandatory sinking fund redemptions of such Term Bonds in such order as the City shall determine. The Term Bonds are subject to mandatory sinking fund redemption and shall be redeemed in part at par plus accrued interest on February 1 of the following years and in the principal amounts as follows:

**Sinking Fund Installment Date**

| February 1, 20___ Term Bond | Principal Amount |

* **Maturity**

| February 1, 20___ Term Bond | Principal Amount |
Section 2. Registration and Payment.

2.01. Registered Form. The Bonds will be issued only in fully registered form. The interest thereon and, upon surrender of each Bond, the principal amount thereof, is payable by check or draft issued by the Registrar described herein.

2.02. Dates; Interest Payment Dates. Each Bond will be dated as of the last interest payment date preceding the date of authentication to which interest on the Bond has been paid or made available for payment, unless (i) the date of authentication is an interest payment date to which interest has been paid or made available for payment, in which case the Bond will be dated as of the date of authentication, or (ii) the date of authentication is prior to the first interest payment date, in which case the Bond will be dated as of the date of original issue. The interest on the Bonds is payable on February 1 and August 1 of each year, commencing August 1, 2019, to the registered owners of record thereof as of the close of business on the fifteenth day of the immediately preceding month, whether or not that day is a business day.

2.03. Registration. The City will appoint a bond registrar, transfer agent, authenticating agent and paying agent (the “Registrar”). The effect of registration and the rights and duties of the City and the Registrar with respect thereto are as follows:

(a) Register. The Registrar must keep at its principal corporate trust office a bond register in which the Registrar provides for the registration of ownership of Bonds and the registration of transfers and exchanges of Bonds entitled to be registered, transferred or exchanged.

(b) Transfer of Bonds. Upon surrender for transfer of a Bond duly endorsed by the registered owner thereof or accompanied by a written instrument of transfer, in form satisfactory to the Registrar, duly executed by the registered owner thereof or by an attorney duly authorized by the registered owner in writing, the Registrar will authenticate and deliver, in the name of the designated transferee or transferees, one or more new Bonds of a like aggregate principal amount and maturity, as requested by the transferor. The Registrar may, however, close the books for registration of any transfer after the fifteenth day of the month preceding each interest payment date and until that interest payment date.

(c) Exchange of Bonds. When Bonds are surrendered by the registered owner for exchange the Registrar will authenticate and deliver one or more new Bonds of a like aggregate principal amount and maturity as requested by the registered owner or the owner’s attorney in writing.

(d) Cancellation. Bonds surrendered upon transfer or exchange will be promptly cancelled by the Registrar and thereafter disposed of as directed by the City.
(e) **Improper or Unauthorized Transfer.** When a Bond is presented to the Registrar for transfer, the Registrar may refuse to transfer the Bond until the Registrar is satisfied that the endorsement on the Bond or separate instrument of transfer is valid and genuine and that the requested transfer is legally authorized. The Registrar will incur no liability for the refusal, in good faith, to make transfers which it, in its judgment, deems improper or unauthorized.

(f) **Persons Deemed Owners.** The City and the Registrar may treat the person in whose name a Bond is registered in the bond register as the absolute owner of the Bond, whether the Bond is overdue or not, for the purpose of receiving payment of, or on account of, the principal of and interest on the Bond and for all other purposes and payments so made to registered owner or upon the owner’s order will be valid and effectual to satisfy and discharge the liability upon the Bond to the extent of the sum or sums so paid.

(g) **Taxes, Fees and Charges.** The Registrar may impose a charge upon the owner thereof for a transfer or exchange of Bonds, sufficient to reimburse the Registrar for any tax, fee or other governmental charge required to be paid with respect to the transfer or exchange.

(h) **Mutilated, Lost, Stolen or Destroyed Bonds.** If a Bond becomes mutilated or is destroyed, stolen or lost, the Registrar will deliver any new Bond of like amount, number, maturity date and tenor in exchange and substitution for and upon cancellation of the mutilated Bond or in lieu of and in substitution for a Bond destroyed, stolen or lost, upon the payment of the reasonable expenses and charges of the Registrar in connection therewith; and, in the case of a Bond destroyed, stolen or lost, upon filing with the Registrar of evidence satisfactory to it that the Bond was destroyed, stolen or lost, and of the ownership thereof, and upon furnishing to the Registrar of an appropriate bond or indemnity in form, substance and amount satisfactory to it and as provided by law, in which both the City and the Registrar must be named as obligees. Bonds so surrendered to the Registrar will be cancelled by the Registrar and evidence of such cancellation must be given to the City. If the mutilated, destroyed, stolen or lost Bond has already matured or been called for redemption in accordance with its terms it is not necessary to issue a new Bond prior to payment.

(i) **Redemption.** In the event any of the Bonds are called for redemption, notice thereof identifying the Bonds to be redeemed will be given by the Registrar by mailing a copy of the redemption notice by first class mail (postage prepaid) to the registered owner of each Bond to be redeemed at the address shown on the registration books kept by the Registrar and by publishing the notice if required by law. Failure to give notice by publication or by mail to any registered owner, or any defect therein, will not affect the validity of the proceedings for the redemption of Bonds. Bonds so called for redemption will cease to bear interest after the specified redemption date, provided that the funds for the redemption are on deposit with the place of payment at that time.

2.04. **Appointment of Initial Registrar.** The City appoints Associated Trust Company, National Association, Green Bay, Wisconsin, as the initial Registrar. The Mayor and the City Manager are authorized to execute and deliver, on behalf of the City, a contract with the Registrar. Upon merger or consolidation of the Registrar with
another corporation, if the resulting corporation is a bank or trust company authorized by law to conduct such business, the resulting corporation is authorized to act as successor Registrar. The City agrees to pay the reasonable and customary charges of the Registrar for the services performed. The City reserves the right to remove the Registrar upon thirty (30) days’ notice and upon the appointment of a successor Registrar, in which event the predecessor Registrar must deliver all cash and Bonds in its possession to the successor Registrar and must deliver the bond register to the successor Registrar. On or before each principal or interest due date, without further order of the Council, the Finance Director must transmit to the Registrar monies sufficient for the payment of all principal and interest then due.

2.05. **Execution, Authentication and Delivery.** The Bonds will be prepared under the direction of the City Manager and executed on behalf of the City by the signatures of the Mayor and the City Manager, provided that those signatures may be printed, engraved or lithographed facsimiles of the originals. If an officer whose signature or a facsimile of whose signature appears on the Bonds ceases to be such officer before the delivery of a Bond, that signature or facsimile will nevertheless be valid and sufficient for all purposes, the same as if the officer had remained in office until delivery. Notwithstanding such execution, a Bond will not be valid or obligatory for any purpose or entitled to any security or benefit under this resolution unless and until a certificate of authentication on the Bond has been duly executed by the manual signature of an authorized representative of the Registrar. Certificates of authentication on different Bonds need not be signed by the same representative. The executed certificate of authentication on a Bond is conclusive evidence that it has been authenticated and delivered under this Resolution. When the Bonds have been so prepared, executed and authenticated, the City Manager will deliver the same to the Purchaser upon payment of the purchase price in accordance with the contract of sale heretofore made and executed, and the Purchaser is not obligated to see to the application of the purchase price.

2.06. **Temporary Bonds.** The City may elect to deliver in lieu of printed definitive Bonds one or more typewritten temporary Bonds in substantially the form set forth in EXHIBIT B attached hereto, with such changes as may be necessary to reflect more than one maturity in a single temporary bond. Upon the execution and delivery of definitive Bonds the temporary Bonds will be exchanged therefor and cancelled.

Section 3. **Form of Bond.**

3.01. **Execution of the Bonds.** The Bonds will be printed or typewritten in substantially the form as attached hereto as EXHIBIT B.

3.02. **Approving Legal Opinion.** The City Manager is directed to obtain a copy of the proposed approving legal opinion of Kennedy & Graven, Chartered, Minneapolis, Minnesota, and to cause the opinion to be printed on or accompany each Bond.
Section 4. Payment; Security; Pledges and Covenants.

4.01. **Debt Service Fund.** The Bonds are payable from the General Obligation Utility Revenue Bonds, Series 2018A Debt Service Fund (the “Debt Service Fund”) hereby created. The Debt Service Fund shall be administered by the Finance Director as a bookkeeping account separate and apart from all other funds maintained in the official financial records of the City. The City will continue to maintain and operate its Water Fund and Sanitary Sewer Fund to which will be credited all gross revenues of the water system and sanitary sewer system, respectively, and out of which will be paid all normal and reasonable expenses of current operations of such systems. Any balances therein are deemed net revenues (the “Net Revenues”) and will be transferred, from time to time, to the Debt Service Fund, which Debt Service Fund will be used only to pay principal of and interest on the Bonds and any other bonds similarly authorized. There will always be retained in the Debt Service Fund a sufficient amount to pay principal of and interest on all the Bonds, and the Finance Director must report any current or anticipated deficiency in the Debt Service Fund to the Council. There is also appropriated to the Debt Service Fund (i) capitalized interest financed from proceeds of the Bonds, if any; and (ii) amounts over the minimum purchase price of the Bonds paid by the Purchaser, to the extent designated for deposit in the Debt Service Fund in accordance with Section 1.03 hereof.

4.02. **Construction Fund.** The City hereby creates the General Obligation Utility Revenue Bonds, Series 2018A Construction Fund (the “Construction Fund”). Proceeds of the Bonds, less the appropriations made in Section 4.01 hereof, will be deposited in the Construction Fund to be used solely to defray expenses of the Project. When the Project is completed and the cost thereof paid, the Construction Fund is to be closed and any funds remaining may be deposited in the Debt Service Fund.

4.03. **City Covenants.** The Council covenants and agrees with the holders of the Bonds that so long as any of the Bonds remain outstanding and unpaid, it will keep and enforce the following covenants and agreements:

(a) The City will continue to maintain and efficiently operate the water system and sanitary sewer system as public utilities and conveniences free from competition of other like municipal utilities and will cause all revenues therefrom to be deposited in bank accounts and credited to the Water Fund and Sanitary Sewer Fund, respectively, as hereinabove provided, and will make no expenditures from those accounts except for a duly authorized purpose and in accordance with this resolution.

(b) The City will also maintain the Debt Service Fund as a separate account and will cause money to be credited thereto from time to time, out of Net Revenues from the water system and sanitary sewer system in sums sufficient to pay principal of and interest on the Bonds when due.

(c) The City will keep and maintain proper and adequate books of records and accounts separate from all other records of the City in which will be complete and correct entries as to all transactions relating to the water system and the sanitary sewer system and which will be open to inspection and copying by any Bondholder,
or the Bondholder’s agent or attorney, at any reasonable time, and it will furnish certified transcripts therefrom upon request and upon payment of a reasonable fee therefor, and said account will be audited at least annually by a qualified public accountant and statements of such audit and report will be furnished to all Bondholders upon request.

(d) The Council will cause persons handling revenues of the water system and sanitary sewer system to be bonded in reasonable amounts for the protection of the City and the Bondholders and will cause the funds collected on account of the operations of such systems to be deposited in a bank whose deposits are guaranteed under the Federal Deposit Insurance Law.

(e) The Council will keep the water system and sanitary sewer system insured at all times against loss by fire, tornado and other risks customarily insured against with an insurer or insurers in good standing, in such amounts as are customary for like plants, to protect the holders, from time to time, of the Bonds and the City from any loss due to any such casualty and will apply the proceeds of such insurance to make good any such loss.

(f) The City and each and all of its officers will punctually perform all duties with reference to the water system and sanitary sewer system as required by law.

(g) The City will impose and collect charges of the nature authorized by Section 444.075 of the Act, at the times and in the amounts required to produce Net Revenues adequate to pay all principal and interest when due on the Bonds and to create and maintain such reserves securing said payments as may be provided in this resolution.

(h) The Council will levy general ad valorem taxes on all taxable property in the City when required to meet any deficiency in Net Revenues.

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

4.05. Debt Service Coverage. It is hereby determined that the estimated collection of Net Revenues from the water system and sanitary sewer system of the City for the payment of principal and interest on the Bonds will produce at least five percent (5%) in excess of the amount needed to meet, when due, the principal and interest payments on the Bonds and that no tax levy is needed at this time.

4.06. Filing of Resolution. The City Manager is authorized and directed to file a certified copy of this resolution with the Taxpayer Services Division Manager of Hennepin County, Minnesota, and to obtain the certificate required by Section 475.63 of the Act.
Section 5. Authentication of Transcript.

5.01. **City Proceedings and Records.** The officers of the City are authorized and directed to prepare and furnish to the Purchaser and to the attorneys approving the Bonds certified copies of proceedings and records of the City relating to the Bonds and to the financial condition and affairs of the City, and such other certificates, affidavits and transcripts as may be required to show the facts within their knowledge or as shown by the books and records in their custody and under their control, relating to the validity and marketability of the Bonds, and such instruments, including any heretofore furnished, may be deemed representations of the City as to the facts stated therein.

5.02. **Certification as to Official Statement.** The Mayor, the City Manager, and the Finance Director are authorized and directed to certify that they have examined the Official Statement prepared and circulated in connection with the issuance and sale of the Bonds and that to the best of their knowledge and belief the Official Statement is a complete and accurate representation of the facts and representations made therein as of the date of the Official Statement.

5.03. **Other Certificates.** The Mayor, the City Manager, and the Finance Director are hereby authorized and directed to furnish to the Purchaser at the closing such certificates as are required as a condition of sale. Unless litigation shall have been commenced and be pending questioning the Bonds or the organization of the City or incumbency of its officers, at the closing the Mayor, the City Manager, and the Finance Director shall also execute and deliver to the Purchaser a suitable certificate as to absence of material litigation, and the Finance Director shall also execute and deliver a certificate as to payment for and delivery of the Bonds.

5.04. **Fiscal Agency Agreement.** The Mayor and the City Manager are hereby authorized and directed to execute and deliver the Fiscal Agency Agreement, between the City and the Registrar, in substantially the form now on file with the City Manager, subject to such modifications as the Mayor and the City Manager may deem appropriate, the execution thereof to constitute conclusive evidence of their approval of any and all modifications therein.

Section 6. Tax Covenants.

6.01. **Tax-Exempt Bonds.** The City covenants and agrees with the holders from time to time of the Bonds that it will not take or permit to be taken by any of its officers, employees or agents any action which would cause the interest on the Bonds to become subject to taxation under the Internal Revenue Code of 1986, as amended (the “Code”), and the Treasury Regulations promulgated thereunder, in effect at the time of such actions, and that it will take or cause its officers, employees or agents to take, all affirmative action within its power that may be necessary to ensure that such interest will not become subject to taxation under the Code and applicable Treasury Regulations, as presently existing or as hereafter amended and made applicable to the Bonds.

6.02. **Rebate.** The City will comply with requirements necessary under the Code to establish and maintain the exclusion from gross income of the interest on the Bonds under Section 103 of the Code, including without limitation requirements relating to
temporary periods for investments and limitations on amounts invested at a yield greater than the yield on the Bonds.

6.03. **Not Private Activity Bonds.** The City further covenants not to use the proceeds of the Bonds or to cause or permit them or any of them to be used, in such a manner as to cause the Bonds to be “private activity bonds” within the meaning of Sections 103 and 141 through 150 of the Code.

6.04. **Qualified Tax-Exempt Obligations.** The Bonds are hereby deemed to be “qualified tax-exempt obligations” within the meaning of Section 265(b)(3) of the Code, because the City determines that:

(a) the Bonds are not “private activity bonds” as defined in Section 141 of the Code;

(b) the City hereby designates the Bonds as “qualified tax-exempt obligations” for purposes of Section 265(b)(3) of the Code;

(c) the reasonably anticipated amount of tax-exempt obligations (other than any private activity bonds that are not qualified 501(c)(3) bonds) which will be issued by the City (and all subordinate entities of the City) during calendar year 2018 will not exceed $10,000,000; and

(d) not more than $10,000,000 of obligations issued by the City during calendar year 2018 have been designated for purposes of Section 265(b)(3) of the Code.

6.05. **Procedural Requirements.** The City will use its best efforts to comply with any federal procedural requirements which may apply in order to effectuate the designations made by this section.

Section 7. **Book-Entry System; Limited Obligation of City.**

7.01. **The Depository Trust Company.** The Bonds will be initially issued in the form of a separate single typewritten or printed fully registered Bond for each of the maturities set forth in Section 1.04 hereof. Upon initial issuance, the ownership of each Bond will be registered in the registration books kept by the Registrar in the name of Cede & Co., as nominee for The Depository Trust Company, New York, New York, and its successors and assigns (“DTC”). Except as provided in this section, all of the outstanding Bonds will be registered in the registration books kept by the Registrar in the name of Cede & Co., as nominee of DTC.

7.02. **Participants.** With respect to Bonds registered in the registration books kept by the Registrar in the name of Cede & Co., as nominee of DTC, the City, the Registrar and the Paying Agent will have no responsibility or obligation to any broker dealers, banks and other financial institutions from time to time for which DTC holds Bonds as securities depository (the “Participants”) or to any other person on behalf of which a Participant holds an interest in the Bonds, including but not limited to any responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co. or any Participant with respect to any ownership interest in the Bonds, (ii) the delivery to any Participant or any other person (other than a registered
owner of Bonds, as shown by the registration books kept by the Registrar) of any notice with respect to the Bonds, including any notice of redemption, or (iii) the payment to any Participant or any other person, other than a registered owner of Bonds, of any amount with respect to principal of, premium, if any, or interest on the Bonds. The City, the Registrar and the Paying Agent may treat and consider the person in whose name each Bond is registered in the registration books kept by the Registrar as the holder and absolute owner of such Bond for the purpose of payment of principal, premium and interest with respect to such Bond, for the purpose of registering transfers with respect to such Bonds, and for all other purposes. The Paying Agent will pay all principal of, premium, if any, and interest on the Bonds only to or on the order of the respective registered owners, as shown in the registration books kept by the Registrar, and all such payments will be valid and effectual to fully satisfy and discharge the City’s obligations with respect to payment of principal of, premium, if any, or interest on the Bonds to the extent of the sum or sums so paid. No person other than a registered owner of Bonds, as shown in the registration books kept by the Registrar, will receive a certificated Bond evidencing the obligation of this resolution. Upon delivery by DTC to the City Manager of a written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., the words “Cede & Co.” will refer to such new nominee of DTC; and upon receipt of such a notice, the City Manager will promptly deliver a copy of the same to the Registrar and Paying Agent.

7.03. Representation Letter. The City has heretofore executed and delivered to DTC a Blanket Issuer Letter of Representations (the “Representation Letter”) which shall govern payment of principal of, premium, if any, and interest on the Bonds and notices with respect to the Bonds. Any Paying Agent or Registrar subsequently appointed by the City with respect to the Bonds will agree to take all action necessary for all representations of the City in the Representation Letter with respect to the Registrar and Paying Agent, respectively, to be complied with at all times.

7.04. Transfers Outside Book-Entry System. In the event the City, by resolution of the Council, determines that it is in the best interests of the persons having beneficial interests in the Bonds that they be able to obtain Bond certificates, the City will notify DTC, whereupon DTC will notify the Participants, of the availability through DTC of Bond certificates. In such event the City will issue, transfer and exchange Bond certificates as requested by DTC and any other registered owners in accordance with the provisions of this Resolution. DTC may determine to discontinue providing its services with respect to the Bonds at any time by giving notice to the City and discharging its responsibilities with respect thereto under applicable law. In such event, if no successor securities depository is appointed, the City will issue and the Registrar will authenticate Bond certificates in accordance with this resolution and the provisions hereof will apply to the transfer, exchange and method of payment thereof.

7.05. Payments to Cede & Co. Notwithstanding any other provision of this Resolution to the contrary, so long as a Bond is registered in the name of Cede & Co., as nominee of DTC, payments with respect to principal of, premium, if any, and interest on the Bond and notices with respect to the Bond will be made and given, respectively in the manner provided in DTC’s Operational Arrangements, as set forth in the Representation Letter.
Section 8. Continuing Disclosure.

8.01. Execution of Continuing Disclosure Certificate. “Continuing Disclosure Certificate” means that certain Continuing Disclosure Certificate executed by the Mayor and City Manager and dated the date of issuance and delivery of the Bonds, as originally executed and as it may be amended from time to time in accordance with the terms thereof.

8.02. City Compliance with Provisions of Continuing Disclosure Certificate. The City hereby covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Certificate. Notwithstanding any other provision of this resolution, failure of the City to comply with the Continuing Disclosure Certificate is not to be considered an event of default with respect to the Bonds; however, any Bondholder may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the City to comply with its obligations under this section.

Section 9. Defeasance. When all Bonds and all interest thereon have been discharged as provided in this section, all pledges, covenants and other rights granted by this resolution to the holders of the Bonds will cease, except that the pledge of the full faith and credit of the City for the prompt and full payment of the principal of and interest on the Bonds will remain in full force and effect. The City may discharge all Bonds which are due on any date by depositing with the Registrar on or before that date a sum sufficient for the payment thereof in full. If any Bond should not be paid when due, it may nevertheless be discharged by depositing with the Registrar a sum sufficient for the payment thereof in full with interest accrued to the date of such deposit.
Adopted by the City Council of the City of Minnetonka, Minnesota, on August 6, 2018.

________________________________________
Brad Wiersum, Mayor

Attest:

________________________________________
David E. Maeda, City Clerk

**Action on this resolution:**

Motion for adoption:
Seconded by:
Voted in favor of:
Voted against:
Abstained:
Absent:
Resolution adopted.

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a meeting held on August 6, 2018.

________________________________________
David E. Maeda, City Clerk
EXHIBIT A

PROPOSALS
EXHIBIT B
FORM OF BOND

<table>
<thead>
<tr>
<th>No. R-_____</th>
<th>$________</th>
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</thead>
<tbody>
<tr>
<td></td>
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</tr>
</tbody>
</table>

UNITED STATES OF AMERICA
STATE OF MINNESOTA
COUNTY OF HENNEPIN
CITY OF MINNETONKA

GENERAL OBLIGATION UTILITY REVENUE REFUNDING BOND
SERIES 2018A

<table>
<thead>
<tr>
<th>Rate</th>
<th>Maturity</th>
<th>Date of Original Issue</th>
<th>CUSIP</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>February 1, 20__</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>September 5, 2018</td>
<td></td>
</tr>
</tbody>
</table>

Registered Owner: CEDE & CO.

The City of Minnetonka, Minnesota, a duly organized and existing municipal corporation in Hennepin County, Minnesota (the “City”), acknowledges itself to be indebted and for value received hereby promises to pay to the Registered Owner specified above or registered assigns, the principal sum of $___________ on the maturity date specified above, with interest thereon from the date hereof at the annual rate specified above (calculated on the basis of a 360-day year of twelve 30 day months), payable February 1 and August 1 in each year, commencing August 1, 2019, to the person in whose name this Bond is registered at the close of business on the fifteenth day (whether or not a business day) of the immediately preceding month. The interest hereon and, upon presentation and surrender hereof, the principal hereof are payable in lawful money of the United States of America by check or draft by Associated Trust Company, National Association, Green Bay, Wisconsin, as Bond Registrar, Paying Agent, Transfer Agent and Authenticating Agent, or its designated successor under the Resolution described herein. For the prompt and full payment of such principal and interest as the same respectively become due, the full faith and credit and taxing powers of the City have been and are hereby irrevocably pledged.

The City may elect on February 1, 2026, and on any day thereafter to prepay Bonds due on or after February 1, 2027. Redemption may be in whole or in part and if in part, at the option of the City and in such manner as the City will determine. If less than all Bonds of a maturity are called for redemption, the City will notify The Depository Trust Company (“DTC”) of the particular amount of such maturity to be prepaid. DTC will determine by lot the amount of each participant’s interest in such maturity to be redeemed and each participant will then select by lot the beneficial ownership interests in such maturity to be redeemed. Prepayments will be at a price of par plus accrued interest.

This Bond is one of an issue in the aggregate principal amount of $10,000,000 all of like original issue date and tenor, except as to number, maturity date, interest rate, and redemption privilege, all issued pursuant to a resolution adopted by the City Council on August 6, 2018 (the “Resolution”), for the purpose of providing money to defray the expenses incurred and to be incurred in making certain improvements to the water system and sanitary sewer system of the City, pursuant to and in full conformity with the home rule charter of the City and the Constitution.
and laws of the State of Minnesota, including Minnesota Statutes, Chapters 444 and 475, as amended. The principal hereof and interest hereon are payable from net revenues of the City’s water system and sanitary sewer system, as set forth in the Resolution to which reference is made for a full statement of rights and powers thereby conferred. The full faith and credit of the City are irrevocably pledged for payment of this Bond and the City Council has obligated itself to levy ad valorem taxes on all taxable property in the City in the event of any deficiency in net revenues pledged, which taxes may be levied without limitation as to rate or amount. The Bonds of this series are issued only as fully registered Bonds in denominations of $5,000 or any integral multiple thereof of single maturities.

The City Council has deemed designated the issue of Bonds of which this Bond forms a part as “qualified tax-exempt obligations” within the meaning of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended (the “Code”) relating to disallowance of interest expense for financial institutions and within the $10 million limit allowed by the Code for the calendar year of issue.

IT IS HEREBY CERTIFIED AND RECITED That in and by the Resolution, the City has covenanted and agreed that it will continue to own and operate the water system and sanitary sewer system free from competition by other like municipal utilities; that adequate insurance on said systems and suitable fidelity bonds on employees will be carried; that proper and adequate books of account will be kept showing all receipts and disbursements relating to the Water Fund and the Sanitary Sewer Fund, into which it will pay all of the gross revenues from the water system and sanitary sewer system, respectively; that it will also create and maintain a General Obligation Utility Revenue Bonds, Series 2018A Debt Service Fund, into which it will pay, out of the net revenues from the water system and sanitary sewer system a sum sufficient to pay principal of the Bonds and interest on the Bonds when due; and that it will provide, by ad valorem tax levies, for any deficiency in required net revenues of the water system and sanitary sewer system.

As provided in the Resolution and subject to certain limitations set forth therein, this Bond is transferable upon the books of the City at the principal office of the Bond Registrar, by the registered owner hereof in person or by the owner’s attorney duly authorized in writing, upon surrender hereof together with a written instrument of transfer satisfactory to the Bond Registrar, duly executed by the registered owner or the owner’s attorney; and may also be surrendered in exchange for Bonds of other authorized denominations. Upon such transfer or exchange the City will cause a new Bond or Bonds to be issued in the name of the transferee or registered owner, of the same aggregate principal amount, bearing interest at the same rate and maturing on the same date, subject to reimbursement for any tax, fee or governmental charge required to be paid with respect to such transfer or exchange.

The City and the Bond Registrar may deem and treat the person in whose name this Bond is registered as the absolute owner hereof, whether this Bond is overdue or not, for the purpose of receiving payment and for all other purposes, and neither the City nor the Bond Registrar will be affected by any notice to the contrary.

IT IS HEREBY CERTIFIED, RECITED, COVENANTED AND AGREED that all acts, conditions and things required by the charter and the Constitution and laws of the State of Minnesota, to be done, to exist, to happen and to be performed preliminary to and in the issuance of this Bond in order to make it a valid and binding general obligation of the City in accordance with its terms, have been done, do exist, have happened and have been performed as so required, and that the issuance of this Bond does not cause the indebtedness of the City to exceed any constitutional, charter, or statutory limitation of indebtedness.
This Bond is not valid or obligatory for any purpose or entitled to any security or benefit under the Resolution until the Certificate of Authentication hereon has been executed by the Bond Registrar by manual signature of one of its authorized representatives.

IN WITNESS WHEREOF, the City of Minnetonka, Hennepin County, Minnesota, by its City Council, has caused this Bond to be executed on its behalf by the facsimile or manual signatures of the Mayor and City Manager and has caused this Bond to be dated as of the date set forth below.

Dated: September 5, 2018

CITY OF MINNETONKA, MINNESOTA

(Facsimile) (Facsimile)
Mayor City Manager
CERTIFICATE OF AUTHENTICATION

This is one of the Bonds delivered pursuant to the Resolution mentioned within.

ASSOCIATED TRUST COMPANY,
NATIONAL ASSOCIATION

By ______________________________
Authorized Representative

ABBREVIATIONS

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

TEN COM -- as tenants in common

UNIF GIFT MIN ACT

_____ Custodian _____

(Cust) (Minor)

TEN ENT -- as tenants by entireties

under Uniform Gifts or Transfers to Minors Act, State of _______________

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

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

ASSIGNMENT

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

Dated: ______________________________

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

Signature Guaranteed:
NOTICE: Signature(s) must be guaranteed by a financial institution that is a member of the Securities Transfer Agent Medallion Program ("STAMP"), the Stock Exchange Medallion Program ("SEMP"), the New York Stock Exchange, Inc. Medallion Signatures Program ("MSP") or other such “signature guarantee program” as may be determined by the Registrar in addition to, or in substitution for, STAMP, SEMP or MSP, all in accordance with the Securities Exchange Act of 1934, as amended.

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

Name and Address:  

______________________________________________  

______________________________________________  

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

Please insert social security or other identifying number of assignee

______________________________________________

______________________________________________

PROVISIONS AS TO REGISTRATION

The ownership of the principal of and interest on the within Bond has been registered on the books of the Registrar in the name of the person last noted below.

<table>
<thead>
<tr>
<th>Date of Registration</th>
<th>Registered Owner</th>
<th>Signature of Officer of Registrar</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Cede &amp; Co.</td>
<td></td>
</tr>
<tr>
<td>Federal ID #13-2555119</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

STATE OF MINNESOTA  
COUNTY OF HENNEPIN  

CERTIFICATE OF TAXPAYER SERVICES DIVISION MANAGER AS TO REGISTRATION WHERE NO AD VALOREM TAX LEVY

I, the undersigned Taxpayer Services Division Manager of Hennepin County, Minnesota, hereby certify that a certified copy of a resolution adopted by the governing body of the City of Minnetonka, Minnesota (the “City”), on August 6, 2018, relating to the City’s General Obligation

529554v1 JAE MN140-199
Utility Refunding Bonds, Series 2018A, issued in the original aggregate principal amount of $10,000,000, dated September 5, 2018, has been filed in my office and said bonds have been entered on the register of obligations in my office.

WITNESS My hand and official seal this _____ day of __________ , 2018.

________________________________________
Taxpayer Services Division Manager
Hennepin County, Minnesota

(SEAL)

________________________________________
Deputy County Auditor
Brief Description  Resolution approving a conditional use permit, with wetland setback variance, for an accessory apartment at 2201 Hillside Circle

Recommendation  Adopt the resolution approving the permit, with wetland setback variance

Proposal

JDA Design Architects, on behalf of the property owners, is proposing to construct an accessory apartment at 2201 Hillside Circle. The proposed apartment would be constructed in the northeast corner of the home. The roughly 680 square foot apartment would include kitchen, living room, one bedroom, and bath. A new garage addition – which would serve the apartment – would be constructed adjacent to the existing garage.

The proposal requires approval of a conditional use permit and a wetland setback variance from 35 feet to 29 feet.

Planning Commission Hearing

The planning commission considered the request on its July 19, 2018 agenda. The commission report and associated plans are attached. Staff recommended approval of the request, finding:

- The proposed apartment would meet the intent of the accessory apartment ordinance. It would provide a housing type which affords privacy and independence, while maintaining the character of existing single-family neighborhoods.
- The apartment has been well designed. From the street, it would appear simply to be a third-stall garage addition. Given this, the apartment would not alter the single-family character of the area or substantially impact the surrounding neighborhood.
- The proposed apartment would meet all conditional use permit and variance standards.

At the commission meeting, a public hearing was opened to take comment but no one appeared to speak.

Planning Commission Recommendation

On a 5-0 vote, the commission recommended that the city council approve the proposal. Meeting minutes are attached.

Staff Recommendation

Staff recommends that the city council adopt the resolution approving a conditional use permit, with wetland setback variance, for an accessory apartment at 2201 Hillside Circle.
Meeting of Aug. 6, 2018

Subject: Alvero Residence, 2201 Hillside Circle

Through:  
  Geralyn Barone, City Manager  
  Julie Wischnack, AICP, Community Development Director  
  Loren Gordon, AICP, City Planner

Originator:  
  Susan Thomas, AICP, Assistant City Planner
Brief Description
Conditional use permit for an accessory apartment at 2201 Hillside Circle

Recommendation
Recommend the city council adopt the resolution approving the permit

Proposal
JDA Design Architects, on behalf of the property owners, is proposing to construct an accessory apartment at 2201 Hillside Circle. The proposed apartment would be constructed in the northeast corner of the home. The roughly 680 square foot apartment would include kitchen, living room, one bedroom, and bath. A new garage addition – which would serve the apartment – would be constructed adjacent to the existing garage.

The proposed apartment requires the following:

• Conditional Use Permit. By City Code §300.10 Subd.4(d), accessory apartments are conditionally-permitted uses in single-family residential zoning districts. By code, “an accessory apartment must be no more than 35 percent of the gross living area of the house or 950 square feet, whichever is smaller. The gross living area includes the accessory apartment. The city council may approve a larger area where the additional size would not substantially impact the surrounding neighborhood.” Based on the submitted plans, the proposed apartment would occupy roughly 15 percent of the living area of the home.

• Wetland Setback Variance. By City Code §300.23 Sub.8(b)(1), principal structures must maintain a 35-foot setback from wetland wedge. The proposed apartment would be set back 29 feet.

Staff Analysis
Staff finds that the proposed accessory apartment is reasonable.

1) The proposed apartment would meet the intent of the accessory apartment ordinance. It would provide a housing type which affords privacy and independence, while maintaining the character of existing single-family neighborhoods.

2) The apartment has been well designed. From the street, it would appear simply to be a third-stall garage addition. Given this, the apartment would not alter the single-family character of the area or substantially impact the surrounding neighborhood.

3) The proposed apartment would meet all conditional use permit standards. These standards are outlined in the supporting information section of this report.

4) The proposed apartment would meet setback variance standards:
• Though technically classified as a wetland, the area in question functionally serves as a ditch for conveyance of stormwater.

• The proposed apartment would not impact the function or aesthetic of the wetland.

• Just 80 square feet of the proposed apartment would encroach into the required setback.

Staff Recommendation

Recommend that the city council adopt the resolution approving a conditional use permit for an accessory apartment at 2201 Hillside Circle.

Originator: Susan Thomas, Principal Planner
Through: Loren Gordon, AICP, City Planner
## Supporting Information

<table>
<thead>
<tr>
<th>Surrounding Land Uses</th>
<th>All properties surrounding the subject lot are zoned and guided low density residential.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Planning</td>
<td>Guide Plan designation: low density residential</td>
</tr>
<tr>
<td></td>
<td>Zoning: R-1</td>
</tr>
<tr>
<td>CUP Standards</td>
<td>The proposed accessory apartment would meet the general conditional use permit standards as outlined in City Code 300.16 Subd.2.</td>
</tr>
<tr>
<td></td>
<td>1. The use is consistent with the intent of this ordinance;</td>
</tr>
<tr>
<td></td>
<td>2. The use is consistent with the goals, policies and objectives of the comprehensive plan;</td>
</tr>
<tr>
<td></td>
<td>3. The use does not have an undue adverse impact on governmental facilities, utilities, services or existing or proposed improvements; and</td>
</tr>
<tr>
<td></td>
<td>4. The use does not have an undue adverse impact on the public health, safety or welfare.</td>
</tr>
<tr>
<td>Finding:</td>
<td>The subject property is zoned R-1 and does not currently contain an accessory apartment. The proposed accessory unit would be the only apartment on the property.</td>
</tr>
<tr>
<td></td>
<td>The property owners currently reside in the home and would continue to do so once the apartment is constructed. As a condition of approval, the property owner must live in one of the dwelling units.</td>
</tr>
<tr>
<td>Finding:</td>
<td>The existing garage and new garage addition would provide adequate off-street parking for both housing units.</td>
</tr>
</tbody>
</table>
4. May be created by the conversion of living space within the house but not by conversion of garage space unless space is available for a two car garage on the lot without the need for a variance;

**Finding:** The accessory apartment would be new construction. It would not impact garage space.

5. An accessory apartment must be no more than 35 percent of the gross living area of the house or 950 square feet, whichever is smaller. The gross living area includes the accessory apartment. The city council may approve a larger area where the additional size would not substantially impact the surrounding neighborhood.

**Finding:** Based on the submitted plans, the accessory apartment would have roughly 680 square feet of living area; this would be 15 percent of the gross living area of the home.

6. Exterior changes to the house must not substantially alter the single family character of the structure;

**Finding:** The apartment has been well designed. From the street, it would appear to simply be a third-stall garage addition. Given this, the apartment would not alter the single-family character of the area or substantially impact the surrounding neighborhood.

7. No apartment to be created except in compliance with all applicable building, housing, electrical, plumbing, heating and related codes of the city;

**Finding:** The accessory apartment would be required to meet all codes at the time that a certificate of occupancy is issued.

8. To be permitted only where it is demonstrated that the accessory unit will not have an undue adverse impact on adjacent properties and where there will not be a substantial alteration of the character of the neighborhood; and

**Finding:** The apartment has been well designed. From the street, it would appear to simply be a third-stall garage addition. Given this, the apartment would not alter the single-family character of the area or substantially impact the surrounding neighborhood.

9. All other provisions of this ordinance relating to single family dwelling units to be met, unless specifically amended by this subdivision.

**Finding:** The accessory apartment would comply with all other ordinance standards.
Variance Standard  
A variance may be granted from the requirements of the zoning ordinance when: (1) it is in harmony with the general purposes and intent of the ordinance; (2) it is consistent with the comprehensive plan; and (3) when an applicant establishes that there are practical difficulties in complying with the ordinance. Practical difficulties mean that the applicant proposes to use a property in a reasonable manner not permitted by the ordinance, the plight of the landowner is due to circumstances unique to the property not created by the landowner, and, the variance if granted, would not alter the essential character of the locality. (City Code §300.07)

Neighborhood Comments  
The city sent notices to 29 area property owners and has received no comments to date.

Pyramid of Discretion

Motion Options  
The planning commission has three options:

1) Concur with staff’s recommendation. In this case a motion should be made recommending the city council approve the CUP.

2) Disagree with staff’s recommendation. In this case a motion should be made recommending denial of the request. This motion must include a statement as to why the request is denied.

3) Table the request. In this case a motion should be made to table the item. The motion should be made include a statement as to why the request is being tabled with direction to staff, the applicant or both.

Voting  
The planning commission will make a recommendation to the city council, which has final authority on the applicant’s request. Approval of the requested CUP requires the affirmative vote of a simple majority of councilmembers.

Deadline for Decision  
October 8, 2018
Project: Alvero Residence
Address: 2201 Hillside Cir
Written Statement

Rebecca Alvero is listed as an owner on this property located at 2201 Hillside Circle, Minnetonka Mn.

Mrs Alvero and her husband currently commute from Jackson Minnesota to live and care for their grade school aged granddaughter. Chris & Trina Ijama, (Co-Owners) the daughters parents travel for work extensively, and they would like to develop an accessory apartment as part of the existing home.

The concept is a small addition off of the east side of the home, which would incorporate an additional 1 car garage, a bedroom, bathroom and full kitchen.

It is the intent that this new accessory use is solely for the use of these family members, and shall conform to Chapter 3 Of the Zoning Regulations as it relates to housekeeping, living space, and as a unit of housing.

And in conformance with the following City of Minnetonka City Code Section 300.16.

Preservation of property values and maintenance of the character of existing single family neighborhood.

Be created only on property zoned for single family detached dwellings and no more than one apartment to be created in any dwelling;

Structures in which an accessory apartment is created to be owner-occupied, with the owner residing in either unit on a continuous basis except for temporary absences throughout the period during which the permit is valid;

Adequate off-street parking to be provided for both units of housing with such parking to be in a garage, carport or on a paved area specifically intended for that purpose but not within a required turnaround;

May be created by the conversion of living space within the house but not by conversion of garage space unless space is available for a two car garage on the lot without the need for a variance;

An accessory apartment must be no more than 35 percent of the gross living area of the house or 950 square feet, whichever is smaller. The gross living
area includes the accessory apartment. The city council may approve a larger area where the additional size would not substantially impact the surrounding neighborhood.

Exterior changes to the house must not substantially alter the single family character of the structure;

No apartment to be created except in compliance with all applicable building, housing, electrical, plumbing, heating and related codes of the city;

To be permitted only where it is demonstrated that the accessory unit will not have an undue adverse impact on adjacent properties and where there will not be a substantial alteration of the character of the neighborhood;

Respectfully Submitted.

JohnD Anderson, R.A., NCARB, applicant
JDA Design Architects.
CERTIFICATE OF SURVEY
AND PROPOSED ADDITION FOR:
JDA DESIGN

LEGEND

- Edge of Acres
- Property Boundary
- Building Envelope
- Lot
- Street
- Street Envelope Wall
- Easement Dividers
- Top of Wall
- Building
- Proposed Building
- Proposed Boundary
- Existing Building
- Estimated Property Line
- Unclassified

LOT 5

LOT 8

HILLSIDE CIRCLE

WETLAND

STOREY POINT

131.00 Plat

REQUIRES SETBACK VARIANCE.
3rd Floor

BEDROOM

BEDROOM

MASTER BEDROOM

CLOSET

CLOSET

CLOSET

OFFICE
Acting Chair Schack stated that an appeal of the planning commission’s decision must be made in writing to the planning division within 10 days.

B. Conditional use permit for an accessory apartment at 2201 Hillside Circle.

Acting Chair Schack introduced the proposal and called for the staff report.

Thomas reported. She recommended approval of the application based on the findings and subject to the conditions listed in the staff report.

In response to Acting Chair Schack’s question, Thomas explained that the conditional use permit is tied to the property, not the owner. A non-relative would also be allowed to occupy the accessory apartment.

In response to Hanson’s question, Thomas explained that the proposal’s encroachment into the setback would be caused by the apartment instead of the proposed garage addition. The character of the neighborhood also plays a role in determining if a variance would meet setback variance standards.

Acting Chair Schack confirmed with Colleran that one silver maple tree would be removed.

John Anderson, architect representing the applicant, stated that the report was put together well. He was available for questions.

Powers asked if the shed would remain. Mr. Anderson believed that it would remain.

The public hearing was opened. No testimony was submitted and the hearing was closed.

Powers visited the site and thought the proposal would fit well in the neighborhood. It would be visually appealing. He liked the photographic evidence provided. He supports the proposal.

Knight has visited the house a number of times. He spoke to the former owners who are very happy that the new owners want to build an addition to the house.

Acting Chair Schack felt similar proposals would become more common and would help improve the housing balance the city. She liked the design.

Knight moved, second by Powers, to recommend that the city council adopt the resolution approving a conditional use permit for an accessory apartment at 2201 Hillside Circle.

Knight, Powers, Sewall, Hanson, and Schack voted yes. Kirk was absent. Motion carried.
Dear Councilman Wagner,

I attended the planning commission hearing last night regarding the accessory apartment on Hillside to get an idea of the position of the planning commission had towards them.

I was pleased that the chair nicely summarized my thoughts- we are going to see a lot more of them and they are a desirable addition to the community. The plan for the Hillside property fits into the site particularly well and the design is well done. This was acknowledged by the commission as such. It was reassuring to see the planners and the commission are interested in maintaining the high standards for the community and moving towards new ideas.

This project comes up for a vote Aug 6th and I am hoping the council will follow the recommendation of the commission. BTW, I have no connection with the property owners.

Sincerely,
Jane White
2004 Runnymede Ct
Resolution 2018-

Resolution approving a condition use permit, with wetland setback variance, for an accessory apartment at 2201 Hillside Lane

Be it resolved by the City Council of the City of Minnetonka, Minnesota, as follows:

Section 1. Background.

1.01 JDA Design Architects, on behalf of the property owners, is proposing to construct an accessory apartment at 2201 Hillside Lane. The apartment requires:

1. A conditional use permit; and
2. A wetland setback variance from 35 feet to 29 feet.

1.02 The property at 2201 Hillside Lane is legally described as:

Lot 8, Block 3, RUNNYMEADE ESTATES, Hennepin County, Minnesota

1.03 On July 19, 2018, the planning commission held a hearing on the application. The applicant was provided the opportunity to present information to the commission. The commission considered all of the comments and the staff report, which are incorporated by reference into this resolution. The commission recommended that the city council approve the permit.

Section 2. Conditional Use Permit Standards.

2.01 City Code §300.16, Subd.2, lists the following general standards that must be met for granting of a conditional use permit:

1. The use is consistent with the intent of this ordinance;
2. The use is consistent with the goals, policies and objectives of the comprehensive plan;
3. The use does not have an undue adverse impact on governmental facilities, utilities, services or existing or proposed improvements; and
4. The use does not have an undue adverse impact on the public health, safety or welfare.
2.02  City Code §300.16, Subd.3(d) lists the following specific standards that must be met for granting of a conditional use permit for an accessory apartment:

1. To be created only on property zoned for single family detached dwellings and no more than one apartment to be created in any dwelling;

2. Structures in which an accessory apartment is created to be owner-occupied, with the owner residing in either unit on a continuous basis except for temporary absences throughout the period during which the permit is valid;

3. Adequate off-street parking to be provided for both units of housing with such parking to be in a garage, carport or on a paved area specifically intended for that purpose but not within a required turnaround;

4. May be created by the conversion of living space within the house but not by conversion of garage space unless space is available for a two car garage on the lot without the need for a variance;

5. An accessory apartment must be no more than 35 percent of the gross living area of the house or 950 square feet, whichever is smaller. The gross living area includes the accessory apartment. The city council may approve a larger area where the additional size would not substantially impact the surrounding neighborhood.

6. Exterior changes to the house must not substantially alter the single family character of the structure;

7. No apartment to be created except in compliance with all applicable building, housing, electrical, plumbing, heating and related codes of the city;

8. To be permitted only where it is demonstrated that the accessory unit will not have an undue adverse impact on adjacent properties and where there will not be a substantial alteration of the character of the neighborhood; and

9. All other provisions of this ordinance relating to single family dwelling units to be met, unless specifically amended by this subdivision.

Section 3. Variance Standard

3.01  By City Code §300.07 Subd. 1, a variance may be granted from the requirements of the zoning ordinance when: (1) the variance is in harmony with the general purposes and intent of this ordinance; (2) when the variance is consistent with the comprehensive plan; and (3) when the applicant establishes that there are practical difficulties in complying with the ordinance. Practical difficulties means: (1) The proposed use is reasonable; (2) the need for a variance is caused by circumstances unique to the property, not created by the property owner, and not
solely based on economic considerations; and (3) the proposed use would not alter the essential character of the surrounding area.

Section 4. Findings.

4.01 The proposed apartment would meet the general conditional use permit standards as outlined in City Code §300.16 Subd.2.

4.02 The proposed apartment would meet the general conditional use permit standards as outlined in City Code §300.16 Subd.3(d).

1. The subject property is zoned R-1 and does not currently contain an accessory apartment. The proposed accessory unit would be the only apartment on the property.

2. As a condition of this resolution, the property owners must live in one of the dwelling units.

3. The existing garage and proposed garage addition would provide adequate off-street parking for both housing units.

4. The accessory apartment would be new construction. It would not impact garage space.

5. Based on the submitted plans, the accessory apartment would have roughly 680 square feet of living area. This would be 15 percent of the gross living area of the home.

6. The apartment has been well designed. From the street, it would appear to simply be a third-stall garage addition. Given this, the apartment would not alter the single-family character of the area or substantially impact the surrounding neighborhood.

7. A building permit is required. As such, the apartment must comply with all applicable building, housing, electrical, plumbing, heating and related codes of the city.

8. The accessory apartment would comply with all other ordinance standards.

4.03 The proposal would meet the variance standard outlined in City Code §300.07 Subd. 1(a):

1. Purpose and Intent of the Ordinance. The intent of wetland setback requirement is to protect the function and aesthetic of the natural resource. The proposed 29 foot setback would meet this intent.

2. Consistent with Comprehensive Plan. The guiding principles in the comprehensive guide plan provide for maintaining, preserving and
enhancing existing single-family neighborhoods. The requested variance would preserve the residential character of the neighborhood and would provide an investment into a property to enhance its use.

3. Practical Difficulties. There are practical difficulties in complying with the ordinance:

a) Reasonableness and Character of Locality. The proposed 29-foot setback is reasonable and would not impact the function or aesthetic of the wetland. Just 80 square feet of the proposed apartment would encroach into the required setback and this area would be further from the wetland than an existing shed on the property.

b) Unique Circumstance. Though technically classified as a wetland, the area in question functionally serves as a ditch for conveyance of stormwater. This is a unique circumstance not common to all wetland areas within the city.

Section 5. City Council Action.

5.01 The above-described conditional use permit is approved, subject to the following conditions:

1. The accessory apartment must be constructed and maintained in substantial compliance with the floor plans and building elevations attached to the planning commission staff report, dated May 24, 2018.

2. Prior to issuance of building permit:

   a) A copy of this resolution must be recorded with Hennepin County.

   b) A conservation easement over the wetland and required 16.5 foot wetland buffer must be submitted for review and approval of the city attorney. This easement must be recorded with Hennepin County.

3. The addition, including crawl space, must have a minimum floor elevation of 940.0.

4. The structure must be owner-occupied. The property owners must reside in either living unit on a continuous basis except for temporary absences throughout the period during which the permit is valid.

5. All other provisions of the ordinance relating to single family dwelling units must be met, unless specifically amended by this resolution.

6. The city council may reasonably add or revise conditions to address any future unforeseen problems.
7. Any change to the approved use that results in a significant increase in traffic or a significant change in character would require a revised conditional use permit.

Adopted by the City Council of the City of Minnetonka, Minnesota, on August 6, 2018.

Brad Wiersum, Mayor

ATTEST:

David E. Maeda, City Clerk

ACTION ON THIS RESOLUTION:

Motion for adoption:
Seconded by:
Voted in favor of:
Voted against:
Abstained:
Absent:
Resolution adopted.

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a duly authorized meeting held on August 6, 2018.

David E. Maeda, City Clerk
Brief Description  Ordinance amending the Minnetonka Corporate Center Master Development Plan for a two-level parking ramp at 12501 Whitewater Drive

Recommendation  Introduce the ordinance and refer it to the planning commission

Proposal

Ryan Companies is proposing to construct a two-story parking ramp over an existing parking lot at 12501 Whitewater Drive. The ramp would be constructed in two phases. Phase 1, which would be constructed in the near term, would add a single-story parking deck. Phase 2, which would be constructed sometime in the future, would add an additional story to the parking ramp.

<table>
<thead>
<tr>
<th></th>
<th>TOTAL Parking Stalls</th>
</tr>
</thead>
<tbody>
<tr>
<td>Existing</td>
<td>666</td>
</tr>
<tr>
<td>With Phase 1</td>
<td>775</td>
</tr>
<tr>
<td>With Phase 2</td>
<td>1056</td>
</tr>
</tbody>
</table>

The proposal requires the following:

1. Master Development plan amendment for both Phases 1 and 2; and
2. Approval of final site and building plan for Phase 1.

Issue Identification

The submitted application proposes to add a parking ramp above the existing north parking lot. Based on preliminary review of the proposal, staff has identified the following issues for further analysis and discussion:

1. Design. The proposed parking ramp mass, relationship to the street, proximity to existing office buildings and compatibility with the surrounding area will be reviewed.
2. Traffic. Traffic implications associated with the increased parking will be considered.

The purpose of introducing an ordinance is to give the city council the opportunity to review a new application before referring it to the planning commission for a recommendation. Introducing an ordinance does not constitute an approval. The tentative planning commission date is August 16, 2018.

Staff Recommendation

1. Introduce the attached ordinance and refer it to the planning commission.
2. Approve or modify the attached notification area.
Meeting of Aug. 6, 2018

Subject: Minnetonka Corporate Center Ramp, 12700 Whitewater Drive

Submitted through:

   Geralyn Barone, City Manager
   Julie Wischnack, AICP, Community Development Director
   Loren Gordon, AICP, City Planner

Originated by:

   Susan Thomas, AICP, Assistant City Planner
Location Map

Project: Minnetonka Whitewater Ramp
Address: 12501 Whitewater Dr
Project Description

Minnetonka Whitewater LLC office building is located NE of the intersection of highway 494 and highway 62 in Minnetonka, MN. The existing facility is 163,055 gross square feet (“SF”). In order to meet the parking demands of its future tenants, Whitewater LLC would like to add a parking ramp above the existing north parking lot. Phase 1 of this parking expansion would be the construction of a 1-story parking ramp. In the future, the owner would like to have the ability to build up to 2-stories if necessary. In this submittal, Whitewater LLC would like site plan approval for the phase 1 parking ramp and PUD amendment to build up to a 2-story parking ramp.

Parking / Site Development

The site currently allows for 666 parking stalls for its users. The addition of a 1-story ramp will add 109 stalls (775 stalls total) and the addition of a 2-story ramp will add 291 stalls (1056 stalls total).

The proposed structure will be built on top of the existing north parking area and will tie into existing grades. The extent of the ramp will be within the existing curb line. As a result, this work will require minimal rework of existing conditions while providing extra parking that is within the setbacks for the site. Although elevator, stairs, and column spacing have been accounted for in this design, some site plan changes will occur once structural / MEP / architectural plans are complete.

All stalls and drive aisles have been sized to meet City of Minnetonka minimum parking standards. Minimal parking dimensions for 90° parking stalls are below:

<table>
<thead>
<tr>
<th>Angle</th>
<th>Curb Length</th>
<th>Stall Length</th>
<th>Aisle</th>
<th>Low-Turnover Parking Structure Aisle Width</th>
</tr>
</thead>
<tbody>
<tr>
<td>90°</td>
<td>8.5’</td>
<td>18’</td>
<td>26’</td>
<td>24’</td>
</tr>
</tbody>
</table>

Architecture

The proposed parking ramp will have at-grade parking with two parking levels above. The upper parking deck will be at 24’ above grade with an elevator and stair tower reaching to 36’ above grade. The upper level will also have site lighting.
The parking structure will be constructed of precast paneling which will be painted to reflect the nature of the existing buildings on the site. Using similar color tones and proportions will make this structure feel like a part of the overall site context. The east and west elevations will both provide vehicle access in and out of the parking structure.

**Grading and Drainage**

No regrading of the existing parking lot surface will be required as the proposed parking ramp will tie into the existing surface grades. As a result, drainage patterns will match existing conditions and no grading and drainage plan is provided in this submittal. There will also be minimal increase (<1 acre) to the overall impervious area. The final ramp design will incorporate parking deck drains to handle stormwater runoff which will then be discharged at grade to match existing conditions. The exact size, flow calculations, and location of these drains will be determined after a structural and MEP design is complete.

The project also meets the City of Minnetonka and MCWD stormwater requirements as outlined below:

- Per City of Minnetonka Water Resources Management Plan Appendix A – Design Guidelines and Standards dated January 2009, peak runoff flow rate and volume control are not required for redevelopment projects that increase the impervious area less than 1 acre.

- Per MCWD Criteria the site impervious surface is reduced by 0% and therefore requires the use of BMPs. In order to meet this requirement, the two existing storm catch basins that capture the north parking area will be replaced with sump manholes to provide extra treatment for the runoff from the ramp.

**Street and Utility Plan**

The proposed ramp will incorporate the use of parking deck drains to capture stormwater runoff and match existing drainage conditions of the north parking area. The exact size, flow calculations, and location of these drains will be determined after a structural and MEP design is complete. Since minimal existing conditions are impacted with the proposed ramp, no sanitary connection is provided for the internal ramp levels and the 1st floor. Two existing catchbasin’s that handle runoff from the north parking area will be replaced with sump manholes to provide extra treatment and meet MCWD requirements.

We are connecting into the watermain in the adjacent road to provide water for the ramp’s fire protection system. A utility plan is provided for reference but is subject to change once a full design is complete.
Landscape and Tree Plan

No tree or landscape plan is provided since there are no existing trees in the north parking area that will require removal and the proposed islands are to remain gravel on the first floor / garage level.

Site Lighting

Site lighting will also be provided on top of the proposed parking ramp. This will be designed with MEP and structural at a later date.
1. All existing utility locations shown are approximate. Contact "GOPHER STATE ONE CALL" (651-454-0002 or 1-800-252-1166 or 811) for utility locations 48 hours prior to excavation.
2. All erosion control measures to be installed prior to removals.
3. Contractor to coordinate activities with utility companies.
4. Contractor is responsible for all removals noted on plans. All permits, applications and fees are the responsibility of the contractor.
5. Contractor is responsible for protecting, or removing and reinstalling all fences, signs, and other miscellaneous items.
6. Care must be taken during construction and excavation to protect any survey monuments and property irons.
7. No grading is necessary for proposed improvements.

Removal Notes:

Legend:
- REMOVAL
- CURB
- BITUMINOUS
- GRAVEL
- LIGHTPOLE

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WWW.RYANCOMPANIES.COM

CITY SUBMITTAL
REMOVALS
PLAN

RYAN A+E, INC.
DRAWN BY
CHECKED BY
JOB NO.
DATE
NAME
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.

PRELIMINARY
NOT FOR CONSTRUCTION

MINNETONKA OFFICE PARKING RAMP
12501 WHITWATER DRIVE
MINNETONKA, MN 55343

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DRAWN BY
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DATE
NAME
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.

PRELIMINARY
NOT FOR CONSTRUCTION
1. CONTRACTOR MUST FIELD VERIFY THE LOCATIONS AND ELEVATIONS OF EXISTING CONDITIONS. THIS WOULD INCLUDE ALL EXISTING UTILITIES AND TOPOGRAPHIC FEATURES. THE CONTRACTOR SHALL IMMEDIATELY NOTIFY THE ENGINEER OF ANY DISCREPANCIES OR VARIATIONS FROM THE PLANS.

2. ALL DIMENSIONS SHOWN ARE TO FACE OF CURB, FACE OF BUILDING, EDGE OF PAVEMENT, OR TO PROPERTY LINE UNLESS OTHERWISE NOTED.

3. PARKING STALLS TO BE 4" WHITE STRIPING PER MNDOT SPECS.

4. TIE PROPOSED STRUCTURES INTO EXISTING GRADES. NO GRADING REWORK REQUIRED.
1. CONTRACTOR MUST FIELD VERIFY THE LOCATIONS AND ELEVATIONS OF EXISTING CONDITIONS. THIS WOULD INCLUDE ALL EXISTING UTILITIES AND TOPOGRAPHIC FEATURES. THE CONTRACTOR SHALL IMMEDIATELY NOTIFY THE ENGINEER OF ANY DISCREPANCIES OR VARIATIONS FROM THE PLANS.

2. ALL DIMENSIONS SHOWN ARE TO FACE OF CURB, FACE OF BUILDING, EDGE OF PAVEMENT, OR TO PROPERTY LINE UNLESS OTHERWISE NOTED.

3. PARKING STALLS TO BE 4" WHITE STRIPING PER MNDOT SPECS.

4. TIE PROPOSED STRUCTURES INTO EXISTING GRADES. NO GRADING REWORK REQUIRED.
1. PRIOR TO CONSTRUCTION, SUBCONTRACTORS WHOSE WORK REQUIRES EXCAVATION SHALL FIELD VERIFY ALL EXISTING UTILITY LOCATIONS AND INVERTS, SHOWN OR NOT SHOWN. ANY DISCREPANCY BETWEEN PLANS AND FIELD CONDITIONS SHALL BE REPORTED TO THE OWNER IMMEDIATELY.

2. THE UTILITY CONTRACTOR SHALL VERIFY THE LOCATIONS AND ELEVATIONS OF THE BUILDING PIPE SYSTEM PRIOR TO CONSTRUCTING SERVICE CONNECTIONS.

3. ALL UTILITY WORK SHALL BE PERFORMED IN ACCORDANCE WITH THE CITY OF MINNETONKA SPECIFICATIONS AND BUILDING PERMIT REQUIREMENTS.

4. FIELD ADJUST ALL CASTINGS TO MATCH FINAL GRADES.

5. THE UTILITY CONTRACTOR WILL BE RESPONSIBLE FOR OBTAINING THE APPROPRIATE SEWER, WATER AND PLUMBING PERMITS FROM THE CITY'S BUILDING DEPARTMENT.

6. GENERAL CONTRACTOR SHALL COORDINATE WORK WITH ALL UTILITY COMPANIES.
An ordinance amending the existing master development plan of
Minnetonka Corporate Center as it pertains to the property at
12501 Whitewater Drive

The City Of Minnetonka Ordains:

Section 1.

1.01 This ordinance hereby amends the Minnetonka Corporate Center master development plan as it pertains to the property at 12501 Whitewater Drive.

1.02 The site is legally described as:

Lot 2, Block 1, MINNETONKA CORPORATE CENTER

1.03 The amendment generally approves a two-level, two-phase parking ramp and specifically approves final site and building plans for the first level.

Section 2.

2.01 This ordinance is based on the following findings:

1. The proposal is generally consistent with the 2030 Comprehensive Guide Plan.

2. The amendment would not negatively impact the public health, safety, and welfare.

Section 3.

3.01 Approval is subject to the following conditions:

1. The site must be developed and maintained in substantial conformance with the following plans:

   • Site Plan, dated July 6, 2018
   • Utility Plan, dated July 6, 2018
   • Exterior Elevations, dated July 6, 2018

The above plans are hereby adopted as the master development plan for the 12501 Whitewater Drive.
2. Development must further comply with all conditions as outlined in City Council Resolution No. 2018-xxx, adopted by the Minnetonka City Council on __________, 2018.

Section 4. A violation of this ordinance is subject to the penalties and provisions of Chapter XIII of the city code.

Section 5. This ordinance is effective immediately.

Adopted by the city council of the City of Minnetonka, Minnesota, on ______________, 2018.

________________________________________
Brad Wiersum, Mayor

Attest:

________________________________________
David E. Maeda, City Clerk

Action on this Ordinance:

Date of introduction:  August 6, 2018
Date of adoption:
Motion for adoption:
Seconded by:
Voted in favor of:
Voted against:
Abstained:
Absent:
Ordnance adopted.

Date of publication:

I certify that the foregoing is a correct copy of an ordinance adopted by the city council of the City of Minnetonka, Minnesota at a regular meeting held on ______________, 2018.

________________________________________
David E. Maeda, City Clerk
Brief Description: Ordinance regarding senior citizens advisory board member terms

Recommended Action: Introduce the ordinance

Background

The city council has established various boards and commissions by ordinance. The city code sets out the duties of the boards and commissions and also establishes the terms of office for board and commission members. Under the current ordinance, senior citizens advisory board members serve two-year terms that begin on June 1. All other board and commissions that are established by ordinance have terms that expire on Jan. 31.

For ease of administration, city staff recommends that the terms of office for senior citizens advisory board members be changed to expire on Jan. 31. Staff has prepared an ordinance to accomplish that change. Rather than shorten the term of any existing member, the ordinance provides that the terms of all existing members are extended from May 31 to Jan. 31. Any member who does not wish to serve for an extended term would be able to resign at any time.

Recommendation

Introduce the ordinance.

Submitted through:
  Geralyn Barone, City Manager
  Perry Vetter, Assistant City Manager

Originated by:
  Corrine Heine, City Attorney
Ordinance No. 2018-
An Ordinance amending section 130.010 of the Minnetonka City Code; relating to the senior citizens advisory board

The City of Minnetonka Ordains:

Section 1. Section 130.010 of the Minnetonka City Code is amended to read as follows:

130.010. Appointment and term.

Terms will be for two years and will begin June 1 expiring January 31st. Seven members will be appointed in even-number years, and eight members will be appointed in odd-number years. The terms of members appointed prior to the effective date of this section will be extended from a term expiring on May 31st to a term expiring on January 31st.

Section 2. The provisions of this section 2 of this ordinance shall not be codified but shall apply to the terms of those members of the senior citizens advisory board who were appointed prior to the effective date of this ordinance. As to those members, their terms shall be extended eight months from terms originally expiring on May 31st to terms expiring on the January 31st following their original term expiration dates. To the extent that the extension causes a member to serve total consecutive years of eight years and eight months, the provisions of City Council Policy 1.2 are superseded by this ordinance.

Section 3. A violation of this ordinance is subject to the penalties and provisions of Chapter XIII of the city code.

Section 4. This ordinance is effective 30 days after publication.

Adopted by the city council of the City of Minnetonka, Minnesota, on ____________, 2018.

______________________________
Brad Wiersum, Mayor

Attest:

______________________________
David E. Maeda, City Clerk

Action on this Ordinance:

The stricken language is deleted; the underlined language is inserted.
Date of introduction:
Date of adoption:
Motion for adoption:
Seconded by:
Voted in favor of:
Voted against:
Abstained:
Absent:
Ordinance adopted.

Date of publication:

I certify that the foregoing is a true and correct copy of an ordinance adopted by the city council of the City of Minnetonka, Minnesota, at a meeting held on _____________, 2018.

_________________________________
David E. Maeda, City Clerk
City Council Agenda Item 13A
Meeting of Aug. 6, 2018

Brief Description  Surplus CDBG Block Grant Funds from program years 2015, 2016, and 2017

Recommendation  1) Hold the public hearing and adopt the resolution
                2) Approve the sub recipient agreement

Background

The Community Development Block Grant (CDBG) program, overseen by the U.S. Department of Housing and Urban Development (HUD), provides federal funds to implement a range of economic and community development activities.

CDBG activities are prioritized based upon the needs and benefits to the community, and the division of funding for each activity is determined at a local level based upon a community’s funding award from HUD. All funded activities must meet at least one of the three national objectives:

- Benefit low and moderate income persons
- Help prevent and/or eliminate slums and/or blight
- Meet other community development needs of particular urgency

The CDBG program year is July 1 to June 30, which differs from the city’s fiscal year of January 1 to December 31. Because of this, the city’s budget only reflects CDBG funds spent during its fiscal year, and does not reflect the true annual CDBG allocation. All finances and allocation years in this report refer to the federal program year.

On June 12, 2017, the city of Minnetonka elected to change its entitlement city status and join the Urban County CDBG Program. Under the Urban County CDBG program, the city is notified annually by Hennepin County of its CDBG allocation based on a formula used by HUD and the yearly grant dollars directed into the national CDBG program. The distribution formula is based on population, individuals with incomes at or below the poverty level, and the number of overcrowded housing units. This relationship was established through a Joint Cooperation Agreement between the county and the city, which allows the county to administer the grant dollars and ensure federal compliance. The Joint Urban County agreement applies to CDBG funding in 2018 through 2020. Under the Joint Urban County Election, the city received an allocation of $120,000 for program year 2018 that will be utilized for the city’s rehabilitation loans, administration, and fair housing activities.

Prior to the council action on June 12, 2017 the city of Minnetonka received its CDBG funds directly as an entitlement community. This means that the city was responsible for administration and distribution of received CDBG grant funds on behalf of itself. If there is unspent funds, or program income received from loans that have been repaid, the city continues to be responsible for managing and distributing those funds.
Minnetonka’s 2015, 2016, and 2017 Surplus CDBG from program years 2015, 2016, and 2017 Funding

Due to an increase in received program income ($63,028 in 2017), an increase in loan repayments, federal government shut downs, and staffing changes, the city accumulated a surplus of CDBG funds over program years 2015, 2016, and 2017. The current cash balance of the unspent funds is estimated at $199,392.

Staff is proposing to reallocate the surplus funds from 2015, 2016, and 2017 to the following activities outlined below:

<table>
<thead>
<tr>
<th>Component</th>
<th>Recommended Funding</th>
<th>Funding Source</th>
</tr>
</thead>
<tbody>
<tr>
<td>Small Projects Housing Rehabilitation</td>
<td>$11,392*</td>
<td>Surplus Funds from 2015, 2016, 2017</td>
</tr>
<tr>
<td>Business Relocation (Shady Oak Redevelopment)</td>
<td>$160,000</td>
<td>Surplus Funds from 2015, 2016, 2017</td>
</tr>
<tr>
<td>Administration</td>
<td>$28,000</td>
<td>Surplus Funds from 2015, 2016, 2017</td>
</tr>
</tbody>
</table>

*This is in addition to the 2018 allocation of $120,000 going towards the Small Projects Housing Rehabilitation Program.

Small Projects Housing Rehabilitation Program

The Small Projects Program offers ten-year, no interest deferred loans of up to $15,000 (formerly $5,000). The program focuses on urgent rehabilitation needs, providing more immediate assistance to homeowners. Minnetonka’s rehabilitation programs began in 1975 and since then, over 575 Minnetonka homeowners have benefited, utilizing over $4.1 million for home improvements. In order to qualify, applicants must have an income at or below 80 percent of area median income, adjusted for size (Table 1).

Table 1: 2018 Income Limits

<table>
<thead>
<tr>
<th>Household Size</th>
<th>80% of Median Income</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>$50,350</td>
</tr>
<tr>
<td>2</td>
<td>$57,550</td>
</tr>
<tr>
<td>3</td>
<td>$64,750</td>
</tr>
<tr>
<td>4</td>
<td>$71,900</td>
</tr>
<tr>
<td>5</td>
<td>$77,700</td>
</tr>
</tbody>
</table>

Below are general statistics for the rehabilitation programs for 2015 and 2016 projects:

- Typical repairs for small projects program: Furnace, windows, electrical, plumbing, small or partial roof repair
- Average age of structure: 50 years old
- Average income: $35,067 (41% of area median income for a family of four)
Business Relocation

In March 2015, the city purchased a commercial property at 4312 Shady Oak Road. The acquisition was part of the county road reconstruction project that significantly impacted the businesses at the site. On September 25, 2017 the city authorized the sale of the property at 4312 Shady Oak Road to Shady Oak Crossing Limited Partnership for the redevelopment of the property to an affordable housing development.

As part of the contract for private development, the city agreed to pay for costs associated with relocation of the businesses on the property, which is a federal requirement. The relocation is anticipated to occur in late 2018 or early 2019 and is an eligible activity for the use of CDBG funding. The recommended funding of $160,000 will not cover the entire expense related to relocation of the businesses but will allow the city to spend unused funds. The remainder of the costs are detailed in the city budget.

Administration

Federal regulations allow up to 20 percent of the city’s allocation for administrative responsibilities. However, it is anticipated that approximately 15 percent or approximately $28,000 is needed to cover administrative costs. Costs are based upon staff time to administer the CDBG program, including quarterly reports to HUD, the annual action plan based upon the surplus funds from program years prior to 2018, the end of the year report, and the small projects program.

As part of the Urban County CDBG program, Hennepin County administers any CDBG funds the city receives in 2018 and beyond. This includes the 2018, $120,000 anticipated allocation towards home rehabilitation loans. With the 2015-2017 surplus funds, the city will enter into an agreement with Hennepin County to manage the small projects rehabilitation program on the city’s behalf. Additionally, the city currently has a sub recipient agreement with Hennepin County to manage the 2018 small projects rehabilitation program funds. Minnetonka will manage the business relocation portion of the surplus funds.

HUD Compliance

To receive CDBG funds, the city must comply with the regulations of the program, which are enforced by HUD. HUD ensures compliance through an on-site audit, and monitoring of the city’s expenditure of funds. Per HUD guidelines, the city is required to maintain a total CDBG fund balance below 1.5 years’ worth of grant funds (which includes loan repayments and surplus funds not spent from prior years). If the city does not spend the required amount, future allocations could be reduced and past allocations could be forfeited.

With the projected 2018 allocation of $120,000 and the 2015-2017 surplus funds balance of $199,392 the city has a CDBG fund balance of $319,392. In order for the city to meet the timeliness spend down requirement in 2019, and not risk forfeiting funds, the city must spend $139,392 by May 1, 2019. Hennepin County has advised city staff that they do not have capacity to take on an additional $319,392 for home rehabilitation dollars. This is why city staff is proposing to allocate a large amount towards business relocation.
Future CDBG Funding

For many years, there has been discussion at the federal level regarding the future of CDBG funding. As outlined in the Economic Improvement Program, it is anticipated CDBG funding will continue to decrease and will no longer be available at some future time. Staff will continue to engage with HUD representatives on the future of CDBG funding, so as more information is known, city staff can plan accordingly.

Recommendation

Staff recommends the city council adopt the following related to CDBG funds and authorize the mayor and city manager to approve non-substantive changes to the related documents.

1) Hold the public hearing on the use of 2015, 2016, and 2017 CDBG funds,
2) Adopt the resolution reallocating the 2015, 2016, and 2017 CDBG funds,
3) Approve the agreement between Hennepin County and the city of Minnetonka to administer the 2015, 2016, and 2017 Small Projects Rehabilitation funds on behalf of the city.

Submitted through:
  Geralyn Barone, City Manager
  Julie Wischnack, AICP, Community Development Director
  Alisha Gray, Economic Development and Housing Manager

Originated by:
  Rob Hanson, Economic Development Coordinator

Attachments:
  2018 Action Plan Draft
  County Sub recipient Agreement
Executive Summary

AP-05 Executive Summary - 91.200(c), 91.220(b)

1. Introduction

Beginning with the 2006 program year, the City of Minnetonka opted to become a CDBG entitlement community, and receives its allocation of CDBG funds directly from the U.S. Department of Housing and Urban Development. Starting in PY 2018, the City of Minnetonka has joined the Hennepin County Urban County Election. This action plan refers only to the previously allocated funds that remain from program years prior to 2018.

2. Summarize the objectives and outcomes identified in the Plan

This could be a restatement of items or a table listed elsewhere in the plan or a reference to another location. It may also contain any essential items from the housing and homeless needs assessment, the housing market analysis or the strategic plan.

In general, the city's objectives with the CDBG program are to fund programming which provides availability/accessibility of decent housing (through housing rehabilitation).

3. Evaluation of past performance

This is an evaluation of past performance that helped lead the grantee to choose its goals or projects.

Due to the limited amount of CDBG funds received, the city carefully considers each project to make sure that it will meet as many housing and community development needs as possible.

4. Summary of Citizen Participation Process and consultation process

Summary from citizen participation section of plan.

The City of Minnetonka will publish the action plan and make available for public comment 30 days prior to a public hearing by Minnetonka City Council.

Since this action plan applies to previously allocated funds, the public participation process has been employed multiple times and informed the decisions made on the use of those funds.

5. Summary of public comments
This could be a brief narrative summary or reference an attached document from the Citizen Participation section of the Action Plan.

6. Summary of comments or views not accepted and the reasons for not accepting them

7. Summary
PR-05 Lead & Responsible Agencies - 91.200(b)

1. Agency/entity responsible for preparing/administering the Action Plan

The following are the agencies/entities responsible for preparing the Action Plan and those responsible for administration of each grant program and funding source.

<table>
<thead>
<tr>
<th>Agency Role</th>
<th>Name</th>
<th>Department/Agency</th>
</tr>
</thead>
<tbody>
<tr>
<td>CDBG Administrator</td>
<td>MINNETONKA</td>
<td>Community Development</td>
</tr>
</tbody>
</table>

Table 1 – Responsible Agencies

Narrative

The City of Minnetonka administers the city's CDBG program, but we may enter into an agreement with Hennepin County or other governmental entity to administer the CDBG programming for us.

Action Plan Public Contact Information

For questions regarding this Action Plan, please contact the City of Minnetonka Community Development Department at 952-939-8200.
AP-10 Consultation - 91.100, 91.200(b), 91.215(l)

1. Introduction

As a part of developing the Action Plan, the city relied upon its past experience managing its CDBG programming.

Provide a concise summary of the jurisdiction’s activities to enhance coordination between public and assisted housing providers and private and governmental health, mental health and service agencies (91.215(l)).

The city looks to Hennepin County to assist in this coordination. Where appropriate, the city may refer organizations and services agencies to each other to coordinate efforts.

Describe coordination with the Continuum of Care and efforts to address the needs of homeless persons (particularly chronically homeless individuals and families, families with children, veterans, and unaccompanied youth) and persons at risk of homelessness.

This coordination is completed by the Minneapolis/Hennepin County Continuum of Care and the Office to End Homelessness.

Describe consultation with the Continuum(s) of Care that serves the jurisdiction’s area in determining how to allocate ESG funds, develop performance standards for and evaluate outcomes of projects and activities assisted by ESG funds, and develop funding, policies and procedures for the operation and administration of HMIS

This coordination is completed by the Minneapolis/Hennepin County Continuum of Care and the Office to End Homelessness.

2. Agencies, groups, organizations and others who participated in the process and consultations
### Table 2 – Agencies, groups, organizations who participated

<table>
<thead>
<tr>
<th></th>
<th>Agency/Group/Organization</th>
<th>Agency/Group/Organization Type</th>
<th>What section of the Plan was addressed by Consultation?</th>
<th>Briefly describe how the Agency/Group/Organization was consulted. What are the anticipated outcomes of the consultation or areas for improved coordination?</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Senior Community Services (SCS)</td>
<td>Services-Elderly Persons</td>
<td>Non-Homeless Special Needs</td>
<td>Through Hennepin County and the city’s annual non-profit funding review.</td>
</tr>
<tr>
<td>2</td>
<td>INTERCONGREGATIONAL COMMUNITIES ASSOCIATION</td>
<td>Services - Housing</td>
<td>Non-Homeless Special Needs</td>
<td>Through Hennepin County and the city's annual non-profit funding review.</td>
</tr>
</tbody>
</table>

**Identify any Agency Types not consulted and provide rationale for not consulting**

N/A

**Other local/regional/state/federal planning efforts considered when preparing the Plan**

<table>
<thead>
<tr>
<th>Name of Plan</th>
<th>Lead Organization</th>
<th>How do the goals of your Strategic Plan overlap with the goals of each plan?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Continuum of Care</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
City of Minnetonka Comprehensive Plan | City of Minnetonka | The city's comprehensive plan lays out development of the city for the next 30 years. It also identifies affordable housing efforts within the city, which may be impacted by the city's CDBG efforts.

<table>
<thead>
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<th>Name of Plan</th>
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<th>How do the goals of your Strategic Plan overlap with the goals of each plan?</th>
</tr>
</thead>
<tbody>
<tr>
<td>City of Minnetonka Comprehensive Plan</td>
<td>City of Minnetonka</td>
<td>The city's comprehensive plan lays out development of the city for the next 30 years. It also identifies affordable housing efforts within the city, which may be impacted by the city's CDBG efforts.</td>
</tr>
</tbody>
</table>

Table 3 - Other local / regional / federal planning efforts

**Narrative**

Since the city was previously part of the Hennepin County Consortium, the city plans to work closely with Hennepin County and other partners in the implementation of the city's part of the plan.
AP-12 Participation - 91.401, 91.105, 91.200(c)

1. Summary of citizen participation process/Efforts made to broaden citizen participation

   Summarize citizen participation process and how it impacted goal-setting

The city of Minnetonka has a participation plan which calls for the Action Plan to be available for public comment 30 days prior its submission to HUD.

The city of Minnetonka will hold a public hearing prior to the identification of annual projects and activities to be funded. This public hearing will take place before proposed projects and activities are submitted to HUD for inclusion in the Annual Action Plan. Notice of the public hearing is properly published in the official local newspaper as well as on the city's website. For the 2018 Action Plan, the city's public hearing was held on August 6th, 2018.

Additionally, the city works and meets regularly with those looking to provide new benefits for low and moderate income persons. This could be any public service agency or a developer looking to provide new housing.

Citizen Participation Outreach

<table>
<thead>
<tr>
<th>Sort Order</th>
<th>Mode of Outreach</th>
<th>Target of Outreach</th>
<th>Summary of response/attendance</th>
<th>Summary of comments received</th>
<th>Summary of comments not accepted and reasons</th>
<th>URL (If applicable)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Public Hearing</td>
<td>Non-targeted/broad community</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Newspaper Ad</td>
<td>Non-targeted/broad community</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Table 4 – Citizen Participation Outreach
Expected Resources

AP-15 Expected Resources - 91.420(b), 91.220(c)(1,2)

Introduction

The following provides information on other sources of funds that are used for community development and housing programs within the City of Minnetonka, in addition to CDBG funds. Federal resources help to leverage a number of other state, regional, and private resources including resources.

Anticipated Resources

<table>
<thead>
<tr>
<th>Program</th>
<th>Source of Funds</th>
<th>Uses of Funds</th>
<th>Expected Amount Available Year 1</th>
<th>Narrative Description</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>Annual Allocation: $</td>
<td>Program Income: $</td>
</tr>
<tr>
<td>CDBG</td>
<td>public-federal</td>
<td>Acquisition Admin and Planning Economic Development Housing Public Improvements Public Services</td>
<td>0</td>
<td>$6,564</td>
</tr>
</tbody>
</table>

This is the balance of the surplus funds from years 2015, 2016, and 2017 CDBG funds.

Table 5 - Expected Resources – Priority Table

Explain how federal funds will leverage those additional resources (private, state and local funds), including a description of how matching requirements will be satisfied
When possible, federal funds are leveraged with additional resources. For the housing rehabilitation program, homeowners will use their own funds with the CDBG funds, and they may also (if qualified) receive additional funds through a city housing rehabilitation loan program.

**If appropriate, describe publically owned land or property located within the jurisdiction that may be used to address the needs identified in the plan**

In March 2015, the city purchased a commercial property at 4312 Shady Oak Road. The acquisition was part of the county road reconstruction project that significantly impacted the businesses at the site. On September 25, 2017 the city authorized the sale of the property at 4312 Shady Oak Road to Shady Oak Crossing Limited Partnership for the redevelopment of the property to an affordable housing development.

As part of the contract for private development, the city agreed to pay for costs associated with relocation of the businesses on the property, which is a federal requirement. The relocation is anticipated to occur in late 2018 or early 2019 and is an eligible activity for the use of CDBG funding. The vacated site is slated to be redeveloped into an affordable housing complex.

**Discussion**

In addition to the $199,392 which is currently available to commit. The City of Minnetonka has an additional $44,469 in funds which are allocated and in the process of being spent, but not yet currently drawn.
## Annual Goals and Objectives

**AP-20 Annual Goals and Objectives - 91.420, 91.220(c)(3)&(e)**

### Goals Summary Information

<table>
<thead>
<tr>
<th>Sort Order</th>
<th>Goal Name</th>
<th>Start Year</th>
<th>End Year</th>
<th>Category</th>
<th>Geographic Area</th>
<th>Needs Addressed</th>
<th>Funding</th>
<th>Goal Outcome Indicator</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Housing rehabilitation</td>
<td>2018</td>
<td>2019</td>
<td>Affordable Housing</td>
<td>City-Wide</td>
<td>Preserve/Create Single Family Homeownership</td>
<td>CDBG:$11,392</td>
<td>Homeowner Housing Rehabilitation: 2 Households Housing Unit</td>
</tr>
<tr>
<td>2</td>
<td>Homeowner education</td>
<td>2015</td>
<td>2019</td>
<td>Affordable Housing Non-Housing Community Development</td>
<td></td>
<td>Preserve/Create Single Family Homeownership Support Education, Outreach and Services</td>
<td>CDBG:</td>
<td>Public service activities for Low/Moderate Income Housing Benefit: 20 Households Assisted Other: 65 Other</td>
</tr>
<tr>
<td>3</td>
<td>Senior Services</td>
<td>2015</td>
<td>2019</td>
<td>Non-Housing Community Development</td>
<td></td>
<td>Support Education, Outreach and Services</td>
<td>CDBG:</td>
<td>Public service activities other than Low/Moderate Income Housing Benefit: 120 Persons Assisted</td>
</tr>
<tr>
<td>4</td>
<td>Emergency Assistance</td>
<td>2015</td>
<td>2019</td>
<td>Non-Housing Community Development</td>
<td></td>
<td>Support Education, Outreach and Services</td>
<td>CDBG:</td>
<td>Public service activities other than Low/Moderate Income Housing Benefit: 110 Persons Assisted</td>
</tr>
<tr>
<td>5</td>
<td>Family Services</td>
<td>2015</td>
<td>2019</td>
<td>Non-Housing Community Development</td>
<td></td>
<td>Support Education, Outreach and Services</td>
<td>CDBG:</td>
<td>Public service activities other than Low/Moderate Income Housing Benefit: 250 Persons Assisted</td>
</tr>
</tbody>
</table>
### Table 6 – Goals Summary

<table>
<thead>
<tr>
<th>Sort Order</th>
<th>Goal Name</th>
<th>Start Year</th>
<th>End Year</th>
<th>Category</th>
<th>Geographic Area</th>
<th>Needs Addressed</th>
<th>Funding</th>
<th>Goal Outcome Indicator</th>
</tr>
</thead>
<tbody>
<tr>
<td>6</td>
<td>Fair housing</td>
<td>2015</td>
<td>2019</td>
<td>Non-Housing Community Development</td>
<td></td>
<td>Support Education, Outreach and Services</td>
<td>CDBG:</td>
<td></td>
</tr>
<tr>
<td>7</td>
<td>Business Assistance</td>
<td>2015</td>
<td>2019</td>
<td>Non-Housing Community Development</td>
<td></td>
<td>Stimulate Economic Development</td>
<td>CDGB: $160,000</td>
<td>Businesses Assisted: 5 through relocation assistance.</td>
</tr>
</tbody>
</table>

### Goal Descriptions

<table>
<thead>
<tr>
<th>1</th>
<th>Goal Name</th>
<th>Housing rehabilitation</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Goal Description</td>
<td>The housing rehabilitation program will offer deferred loans to those throughout the city that meet the income guidelines.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>2</th>
<th>Goal Name</th>
<th>Senior Services</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Goal Description</td>
<td>A public service provider will chore and home making services to qualifying seniors living within the city.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>3</th>
<th>Goal Name</th>
<th>Homeowner education</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Goal Description</td>
<td>A public service provider will provide various homeowner classes (first time homebuyer, foreclosure prevention and reverse mortgage) to qualifying persons living in the city.</td>
</tr>
<tr>
<td>Goal Name</td>
<td>Goal Description</td>
<td></td>
</tr>
<tr>
<td>-----------------</td>
<td>-------------------------------------------------------------------------------------------------------------------------------------------------</td>
<td></td>
</tr>
<tr>
<td><strong>4</strong> Emergency Assistance</td>
<td>A public service that will provide emergency assistance for housing and utility payments for qualifying households living in the city.</td>
<td></td>
</tr>
<tr>
<td><strong>5</strong> Family Services</td>
<td>A public service provide will offer one-on-one assistance (such as information and referral, job search, youth counseling and others) to qualifying households and individuals living within the city.</td>
<td></td>
</tr>
<tr>
<td><strong>6</strong> Fair housing</td>
<td>The fair housing activities include coordination with the Hennepin County Consortium Fair Housing Implementation Council to do outreach, education, and enforcement of fair housing.</td>
<td></td>
</tr>
</tbody>
</table>
| **7** Business Assistance | Business assistance would be provided through  
   • Business relocation assistance                                  |
AP-35 Projects - 91.420, 91.220(d)

Introduction

As determined at the August 6th, 2018 council meeting, and adopted by Minnetonka City Council Resolution No. 2018________, the city of Minnetonka will undertake activities related to housing rehabilitation, public services, fair housing, and program administration.

<table>
<thead>
<tr>
<th>#</th>
<th>Project Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Housing Rehabilitation</td>
</tr>
<tr>
<td>2</td>
<td>Business Assistance</td>
</tr>
<tr>
<td>3</td>
<td>Administration</td>
</tr>
</tbody>
</table>

Table 7 – Project Information

Describe the reasons for allocation priorities and any obstacles to addressing underserved needs
AP-38 Project Summary

Project Summary Information
<table>
<thead>
<tr>
<th></th>
<th>Project Name</th>
<th>Target Area</th>
<th>Goals Supported</th>
<th>Needs Addressed</th>
<th>Funding</th>
<th>Description</th>
<th>Target Date</th>
<th>Estimate the number and type of families that will benefit from the proposed activities</th>
<th>Location Description</th>
<th>Planned Activities</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Housing Rehabilitation</td>
<td>City-Wide</td>
<td>Housing rehabilitation</td>
<td>Preserve/Create Single Family Homeownership</td>
<td>CDBG: $11,392</td>
<td>The city or a sub recipient will undertake a deferred housing rehabilitation loan program. In most cases the maximum loan amount will be $15,000. The program focuses on repairs such as furnaces, roofs, windows and other smaller projects.</td>
<td>6/30/2019</td>
<td>Approximately 1 household at 80% AMI or below is expected to be assisted through the program. All will own their own home.</td>
<td>City-wide</td>
<td>Housing rehab.</td>
</tr>
<tr>
<td>2</td>
<td>Business Assistance</td>
<td>Shady Oak Station Area</td>
<td>Business Assistance</td>
<td>Mitigating displacement damages to businesses, Encouraging future economic development in blighted areas</td>
<td>CDBG: $160,000</td>
<td>Provision of moving expenses and relocation costs for existing business tenants.</td>
<td>6/30/19</td>
<td>The funding will enable staff to assist businesses to move and reduce costs associated with displacement.</td>
<td>Shady Oak Station Area</td>
<td>Business relocation, approx. 5 businesses</td>
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<tr>
<td>3</td>
<td>Administration</td>
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<td>Administration</td>
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<td><strong>Target Area</strong></td>
<td>City-Wide</td>
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<td><strong>Goals Supported</strong></td>
<td>Administration</td>
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<td><strong>Needs Addressed</strong></td>
<td>Ensuring grant funds are appropriately managed</td>
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<tr>
<td><strong>Funding</strong></td>
<td>CDBG: $28,000</td>
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<tr>
<td><strong>Description</strong></td>
<td>Administration costs for the program year</td>
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<td><strong>Target Date</strong></td>
<td>6/30/2019</td>
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<td><strong>Estimate the number and type of families that will benefit from the proposed activities</strong></td>
<td>This will benefit all residents of the city</td>
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<td><strong>Location Description</strong></td>
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<tr>
<td><strong>Planned Activities</strong></td>
<td>Administration of the Small Projects Program and sub recipient grants.</td>
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</tbody>
</table>
AP-50 Geographic Distribution - 91.420, 91.220(f)

Description of the geographic areas of the entitlement (including areas of low-income and minority concentration) where assistance will be directed

All programs will be provided on a city-wide basis.

Geographic Distribution

<table>
<thead>
<tr>
<th>Target Area</th>
<th>Percentage of Funds</th>
</tr>
</thead>
<tbody>
<tr>
<td>City of Minnetonka</td>
<td>100%</td>
</tr>
</tbody>
</table>

Table 8 - Geographic Distribution

Rationale for the priorities for allocating investments geographically

Because there are no concentrations of poverty or other significant factors, all programs are available city-wide.

Discussion
AP-85 Other Actions - 91.420, 91.220(k)

Introduction

In an effort to further the city’s efforts in assisting low and moderate income households, the following are additional actions in which the city provides or participates in.

Actions planned to address obstacles to meeting underserved needs

The City is in contact on a regular basis with a number of nonprofit agencies, which coordinate and provide assistance for those that have underserved needs. In the next year, the City will continue to be in contact with these agencies to learn about the underserved need in the community and how the City can help to meet these needs.

Actions planned to foster and maintain affordable housing

Maintaining, preserving, and adding to the City’s affordable housing stock has been a priority for the City. Through the use of CDBG funds, the housing rehabilitation programs have allowed low-income homeowners to stay in their homes, yet maintain the quality of the unit, adding to the affordability of the unit. Additionally, the City works with the West Hennepin Affordable Housing Land Trust (WHAHLT) to purchase homes in the City and preserve them as permanently affordable. To date, there are 52 WHAHLT homes located within the City. Finally, both the City and developers of new housing work together to include up to 20 percent of affordable housing in their developments, and also to maintain its long-term affordability.

Furthermore, the City of Minnetonka adopted an HRA levy for funds to be used for the Minnetonka Home Enhancement housing rehabilitation program targeting those at 80 to 120 percent area median income. This program will allow those who need repairs done on their home, many of which are older, more affordable homes, but may be over the income limit for the city’s CDBG housing rehabilitation programs to access funds.

Actions planned to reduce lead-based paint hazards

Participants in the City’s Housing Rehabilitation Program who reside in a house built prior to 1978 are required to have their home tested for lead-based paint prior to receiving a loan. The lead-based paint testing is completed by Hennepin County. If lead hazards are found, they must be corrected and the home must pass a clearance test before the project is considered complete. If the clearance test does not pass, the corrections and re-testing must continue until the home does pass. This process is completed following HUD regulations and guidelines.

Much of Minnetonka’s housing stock was built between the 1960’s and the present day. Thus, many
homes in Minnetonka may have lead-based paint. Participants in the City's housing rehabilitation programs many times live in these older homes, thus, it is through these programs that the City is able to identify lead-based paint hazards and ensure the abatement of lead-based paint.

**Actions planned to reduce the number of poverty-level families**

The City of Minnetonka will continue to work with and support organizations that deal with the needs of those who are low-income, including CAPSH, ICA, Senior Community Services, HOME Line and Resource West. The City relies upon these organizations to provide critical resources and information to help those below the poverty line to gain financial stability.

**Actions planned to develop institutional structure**

The city of Minnetonka is already working with many of the public service agencies within the community. These agencies either have a city representative who sits on their board of directors or the two organizations work together as part of a larger, broad-based effort. Since these relationships are working well, there are no planned changes.

**Actions planned to enhance coordination between public and private housing and social service agencies**

For over 15 years, the city has been providing funds (non-CDBG funds) for two affordable housing rental complexes in the city which provide services to assist residents in becoming self-sufficient. In both cases, the program managers connect on a daily basis with the social service agencies in order to gain assistance for their residents. This effort has then led to more connections being made between the housing complexes within the city and the social service agencies.

**Discussion**
Program Specific Requirements

AP-90 Program Specific Requirements - 91.420, 91.220(l)(1,2,4)

Introduction

Community Development Block Grant Program (CDBG)
Reference 24 CFR 91.220(l)(1)
Projects planned with all CDBG funds expected to be available during the year are identified in the Projects Table. The following identifies program income that is available for use that is included in projects to be carried out.

1. The total amount of program income that will have been received before the start of the next program year and that has not yet been reprogrammed $6,564
2. The amount of proceeds from section 108 loan guarantees that will be used during the year to address the priority needs and specific objectives identified in the grantee's strategic plan. 0
3. The amount of surplus funds from urban renewal settlements 0
4. The amount of any grant funds returned to the line of credit for which the planned use has not been included in a prior statement or plan 0
5. The amount of income from float-funded activities 0
Total Program Income: $6,564

Other CDBG Requirements

1. The amount of urgent need activities 0

2. The estimated percentage of CDBG funds that will be used for activities that benefit persons of low and moderate income. Overall Benefit - A consecutive period of one, two or three years may be used to determine that a minimum overall benefit of 70% of CDBG funds is used to benefit persons of low and moderate income. Specify the years covered that include this Annual Action Plan. 100.00%
Discussion
COUNTY SUBRECIPIENT AGREEMENT  
CITY OF MINNETONKA  
2015, 2016, 2017 COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

THIS AGREEMENT is made and entered into by and between the CITY OF MINNETONKA hereinafter referred to as "RECIPIENT," 14600 Minnetonka Blvd, Minnetonka, Minnesota, 55345 and the COUNTY OF HENNEPIN, STATE OF MINNESOTA, A-2400 Government Center, Minneapolis, Minnesota 55487 hereinafter referred to as "SUBRECIPIENT," said parties to this Agreement each being governmental units of the State of Minnesota, and is made pursuant to Minnesota Statutes, Section 471.59.

WITNESSETH

WHEREAS, the Federal Department of Housing and Urban Development approved Fiscal Years 2015, 2016, and 2017 Community Development Block Grant (CDBG) Program (Catalog of Federal Domestic Assistance (CFDA) number 14.218) entitlement allocations to the RECIPIENT under Title I of the Housing and Community Development Act of 1974, as amended (the "Act"), to carry out various community development activities, according to the implementing regulations at 24 CFR Part 570; and

WHEREAS, RECIPIENT wishes to enter into an Agreement with SUBRECIPIENT for approximately $13,000 plus future program income of Federal Fiscal Year 2015, 2016, 2017 CDBG funds ("Minnetonka 2015-2017 CDBG Funds") for the implementation of eligible community development activity/ies included in and a part of the Minnetonka 2018 Annual Action Plan, and further described in Exhibit 2 to this Agreement; and

WHEREAS, the SUBRECIPIENT agrees to assume and implement the approved activities identified in Exhibit 2, and the RECIPIENT agrees to reimburse the SUBRECIPIENT for said implementation in a total amount not to exceed $13,000 plus future program income.

NOW, THEREFORE, the parties hereunto do hereby agree as follows:

1. SCOPE OF SERVICES

   A. The SUBRECIPIENT shall expend all or any part of the Minnetonka 2015-2017 CDBG allocation only on those activities identified in Exhibit 2, subject to the requirements of this Agreement and the stipulations and requirements set forth in Exhibit 2 to this Agreement.

   B. The SUBRECIPIENT shall take all necessary actions, not only to comply with the stipulations as set out in Exhibit 2, but to comply with any requests by the RECIPIENT in that connection; it being understood that the RECIPIENT is responsible to the Department of Housing and Urban Development (HUD) for ensuring compliance with such requirements. The SUBRECIPIENT will conduct the activities identified in Exhibit 2 in the same manner in which it administers Minnetonka’s allocation under the Urban Hennepin County CDBG Rehabilitation Program and the Joint Cooperation Agreement. The SUBRECIPIENT also will promptly notify the RECIPIENT of any changes in the scope or character of the activity/ies which it is implementing.
C. SUBRECIPIENT shall submit all necessary documentation applicable to each specific activity as identified in Exhibit 2.

D. RECIPIENT will collect program income from PY2017 and earlier and inform SUBRECIPIENT at the start of each program year the amount allocated to this Agreement.

2. **TERM OF AGREEMENT**

The effective date of this Agreement is August 21, 2018. The termination date of this Agreement is June 30, 2028, or at such time as the activity/ies constituting part of this Agreement are completed prior thereto. Upon expiration, the SUBRECIPIENT shall relinquish to the RECIPIENT all program funds unexpended and uncommitted, if applicable, and all accounts receivable attributable to the use of CDBG funds for the activities described in Exhibit 2, as may be amended.

3. **AMENDMENTS TO AGREEMENT**

Any material alterations, variations, modifications or waivers of provisions of this Agreement shall only be valid when reduced to writing as an Amendment to this Agreement signed, approved and properly executed by the authorized representatives of the parties. An exception to this process will be in amending Exhibit 2 to this Agreement.

Amendments will be considered in accordance with the Citizen Participation Plan as outlined in the 2015-2019 Hennepin County Consortium Consolidated Plan.

4. **PAYMENT OF CDBG FUNDS**

The RECIPIENT agrees to provide the SUBRECIPIENT with CDBG funds not to exceed the City of Minnetonka authorized budget to enable the SUBRECIPIENT to carry out its CDBG-eligible activity/ies as described in Exhibit 2. It is understood that the RECIPIENT shall be held accountable to HUD for the lawful expenditure of CDBG funds under this Agreement. The RECIPIENT shall therefore make no payment of CDBG funds to the SUBRECIPIENT and draw no funds from HUD/U.S. Treasury on behalf of a SUBRECIPIENT activity/ies, prior to having received a request for reimbursement for expenses incurred from the SUBRECIPIENT. In addition to the request form, SUBRECIPIENT shall provide copies of all documents and records needed to ensure that the SUBRECIPIENT has complied with the appropriate regulations and requirements.

All invoices shall be sent to the central invoice receiving address supplied by the RECIPIENT.

5. **LIABILITY**

A. The SUBRECIPIENT and RECIPIENT do hereby agree to be responsible for their own acts and omissions related to this Agreement.

B. This section shall in no way be intended by the parties hereto as a waiver of the
6. **CONFLICT OF INTEREST**

   A. In the procurement of supplies, equipment, construction, and services by the SUBRECIPIENT, the conflict of interest provisions in 24 CFR 85.36 and OMB Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Grant Guidance), as applicable, shall apply.

   B. In all other cases, the provisions of 24 CFR 570.611 shall apply.

7. **DATA PRIVACY**

   The parties agree to abide by the provisions of the Minnesota Government Data Practices Act and all other applicable state and federal laws, rules, and regulations relating to data privacy or confidentiality, and as any of the same may be amended.

8. **SUSPENSION OR TERMINATION**

   A. If the SUBRECIPIENT materially fails to comply with any term of this Agreement or so fails to administer the work as to endanger the performance of this Agreement, this shall constitute noncompliance and default. Unless the SUBRECIPIENT’S default is excused by the RECIPIENT, the RECIPIENT may take one or more of the actions prescribed in 24 CFR 85.43, including the option of immediately canceling this Agreement in its entirety.

   B. The RECIPIENT’S failure to insist upon strict performance of any provision or to exercise any right under this Agreement shall not be deemed a relinquishment or waiver of the same. Such consent shall not constitute a general waiver or relinquishment throughout the entire term of the Agreement.

   C. This Agreement may be cancelled with or without cause by either party upon thirty (30) days’ written notice according to the provisions in 24 CFR 85.44.

   D. CDBG funds allocated to the SUBRECIPIENT under this Agreement may not be obligated or expended by the SUBRECIPIENT following such date of termination. Any funds allocated to the SUBRECIPIENT under this Agreement which remain unobligated or unspent following such date of termination shall automatically revert to the RECIPIENT.

9. **REVERSION OF ASSETS**

   Upon expiration or termination of this Agreement, the SUBRECIPIENT shall transfer to the RECIPIENT any CDBG funds on hand or in the accounts receivable attributable to the use of CDBG funds.

10. **PROCUREMENT**

   The SUBRECIPIENT shall be responsible for procurement of all supplies, equipment, services, and construction necessary for implementation of its activity/ies. Procurement shall be carried out in accordance with the "Common Rule" Administrative Requirements...
in 24 CFR 85 and all provisions of the CDBG Regulations in 24 CFR 570 (the most restrictive of which will take precedence). The SUBRECIPIENT shall prepare, or cause to be prepared, all advertisements, negotiations, notices, and documents, enter into all contracts, and conduct all meetings, conferences, and interviews as necessary to ensure compliance with the above described procurement requirements. The RECIPIENT shall provide advice and staff assistance to the SUBRECIPIENT to carry out its CDBG-funded activity/ies.

11. **ENVIRONMENTAL REVIEW**

   The SUBRECIPIENT shall determine the level of environmental review required under 24 CFR Part 58 and maintain the environmental review record on all activities. The RECIPIENT shall be responsible for providing necessary information, relevant documents, and public notices to the SUBRECIPIENT to accomplish this task.

12. **LABOR STANDARDS, EMPLOYMENT, AND CONTRACTING**

   The SUBRECIPIENT shall be responsible for the preparation of all requests for HUD for wage rate determinations on CDBG activities undertaken by the SUBRECIPIENT. The SUBRECIPIENT shall notify the RECIPIENT prior to initiating any activity, including advertising for contractual services which will include costs likely to be subject to the provisions on Federal Labor Standards and Equal Employment Opportunity and related implementing regulations. The RECIPIENT will provide technical assistance to the SUBRECIPIENT to ensure compliance with these requirements.

   No CDBG funds shall be used directly or indirectly to employ, award contracts to, or otherwise engage the services of, or fund any contractor or SUBRECIPIENT during any period of debarment, suspension, or placement in ineligibility status under the provisions of 24 CFR Part 24. Prior to awarding a contract, the SUBRECIPIENT shall promptly notify the RECIPIENT. The RECIPIENT shall be responsible for determining the status of the contractor under this requirement, and shall notify SUBRECIPIENT if the contractor is or is not prohibited from doing business with the Federal government as a result of debarment or suspension proceedings.

13. **PROGRAM INCOME**

   If the SUBRECIPIENT generated any program income, as defined in 24 CFR 570.500, as a result of the expenditure of CDBG funds, the provisions of 24 CFR 570.504 shall apply, as well as the following specific stipulations:

   A. The RECIPIENT will notify the SUBRECIPIENT annually of any program income. When program income is generated by an activity only partially assisted with CDBG funds, the income shall be prorated to reflect the percentage of CDBG funds used.

   B. RECIPIENT has the responsibility for monitoring and reporting to HUD on the use of any such program income. The responsibility for appropriate record keeping by the SUBRECIPIENT and reporting to the RECIPIENT by the SUBRECIPIENT on the use of such program income is hereby recognized by the SUBRECIPIENT. The RECIPIENT agrees to provide technical assistance to the SUBRECIPIENT in establishing an appropriate and proper record-keeping and reporting system, as required by HUD.
14. **ADMINISTRATIVE REQUIREMENTS**

The uniform administrative requirements delineated in 24 CFR 570.502 and any and all administrative requirements or guidelines promulgated by the RECIPIENT shall apply to all activities undertaken by the SUBRECIPIENT provided for in this Agreement and to any program income generated therefrom.

15. **AFFIRMATIVE ACTION AND EQUAL OPPORTUNITY**

A. During the performance of this Agreement, the SUBRECIPIENT will follow its Affirmative Action Policy and the Hennepin County Commissioners' Policies Against Discrimination, no person shall be excluded from full employment rights or participation in, or the benefits of, any program, service or activity on the grounds of race, color, creed, religion, age, sex, disability, marital status, sexual orientation, public assistance status, or national origin; and no person who is protected by applicable federal or state laws against discrimination shall be otherwise subjected to discrimination.

B. The SUBRECIPIENT will furnish all information and reports required to comply with the provisions of 24 CFR Part 570 and all applicable state and federal laws, rules, and regulations pertaining to discrimination and equal opportunity.

16. **NON-DISCRIMINATION BASED ON DISABILITY**

A. The SUBRECIPIENT shall comply with Section 504 of the Rehabilitation Act of 1973, as amended, to ensure that no otherwise qualified individual with a handicap, as defined in Section 504, shall, solely by reason of his or her handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination by the SUBRECIPIENT receiving assistance from the RECIPIENT under Section 106 and/or Section 108 of the Housing and Community Development Act of 1974, as amended.

B. When and where applicable, the SUBRECIPIENT shall comply with, and make best efforts to have its third party providers comply with, Public Law 101-336 Americans With Disabilities Act of 1990, Title I "Employment," Title II "Public Services" - Subtitle A, and Title III "Public Accommodations and Services Operated By Private Entities" and all ensuing federal regulations implementing said Act.

17. **LEAD-BASED PAINT**

The SUBRECIPIENT shall comply with the Lead-Based Paint notification, inspection, testing and abatement procedures established in 24 CFR 570.608.

18. **LOBBYING**

A. No federal appropriated funds have been paid or will be paid, by or on behalf of the SUBRECIPIENT, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal Grant, the making of
any Federal loan, the entering into of any cooperative agreement, and the
extension, continuation, renewal, amendment, or modification of any Federal
contract, grant, loan, or cooperative agreement.

B. If any funds other than Federal appropriated funds have been paid or will be paid to
any person for influencing or attempting to influence an officer or employee of any
agency, a Member of Congress, an officer or employee of Congress, or an
employee of a Member of Congress in connection with this Federal contract, grant,
loan, or cooperative agreement SUBRECIPIENT will complete and submit Standard
Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its
instructions.

19. **OTHER CDBG POLICIES**

The SUBRECIPIENT shall comply with the applicable section of 24 CFR 570.200,
particularly sections (b) (Special Policies Governing Facilities); (c) (Special Assessments);
(f) (Means of Carrying out Eligible Activities); and (j) (Faith-Based Activities).

20. **TECHNICAL ASSISTANCE**

The RECIPIENT agrees to provide technical assistance to the SUBRECIPIENT in the
form of oral and/or written guidance and on-site assistance regarding CDBG procedures
and project management. This assistance will be provided as requested by the
SUBRECIPIENT and at other times at the initiative of the RECIPIENT when new or
updated information concerning the CDBG Program is received by the RECIPIENT and
deemed necessary to be provided to the SUBRECIPIENT.

21. **RECORD-KEEPING**

The SUBRECIPIENT shall maintain records of the receipt and expenditure of all CDBG
funds, such records to be maintained in accordance with OMB Uniform Administrative
Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform
Grant Guidance) and the "Common Rule" Administrative Requirements in 24 CFR 85 and
in accordance with OMB Uniform Administrative Requirements, Cost Principles, and Audit
Requirements for Federal Awards (Uniform Grant Guidance), as applicable. All records
shall be made available upon request of the RECIPIENT for inspection/s and audit/s by
the RECIPIENT or its representatives. If a financial audit/s determines that the
SUBRECIPIENT has improperly expended CDBG funds, resulting in the U.S. Department
of Housing and Urban Development (HUD) disallowing such expenditures, the
RECIPIENT reserves the right to recover from the SUBRECIPIENT such disallowed
expenditures from non-CDBG sources. Audit procedures are specified below in Section
28 of this Agreement.

22. **ACCESS TO RECORDS**

The RECIPIENT shall have authority to review any and all procedures and all materials,
notices, documents, etc., prepared by the SUBRECIPIENT in implementation of this
Agreement, and the SUBRECIPIENT agrees to provide all information required by any
person authorized by the RECIPIENT to request such information from the
SUBRECIPIENT for the purpose of reviewing the same.
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SUBRECIPIENT EXECUTION

The Hennepin County Board of Commissioners having duly approved this Agreement on _____________ pursuant to Resolution No. _____________ and the proper County officials having signed this Agreement, the SUBRECIPIENT agrees to be bound by the provisions herein set forth.

Approved as to form:

____________________________
Assistant County Attorney
Date: ________________

COUNTY OF HENNEPIN
STATE OF MINNESOTA

By: ______________________________
Chair of Its County Board

ATTEST:

____________________________
Deputy/Clerk of County Board
Date: ______________________________

And:

____________________________
County Administrator
Date: ______________________________

And:

____________________________
Assistant County Administrator, Public Works
Date: ______________________________

Recommended for Approval:

____________________________
Director, Community Works
Date: ______________________________
RECIPIENT EXECUTION

RECIPIENT, having signed this Agreement, and the RECIPIENT’S governing body having authorized such approval and the proper city official having signed this Agreement, RECIPIENT agrees to be bound by the provisions of this Agreement.

By entering into this Agreement the RECIPIENT certifies that it is not prohibited from doing business with either the federal government or the State of Minnesota as a result of debarment or suspension proceedings.

RECIPIENT:
CITY OF MINNETONKA
(Place city seal here)
By: ________________________________
Its: Mayor
And: ______________________________
Its: City Manager
Date: ______________________________
DUNS #: 830143264

CITY MUST CHECK ONE:
The City is organized pursuant to:

☐ Plan A  ☐ Plan B  ☐ Charter
COUNTY SUBRECIPIENT AGREEMENT
CITY OF MINNETONKA
2015, 2016, 2017 COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

EXHIBIT 1
ASSURANCE AND CERTIFICATION

SUBRECIPIENT COMPLIANCE

SUBRECIPIENT shall comply with the Single Audit Act, OMB Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Grant Guidance). SUBRECIPIENT shall maintain a system of internal control over all programs in order to demonstrate compliance with the Single Audit Act, Uniform Grant Guidance and other pertinent laws and regulations. SUBRECIPIENT shall respond to audit findings, questioned costs or other compliance measures issues which may include taking requisite corrective action, executing necessary documents and other requirements;

If SUBRECIPIENT is a nonprofit organization, SUBRECIPIENT’s signature on this Agreement assures and certifies it has met federal, state and local requirements regarding SUBRECIPIENT’s financial management system.

SUBRECIPIENT is hereby notified of the following Federal Award Identification Information:

1. Subrecipient name (which must match registered name in DUNS): HENNEPIN COUNTY
2. Subrecipient's DUNS number (see § 200.32 Data Universal Numbering System (DUNS) number):
3. Federal Award Identification Number (FAIN):
4. Federal Award Date (see § 200.39 Federal award date):
5. Subaward Period of Performance Start and End Date: 9/1/2018 – 6/30/2027
6. Amount of Federal Funds Obligated by this action: $13,000
7. Total Amount of Federal Funds Obligated to the Subrecipient: $13,000
8. Total Amount of the Federal Award: $13,000
9. Federal award project description, as required to be responsive to the Federal Funding Accountability and Transparency Act (FFATA): See activities in Exhibit 2.
10. Name of Federal awarding agency, pass-through entity, and contact information for awarding official: U.S. Department of Housing and Urban Development, City of Minnetonka, Agray@eminnetonka.com
11. CFDA Number and Name; the pass-through entity must identify the dollar amount made available under each Federal award and the CFDA number at time of disbursement: 14.218, Community Development Block Grant
12. Identification of whether the award is R&D: Not R&D
   R&D means Research and Development. OMB Uniform Grant Guidance defines “Research” as the systematic study directed toward fuller scientific knowledge or understanding of the subject studied. “Development” is defined as the systematic use of knowledge or understanding gained from research.
13. Indirect cost rate for the Federal award (including if the de minimis rate is charged per § 200.414 Indirect (F&A) costs) and: Indirect costs not applicable.

14. Identification of whether the award is used as loans or loan guarantees: The award is not a loan or loan guarantee project

As applicable, SUBRECIPIENT shall confirm in writing that SUBRECIPIENT did not expend $750,000 or more in total federal funds in a fiscal year. If SUBRECIPIENT expends $750,000 or more of federal funds in a fiscal year, SUBRECIPIENT shall complete financial and compliance audits in accordance with the Single Audit Act and/or OMB Uniform Grant Guidance, as applicable. SUBRECIPIENT shall cooperate fully in the following:

1. During the term of this Agreement and as necessary after the expiration of this Agreement, to ensure compliance with applicable law, SUBRECIPIENT agrees to provide an annual audit report consistent with the provisions of the Single Audit Act and/or OMB Uniform Grant Guidance in accordance with government auditing standards, as applicable, within nine (9) months after SUBRECIPIENT’s fiscal year-end. The cost of an audit is not reimbursable from funds received through this Agreement.

2. SUBRECIPIENT shall provide all information requested by CITY and report as directed by CITY.

As applicable, SUBRECIPIENT shall maintain property records that include a description of the applicable property, a serial number or other identification number, the source of the property, who holds title, the acquisition date and cost of the property, the percentage of federal participation in the cost of the property, the location, use and condition of the property, and any ultimate disposition data, including the date of disposal and sale price of the property. SUBRECIPIENT shall make said records available to CITY within five (5) business days of CITY’s written request.

Failure to comply with the above requirements may result in forfeiture of funds. Without limiting any other remedies available at law, CITY reserves the right to recover from SUBRECIPIENT the full amount of any funds found to be improperly expended or otherwise disallowed.

We certify and assure that we are in compliance with the above conditions.

Specifically, our organization's financial management system provides for the following:

1. Accurate, current, and complete disclosure of the financial results of each federally sponsored project or program in accordance with the reporting requirements set forth in OMB Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Grant Guidance).

2. Records that identify adequately the source and application of funds for federally sponsored activities. These records contain information pertaining to federal awards, authorizations, obligations, unobligated balances, assets, outlays, and income.

3. Effective control over and accountability for all funds, property, and other assets. These assets are adequately safeguarded and are used solely for authorized purposes.

4. Comparison of actual outlays with budget amounts for each grant or other agreement and, whenever appropriate or required, comparisons of financial information with performance and unit cost data.
5. Procedures to minimize the elapsed time between the transfer of funds from the county to our organization and the disbursement of funds by our organization.

6. Procedures for determining the reasonableness, allowability, and allocability of costs in accordance with the provisions of the applicable federal cost principles and the terms of the grant or other agreement.

7. Accounting records that are supported by source documentation.

8. Annual audits by a firm of independent certified public accountants to ascertain the effectiveness of the financial management systems and internal procedures that we have established to meet the terms and conditions of the federal grants and other agreements. The audits are conducted on an organization-wide basis and include an appropriate sampling of federal agreements.

9. A systematic method to assure timely and appropriate resolution of audit findings and recommendations.

10. Organizations (subrecipients) that receive CDBG funds from us are required to comply with the financial management standards set forth in this certification.

This assurance and certification is given in connection with any and all CDBG funds received after the date this form is signed. This includes payments after such date for financial assistance approved before such date. The undersigned recognizes and agrees that any such assistance will be extended in reliance on the representations and agreements made in this assurance. This assurance and certification is binding on this organization, its subrecipients, and on the authorized official whose signature appears below.

______________________________________________
Date

HENNEPIN COUNTY

By: ___________________________________________
Name of Chief Financial Officer (please print)

______________________________________________
Signature of Chief Financial Officer
## County Subrecipient Agreement

City of Minnetonka

2015, 2016, 2017 Community Development Block Grant Program

### Exhibit 2

**Activities Administered by Subrecipient**

<table>
<thead>
<tr>
<th>Activity</th>
<th>Provider</th>
<th>CDBG National Objective</th>
<th>Anticipated Goal Outcomes</th>
<th>Required Documentation</th>
<th>Expenses Eligible for Reimbursement</th>
<th>Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>Housing Rehabilitation Assistance</td>
<td>Hennepin County</td>
<td>Low/Mod Housing</td>
<td>1 unit</td>
<td>Invoice(s) and proof of payment; participant summary information</td>
<td>Administration costs, activity costs</td>
<td>13,000</td>
</tr>
</tbody>
</table>

**Total**  
$13,000
Resolution No. 2018-XX

Resolution approving the projected use of surplus funds of program years 2015-2017 of the Community Development Block Grant program

Be it resolved by the City Council of the City of Minnetonka, Minnesota as follows:

Section 1. Background.

1.01. The City of Minnetonka previously applied to the U.S. Department of Housing and Urban Development for funding through the Community Development Block Grant (CDBG) program.

1.02. The City of Minnetonka has developed a proposal for the use of CDBG funds made available to it, and held a public hearing on August 6, 2018 to obtain views of citizens on local housing and community development needs, and the city’s proposed use of $199,392 surplus from years 2015-2017 CDBG allocations.

Section 2. Council Action.

2.01. The City Council hereby approves the following projects for funding for the years 2015-2017 surplus Community Development Block Grant program funds and authorizes submittal of the proposal to the U.S. Department of Housing and Urban Development. Should the final CDBG funding amount be different, the funding amounts will be adjusted on a pro-rata basis.

<table>
<thead>
<tr>
<th>Project</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Small Projects Program</td>
<td>$11,392</td>
</tr>
<tr>
<td>Business Assistance</td>
<td>$160,000</td>
</tr>
<tr>
<td>Administration</td>
<td>$28,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$199,392</strong></td>
</tr>
</tbody>
</table>

2.02. The mayor and city manager are authorized to execute such letters, agreements, and other documents as may be necessary to implement these actions.
Adopted by the City Council of the City of Minnetonka, Minnesota on August 6, 2018.

________________________________________
Brad Wiersum, Mayor

Attest:

________________________________________
David E. Maeda, City Clerk

**Action on this resolution:**

Motion for adoption:
Seconded by:
Voted in favor of:
Voted against:
Abstained:
Absent:

I hereby certify that the foregoing is true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a duly authorized meeting held on August 6, 2018.

________________________________________
David E. Maeda, City Clerk
Brief Description: Items related to grant funding agreements for Newport Midwest LLC, dba The Mariner, at 10400, 10500, and 10550 Bren Road E.

Recommendation:
1) Approve the Metropolitan Council Transit Oriented Design (TOD) grant program agreement and subrecipient agreement
2) Approve the Metropolitan Council LHIA grant agreement and subrecipient agreement
3) Adopt the resolution authorizing the use of Hennepin County Affordable Housing Incentive Funds (AHIF)

Background:
Newport Midwest, LLC is proposing a mixed income multifamily housing development located at 10400, 10500, and 10550 Bren Road East. The development will consist of 246 new units of rental housing ranging from studios to three bedroom apartments. This development is located 600 feet from the Opus SWLRT (Southwest Light Rail Transit) station. Plans include premium unit and common-space amenities, outdoor recreation spaces, and parking.

Metropolitan Council Grant Programs

The Metropolitan Council solicits annually for its four Livable Communities Act programs, which provide grants to cities. Newport Midwest, LLC submitted applications to the Metropolitan Council for two of the grant programs, The Livable Communities Demonstration Account - Transit Oriented Development (LCDA-TOD), and the Local Housing Incentives Account (LHIA).

The LCDA-TOD grants support innovative development and redevelopment that links housing, jobs, and services that demonstrate efficient and cost-effective use of land and infrastructure. Additionally, these grants are awarded to projects if they are located within one-half mile of LRT, BRT (Bus Rapid Transit), commuter rail, or a high frequency bus station and are within walking distance of major transit stops. In January 2018, the city was notified that the Mariner project was selected through this competitive process to receive a grant in the amount of $1,876,500 to assist with site acquisition, demolition, new sidewalks, and storm water management. The grant funds expire on Dec. 31, 2020.

The LHIA grant awards funding to communities for projects that create or preserve affordable owner-occupied or rental units to help municipalities meet their affordable housing goals. On Nov. 29, 2017 the city was notified that the Mariner was awarded $210,500 through this competitive process to assist with affordable housing production. The grant funds will expire on December 31, 2020.

The city of Minnetonka is identified as the grantee for both grants; therefore, the grant agreements with the Metropolitan Council must be executed with the city rather than Newport Midwest, LLC. The subrecipient agreements between the city and Newport Midwest, LLC further outline the terms of the grant award.
Hennepin County Affordable Housing Incentive Fund

The Hennepin County Housing and Redevelopment Authority (HCHRA) Board of Commissioners created the Affordable Housing Incentive Fund (AHIF) Program to work with municipalities, other government and nonprofit agencies, private and nonprofit housing developers, and lenders to encourage the preservation and/or creation of long-term affordable housing throughout Hennepin County.

In 2017, the AHIF program awarded a $400,000 loan to Newport Midwest, LLC to fund the development of 55 affordable rental units for Phase I in a mixed-income, mixed-use development near the planned SWLRT, of which four units will serve long-term homeless.

In order for Newport Midwest, LLC to use the AHIF funds in the city, a resolution must be adopted prior to the expenditure of funds allowing the participation of the HCHRA in the project.

Recommendation

Staff recommends the city council approve and adopt the following related to the Bren Road Development, a multi-family residential development by Newport Midwest, LLC, at 10400, 10500, and 10550 Bren Road E; and authorize city officials to approve non-substantive changes to the related documents:

1) The Demonstration Account Development Grant Program -TOD Program- (Metropolitan Livable Communities Act Grant Agreement) with Metropolitan Council for TOD funds, and the subrecipient agreement between the City of Minnetonka and Newport Midwest, LLC.

2) The Local Housing Incentives Account (Livable Communities Act Grant Agreement) with Metropolitan Council for LHIA funds, and the subrecipient agreement between the City of Minnetonka and Newport Midwest, LLC.

3) The resolution for the 2018 funds authorizing the use of Hennepin County Affordable Housing Incentive Funds in Minnetonka by Newport Midwest, LLC.

Submitted through:
  Geralyn Barone, City Manager
  Julie Wischnack, AICP, Community Development Director
  Alisha Gray, Economic Development and Housing Manager

Originated by:
  Rob Hanson, Economic Development Coordinator

Attachments
  Project Map
  Metropolitan Livable Communities Act Grant Agreement-TOD Program
  Sub-recipient Funding Agreement-TOD Program
  Metropolitan Livable Communities Act Grant Agreement-Local Housing Incentives Account
  Sub-recipient Funding Agreement-LHIA
Location Map

Project: Mariner
Address: 10400, 10500 & 10550 Bren Rd E
DEMONSTRATION ACCOUNT
DEVELOPMENT GRANT PROGRAM
TRANSIT ORIENTED DEVELOPMENT (TOD) PROGRAM

<table>
<thead>
<tr>
<th>GRANTEE: City of Minnetonka</th>
<th>GRANT NO. SG-09066</th>
</tr>
</thead>
<tbody>
<tr>
<td>PROJECT: The Mariner</td>
<td></td>
</tr>
<tr>
<td>GRANT AMOUNT: $1,876,500</td>
<td>FUNDING CYCLE: 2017</td>
</tr>
<tr>
<td>COUNCIL ACTION: January 24, 2018</td>
<td>EXPIRATION DATE: December 31, 2020</td>
</tr>
</tbody>
</table>

METROPOLITAN LIVABLE COMMUNITIES ACT
GRANT AGREEMENT

THIS GRANT AGREEMENT ("Agreement") is made and entered into by the Metropolitan Council ("Council") and the Municipality, County, or Development Authority identified above as "Grantee."

WHEREAS, Minnesota Statutes section 473.251 creates the Metropolitan Livable Communities Fund, the uses of which fund must be consistent with and promote the purposes of the Metropolitan Livable Communities Act ("LCA") and the policies of the Council’s Metropolitan Development Guide; and

WHEREAS, Minnesota Statutes sections 473.251 and 473.253 establish within the Metropolitan Livable Communities Fund a Livable Communities Demonstration Account and require the Council to use the funds in the account to make grants or loans to municipalities participating in the Local Housing Incentives Account Program under Minnesota Statutes section 473.254 or to Counties or Development Authorities to fund the initiatives specified in Minnesota Statutes section 473.25(b) in Participating Municipalities; and

WHEREAS, the Council has established an LCA Transit Oriented Development ("TOD") program to help leverage the metropolitan area’s public investment in its transit infrastructure; and

WHEREAS, the Grantee is a Municipality participating in the Local Housing Incentives Account program under Minnesota Statutes section 473.254, a County, or a Development Authority; and

WHEREAS, the Grantee seeks funding in connection with an application for Livable Communities Demonstration Account grant program funds submitted in response to the Council’s notice of availability of grant funds for the “Funding Cycle” identified above and will use the grant funds made available under this Agreement to help fund the “Project” identified in the application; and

WHEREAS, the Grantee represented in its application that certain land use guidelines or official controls and other required threshold criteria were in place at the time of the application or that certain land use guidelines and official controls and other required threshold criteria would be in place within thirty-six (36) months from the date of the “Council Action” identified above; and
WHEREAS, the Council awarded Livable Communities Demonstration Account TOD program grant funds to the Grantee subject to any terms, conditions, and clarifications stated in its Council Action, and with the understanding that the Project identified in the application will proceed to completion in a timely manner, that all grant funds will be expended prior to the “Expiration Date” identified above, and that the land use guidelines and official controls and other required threshold criteria identified in the Grantee’s application currently are in place or will be in place as stated in the Grantee’s application.

NOW THEREFORE, in reliance on the above statements and in consideration of the mutual promises and covenants contained in this Agreement, the Grantee and the Council agree as follows:

I. DEFINITIONS

1.01. Definition of Terms. The terms defined in this Section have the meanings given them in this Section unless otherwise provided or indicated by the context.

(a) Commenced. For the purposes of Sections 2.08 and 4.03, “commenced” means significant physical improvements have occurred in furtherance of the Project (e.g., a foundation is being constructed or other tangible work on a structure has been initiated). In the absence of significant physical improvements, visible staking, engineering, land surveying, soil testing, cleanup site investigation, or pollution cleanup activities are not evidence of Project commencement for the purposes of this Agreement.

(b) Council Action. “Council Action” means the action or decision of the governing body of the Metropolitan Council, on the meeting date identified at Page 1 of this Agreement, by which the Grantee was awarded Livable Communities Demonstration Account TOD program grant funds.

(c) County. “County” means Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington Counties.

(d) Development Authority. “Development Authority” means a statutory or home rule charter city, a housing and redevelopment authority, an economic development authority, or a port authority in the Metropolitan Area.

(e) Metropolitan Area. “Metropolitan Area” means the seven-county metropolitan area as defined by Minnesota Statutes section 473.121, subdivision 2.

(f) Municipality. “Municipality” means a statutory or home rule charter city or town participating in the Local Housing Incentives Account Program under Minnesota Statutes section 473.254.

(g) Named TOD Area. “Named TOD Area” means the TOD area identified by name and location in the Grantee’s application for TOD program funds and in the TOD Project Summary attached to this Agreement.
DEMONSTRATION ACCOUNT
DEVELOPMENT GRANT PROGRAM
TRANSIT ORIENTED DEVELOPMENT (TOD) PROGRAM

(h) Participating Municipality. “Participating Municipality” means a statutory or home rule charter city or town which has elected to participate in the Local Housing Incentive Account program and negotiated affordable and life-cycle housing goals for the Municipality pursuant to Minnesota Statutes section 473.254.

(i) Project. Unless clearly indicated otherwise by the context of a specific provision in this Agreement, “Project” means the TOD development or redevelopment project identified in the application for Livable Communities Demonstration Account TOD program grant funds for which grant funds were requested that provides the deliverables upon which the application was scored. Grant-funded activities typically are components of the Project.


II. GRANT FUNDS

2.01. Source of Funds. The grant funds made available to the Grantee under this Agreement are from the Livable Communities Demonstration Account of the Metropolitan Livable Communities Fund. The grant funds are derived from the property tax authorized by Minnesota Statutes section 473.253, subdivision 1 and are not from federal sources.

2.02. Total Grant Amount. The Council will grant to the Grantee the “Grant Amount” identified at Page 1 of this Agreement. Notwithstanding any other provision of this Agreement, the Grantee understands and agrees that any reduction or termination of Livable Communities Demonstration Account TOD program grant funds made available to the Council may result in a like reduction in the Grant Amount made available to the Grantee.

2.03. Authorized Use of Grant Funds. The Grant Amount made available to the Grantee under this Agreement shall be used only for the purposes and activities described in the application for Livable Communities Demonstration Account TOD program grant funds. The grant funds may be used for reimbursement of real estate acquisition costs if: (a) the property was purchased within the twelve-month period preceding the date by which the TOD grant program applications for the Funding Cycle were due; (b) the real estate was purchased by the Grantee or by a not-for-profit or a socially responsible developer; and (c) the Project will lead to the development of affordable housing or will result in jobs retained, created, or made more accessible to low-income and underserved populations, including opportunities for entrepreneurship. Property holding costs are an eligible use of grant funds but may not exceed five percent (5%) of the amount of the grant funds awarded for property acquisition or $100,000, whichever is less. A TOD Project Summary that describes eligible uses of the grant funds as approved by the Council is attached to and incorporated into this Agreement as Attachment A. Aerial photography or drawings that identify the specific location(s) within the Project boundaries for which grant funds must be used is attached to and incorporated into this Agreement as Attachment B. Grant funds must be used to fund the initiatives specified in Minnesota Statutes section 473.25(b), in a Participating Municipality.

2.04. Ineligible Uses. Grant funds must be used for costs directly associated with the specific proposed Project activities and shall not be used for “soft costs” such as: administrative overhead; travel
expenses; legal fees; insurance; bonds; permits, licenses, or authorization fees; costs associated with preparing other grant proposals; operating expenses; planning costs, including comprehensive planning costs; and prorated lease and salary costs. Except as provided in Section 2.03, the grant funds may not be used for costs of Project activities that occurred prior to the grant award. A detailed list of ineligible and eligible costs is available from the Council’s Livable Communities program office. Except for reimbursement for real estate acquisition and holding costs as provided in Section 2.03, grant funds also shall not be used by the Grantee or others to supplant or replace: (a) grant or loan funds obtained for the Project from other sources; or (b) Grantee contributions to the Project, including financial assistance, real property or other resources of the Grantee; or (c) funding or budgetary commitments made by the Grantee or others prior to the Council Action, unless specifically authorized in Attachment A. The Council shall bear no responsibility for cost overruns which may be incurred by the Grantee or others in the implementation or performance of the Project activities. The Grantee agrees to comply with any “business subsidy” requirements of Minnesota Statutes sections 116J.993 to 116J.995 that apply to the Grantee’s expenditures or uses of the grant funds.

2.05. Loans for Low-Income Housing Tax Credit Projects. If consistent with the application and the Project activities described or identified in Attachments A and B or if requested in writing by the Grantee, the Grantee may structure the grant assistance to the Project as a loan so the Project Owner can take advantage of federal and state low-income housing tax credit programs. The Grantee may use the grant funds as a loan for a low-income housing tax credit project, subject to the terms and conditions stated in Sections 2.03 and 2.04 and the following additional terms and conditions:

(a) The Grantee covenants and represents to the Council that the Project is a rental housing project that received or will receive an award of low-income housing tax credits under Section 42 of the Internal Revenue Code of 1986, as amended, and the low-income housing tax credit program administered by the Minnesota Housing Finance Agency or a program administered by the Minneapolis/Saint Paul Housing Finance Board or another designated housing credit agency that sub-allocates low-income housing tax credits in the Metropolitan Area.

(b) The Grantee will execute a loan agreement with the Project Owner. Prior to disbursing any grant funds for the Project, the Grantee will provide to the Council a copy of the loan agreement between the Grantee and the Project Owner.

(c) The Grantee will submit annual written reports to the Council that certify: (1) the grant funds continue to be used for the Project for which the grant funds were awarded; and (2) the Project is a “qualified low-income housing project” under Section 42 of the Internal Revenue Code of 1986, as amended. This annual reporting requirement is in addition to the reporting requirements stated in Section 3.03. Notwithstanding the Expiration Date identified at Page 1 of this Agreement and referenced in Section 4.01, the Grantee will submit the annual certification reports during the initial “compliance period” and any “extended use period,” or until such time as the Council terminates this annual reporting requirement by written notice to the Grantee.

(d) The grant funds made available to the Grantee and disbursed to the Project Owner by the Grantee in the form of a loan may be used only for the grant-eligible activities and Project
components for which the Grantee was awarded the grant funds. For the purposes of this Agreement, the term “Project Owner” means the current Project Owner and any Project Owner successor(s).

(e) Pursuant to Section 2.04, the grant funds made available to the Grantee and disbursed to the Project Owner in the form of a loan shall not be used by the Grantee, the Project Owner or others to supplant or replace: (1) grant or loan funds obtained for the Project from other sources; or (2) Grantee contributions to the Project, including financial assistance, real property, or other resources of the Grantee; or (3) funding or budgetary commitments made by the Grantee or others prior to the Council Action, unless specifically authorized in Attachment A. The Council will not make the grant funds available to the Grantee in a lump sum payment, but will disburse the grant funds to the Grantee on a reimbursement basis pursuant to Section 2.11.

(f) By executing this Agreement, the Grantee: (1) acknowledges that the Council expects the loan will be repaid so the grant funds may be used to help fund other activities consistent with the requirements of the Metropolitan Livable Communities Act; (2) covenants, represents, and warrants to the Council that the Grantee’s loan to the Project Owner will meet all applicable low-income housing tax credit program requirements under Section 42 of the Internal Revenue Code of 1986, as amended (the “Code”), and the low-income housing tax credit program administered by the Minnesota Housing Finance Agency or a program administered by the Minneapolis/Saint Paul Housing Finance Board or another designated housing credit agency that sub-allocates low-income housing tax credits in the Metropolitan Area; and (3) agrees to administer its loan to the Project Owner consistent with federal and state low-income housing tax credit program requirements.

(g) The Grantee will, at its own expense, use diligent efforts to recover loan proceeds: (1) when the Project Owner becomes obligated to repay the Grantee’s loan or defaults on the Grantee’s loan; (2) when the initial thirty-year “compliance period” expires, unless the Council agrees in writing that the Grantee may make the grant funds available as a loan to the Project Owner for an “extended use period”; or (3) if noncompliance with low-income housing tax credit program requirements or some other event triggers the Project Owner’s repayment obligations under its loan agreement with the Grantee. The Grantee must repay to the Council all loan repayment amounts the Grantee receives from the Project Owner. The Grantee shall not be obligated to repay the grant funds to the Council except to the extent the Project Owner repays its loan to the Grantee, provided the Grantee has exercised the reasonable degree of diligence and used administrative and legal remedies a reasonable and prudent housing finance agency would use to obtain payment on a loan, taking into consideration (if applicable) the subordinated nature of the loan. At its discretion, the Council may: (1) permit the Grantee to use the loan repayment from the Project Owner to continue supporting affordable housing components of the Project; or (2) require the Grantee to remit the grant funds to the Council.

(h) If the Grantee earns any interest or other income from its loan agreement with the Project Owner, the Grantee will: (1) use the interest earnings or income only for the purposes of implementing the Project activities for which the grant was awarded; or (2) remit the interest earnings or
DEMONSTRATION ACCOUNT
DEVELOPMENT GRANT PROGRAM
TRANSIT ORIENTED DEVELOPMENT (TOD) PROGRAM

income to the Council. The Grantee is not obligated to earn any interest or other income from
its loan agreement with the Project Owner, except to the extent required by any applicable law.

2.06. Revolving Loans. If consistent with the application and the TOD Project Summary or if
requested in writing by the Grantee, the Grantee may use the grant funds to make deferred loans (loans
made without interest or periodic payments), revolving loans (loans made with interest and periodic
payments), or otherwise make the grant funds available on a “revolving” basis for the purposes of
implementing the Project activities described or identified in Attachments A and B. The Grantee will
submit annual written reports to the Council that report on the uses of the grant funds, the form and
content of the report will be determined by the Council. This annual reporting requirement is in addition
to the reporting requirements stated in Section 3.03. Notwithstanding the Expiration Date identified at
Page 1 of this Agreement and referenced in Section 4.01, the Grantee will submit the annual reports
until the deferred or revolving loan programs terminate, or until such time as the Council terminates
this annual reporting requirement by written notice to the Grantee. At its discretion, the Council
may: (a) permit the Grantee to use loan repayments to continue supporting affordable housing
components of the Project; or (b) require the Grantee to remit the grant funds to the Council.

2.07. Restrictions on Loans or Grants to Subrecipients. The Grantee shall not permit any
subgrantee or subrecipient to use the grant funds for loans or grants to any subrecipient at any tier
unless the Grantee obtains the prior written consent of the Council. The requirements of this
Section 2.07 shall be included in all subgrant and subrecipient agreements.

2.08. Project Commencement and Changes. The Project for which grant funds were requested
must be “commenced” prior to the Expiration Date. If the grant funds will be used only for land
acquisition and holding costs as authorized by Section 2.03 and will not be used for any other
grant-eligible activities, the Project need not be commenced prior to the Expiration Date but the
property acquired for the Project must be purchased prior to the Expiration Date. The Grantee must
promptly inform the Council in writing of any significant changes to the Project for which the grant
funds were awarded, as well as any potential changes to the grant-funded activities described or
identified in Attachments A and B. Failure to inform the Council of any significant changes to the
Project or significant changes to grant-funded components of the Project, and use of grant funds for
ineligible or unauthorized purposes, will jeopardize the Grantee’s eligibility for future LCA awards.
Grant funds will not be disbursed prior to Council approval of significant changes to either the Project
or grant-funded activities described or identified in Attachments A and B.

2.09. Budget Variance. The Grantee may reallocate up to twenty percent (20%) of the Grant
Amount among the grant-funded activities, provided: (a) the grant funds may be used only for Project
activities for which the Council awarded the grant funds; (b) the reallocation does not significantly
change the Project deliverables; and (c) the Grantee receives written permission from Council staff
prior to reallocating any grant funds. Council staff may administratively approve budget reallocation
requests that exceed twenty percent (20%) of the Grant Amount only if the reallocation does not
significantly change the Project deliverables. Notwithstanding the aggregate or net effect of any
variances, the Council’s obligation to provide grant funds under this Agreement shall not exceed the
Grant Amount identified at Page 1 of this Agreement.
2.10. **Loss of Grant Funds.** The Grantee agrees to remit to the Council in a prompt manner: any unspent grant funds, including any grant funds that are not expended prior to the Expiration Date identified at Page 1 of this Agreement; any grant funds that are not used for the authorized purposes; and any interest earnings described in Section 2.12 that are not used for the purposes of implementing the grant-funded Project activities described or identified in Attachments A and B. For the purposes of this Agreement, grant funds are “expended” prior to the Expiration Date if the Grantee pays or is obligated to pay for expenses of eligible grant-funded Project activities that occurred prior to the Expiration Date and the eligible expenses were incurred prior to the Expiration Date. Unspent or unused grant funds and other funds remitted to the Council shall revert to the Council’s Livable Communities Demonstration Account for distribution through application processes in future Funding Cycles or as otherwise permitted by law.

2.11. **Payment Request Forms, Documentation, and Disbursements.** The Council will disburse grant funds in response to written payment requests submitted by the Grantee and approved by the Council’s authorized agent. Written payment requests shall be made using payment request forms, the form and content of which will be determined by the Council. Payment request and other reporting forms will be provided to the Grantee by the Council. Payment requests must include the following documentation:

- Consultant/contractor invoices showing the time period covered by the invoice; the specific grant-funded Project activities conducted or completed during the authorized time period within which eligible costs may be incurred; and documentation supporting expenses including subcontractor and consultant invoices showing unit rates, quantities, and a description of the goods or services provided. Subcontractor markups shall not exceed ten percent (10%).

The Council will disburse grant funds on a reimbursement basis or a “cost incurred” basis. The Grantee must provide with its written payment requests documentation that shows grant-funded Project activities actually have been completed. Subject to verification of each payment request form (and the required documentation) and approval for consistency with this Agreement, the Council will disburse a requested amount to the Grantee within two (2) weeks after receipt of a properly completed and verified payment request form.

2.12. **Interest Earnings.** If the Grantee earns any interest or other income from the grant funds received from the Council under this Agreement, the Grantee will use the interest earnings or income only for the purposes of implementing the Project activities described or identified in Attachments A and B.

2.13. **Effect of Grant.** Issuance of this Grant neither implies any Council responsibility for contamination, if any, at the Project site nor imposes any obligation on the Council to participate in any pollution cleanup of the Project site if such cleanup is undertaken or required.

2.14. **Affordability Term.** The Grantee shall, through written instruments or otherwise, ensure any affordable units acquired or developed with grant funds made available under this Agreement will remain affordable for a minimum period of fifteen (15) years. The Grantee’s obligation under this
Section may be satisfied if other Project funding sources (e.g., the Minnesota Housing Finance Agency or the U.S. Department of Housing and Urban Development ("HUD")), or state or federal laws (e.g., low-income housing tax credit programs) require an affordability term of at least fifteen (15) years. For the purposes of this Section, "affordable housing unit" means a unit that is affordable to households at eighty percent (80%) or less of the Area Median Income ("AMI"), as established by HUD, unless the Grantee’s application stated an affordability standard lower than eighty percent (80%) of AMI, in which case the Grantee’s lower affordability standard shall apply. The affordability requirements of this Section shall survive the expiration or termination of this Agreement.

2.15. Affirmative Fair Housing Marketing Plans. The Grantee shall, through written instruments or otherwise, ensure the Project owner (and any subsequent owner(s)) adopts and implements an affirmative fair housing marketing plan for all Project housing units (whether market rate or affordable). For the purposes of this Section, “affirmative fair housing marketing plan” means an affirmative fair housing marketing plan that substantially conforms to affirmative fair housing marketing plans published by HUD. The affirmative fair housing marketing plan requirement under this Section shall continue for the minimum affordability term specified in Section 2.14 and shall survive the expiration or termination of this Agreement.

III. ACCOUNTING, AUDIT, AND REPORT REQUIREMENTS

3.01. Accounting and Records. The Grantee agrees to establish and maintain accurate and complete accounts and records relating to the receipt and expenditure of all grant funds received from the Council. Notwithstanding the expiration and termination provisions of Sections 4.01 and 4.02, such accounts and records shall be kept and maintained by the Grantee for a period of six (6) years following the completion of the Project activities described or identified in Attachments A and B or six (6) years following the expenditure of the grant funds, whichever occurs earlier. Accounting methods shall be in accordance with generally accepted accounting principles.

3.02. Audits. The above accounts and records of the Grantee shall be audited in the same manner as all other accounts and records of the Grantee are audited and may be audited or inspected on the Grantee’s premises or otherwise by individuals or organizations designated and authorized by the Council at any time, following reasonable notification to the Grantee, for a period of six (6) years following the completion of the Project activities or six (6) years following the expenditure of the grant funds, whichever occurs earlier. Pursuant to Minnesota Statutes section 16C.05, subdivision 5, the books, records, documents, and accounting procedures and practices of the Grantee that are relevant to this Agreement are subject to examination by the Council and either the Legislative Auditor or the State Auditor, as appropriate, for a minimum of six (6) years.

3.03. Report Requirements. The Grantee will report to the Council on the status of the Project activities described or identified in Attachments A and B and the expenditures of the grant funds. Submission of properly completed payment request forms (with proper documentation) required under Section 2.11 will constitute periodic status reports. However, if the Grantee has not submitted any payment request forms during the first three months of the term of this Agreement, the Grantee must submit quarterly reports prior to the Grantee’s first draw request. The Grantee also must complete and submit to the Council a grant activity closeout report. The closeout report form must
be submitted within 120 days after the expiration or termination of this Agreement, whichever occurs earlier. Within 120 days after the Expiration Date, the Grantee must complete and submit to the Council a certification of expenditures of funds form signed by the Grantee's chief financial officer or finance director. The form and content of the closeout report and the certification form will be determined by the Council. These reporting requirements and the reporting requirements of Sections 2.05 and 2.06 shall survive the expiration or termination of this Agreement.

3.04. Environmental Site Assessment. The Grantee represents that a Phase I Environmental Site Assessment or other environmental review has been or will be carried out, if such environmental assessment or review is appropriate for the scope and nature of the Project activities funded by this Grant, and that any environmental issues have been or will be adequately addressed.

IV. AGREEMENT TERM

4.01. Term. This Agreement is effective upon execution of the Agreement by the Council. Unless terminated pursuant to Section 4.02, this Agreement expires on the “Expiration Date” identified at Page 1 of this Agreement. ALL GRANT FUNDS NOT EXPENDED BY THE GRANTEE PRIOR TO THE EXPIRATION DATE SHALL REVERT TO THE COUNCIL.

4.02. Termination. This Agreement may be terminated by the Council for cause at any time upon fourteen (14) calendar days' written notice to the Grantee. Cause shall mean a material breach of this Agreement and any amendments of this Agreement. If this Agreement is terminated prior to the Expiration Date, the Grantee shall receive payment on a pro rata basis for eligible Project activities described or identified in Attachments A and B that have been completed prior to the termination. Termination of this Agreement does not alter the Council’s authority to recover grant funds on the basis of a later audit or other review, and does not alter the Grantee’s obligation to return any grant funds due to the Council as a result of later audits or corrections. If the Council determines the Grantee has failed to comply with the terms and conditions of this Agreement and the applicable provisions of the Metropolitan Livable Communities Act, the Council may take any action to protect the Council’s interests and may refuse to disburse additional grant funds and may require the Grantee to return all or part of the grant funds already disbursed.

4.03. Amendments and Extensions. The Council and the Grantee may amend this Agreement by mutual agreement. Amendments or extensions of this Agreement shall be effective only on the execution of written amendments signed by authorized representatives of the Council and the Grantee. If the Grantee needs additional time within which to complete grant-funded activities and commence the Project, the Grantee must submit to the Council AT LEAST NINETY (90) CALENDAR DAYS PRIOR TO THE EXPIRATION DATE, a resolution of the Grantee’s governing body requesting the extension and a written extension request. THE EXPIRATION DATE MAY BE EXTENDED, BUT THE PERIOD OF ANY EXTENSION(S) SHALL NOT EXCEED TWO (2) YEARS BEYOND THE ORIGINAL EXPIRATION DATE IDENTIFIED AT PAGE 1 OF THIS AGREEMENT.
V. GENERAL PROVISIONS

5.01. Equal Opportunity. The Grantee agrees it will not discriminate against any employee or applicant for employment because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, membership or activity in a local civil rights commission, disability, sexual orientation, or age and will take affirmative action to insure applicants and employees are treated equally with respect to all aspects of employment, rates of pay and other forms of compensation, and selection for training.

5.02. Conflict of Interest. The members, officers, and employees of the Grantee shall comply with all applicable state statutory and regulatory conflict of interest laws and provisions.

5.03. Liability. Subject to the limitations provided in Minnesota Statutes chapter 466, to the fullest extent permitted by law, the Grantee shall defend, indemnify, and hold harmless the Council and its members, employees, and agents from and against all claims, damages, losses, and expenses, including but not limited to attorneys’ fees, arising out of or resulting from the conduct or implementation of the Project activities funded by this Grant, except to the extent the claims, damages, losses, and expenses arise from the Council’s own negligence. Claims included in this indemnification include, without limitation, any claims asserted pursuant to the Minnesota Environmental Response and Liability Act (MERLA), Minnesota Statutes chapter 115B, the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) as amended, United States Code, title 42, sections 9601 et seq., and the federal Resource Conservation and Recovery Act of 1976 (RCRA) as amended, United States Code, title 42, sections 6901 et seq. This obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which otherwise would exist between the Council and the Grantee. The provisions of this Section shall survive the expiration or termination of this Agreement. This indemnification shall not be construed as a waiver on the part of either the Grantee or the Council of any immunities or limits on liability provided by Minnesota Statutes chapter 466, or other applicable state or federal law.

5.04. Acknowledgments and Signage. The Grantee will acknowledge the financial assistance provided by the Council in promotional materials, press releases, reports, and publications relating to the Project. The acknowledgment will contain the following or comparable language:

"Financing for this project was provided by the Metropolitan Council Metropolitan Livable Communities Fund"

Until the Project is completed, the Grantee shall ensure the above acknowledgment language, or alternative language approved by the Council’s authorized agent, is included on all signs (if any) located at Project or construction sites that identify Project funding partners or entities providing financial support for the Project. The acknowledgment and signage should refer to the “Metropolitan Council” (not “Met Council” or “Metro Council”).

5.05. Permits, Bonds, and Approvals. The Council assumes no responsibility for obtaining any applicable local, state, or federal licenses, permits, bonds, authorizations, or approvals necessary to perform or complete the Project activities described or identified in Attachments A and B.
DEMONSTRATION ACCOUNT
DEVELOPMENT GRANT PROGRAM
TRANSIT ORIENTED DEVELOPMENT (TOD) PROGRAM

Grantee and its developer(s), if any, must comply with all applicable licensing, permitting, bonding, authorization, and approval requirements of federal, state, and local governmental and regulatory agencies, including conservation districts.

5.06. Subgrantees, Contractors, and Subcontractors. The Grantee shall include in any subgrant, contract, or subcontract for Project activities appropriate provisions to ensure subgrantee, contractor, and subcontractor compliance with all applicable state and federal laws and this Agreement. Along with such provisions, the Grantee shall require that contractors and subcontractors performing work covered by this Grant comply with all applicable state and federal Occupational Safety and Health Act regulations. If the Project for which the grant funds were awarded includes affordable units, the Grantee’s subgrant agreement(s) shall expressly include the affordability and affirmative fair housing marketing plan requirements of Sections 2.14 and 2.15.

5.07. Stormwater Discharge and Water Management Plan Requirements. If any grant funds are used for urban site redevelopment, the Grantee shall at such redevelopment site meet or require to be met all applicable requirements of:

(a) Federal and state laws relating to stormwater discharges including, without limitation, any applicable requirements of Code of Federal Regulations, title 40, parts 122 and 123; and

(b) The Council’s 2040 Water Resources Policy Plan and the local water management plan for the jurisdiction within which the redevelopment site is located.

5.08. Authorized Agent. Payment request forms, written reports and correspondence submitted to the Council pursuant to this Agreement shall be directed to:

Metropolitan Council
Attn: LCA Grants Administration
390 Robert Street North
Saint Paul, Minnesota 55101-1805

5.09. Authorization to Reproduce Images. The Grantee certifies that the Grantee: (a) is the owner of any renderings, images, perspectives, sections, diagrams, photographs, or other copyrightable materials (collectively, “copyrightable materials”) that are in the Grantee’s application or are submitted to the Council as part of the grant application review process or after grant award, or that the Grantee is fully authorized to grant permissions regarding the copyrightable materials; and (b) the copyrightable materials do not infringe upon the copyrights of others. The Grantee agrees the Council has a nonexclusive royalty-free license and all necessary permissions to reproduce and publish the copyrightable materials for noncommercial purposes, including but not limited to press releases, presentations, reports, and on the internet. The Grantee also agrees the Grantee will not hold the Council responsible for the unauthorized use of the copyrightable materials by third parties.

5.10. Non-Assignment. Minnesota Statutes section 473.253, subdivision 2 requires the Council to distribute grant funds to eligible “municipalities,” metropolitan-area counties, or “development authorities” for projects in municipalities participating in the Local Housing Incentives Account program. Accordingly, this Agreement is not assignable and shall not be assigned by the Grantee.
5.11. **Warranty of Legal Capacity.** The individuals signing this Agreement on behalf of the Grantee and on behalf of the Council represent and warrant on the Grantee’s and the Council’s behalf respectively that the individuals are duly authorized to execute this Agreement on the Grantee’s and the Council’s behalf respectively and that this Agreement constitutes the Grantee’s and the Council’s valid, binding, and enforceable agreements.

**IN WITNESS WHEREOF,** the Grantee and the Council have caused this Agreement to be executed by their duly authorized representatives. This Agreement is effective on the date of final execution by the Council.

**CITY OF MINNETONKA**

By: __________________________

Title: ________________________

Date: ________________________

**METROPOLITAN COUNCIL**

By: __________________________

Beth Reetz, Director
Community Development Division

Date: ________________________

By: __________________________

Title: ________________________

Date: ________________________
ATTACHMENT A

TOD PROJECT SUMMARY

This attachment comprises this page and the succeeding page(s) which contain(s) a summary of the Project identified in the application for Livable Communities Demonstration Account TOD program grant funds submitted in response to the Council's notice of availability of Demonstration Account grant funds for the Funding Cycle identified at Page 1 of this Agreement. The summary reflects the proposed Project for which the Grantee was awarded grant funds by the Council Action, and may reflect changes in Project funding sources, changes in funding amounts, or minor changes in the proposed Project that occurred subsequent to application submission. The application is incorporated into this Agreement by reference and is made a part of this Agreement as follows. If the application or any provision of the application conflicts with or is inconsistent with the Council Action, other provisions of this Agreement, or the TOD Project Summary contained in this Attachment A, the terms, descriptions, and dollar amounts reflected in the Council Action or contained in this Agreement and the TOD Project Summary shall prevail. For the purposes of resolving conflicts or inconsistencies, the order of precedence is: (1) the Council Action; (2) this Agreement; (3) the TOD Project Summary; and (4) the grant application.
Livable Communities Project Summary

Grant #   SG-09066
Type:       LCDA-TOD Development
Applicant:  City of Minnetonka
Project Name: The Mariner
Project Location: Green Line Extension – Opus Station

<table>
<thead>
<tr>
<th>Project Detail</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Project Overview</td>
<td>The Mariner project is the redevelopment of former office buildings into a six- and five-story mixed income development in the heart of the Opus Station area. Project includes underground parking and common amenity areas for residents.</td>
</tr>
<tr>
<td>Jobs (FTEs)</td>
<td>Temporary (construction): 295  Permanent: 5</td>
</tr>
<tr>
<td>Net tax capacity increase</td>
<td>$494,360</td>
</tr>
<tr>
<td>Total housing units</td>
<td>246</td>
</tr>
<tr>
<td>Affordable units</td>
<td>4 @ 31-50% AMI; 51 @ 51%-60% AMI; 191 Market Rate</td>
</tr>
<tr>
<td>Anticipated # bedrooms</td>
<td>139 - Studio/1BR; 81 - 2BR; 26 - 3+BR</td>
</tr>
<tr>
<td>Est. total development</td>
<td>$64,118,642</td>
</tr>
<tr>
<td>Est. private funds</td>
<td>$61,485,966</td>
</tr>
<tr>
<td>Est. other public funds</td>
<td>$756,176</td>
</tr>
<tr>
<td>TOD metrics</td>
<td>Floor-area ratio: 4.2  Dwelling units per acre: 56  Distance to platform: 563 feet  Residential parking ratio: 1.23 stalls/unit</td>
</tr>
<tr>
<td>Comments/Demonstration value</td>
<td>TOD design features include: increased connections, efficient use of land  Potential to catalyze additional TOD investment and increased density in the immediate station area.  Improved building presence to define the public realm in station area as it evolves into a mixed-use district.</td>
</tr>
</tbody>
</table>

**Funding Request**

<table>
<thead>
<tr>
<th>$1,876,500</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>$1,600,000</td>
<td>Site acquisition</td>
</tr>
<tr>
<td>$175,000</td>
<td>Site preparation (demolition and grading)</td>
</tr>
<tr>
<td>$87,500</td>
<td>Stormwater management (rain gardens and underground tank)</td>
</tr>
<tr>
<td>$14,000</td>
<td>New sidewalk along Bren Rd E</td>
</tr>
</tbody>
</table>
ATTACHMENT B

TOD PROJECT LOCATION(S)

This attachment comprises this page and the succeeding page(s) which contain aerial photography or drawings that identify the specific location(s) within the Project boundaries for which the Grantee must use the grant funds. The attached photography or drawings also may identify the types of eligible activities for which the grant funds must be used at specific locations within the Project boundaries.
SUB-RECIPIENT FUNDING AGREEMENT BETWEEN
CITY OF MINNETONKA
AND
NEWPORT MIDWEST LLC
FOR THE
METROPOLITAN COUNCIL
METROPOLITAN LIVABLE COMMUNITIES FUND
LIVABLE COMMUNITIES DEMONSTRATION ACCOUNT (LCDA)

THIS CONTRACT, is entered into this ___ day of _______, 2018, by and between the CITY OF MINNETONKA, a Minnesota municipal corporation (the "City"), and Newport Midwest LLC, (the "Grantee").

WHEREAS, in cooperation with Grantee, the City applied to and received approval for funds in the amount of $1,876,500 from the Metropolitan Council ("Council") under its Metropolitan Livable Communities Fund, Livable Communities Demonstration Account - TOD (the "Metropolitan Livable Communities Grant"); and

WHEREAS, the City desires to award proceeds of the Metropolitan Livable Communities Grant in the amount of $1,876,500 (the "Subgrant") to Grantee, to assist Grantee with site acquisition, site preparation, storm water management, and construction of a new sidewalk along Bren Rd. E. (the "Project").

NOW, THEREFORE, the parties agree to the following terms:

1. AWARD. The City awards the Subgrant to Grantee for the acquisition of land, site preparation, storm water management, and construction of a new sidewalk along Bren Rd. E. as described in Grant Agreement No. SG-09066 between the City and the Council attached to this Contract as Exhibit A (the "Metropolitan Livable Communities Grant") of which is incorporated into this Contract (the "Project"). The Subgrant must be used exclusively to pay or reimburse only expenses authorized under the Metropolitan Livable Communities Grant Agreement. Administration costs incurred by the Grantee are not eligible for reimbursement via this Contract. Notwithstanding anything to the contrary, the Grantee understands and agrees that any reduction or termination of the Metropolitan Livable Communities Grant may result in a like reduction or termination of the Subgrant, and that any material change in the timeline or scope of the Project in the Metropolitan Livable Communities Grant Agreement must be approved in writing by the City and the Council.

2. PERFORMANCE. The Grantee must comply with all requirements applicable to the City in the Metropolitan Livable Communities Grant Agreement. Grantee's default under the Metropolitan Livable Communities Grant Agreement will constitute noncompliance with this Contract. If the City finds that there has been a failure to comply with the provisions of this Contract or that reasonable progress on the Project has not been or will not be made, the City may take action to protect its interests, including refusal to disburse additional funds and requiring the return of all or part of the funds already disbursed. If action to correct substandard performance is not taken by the Grantee within 60 calendar days (or such longer period specified by the City) after written notice by the City, the City may terminate this Contract.

3. TIME OF PERFORMANCE. Grantee must start the Project upon execution of this Contract and complete the Project on or before December 31, 2020. The City is not obligated to pay for any Project costs incurred after that date or any earlier termination, whichever occurs first.

4. CONDITIONS PRECEDENT TO DISBURSEMENT. The following requirements are conditions precedent to the City's disbursement of any of the Subgrant proceeds.
A. The Grantee must have provided evidence satisfactory to the City showing that Grantee has title in fee simple and site control of the property acquired.

B. The Grantee must have provided the City with evidence of compliance with the insurance requirements of Section 7(E) herein.

C. The Grantee must have provided to the City such evidence of compliance with all of the provisions of this Contract as the City may reasonably request.

5. **DISBURSEMENT.** It is expressly agreed and understood that the total amount to be paid by the City under this Contract will not exceed $1,876,500. The City will make disbursements only upon receipt of a written disbursement request in the form provided by the Council (the "Disbursement Request") from Grantee acceptable to the City and the Council. Payment requests may be made no more than once per month and must be accompanied by supporting invoices that relate to Project costs. The City will, upon its approval of the Disbursement Request, forward the Disbursement Request to the Council for approval. Upon Council approval of the Disbursement Request and disbursement of the approved amounts of Livable Communities funds, the City will disburse the approved amount of Subgrant funds in accordance with the information provided in the Disbursement Request.

6. **NOTICES.** Communication and details concerning this Contract must be directed to the following Contract representatives:

   **City:**
   City of Minnetonka  
   Community Development Department  
   14600 Minnetonka Blvd.  
   Minnetonka, MN 55345  
   Attn: Alisha Gray  
   Phone: (952) 939-8285

   **Grantee:**
   Newport Midwest LLC  
   475 Cleveland Ave North, #325  
   St. Paul, MN 55104  
   Attn: Becky Landon  
   651-447-2330

7. **GENERAL CONDITIONS.**

   A. **General Compliance.** The Grantee agrees to comply with all applicable federal, state and local laws and regulations governing the Project and funds provided under this Contract.

   B. **Subcontracts.**

      1. **Selection Process.** The Grantee must undertake to ensure that all contracts and subcontracts let in the performance of this Contract are awarded on a fair and open competition basis. Executed copies of all contracts and subcontracts along with documentation concerning the selection process must be forwarded to the City upon request.
2. **Monitoring.** The City may monitor contracted and subcontracted services on a regular basis to ensure contract compliance. Results of monitoring efforts will be summarized in written reports and provided to the Grantee. The Grantee must provide documented evidence of follow-up actions taken to correct areas of noncompliance noted in the monitoring reports.

3. **OSHA.** Grantee must require that contractors performing work being paid with the Subgrant funds be in compliance with all applicable OSHA regulations.

C. **Anti-discrimination.** The Grantee agrees during the life of this Contract not to discriminate against any employee or applicant for employment because of race, color, creed, or national origin. The Grantee must include a similar provision in all contracts and subcontracts entered into for the performance of this Contract. This Contract may be cancelled or terminated by the City, and all money due or to become due under the Contract may be forfeited for a second or subsequent violation of the terms or conditions of this paragraph.

D. **Equal Opportunity.** The Grantee recognizes the City is an equal opportunity employer and agrees during the life of this Contract to take affirmative action to provide equal employment opportunities without regard to race, color, sex, creed, national origin, religion, disability, age, marital status, sexual preference, or status with regard to public assistance.

E. **Independent Contractor.** Nothing contained in this Contract is intended to, or may be construed in any manner, as creating or establishing the relationship of employer/employee between the parties. The Grantee will at all times remain an independent contractor with respect to the services to be performed under this Contract. The City is exempt from payment of all unemployment compensation, FICA, retirement, life and/or medical insurance and workers’ compensation insurance because the Grantee is an independent contractor.

F. **Indemnification and Hold Harmless.** The Grantee must hold harmless, defend and indemnify the City and the Council from any and all liability, claims, actions, suits, charges, damages, losses, costs, expenses, and judgments whatsoever, including reasonable attorney’s fees, that arise directly or indirectly out of the Grantee’s, its contractors or subcontractors performance or nonperformance of the services or subject matter called for in this Contract. This clause may not be construed to bar any legal remedies Grantee may have for the City’s or the Council’s failure to fulfill its obligations pursuant to this Contract.

Claims included in this indemnification include any claims asserted pursuant to the Minnesota Environmental Response and Liability Act (MERLA), Minnesota Statutes, Chapter 115B, the Federal Comprehensive Environmental Response Compensation and Liability Act of 1980 (CERCLA) as amended, United States Code, title 42, Sections 9601 et. seq., and the Federal Resource Conservation and Recovery Act of 1976 (RCRA) as amended, United States Code, title 42, Sections 6901 et. seq. This indemnification cannot be construed as a waiver on the part of either the City or the Council of any immunities or limits on liability provided by Minnesota Statutes Chapter 466 or other applicable state or federal law.

8. **ADMINISTRATIVE REQUIREMENTS.**
A. **Accounting Standards.** The Grantee agrees to maintain the necessary source documentation and enforce sufficient internal controls as dictated by generally accepted accounting practices to properly account for expenses incurred under this Contract.

B. **Records.**

1. **Retention.** The Grantee must retain all records pertinent to expenditures incurred under this Contract until conclusion of the latest of (a) six years after the Grantee has completed the Housing Program; (b) six years after the Grantee has expended all proceeds of the Subgrant; (c) six years after the resolution of all audit findings; or (d) six years after Metropolitan Livable Communities Grant Agreement termination or cancellation. Records for nonexpendable property acquired with funds under this Contract must be retained for six years after final disposition of such property.

2. **Inspections.** All Grantee records with respect to any matters covered by this Contract must be made available to the City, the Council or their designees at any time during normal business hours, as often as the City or the Council deems necessary, to audit, examine, and make excerpts or transcripts of all relevant data.

3. **Audits.** If requested by the City, the Grantee must have an annual financial compliance audit conducted in accordance with the City's requirements. The Grantee must submit two copies of such audit report to the City. Any deficiencies noted in such an audit report or an audit/monitoring report issued by the City or its designees must be fully resolved by the Grantee within a reasonable time period after a written request from the City. Failure of the Grantee to comply with the provisions of this paragraph will constitute a violation of this Contract and may result in the withholding of future payments or the requirement for Grantee to return all or part of the funds already disbursed.


5. **Close-Outs.** The Grantee's obligation to the City does not end until all close-out requirements are completed. Activities during this close-out period include: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and receivable accounts to the City), determining the custodianship of records and resolving audit findings.

C. **Payments.** The City will pay to the Grantee funds available under this Contract based upon information submitted by the Grantee and consistent with any approved budget and City policy concerning payments. Payments may be adjusted at the option of the City in accordance with advance funds and program income balances available in Grantee accounts.
D. **Procurement.** The Grantee must maintain an inventory record of all nonexpendable personal property procured with funds provided under this Contract. All unexpended program income must revert to the City upon termination of this Contract.

9. **MISCELLANEOUS.**

A. **Assignability.** The Grantee may not assign or transfer any interest in this Contract (whether by assignment or novation) without the prior written consent of the City; provided, however, that claims for money due or to become due to the Grantee from the City under this Contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer must be furnished promptly to the City.

B. **Religious Organization.** The Grantee agrees that funds provided under this Contract will not be utilized for religious activities, to promote religious interests, or for the benefit of a religious organization.

C. **Governing Law.** This Contract will be governed by, and construed in accordance with, the laws of the State of Minnesota.

D. **Counterparts.** This Contract may be executed in two or more counterparts, each of which is deemed an original, but all of which taken together constitute one and the same agreement.

CITY OF MINNETONKA

By ________________________________

Its Mayor

And ________________________________

Its City Manager

Newport Midwest LLC

By ________________________________

Its_______________________________
Exhibit A

Metropolitan Livable Communities Grant Agreement
LOCAL HOUSING INCENTIVES ACCOUNT

GRANTEE: City of Minnetonka
PROJECT: The Mariner
GRANT NO. SG-10102
GRANT AMOUNT: $210,500
FUNDING CYCLE: 2017
COUNCIL ACTION: November 29, 2017
EXPIRATION DATE: December 31, 2020

METROPOLITAN LIVABLE COMMUNITIES ACT
GRANT AGREEMENT

THIS GRANT AGREEMENT ("Agreement") is made and entered into by the Metropolitan Council ("Council") and the Municipality or Development Authority identified above as "Grantee."

WHEREAS, Minnesota Statutes section 473.251 creates the Metropolitan Livable Communities Fund, the uses of which fund must be consistent with and promote the purposes of the Metropolitan Livable Communities Act ("LCA") and the policies of the Council’s Metropolitan Development Guide; and

WHEREAS, Minnesota Statutes sections 473.251 and 473.254 establish within the Metropolitan Livable Communities Fund a Local Housing Incentives Account and require the Council to annually distribute funds in the account to Participating Municipalities that have not met their affordable and life-cycle housing goals and are actively funding projects designed to help meet the goals, or to Development Authorities for projects located in eligible Municipalities; and

WHEREAS, the Grantee is a Municipality that has negotiated affordable and life-cycle housing goals pursuant to Minnesota Statutes section 473.254, subdivision 2 and has elected to participate in the Local Housing Incentives Account program, or is a Development Authority; and

WHEREAS, the Grantee seeks funding in connection with an application for Local Housing Incentives Account funds submitted in response to a Request for Proposals issued by the Metropolitan Housing Implementation Group for the “Funding Cycle” identified above and will use the grant funds made available under this Agreement to help fund the “Project” identified in the application; and

WHEREAS, the Council awarded Local Housing Incentives Account funds to the Grantee subject to any terms, conditions and clarifications stated in its Council Action, and with the understanding that the Project identified in the application will proceed to completion in a timely manner, all grant funds will be expended prior to the “Expiration Date” identified above and Project construction will have “commenced” before the Expiration Date.
LOCAL HOUSING INCENTIVES ACCOUNT

NOW THEREFORE, in reliance on the above statements and in consideration of the mutual promises and covenants contained in this Agreement, the Grantee and the Council agree as follows:

I. DEFINITIONS

1.01. Definition of Terms. The terms defined in this section have the meanings given them in this section unless otherwise provided or indicated by the context.

(a) **Commenced.** For the purposes of Sections 2.09 and 4.03, “commenced” means significant physical improvements have occurred in furtherance of the Project (e.g., a foundation is being constructed or other tangible work on a structure has been initiated). In the absence of significant physical improvements, visible staking, engineering, land surveying, soil testing, cleanup site investigation, or pollution cleanup activities are not evidence of Project commencement for the purposes of this Agreement.

(b) **Council Action.** “Council Action” means the action or decision of the governing body of the Metropolitan Council, on the meeting date identified at Page 1 of this Agreement, by which the Grantee was awarded Local Housing Incentives Account funds.

(c) **Development Authority.** “Development Authority” means a housing and redevelopment authority, economic development authority, or port authority.

(d) **Municipality.** “Municipality” means a statutory or home rule charter city or town in the seven-county metropolitan area defined by Minnesota Statutes section 473.121, subdivision 2.

(e) **Participating Municipality.** “Participating Municipality” means a Municipality electing to participate in the Local Housing Incentives Account program under Minnesota Statutes section 473.254.

(f) **Project.** Unless clearly indicated otherwise by the context of a specific provision of this Agreement, “Project” means the development or redevelopment project identified in the application for Local Housing Incentives Account funds for which grant funds were requested. Grant-funded activities typically are components of the Project.

II. GRANT FUNDS

2.01. Source of Funds. The grant funds made available to the Grantee under this Agreement are from the Local Housing Incentives Account of the Metropolitan Livable Communities Fund. The grant funds are derived from property taxes authorized by Minnesota Statutes sections 473.249, 473.253 and 473.254, subdivision 15 and are not from federal sources.

2.02 Total Grant Amount. The Council will grant to the Grantee the “Grant Amount” identified at Page 1 of this Agreement. Notwithstanding any other provision of this Agreement, the Grantee understands and agrees that any reduction or termination of Local Housing Incentives Account funds made available to the Council, or any reduction or termination of the
dollar-for-dollar match amount required under Section 2.03, may result in a like reduction in the Grant Amount made available to the Grantee.

2.03. **Match Requirement.** Pursuant to Minnesota Statutes section 473.254, subdivision 6, the Grantee shall match on a dollar-for-dollar basis the total Grant Amount received from the Council under Section 2.02. The source and amount of the dollar-for-dollar match shall be identified by the Grantee in the application for grant funds.

2.04. **Authorized Use of Grant Funds.** The Grant Amount made available to the Grantee under this Agreement shall be used only for the purposes and Project activities described in the application for Local Housing Incentives Account funds. A Project summary that identifies eligible uses of the grant funds as approved by the Council is attached to and incorporated into this Agreement as Attachment A. Grant funds must be used for purposes consistent with Minnesota Statutes section 473.25(a), in a Participating Municipality.

2.05. **Ineligible Uses.** Grant funds must be used for costs directly associated with the specific proposed Project activities and shall not be used for “soft costs” such as: administrative overhead; travel expenses; legal fees; insurance; bonds; permits, licenses, or authorization fees; costs associated with preparing other grant proposals; operating expenses; planning costs, including comprehensive planning costs; and prorated lease and salary costs. Grant funds may not be used for costs of Project activities that occurred prior to the grant award. A detailed list of ineligible and eligible costs is available from the Council’s Livable Communities program office. Grant funds also shall not be used by the Grantee or others to supplant or replace: (a) grant or loan funds obtained for the Project from other sources; (b) Grantee contributions to the Project, including financial assistance, real property or other resources of the Grantee; or (c) funding or budgetary commitments made by the Grantee or others prior to the Council Action, unless specifically authorized by the Council. The Council shall bear no responsibility for cost overruns which may be incurred by the Grantee or others in the implementation or performance of the Project activities. The Grantee agrees to comply with any “business subsidy” requirements of Minnesota Statutes sections 116J.993 to 116J.995 that apply to the Grantee’s expenditures or uses of the grant funds.

2.06. **Loans for Low-Income Housing Tax Credit Projects.** If consistent with the application and the Project activities described or identified in Attachment A, or if requested in writing by the Grantee, the Grantee may structure the grant assistance to the Project as a loan so the Project Owner can take advantage of federal and state low-income housing tax credit programs. The Grantee may use the grant funds as a loan for a low-income housing tax credit Project, subject to the terms and conditions stated in Sections 2.04 and 2.05 and the following additional terms and conditions:

(a) The Grantee covenants and represents to the Council that the Project is a rental housing project that received or will receive an award of low-income housing tax credits under Section 42 of the Internal Revenue Code of 1986, as amended, and the low-income housing tax credit program administered by the Minnesota Housing Finance Agency or a program administered by the Minneapolis/Saint Paul Housing Finance Board or another
designated housing credit agency that sub-allocates low-income housing tax credits in the metropolitan area.

(b) The Grantee will execute a loan agreement with the Project Owner. Prior to disbursing any grant funds for the Project, the Grantee will provide to the Council a copy of the loan agreement between the Grantee and the Project Owner.

(c) The Grantee will submit annual written reports to the Council that certify: (1) the grant funds continue to be used for the Project for which the grant funds were awarded; and (2) the Project is a “qualified low-income housing project” under Section 42 of the Internal Revenue Code of 1986, as amended. This annual reporting requirement is in addition to the reporting requirements stated in Section 3.03. Notwithstanding the Expiration Date identified at Page 1 of this Agreement and referenced in Section 4.01, the Grantee will submit the annual certification reports during the initial “compliance period” and any “extended use period,” or until such time as the Council terminates this annual reporting requirement by written notice to the Grantee.

(d) The grant funds made available to the Grantee and disbursed to the Project Owner by the Grantee in the form of a loan may be used only for the grant-eligible activities and Project components for which the Grantee was awarded the grant funds. For the purposes of this Agreement, the term “Project Owner” means the current Project Owner and any Project Owner successor(s).

(e) Pursuant to Section 2.05, the grant funds made available to the Grantee and disbursed to the Project Owner in the form of a loan shall not be used by the Grantee, the Project Owner or others to supplant or replace: (1) grant or loan funds obtained for the Project from other sources; (2) Grantee contributions to the Project, including financial assistance, real property or other resources of the Grantee; or (3) funding or budgetary commitments made by the Grantee or others prior to the Council Action, unless specifically authorized by the Council. The Council will not make the grant funds available to the Grantee in a lump sum payment, but will disburse the grant funds to the Grantee on a reimbursement basis pursuant to Section 2.11.

(f) By executing this Agreement, the Grantee: (1) acknowledges that the Council expects the loan will be repaid so the grant funds may be used to help fund other activities consistent with the requirements of the Metropolitan Livable Communities Act; (2) covenants, represents and warrants to the Council that the Grantee’s loan to the Project Owner will meet all applicable low-income housing tax credit program requirements under Section 42 of the Internal Revenue Code of 1986, as amended (the “Code”), and the low-income housing tax credit program administered by the Minnesota Housing Finance Agency or a program administered by the Minneapolis/Saint Paul Housing Finance Board or another designated housing credit agency that sub-allocates low-income housing tax credits in the metropolitan area; and (3) agrees to administer its loan to the Project Owner consistent with federal and state low-income housing tax credit program requirements.
(g) The Grantee will, at its own expense, use diligent efforts to recover loan proceeds: (1) when the Project Owner becomes obligated to repay the Grantee’s loan or defaults on the Grantee’s loan; (2) when the initial thirty-year “compliance period” expires, unless the Council agrees in writing that the Grantee may make the grant funds available as a loan to the Project Owner for an “extended use period”; and (3) if noncompliance with low-income housing tax credit program requirements or some other event triggers the Project Owner’s repayment obligations under its loan agreement with the Grantee. The Grantee must repay to the Council all loan repayment amounts the Grantee receives from the Project Owner. The Grantee shall not be obligated to repay the grant funds to the Council except to the extent the Project Owner repays its loan to the Grantee, provided the Grantee has exercised the reasonable degree of diligence and used administrative and legal remedies a reasonable and prudent housing finance agency would use to obtain payment on a loan, taking into consideration (if applicable) the subordinated nature of the loan. At its discretion, the Council may: (1) permit the Grantee to use the loan repayment from the Project Owner to continue supporting affordable housing components of the Project; or (2) require the Grantee to remit the grant funds to the Council.

(h) If the Grantee earns any interest or other income from its loan agreement with the Project Owner, the Grantee will: (1) use the interest earnings or income only for the purposes of implementing the Project activities for which the grant was awarded; or (2) remit the interest earnings or income to the Council. The Grantee is not obligated to earn any interest or other income from its loan agreement with the Project Owner, except to the extent required by any applicable law.

2.07. Revolving or Deferred Loans. If consistent with the application and the Project summary or if requested in writing by the Grantee, the Grantee may use the grant funds to make deferred loans (loans made without interest or periodic payments), revolving loans (loans made with interest and periodic payments) or otherwise make the grant funds available on a “revolving” basis for the purposes of implementing the Project activities described or identified in Attachment A. The Grantee will submit annual written reports to the Council that report on the uses of the grant funds. The Council will determine the form and content of the report. This annual reporting requirement is in addition to the reporting requirements stated in Section 3.03. Notwithstanding the Expiration Date identified at Page 1 of this Agreement and referenced in Section 4.01, the Grantee will submit the annual reports until the deferred or revolving loan programs terminate, or until the Council terminates this annual reporting requirement by written notice from the Council. At its discretion, the Council may: (1) permit the Grantee to use loan repayments to continue supporting affordable housing components of the Project; or (2) require the Grantee to remit the grant funds to the Council.

2.08. Restrictions on Grants and Loans by Subrecipients. The Grantee shall not permit any subgrantee or subrecipient to use the grant funds for grants or loans to any subgrantee or subrecipient at any tier unless the Grantee obtains the prior written consent of the Council. The requirements of this Section 2.08 shall be included in all subgrant and subrecipient agreements.

2.09. Project Commencement and Changes. The Project for which grant funds were requested must be “commenced” prior to the Expiration Date. The Grantee must promptly
inform the Council in writing of any significant changes to the Project for which the grant funds were awarded, as well as any potential changes to the grant-funded activities described or identified in Attachment A. Failure to inform the Council of any significant changes to the Project or significant changes to grant-funded components of the Project, and use of grant funds for ineligible or unauthorized purposes, will jeopardize the Grantee’s eligibility for future LCA awards. Grant funds will not be disbursed prior to Council approval of significant changes to either the Project or grant-funded activities described or identified in Attachment A.

2.10. Loss of Grant Funds. The Grantee agrees to remit to the Council in a prompt manner: any unspent grant funds, including any grant funds that are not expended prior to the Expiration Date identified at Page 1 of this Agreement; any grant funds that are not used for the authorized purposes; any grant funds that are not matched on a dollar-for-dollar basis as required by Section 2.03; and any interest earnings described in Section 2.12 that are not used for the purposes of implementing the grant-funded Project activities described or identified in Attachment A. For the purposes of this Agreement, grant funds are “expended” prior to the Expiration Date if the Grantee pays or is obligated to pay for expenses of eligible grant-funded Project activities that occurred prior to the Expiration Date and the eligible expenses were incurred prior to the Expiration Date. Unspent or unused grant funds and other funds remitted to the Council shall revert to the Council’s Local Housing Incentives Account for distribution through application processes in future Funding Cycles or as otherwise permitted by law.

2.11. Payment Request Forms, Documentation, and Disbursements. The Council will disburse grant funds in response to written payment requests submitted by the Grantee and reviewed and approved by the Council’s authorized agent. Written payment requests shall be made using payment request forms, the form and content of which will be determined by the Council. Payment request and other reporting forms will be provided to the Grantee by the Council. Payment requests must include the following documentation:

- Consultant/contractor invoices showing the time period covered by the invoice; the specific grant-funded Project activities conducted or completed during the authorized time period within which eligible costs may be incurred; and documentation supporting expenses including subcontractor and consultant invoices showing unit rates, quantities, and a description of the good or services provided. Subcontractor markups shall not exceed ten percent (10%).

The Council will disburse grant funds on a reimbursement basis or a “cost incurred” basis. The Grantee must provide with its written payment requests documentation that shows grant-funded Project activities have been completed. Subject to verification of each payment request form (and the required documentation) and approval for consistency with this Agreement, the Council will disburse a requested amount to the Grantee within two (2) weeks after receipt of a properly completed and verified payment request form.

2.12. Interest Earnings. If the Grantee earns any interest or other income from the grant funds received from the Council under this Agreement, the Grantee will use the interest earnings or income only for the purposes of implementing the Project activities described or identified in Attachment A.
2.13. **Effect of Grant.** Issuance of this grant neither implies any Council responsibility for contamination, if any, at the Project site nor imposes any obligation on the Council to participate in any pollution cleanup of the Project site if such cleanup is undertaken or required.

2.14. **Resale Limitations.** The Grantee must impose resale limitations regarding the disposition of any equity realized by the purchasers of “affordable” units if grant funds received from the Council under this Agreement are used for homeownership affordability gap financing in the Project described or identified in Attachment A. The intent of this resale limitation is to protect the public investment in the Project and ensure that a proportion of the affordability gap provided by the public investment in the form of grant funds received from the Council is recaptured for reuse in conjunction with other affordable housing efforts and does not become a windfall for any purchaser who might sell the home prior to expiration of a predetermined resale limitation period. If a purchaser sells the “affordable” home prior to expiration of the resale limitation time period, an equitable proportion of the affordability gap filled by grant funds received from the Council under this Agreement must be recaptured by the Grantee within twenty-four (24) months of the triggering resale event and applied to a similar affordable housing project within the Participating Municipality, or returned to the Council. Unless otherwise agreed to by the Council and the Grantee, the length of the resale limitation time period and the proportion of the affordability gap to be recovered will be consistent with resale limitation time periods and repayment schedules stated in the Project application. These resale limitations do not apply when the grant funds are used for homeownership value gap financing.

2.15. **Affordability Term.** The Grantee shall, through written instruments or otherwise, ensure the affordable units acquired or developed with grant funds made available under this Agreement will remain affordable for a minimum period of fifteen (15) years. The Grantee’s obligation under this section may be satisfied if other Project funding sources (e.g., the Minnesota Housing Finance Agency or the U.S. Department of Housing and Urban Development (“HUD”)) or state or federal laws (e.g., low-income housing tax credit programs) require an affordability term of at least fifteen (15) years. For the purposes of this section, “affordable housing unit” means a unit that is affordable to households at 80 percent (80%) or less of the Area Median Income (“AMI”), as established by HUD, unless the Grantee’s application stated an affordability standard lower than 80 percent (80%) of AMI, in which case the Grantee’s lower affordability standard shall apply. The affordability requirements of this section shall survive the expiration or termination of this Agreement.

2.16. **Affirmative Fair Housing Marketing Plans.** The Grantee shall, through written instruments or otherwise, ensure the Project owner (and any subsequent owner(s)) adopts and implements an affirmative fair housing marketing plan for all Project housing units (whether market rate or affordable). For the purposes of this section, “affirmative fair housing marketing plan” means an affirmative fair housing marketing plan that substantially conforms to affirmative fair housing marketing plans published by HUD. The affirmative fair housing marketing plan requirement under this section shall continue for the minimum affordability term specified in Section 2.15 and shall survive the expiration or termination of this Agreement.
III. ACCOUNTING, AUDIT, AND REPORT REQUIREMENTS

3.01. Accounting and Records. The Grantee agrees to establish and maintain accurate and complete accounts and records relating to the receipt and expenditure of all grant funds received from the Council. Notwithstanding the expiration and termination provisions of Sections 4.01 and 4.02, such accounts and records shall be kept and maintained by the Grantee for a period of six (6) years following the completion of the Project activities described or identified in Attachment A or six (6) years following the expenditure of the grant funds, whichever occurs earlier. For all expenditures of grant funds received pursuant to this Agreement, the Grantee will keep proper financial records and other appropriate documentation sufficient to evidence the nature and expenditure of the dollar-for-dollar match funds required under Section 2.03. Accounting methods shall be in accordance with generally accepted accounting principles.

3.02. Audits. The above accounts and records of the Grantee shall be audited in the same manner as all other accounts and records of the Grantee are audited and may be audited or inspected on the Grantee’s premises or otherwise by individuals or organizations designated and authorized by the Council at any time, following reasonable notification to the Grantee, for a period of six (6) years following the completion of the Project activities or six (6) years following the expenditure of the grant funds, whichever occurs earlier. Pursuant to Minnesota Statutes section 16C.05, subdivision 5, the books, records, documents and accounting procedures and practices of the Grantee that are relevant to this Agreement are subject to examination by the Council and either the Legislative Auditor or the State Auditor, as appropriate, for a minimum of six (6) years.

3.03. Reporting and Continuing Requirements. The Grantee will report to the Council on the status of the Project activities described or identified in Attachment A, the expenditures of the grant funds, and the source and expenditure of the dollar-for-dollar match funds required under Section 2.03. Submission of properly completed payment request forms (with proper documentation) required under Section 2.11 will constitute periodic status reports. The Grantee also must complete and submit to the Council a grant activity closeout report. The closeout report form must be submitted within 120 days after the expiration or termination of this Agreement, whichever occurs earlier. Within 120 days after the Expiration Date, the Grantee must complete and submit to the Council a certification of expenditures of funds form signed by the Grantee’s chief financial officer or finance director. The Council will determine the form and content of the closeout report and certification form. These reporting requirements and the reporting requirements of Sections 2.06 and 2.07 shall survive the expiration or termination of this Agreement.

3.04. Environmental Site Assessment. The Grantee represents that a Phase I Environmental Site Assessment or other environmental review has been or will be carried out, if such environmental assessment or review is appropriate for the scope and nature of the Project activities funded by this grant, and that any environmental issues have been or will be adequately addressed.
LOCAL HOUSING INCENTIVES ACCOUNT

IV. AGREEMENT TERM

4.01. Term. This Agreement is effective upon execution of the Agreement by the Council. Unless terminated pursuant to Section 4.02, this Agreement expires on the Expiration Date identified at Page 1 of this Agreement. ALL GRANT FUNDS NOT EXPENDED BY THE GRANTEE PRIOR TO THE EXPIRATION DATE SHALL REVERT TO THE COUNCIL.

4.02. Termination. This Agreement may be terminated by the Council for cause at any time upon fourteen (14) calendar days’ written notice to the Grantee. Cause shall mean a material breach of this Agreement and any amendments of this Agreement. If this Agreement is terminated prior to the Expiration Date, the Grantee shall receive payment on a pro rata basis for eligible Project activities described or identified in Attachment A that have been completed prior to the termination. Termination of this Agreement does not alter the Council’s authority to recover grant funds on the basis of a later audit or other review, and does not alter the Grantee’s obligation to return any grant funds due to the Council as a result of later audits or corrections. If the Council determines the Grantee has failed to comply with the terms and conditions of this Agreement and the applicable provisions of the Metropolitan Livable Communities Act, the Council may take any action to protect the Council’s interests and may refuse to disburse additional grant funds and may require the Grantee to return all or part of the grant funds already disbursed.

4.03. Amendments and Extension. The Council and the Grantee may amend this Agreement by mutual agreement. Amendments or an extension of this Agreement shall be effective only on the execution of written amendments signed by authorized representatives of the Council and the Grantee. If the Grantee needs additional time within which to complete grant-funded activities and commence the Project, the Grantee must submit to the Council AT LEAST NINETY (90) CALENDAR DAYS PRIOR TO THE EXPIRATION DATE, a resolution of the Grantee’s governing body requesting the extension and a written extension request. THE EXPIRATION DATE MAY BE EXTENDED, BUT THE PERIOD OF ANY EXTENSION(S) SHALL NOT EXCEED TWO (2) YEARS BEYOND THE ORIGINAL EXPIRATION DATE IDENTIFIED AT PAGE 1 OF THIS AGREEMENT.

V. GENERAL PROVISIONS

5.01. Equal Opportunity. The Grantee agrees it will not discriminate against any employee or applicant for employment because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, membership or activity in a local civil rights commission, disability, sexual orientation, or age and will take affirmative action to insure applicants and employees are treated equally with respect to all aspects of employment, rates of pay and other forms of compensation, and selection for training.

5.02. Conflict of Interest. The members, officers, and employees of the Grantee shall comply with all applicable state statutory and regulatory conflict of interest laws and provisions.
5.03. Liability. Subject to the limitations provided in Minnesota Statutes chapter 466, to the fullest extent permitted by law, the Grantee shall defend, indemnify and hold harmless the Council and its members, employees and agents from and against all claims, damages, losses, and expenses, including but not limited to attorneys’ fees, arising out of or resulting from the conduct or implementation of the Project activities funded by this grant, except to the extent the claims, damages, losses and expenses arise from the Council’s own negligence. Claims included in this indemnification include, without limitation, any claims asserted pursuant to the Minnesota Environmental Response and Liability Act (MERLA), Minnesota Statutes chapter 115B, the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) as amended, United States Code, Title 42, sections 9601 et seq., and the federal Resource Conservation and Recovery Act of 1976 (RCRA) as amended, United States Code, title 42, sections 6901 et seq. This obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which otherwise would exist between the Council and the Grantee. The provisions of this section shall survive the expiration or termination of this Agreement. This indemnification shall not be construed as a waiver on the part of either the Grantee or the Council of any immunities or limits on liability provided by Minnesota Statutes chapter 466, or other applicable state or federal law.

5.04. Acknowledgments and Signage. The Grantee will acknowledge the financial assistance provided by the Council in promotional materials, press releases, reports, and publications relating to the Project. The acknowledgment will contain the following or comparable language:

Financing for this project was provided by the Metropolitan Council Metropolitan Livable Communities Fund.

Until the Project is completed, the Grantee shall ensure the above acknowledgment language, or alternative language approved by the Council’s authorized agent, is included on all signs (if any) located at Project or construction sites that identify Project funding partners or entities providing financial support for the Project. The acknowledgment and signage should refer to the “Metropolitan Council” (not “Met Council” or “Metro Council”).

5.05. Permits, Bonds, and Approvals. The Council assumes no responsibility for obtaining any applicable local, state, or federal licenses, permits, bonds, authorizations, or approvals necessary to perform or complete the Project activities described or identified in Attachment A. The Grantee and its developer(s), if any, must comply with all applicable licensing, permitting, bonding, authorization, and approval requirements of federal, state, and local governmental and regulatory agencies, including conservation districts.

5.06. Subgrantees, Contractors and Subcontractors. The Grantee shall include in any subgrant, contract or subcontract for Project activities appropriate provisions to ensure subgrantee, contractor, and subcontractor compliance with all applicable state and federal laws and this Agreement. Along with such provisions, the Grantee shall require that contractors and subcontractors performing work covered by this grant comply with all applicable state and federal Occupational Safety and Health Act regulations. The Grantee’s subgrant agreement(s) shall expressly include the affordability and affirmative fair housing marketing plan requirements of Sections 2.15 and 2.16.
LOCAL HOUSING INCENTIVES ACCOUNT

5.07. Stormwater Discharge and Water Management Plan Requirements. If any grant funds are used for urban site redevelopment, the Grantee shall at such redevelopment site meet or require to be met all applicable requirements of:

(a) Federal and state laws relating to stormwater discharges including, without limitation, any applicable requirements of Code of Federal Regulations, title 40, parts 122 and 123; and

(b) The Council's 2040 Water Resources Policy Plan and the local water management plan for the authority within which the redevelopment site is located.

5.08. Authorized Agent. Payment request forms, written reports and correspondence submitted to the Council pursuant to this Agreement shall be directed to:

Metropolitan Council
Attn: LCA Grants Administration
390 Robert Street North
Saint Paul, Minnesota 55101-1805

5.09. Non-Assignment. Minnesota Statutes section 473.254, subdivision 6 requires the Council to distribute the grant funds to eligible “municipalities” or “development authorities” for projects in municipalities participating in the Local Housing Incentives Account program. Accordingly, this Agreement is not assignable and shall not be assigned by the Grantee.

5.10. Authorization to Reproduce Images. The Grantee certifies that the Grantee: (a) is the owner of any renderings, images, perspectives, sections, diagrams, photographs, or other copyrightable materials (collectively, “copyrightable materials”) that are in the Grantee’s application or are submitted to the Council as part of the grant application review process or after grant award, or that the Grantee is fully authorized to grant permissions regarding the copyrightable materials; and (b) the copyrightable materials do not infringe upon the copyrights of others. The Grantee agrees the Council has a nonexclusive royalty-free license and all necessary permissions to reproduce and publish the copyrightable materials for noncommercial purposes, including but not limited to press releases, presentations, reports, and on the internet. The Grantee also agrees the Grantee will not hold the Council responsible for the unauthorized use of the copyrightable materials by third parties.

5.11. Warranty of Legal Capacity. The individuals signing this Agreement on behalf of the Grantee and on behalf of the Council represent and warrant on the Grantee’s and the Council’s behalf respectively that the individuals are duly authorized to execute this Agreement on the Grantee’s and the Council’s behalf respectively and that this Agreement constitutes the Grantee’s and the Council’s valid, binding, and enforceable agreements.
LOCAL HOUSING INCENTIVES ACCOUNT

IN WITNESS WHEREOF, the Grantee and the Council have caused this Agreement to be executed by their duly authorized representatives. This Agreement is effective on the date of final execution by the Council.

GRANTEE

By: ____________________________
Title: __________________________
Date: __________________________

By: ____________________________
Title: __________________________
Date: __________________________

By: ____________________________
Title: __________________________
Date: __________________________

METROPOLITAN COUNCIL

By: ____________________________
Beth Reetz, Director
Community Development Division
Date: __________________________
ATTACHMENT A

PROJECT SUMMARY

This attachment comprises this page and the succeeding page(s) which contain(s) a summary of the Project identified in the application for Local Housing Incentives Account grant funds submitted in response to a Request for Proposals issued by the Metropolitan Housing Implementation Group for the Funding Cycle identified at Page 1 of this Agreement. The summary reflects the proposed Project for which the Grantee was awarded grant funds by the Council Action, and may reflect changes in Project funding sources, changes in funding amounts, or minor changes in the proposed Project that occurred subsequent to application submission. The application is incorporated into this Agreement by reference and is made a part of this Agreement as follows. If the application or any provision in the application conflicts with or is inconsistent with the Council Action, other provisions of this Agreement, or the Project summary contained in this Attachment A, the terms, descriptions, and dollar amounts reflected in the Council Action or contained in this Agreement and the Project summary shall prevail. For the purposes of resolving conflicts or inconsistencies, the order of precedence is: (1) the Council Action; (2) this Agreement; (3) the Project summary; and (4) the grant application.
Livable Communities Summary

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<tr>
<th>Grant #</th>
<th>SG-10102</th>
</tr>
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<tbody>
<tr>
<td>Type:</td>
<td>Local Housing Incentives Account</td>
</tr>
<tr>
<td>Applicant:</td>
<td>City of Minnetonka</td>
</tr>
<tr>
<td>Project Name:</td>
<td>The Mariner</td>
</tr>
<tr>
<td>Project Location:</td>
<td>10400, 10440, 10500 Bren Road East</td>
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### Project Detail

<table>
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<tr>
<th>Project Overview</th>
<th>A mixed income development near the METRO Green Line Extension Opus Station. The Mariner will create 246 new units of housing with rent levels ranging from 30% AMI to over 100% AMI. Redevelopment of the existing office buildings on the 3.2-acre site will include new residential units and amenity space. Metro HRA is also recommending four Project Based Vouchers to this development.</th>
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<tr>
<td>Total housing units</td>
<td>246</td>
</tr>
<tr>
<td>Affordable units</td>
<td>4 – LTH; 51 @ 60% AMI; 191 – market rate</td>
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<tr>
<td>Anticipated # bedrooms</td>
<td>139 – 1 BR; 81 – 2 BR; 26 – 3 BR</td>
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<td>Est. total development cost</td>
<td>$14,961,658</td>
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<td>Est. private funds leveraged</td>
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<td>Est. public funds leveraged</td>
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### Funding

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<td>LHIA Match</td>
<td>City of Minnetonka</td>
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<td>Other Funding Sources</td>
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<tr>
<td>$8,496,298</td>
<td>Syndication Proceeds</td>
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<td>$556,179</td>
<td>City of Minnetonka Deferred Loan</td>
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<td>$200,000</td>
<td>Hennepin County Affordable Housing Incentive Fund</td>
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<td>Energy Rebates</td>
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<td>First Mortgage</td>
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<tr>
<td>$860,851</td>
<td>Other Financing</td>
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</table>
SUB-RECIPIENT FUNDING AGREEMENT BETWEEN
CITY OF MINNETONKA
AND
NEWPORT MIDWEST LLC
FOR THE
METROPOLITAN COUNCIL
METROPOLITAN LIVABLE COMMUNITIES FUND
LOCAL HOUSING INCENTIVES GRANT PROGRAM
(Land Acquisition)

THIS CONTRACT, is entered into this ___ day of __________, 2018, by and between the CITY OF
MINNETONKA, a Minnesota municipal corporation (the "City"), and Newport Midwest LLC, (the "Grantee").

WHEREAS, in cooperation with Grantee, the City applied to and received approval for funds in the
amount of $210,500 from the Metropolitan Council ("Council") under its Metropolitan Livable Communities
Fund, Local Housing Incentives grant program (the "Housing Grant"); and

WHEREAS, the City desires to award proceeds of the Housing Grant in the amount of $210,500 (the
"Subgrant") to Grantee, to assist Grantee with the acquisition of property for a mixed income development . (the
"Project").

NOW, THEREFORE, the parties agree to the following terms:

1. AWARD. The City awards the Subgrant to Grantee for the acquisition of land for construction of a mixed
income development as described in Grant Agreement No. SG10102 between the City and the Council
attached to this Contract as Exhibit A (the "Housing Grant Agreement") of which is incorporated into this
Contract (the "Project"). The Subgrant must be used exclusively to pay or reimburse only expenses
authorized under the Housing Grant Agreement. Administration costs incurred by the Grantee are not
eligible for reimbursement via this Contract. Notwithstanding anything to the contrary, the Grantee
understands and agrees that any reduction or termination of the Housing Grant may result in a like
reduction or termination of the Subgrant, and that any material change in the timeline or scope of the
Project in the Housing Grant Agreement must be approved in writing by the City and the Council.

2. PERFORMANCE. The Grantee must comply with all requirements applicable to the City in the Housing
Grant Agreement. Grantee’s default under the Housing Grant Agreement will constitute noncompliance
with this Contract. If the City finds that there has been a failure to comply with the provisions of this
Contract or that reasonable progress on the Project has not been or will not be made, the City may take
action to protect its interests, including refusal to disburse additional funds and requiring the return of all
or part of the funds already disbursed. If action to correct substandard performance is not taken by the
Grantee within 60 calendar days (or such longer period specified by the City) after written notice by the
City, the City may terminate this Contract.

3. TIME OF PERFORMANCE. Grantee must start the Project upon execution of this Contract and complete
the Project and the Housing Program on or before December 31, 2020. The City is not obligated to pay
for any Project costs incurred after that date or any earlier termination, whichever occurs first.

4. CONDITIONS PRECEDENT TO DISBURSEMENT. The following requirements are conditions
precedent to the City’s disbursement of any of the Subgrant proceeds.

   A. The Grantee must have provided evidence satisfactory to the City showing that
      Grantee has title in fee simple and site control of the property acquired.
B. The Grantee must have provided the City with evidence of compliance with the insurance requirements of Section 7(E) herein.

C. The Grantee must have provided to the City such evidence of compliance with all of the provisions of this Contract as the City may reasonably request.

5. **DISBURSEMENT.** It is expressly agreed and understood that the total amount to be paid by the City under this Contract will not exceed $210,500. The City will make disbursements only upon receipt of a written disbursement request in the form provided by the Council (the "Disbursement Request") from Grantee acceptable to the City and the Council. Payment requests may be made no more than once per month and must be accompanied by supporting invoices that relate to Project costs. The City will, upon its approval of the Disbursement Request, forward the Disbursement Request to the Council for approval. Upon Council approval of the Disbursement Request and disbursement of the approved amounts of Housing Grant funds, the City will disburse the approved amount of Subgrant funds in accordance with the information provided in the Disbursement Request.

6. **NOTICES.** Communication and details concerning this Contract must be directed to the following Contract representatives:

- **City:**
  
  City of Minnetonka  
  Community Development Department  
  14600 Minnetonka Blvd.  
  Minnetonka, MN 55345  
  Attn: Alisha Gray  
  Phone: (952) 939-8285

- **Grantee:**

  Newport Midwest LLC  
  475 Cleveland Ave North, #325  
  St. Paul, MN 55104  
  Attn: Becky Landon  
  651-447-2330

7. **GENERAL CONDITIONS.**

A. **General Compliance.** The Grantee agrees to comply with all applicable federal, state and local laws and regulations governing the Project and funds provided under this Contract.

B. **Subcontracts.**

1. **Selection Process.** The Grantee must undertake to ensure that all contracts and subcontracts let in the performance of this Contract are awarded on a fair and open competition basis. Executed copies of all contracts and subcontracts along with documentation concerning the selection process must be forwarded to the City upon request.

2. **Monitoring.** The City may monitor contracted and subcontracted services on a regular basis to ensure contract compliance. Results of monitoring efforts will be summarized in written reports and provided to the Grantee. The Grantee
must provide documented evidence of follow-up actions taken to correct areas of noncompliance noted in the monitoring reports.

3. **OSHA.** Grantee must require that contractors performing work being paid with the Subgrant funds be in compliance with all applicable OSHA regulations.

C. **Anti-discrimination.** The Grantee agrees during the life of this Contract not to discriminate against any employee or applicant for employment because of race, color, creed, or national origin. The Grantee must include a similar provision in all contracts and subcontracts entered into for the performance of this Contract. This Contract may be cancelled or terminated by the City, and all money due or to become due under the Contract may be forfeited for a second or subsequent violation of the terms or conditions of this paragraph.

D. **Equal Opportunity.** The Grantee recognizes the City is an equal opportunity employer and agrees during the life of this Contract to take affirmative action to provide equal employment opportunities without regard to race, color, sex, creed, national origin, religion, disability, age, marital status, sexual preference, or status with regard to public assistance.

E. **Independent Contractor.** Nothing contained in this Contract is intended to, or may be construed in any manner, as creating or establishing the relationship of employer/employee between the parties. The Grantee will at all times remain an independent contractor with respect to the services to be performed under this Contract. The City is exempt from payment of all unemployment compensation, FICA, retirement, life and/or medical insurance and workers' compensation insurance because the Grantee is an independent contractor.

F. **Indemnification and Hold Harmless.** The Grantee must hold harmless, defend and indemnify the City and the Council from any and all liability, claims, actions, suits, charges, damages, losses, costs, expenses, and judgments whatsoever, including reasonable attorney's fees, that arise directly or indirectly out of the Grantee's, its contractors or subcontractors performance or nonperformance of the services or subject matter called for in this Contract. This clause may not be construed to bar any legal remedies Grantee may have for the City's or the Council's failure to fulfill its obligations pursuant to this Contract.

Claims included in this indemnification include any claims asserted pursuant to the Minnesota Environmental Response and Liability Act (MERLA), Minnesota Statutes, Chapter 115B, the Federal Comprehensive Environmental Response Compensation and Liability Act of 1980 (CERCLA) as amended, United States Code, title 42, Sections 9601 et. seq., and the Federal Resource Conservation and Recovery Act of 1976 (RCRA) as amended, United States Code, title 42, Sections 6901 et. seq. This indemnification cannot be construed as a waiver on the part of either the City or the Council of any immunities or limits on liability provided by Minnesota Statutes Chapter 466 or other applicable state or federal law.

8. **ADMINISTRATIVE REQUIREMENTS.**

A. **Accounting Standards.** The Grantee agrees to maintain the necessary source documentation and enforce sufficient internal controls as dictated by generally
accepted accounting practices to properly account for expenses incurred under this Contract.

B. **Records.**

1. **Retention.** The Grantee must retain all records pertinent to expenditures incurred under this Contract until conclusion of the latest of (a) six years after the Grantee has completed the Housing Program; (b) six years after the Grantee has expended all proceeds of the Subgrant; (c) six years after the resolution of all audit findings; or (d) six years after Housing Grant Agreement termination or cancellation. Records for nonexpendable property acquired with funds under this Contract must be retained for six years after final disposition of such property.

2. **Inspections.** All Grantee records with respect to any matters covered by this Contract must be made available to the City, the Council or their designees at any time during normal business hours, as often as the City or the Council deems necessary, to audit, examine, and make excerpts or transcripts of all relevant data.

3. **Audits.** If requested by the City, the Grantee must have an annual financial compliance audit conducted in accordance with the City's requirements. The Grantee must submit two copies of such audit report to the City. Any deficiencies noted in such an audit report or an audit/monitoring report issued by the City or its designees must be fully resolved by the Grantee within a reasonable time period after a written request from the City. Failure of the Grantee to comply with the provisions of this paragraph will constitute a violation of this Contract and may result in the withholding of future payments or the requirement for Grantee to return all or part of the funds already disbursed.


5. **Close-Outs.** The Grantee's obligation to the City does not end until all close-out requirements are completed. Activities during this close-out period include: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and receivable accounts to the City), determining the custodianship of records and resolving audit findings.

C. **Payments.** The City will pay to the Grantee funds available under this Contract based upon information submitted by the Grantee and consistent with any approved budget and City policy concerning payments. Payments may be adjusted at the option of the City in accordance with advance funds and program income balances available in Grantee accounts.

D. **Procurement.** The Grantee must maintain an inventory record of all nonexpendable personal property procured with funds provided under this Contract. All unexpended program income must revert to the City upon termination of this Contract.
9. **Miscellaneous.**

A. **Assignability.** The Grantee may not assign or transfer any interest in this Contract (whether by assignment or novation) without the prior written consent of the City; provided, however, that claims for money due or to become due to the Grantee from the City under this Contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer must be furnished promptly to the City.

B. **Religious Organization.** The Grantee agrees that funds provided under this Contract will not be utilized for religious activities, to promote religious interests, or for the benefit of a religious organization.

C. **Governing Law.** This Contract will be governed by, and construed in accordance with, the laws of the State of Minnesota.

D. **Counterparts.** This Contract may be executed in two or more counterparts, each of which is deemed an original, but all of which taken together constitute one and the same agreement.
CITY OF MINNETONKA

By ______________________________
   Its Mayor

And ______________________________
   Its City Manager

Newport Midwest LLC

By ______________________________

Its ______________________________
Exhibit A

Housing Grant Agreement
Resolution No. 2018-  
Resolution approving use of Hennepin County Affordable Housing Incentive Funds by 
Newport Midwest, LLC dba The Mariner

Be it resolved by the City Council of the City of Minnetonka, Minnesota as follows:

Section 1.   Background.

1.01. The Hennepin County Housing and Redevelopment Authority (HCHRA) in Resolution No. 17-HCHRA-0020 has approved the use of a $400,000 Affordable Housing Incentive Fund loan for Newport Midwest, LLC (The Mariner) contingent upon the city of Minnetonka’s consent to the HCHRA’s participation in the project.

1.02. The Mariner project will increase/preserve the supply of affordable housing in the City of Minnetonka by providing 55 units of affordable housing.

1.03. The loan from the HCHRA will complete the financing required for the project to go forward.

Section 2.   Council Action.

2.01. The City Council approves the participation of the Hennepin County Housing and Redevelopment Authority in the Newport Midwest, LLC project.

Adopted by the City Council of the City of Minnetonka, Minnesota, on August 6, 2018.

__________________________________________
Brad Wiersum, Mayor

Attest:

__________________________________________
David E. Maeda, City Clerk
Action on this resolution:

Motion for adoption:
Seconded by:
Voted in favor of:
Voted against:
Abstained:
Absent:
Resolution adopted.

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a duly authorized meeting held on August 6, 2018.

___________________________________________
David E. Maeda, City Clerk
City Council Agenda Item #13C
Meeting of Aug. 6, 2018

Brief Description
Temporary on-sale liquor license for The Rotary Club of Minnetonka Foundation, 12401 Wayzata Blvd.

Recommendation
Hold the public hearing and grant the license

Background
The city has received an application for a temporary on-sale liquor license from the Rotary Club of Minnetonka Foundation (The Rotary Club) for a community event including an outdoor concert at Ridgedale Mall. The performance will be generally located in the southwest parking lot of JCPenney. Below is a link to our website with event details:

Rock at Ridgedale

The Rotary Club is requesting approval of a temporary liquor license for this fundraising event on Saturday, Sept. 22, 2018. The Minnetonka Rotary Club raises money for the Hopkins/Minnetonka communities with 100% of the proceeds providing grants and scholarships to local non-profits whose mission is to serve and develop youth in the community.

Event Description
The Rock at Ridgedale event sponsored by the city of Minnetonka will take place on Saturday, Sept. 22, 2018 from 5-10 p.m. The event will include family activities, a live performance by The Johnny Holm Band, wine and beer, and food trucks. The Rotary Club volunteers will be serving the beer/wine.

All participants will be required to show identification that they are 21-years-of-age or older, and will be required to wear a wristband verifying their age.

A notice will be mailed next month to the surrounding neighborhood informing them of the event and noting the event will adhere to the noise regulations of the city.

Recommendation
Staff recommends the council hold the public hearing and grant the temporary liquor license in connection with the event for The Rotary Club of Minnetonka Foundation.

Submitted through:
  Geralyn Barone, City Manager
  Julie Wischnack, AICP, Community Development Director

Originated by:
  Kathy Leervig, Community Development Coordinator
City Council Agenda Item #13D  
Meeting of Aug. 6, 2018

**Brief Description**  
Temporary on-sale liquor license for The Rotary Club of Minnetonka Foundation, 14350 County Road 62

**Recommendation**  
Hold the public hearing and grant the license

**Background**

The city has received an application for a temporary on-sale liquor license from the Rotary Club of Minnetonka Foundation (The Rotary Club) for an indoor/outdoor fundraising event at the Glen Lake Golf and Practice Center, 14350 County Road 62.

The Rotary Club is requesting approval for a fundraising event on Thursday, Sept. 13, 2018. The Minnetonka Rotary Charity Golf tournament is a charity event that raises money for the Hopkins/Minnetonka communities with 100% of the proceeds providing grants and scholarships to local non-profits whose mission is to serve and develop youth in the community.

**The Event, including an outdoor activity with intoxicating liquor**

The event will take place on Thursday, Sept. 13, 2018 from 1-8 p.m. Events include a 9-hole golf tournament, wine and beer tasting event, food, and silent auction. The Rotary Club volunteers will be serving the beer/wine.

Beer and wine tasting, and food will be served both in the clubhouse and on the patio directly outside the clubhouse. The outside drinking area will be roped off, as is required for an outdoor event. All participants will be required to show identification that they are 21-years-of-age or older, and will be required to wear a wristband verifying their age.

**Recommendation**

The city did not encounter any issues with the event in 2017. Staff recommends the council hold the public hearing and grant the temporary liquor license in connection with a fundraising event, including outdoor events, for The Rotary Club of Minnetonka Foundation.

Submitted through:
  - Geralyn Barone, City Manager
  - Julie Wischnack, AICP, Community Development Director

Originated by:
  - Kathy Leervig, Community Development Coordinator
Location Map

Applicant: The Rotary Club of Minnetonka
Event Location: 14350 Co Rd 62
City of Minnetonka

DISCLAIMER: This drawing is not a legally recorded plat or an accurate survey. It is intended to be only an approximate representation of information from various government offices and other sources. It should not be used for a purpose that requires exact measurement or precision. People who use this drawing do so at their own risk. The City of Minnetonka is not responsible for any inaccuracies contained in the drawing. The City of Minnetonka provides no warranty, express or implied, about the correctness of the information.
Annual
Minnetonka Rotary
Charity Golf Open
Links & Libations
Glen Lake Golf Course
Minnetonka
Thurs, September 13, 2018

Beer and Wine Tasting Featuring Local Craft Brewers
- Executive 9 Hole Tournament, scramble format
- Silent Auction of amazing baskets, unusual home and personal treasures
- Raffle for six prizes including a $1000 Gift Card from Restwell Mattress Factory, 48" $500 Smart Television, Kamado Joe Grill value $1000, Cutco Galley Plus Six Knife Set value $990, $250 Cash Prize, $200 Cash Prize

Be a Sponsor: includes course and banner signage for all Sponsors
- Platinum Sponsor $750 - also includes golf, beverages and food for 4
- Gold Sponsor $500 - also includes golf, beverages and food for 2
- Silver Sponsor $300 - also includes golf, beverages and food for 1
- Bronze Sponsor $150 – course & banner signage only

Team up with others and form a joint sponsorship!

Cost: Golf, Food & Beer — $75  Food & Beer — $20
Time: Golfers Check in at 1:30 pm, Tee-Off at 2:30 pm
Wine and Beer Tasting, Food, and Silent Auction at 5:00 pm

Register:  https://tinyurl.com/Minnetonkagolf

100% of the proceeds are used to support our mission of "Building Responsible Youth," impacting the community through ICA Food Shelf, High School Scholarships, other local programs for youth, and International Youth Exchange.

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July 11, 2018

Dear Neighbor,

This letter is to inform you that the Rotary Club of Minnetonka has made application to the City of Minnetonka for a Temporary Liquor License, for a fundraising event at the address of 14350 County Road 62, Minnetonka, at the Glen Lake Golf and Practice Center. You are receiving this letter as fulfillment of the city’s requirement to notify all residences within 400 feet of the facility that the event will include the serving of food and alcohol as described below:

Name of event:        Minnetonka Rotary Charity Golf Event
Date of Event:       Thursday, September 13, 2018
Time of Event:       1pm to 8pm
Type of Liquor Served:  Beer and Wine
Outdoor Activity Planned:  Golf

This letter serves as your notice that the city will review this application at a regular City Council Meeting. The tentative date for the public hearing before the council is Monday, August 6th, 2018. The meeting begins at 6:30 pm in the council chambers of the Minnetonka Community Center at 14600 Minnetonka Blvd, Minnetonka, MN.

If you have any comments, you may contact Julie Wischnak, Community Development Director, City of Minnetonka at 952-939-8282 or by e-mail to: jwischnack@eminnetonka.com. Your comments must be received by the city on or before August 3, 2018.

Sincerely,

Nancy Davis, President

Minnetonka Rotary Club Foundation
City Council Agenda Item #14A
Meeting of Aug. 6, 2018

Brief Description  Consideration of petition for environmental assessment worksheet for Lone Lake Park – Mountain Bike Trail

Recommended Action  Adopt a resolution denying the petition for an environmental assessment worksheet.

Background

On July 10, 2018, the Minnesota Environmental Quality Board (EQB) provided the city with a petition for an environmental assessment worksheet (EAW) regarding proposed mountain bike trails in Lone Lake Park. The petition asserts that, because of the nature or location of the project, it may have the potential for significant environmental effects. The EQB has determined that the petition is complete and has designated the city as the responsible governmental unit (RGU) for the project.

The petition contains 133 signatures, of which a vast majority are Minnetonka residents. State law requires only that the persons signing the petition reside within the state.

Under state rules, the city, as the RGU, must make a determination regarding the need for an EAW within 30 days of receipt of the petition. Within five days of its decision, the RGU must provide written notice of its decision to the project proposer, the EQB staff and the petitioner’s representative. Until that decision is made, no governmental approvals may be given for the project, and construction of the project cannot proceed.

The state rules require that the council determine whether the project may have the potential for significant environmental effects. The determination must consider the evidence provided by the petitioners and any other evidence known to the city. The rules require the council to consider specific factors in making its decision, and those factors are identified in the proposed resolution.

The petitioners submitted a technical memorandum dated August 1, 2018. The resolution addresses the information contained in that memorandum. Due to the lateness of the submission, this report does not separately address the technical memorandum.

Proposed Project

Lone Lake Park was selected as the potential location for mountain bike trails based on a matrix of community established criteria. Lone Lake Park is a 146-acre community park and preserve, as defined in the city’s Park, Open Space and Trail System Plan (POST Plan), with 14 acres of developed land that includes a variety of amenities. Of the 132 acres of undeveloped land in the park, 52 of those acres are usable acres for potential mountain bike trails. The proposed trail concept plan represents 4.7 miles (11% of useable area) of mountain bike trails, 18-24-inches in width. The trail concept was designed to minimize potential environmental impacts and applies internationally established sustainable trail guidelines. The park has approximately 140 paved parking spots and is safely accessible by bike via regional trails and sidewalks.
Environmental Assessment

A brief overview of state environmental review regulations is necessary to put the project in context. State regulations distinguish between environmental assessment worksheets (EAWs) and environmental impact statements (EISs). EAWs are less detailed than EISs, and the purpose of an EAW is to determine whether an EIS should be performed. The regulations also distinguish between mandatory and discretionary EAWs and EISs. As a general matter, a project requiring a mandatory EIS has greater potential for adverse environmental impacts than one requiring only a mandatory EAW, and a project that requires a mandatory EAW has greater potential for adverse environmental effects than one for which no EAW is required.

The proposed mountain bike trail does not require completion of either the mandatory EAW or the mandatory EIS. Because a petition has been filed, however, the council must decide if, due to the nature or location of the project, the project may have the potential for significant environmental effects. If that is determined by the council as the RGU, the council must order the preparation of an EAW.

In deciding whether a project has the potential for significant environmental effects, the RGU must take into account the following factors outlined in MN Administrative Rules, Part 4410.1700, Subpart 7:

A. type, extent, and reversibility of environmental effects;

B. cumulative potential effects. The RGU shall consider the following factors: whether the cumulative potential effect is significant; whether the contribution from the project is significant when viewed in connection with other contributions to the cumulative potential effect; the degree to which the project complies with approved mitigation measures specifically designed to address the cumulative potential effect; and the efforts of the proposer to minimize the contributions from the project;

C. the extent to which the environmental effects are subject to mitigation by ongoing public regulatory authority. The RGU may rely only on mitigation measures that are specific and that can be reasonably expected to effectively mitigate the identified environmental impacts of the project; and

D. the extent to which environmental effects can be anticipated and controlled as a result of other available environmental studies undertaken by public agencies or the project proposer, including other EISs.

As a part of the preliminary site review of potential environmental impacts, the city hired a consultant (Deric Deuschle, senior biologist with Short Elliott Hendrickson, Inc. (SEH) to provide an independent biological assessment of the natural resources at Lone Lake Park. Although this assessment was not an EAW, the outline for the biological assessment includes all relevant sections from an EAW. Additionally City of Minnetonka Natural Resources staff provided background information and content related to restoration activities at Lone Lake Park.
The biological assessment and a mountain bike study prepared by city staff concluded that potential negative environmental impacts from the proposed mountain bike trails are minimal due to the width of the trail being only 18-24-inches, and can be reasonably mitigated. These documents address all relevant EAW requirements, as noted in the attached comparison between the EAW and the information already collected.

The proposed resolution addresses the factors in MN Administrative Rules, Part 4410.1700, Subpart 7. Those findings are summarized as:

**FINDING A:** City staff find the type of potential environmental impacts include incidental loss of vegetation and wildlife, minimal erosion, and soil compaction limited to trails. The resolution contains detailed findings that address specific environmental concerns raised in the petition, and this report summarizes the finding of each of those concerns below. This project follows industry best practices, recognized by the National Park Service, for sustainable trail building. Field siting the trail will allow staff and contractors to avoid and minimize negative impacts to trees’ critical root zones and wildlife habitat, as well as identify herbaceous plants and shrubby to avoid or salvage. Requirements imposed on the contractor for low impact trail construction will avoid incidental damage to plant material and wildlife habitat. A robust program of volunteer trail management and natural resource restoration, organized through a partnership with Minnesota Off-Road Cyclists will identify and address erosion and invasive species spread to prevent negative impacts. Additionally, the trail would be constructed in late summer or early fall as to avoid negative impacts to wildlife and reduce potential spread of invasive species. To the extent that environmental effects exist, such as invasive species seed dispersion or minimal tree loss, the effects are able to be reversed as evidenced by the restoration efforts that led from Lone Lake Park being agriculture and a ski hill to a high quality natural environment within the preserve space.

**FINDING B:** There are no significant potential cumulative effects of this project. The only other project in the area is the pickle ball court construction, which is occurring on a segment of the park that consists of manicured turf. The staff consulted with the U.S. Fish and Wildlife Service regarding possible impacts on the endangered rusty patched bumble bee. The Service determined that the pickle ball courts would have no impact on the bee. The land use in the park will not change (will remain parkland), and this project will not cause changes in adjacent properties. Mitigation measures for cumulative effects have not been identified, as the project is not anticipated to have any cumulative effects.

**FINDING C:** The city will apply for all required watershed district approvals. The city will consult with the U.S. Fish & Wildlife Service and will follow its recommendations and obtain any permits that may be required. If additional permits or approvals are identified during the process of establishing the final trail location, the city will apply for all necessary permits or approvals.

**FINDING D:** City staff conducted interviews with other public agencies that have constructed mountain biking trails, and all identified potential environmental impacts have been considered. There are no known environmental studies (such as EISs) that have been performed for similar projects.

In addition to the factors outlined in state law, the petitioners also submitted eight potential environmental effects they believed would result from the project.
CONCERN 1: Effects to Trees, Shrubs and Vegetation.

It is estimated that tree removal would be minimal, and would be limited to smaller trees. Removal of trees of sufficient size to alter the existing closed canopy is not anticipated.

Although the direct removal of trees may be minimal, secondary impacts may occur from compaction of the soils, erosion which may expose and damage roots, and physical damage to trees’ bark during construction. These secondary impacts should be considered, although difficult to quantify until the trail is sited in the field.

Shrubs would generally not be affected, provided dense stands are avoided. This is an achievable goal, as there are few areas of concentrated shrub coverage. If needed shrubs would be salvaged along trail alignments.

Herbaceous vegetation may be affected where it is in the alignment of trails, and would be salvaged for re-use where possible. Within the wooded areas, the herbaceous cover is intermittent, but does include a variety of woodland species that thrive in shady environments. Impacts to herbaceous vegetation, similar to shrubs, would be expected to be limited to the width of the disturbed corridor itself. Native prairie plant material would be salvaged for re-use where possible.

CONCERN 2: Spreading invasive species.

Invasive species would be controlled through sustainable trail building techniques including the avoidance of side-casting soil, timing of construction, mulching exposed soils and revegetation of disturbed soils with salvaged plant material and re-seeding. Additionally, the city would foster a robust program of volunteer trail management and natural resource restoration, organized through a partnership with Minnesota Off-Road Cyclists which would address invasive species spread before it becomes an issue. The creation of mountain bike trails would not counteract the city’s invasive species removal investments.

CONCERN 3: Soil erosion from bare soil, and compaction from frequent use.

Trails would be built using the highest standards for development and pursuant to sustainable trail guidelines in order to limit erosion.

The following would be used to mitigate or limit soil erosion:

- Limit distances where trails cross contours and prevent the buildup of concentrated runoff. Vary routing so there are a series of small hills and valleys, and slope trails so water can runoff and discourage formation of mud holes. Avoid flat ground where compaction and rutting can promote water collection and lead to mud holes, trail widening, bypass trail formation, and perpetuate erosion.
- Use boardwalks over gullies and depressions, or elevate the trail to discourage accelerated runoff downslope.
- Restrict seasonal use to avoid spring snowmelt and periods where muddy conditions are prevalent including trail closure following rain events.
- Build rolling contour trails that gently travel alongside slopes and follow existing contours. These types of trails have undulating slopes of less than 10% called grade...
reversal and serve to minimize erosion potential. Trail treads should tilt slightly toward the downhill in order to allow water to drain in a non-erosive manner. Fall lines (the shortest route down a hill) and flat areas should be avoided in siting trails in order to further minimize erosion potential.

- Routine trail maintenance includes removing leaf litter from the trail to promote drying, selectively pruning encroaching branches, removing fallen trees and assessing the condition of the trail to identify potential erosion issues before they become problematic.

CONCERN 4: Fragmentation of habitat, disturbance to, and displacement of, wildlife.

The existing wildlife have adjusted to life in an urban setting. While there is habitat and relative isolation, there are adjacent residents, open spaces, and existing trails that prevent large areas from truly being intact and undisturbed. The primary risk to wildlife is displacement if the frequency of disturbance exceeds an individual animal’s tolerance threshold. This may be the case for several of the woodland bird species. For most other species this tolerance is high, as it is already a natural environment within a much larger developed area. The habitat loss is expected to be negligible, and is less of a consideration than disturbance, which is already a stressor to some degree, but will be amplified with additional users.

CONCERN 5: Impacts to sensitive species and/or encroachment into critical habitats.

The biological assessment addressed the two federally-listed wildlife species, the northern long-eared bat and the rusty patched bumble bee. Like wildlife overall, the two listed species that may be present are likely at low risk of direct loss, but have an increased risk in being disturbed and potentially displaced.

The assessment concluded that there was one hibernaculum for the northern long-eared bat in the Twin Cities area, and it was not in Lone Lake Park. Under federal guidelines, there would be no restrictions on amenities based on the known distribution of the bats, even though the habitat may be present. Overall, the habitat for northern long-eared bats will remain, and disturbance is not expected. No impacts to the northern long-eared bat are anticipated.

The rusty patched bumble bee is harder to quantify as there is less known about the species and what is driving the decline. Much of the consensus is that habitat loss is a primary factor. Once the trail is field sited city staff will request that the U.S. Fish and Wildlife Service inspect the proposed trail corridor to ensure that the trail will not impact a nest site. Additionally the trail will be constructed in late summer or early fall as to avoid impacting the spring wildflowers that the queen bee needs for foraging when she comes out of hibernation.

CONCERN 6: Increase in noise and dust generation compared to pedestrian users, and from a potential increase in the number of overall trail users.

Mountain biking generally produces little noise other than the sounds of peddling, clicking of gears, and the wheels in contact with the trail. It is unlikely that noise will be perceived by other park patrons unless they are immediately adjacent to the rider, and will likely not exceed the noises currently generated by park patrons during sporting events, playing at the park, or having a conversation while walking the existing trails. It is not anticipated that any park patron would
be aware of dust generated by bicycles. Any dust generated would be limited to a very small area along the trail.

CONCERN 7: Disruption of solitude for other park users.

The potential disruption of solitude is highly subjective, is a personal assessment and is difficult to quantify. Staff anticipates approximately 150-300 additional users per week. The additional 25-50 users dispersed throughout the day, will minimally change the user experience in the park.

CONCERN 8: Public Health.

As noted in the biological assessment, the introduction of mountain bike trails will not negatively impact the habitat for predatory animals. The addition of mountain bike trails has the potential for attracting more users into the park system, including youth. This would provide more opportunities for people to be exposed to nature, fresh air and exercise leading to improved health and wellness.

Based on the findings related to the state’s administrative rules, the city is not required to complete a discretionary EAW. Additionally, the concerns raised by the petitioners can be properly mitigated. In the case of the proposed mountain bike trails at Lone Lake Park, staff recommends that council be consistent with past practice of not completing a discretionary EAW when not required and avoid setting a new precedent. Abundant information regarding the environmental impacts and mitigating actions is already available, and conducting the EAW would bring further unnecessary time delays and added expense prior to council’s ultimate decision on the proposal.

**Staff Recommendation**

At the Aug. 6 city council meeting, the council is requested to make a determination of whether or not a discretionary EAW should be completed for the mountain bike trails at Lone Lake Park. The council will not be discussing whether or not to approve the trails at this meeting.

Therefore, council is requested to adopt a resolution determining that the project does not require a discretionary environmental assessment worksheet.

Submitted through:

Geralyn Barone, City Manager
Perry Vetter, Assistant City Manager
Corrine Heine, City Attorney

Originated by:
Kelly O’Dea, Recreation Services Director
Petition for the Preparation of an Environmental Assessment Worksheet Regarding proposed Mountain Biking Trails in Lone Lake Park, Minnetonka Minnesota

Pursuant to Minn. R. 4410.1100, subp. 1-2, petitioners submit the following information in support of their petition for the preparation of an environmental assessment worksheet for the proposed project described below. The signatures and mailing addresses required under subpart 1 are provided herewith.

Minn. R. 4410.1100, subp. 2A – Description of the Proposed Project
The proposed project is the addition of approximately 4.7 miles of mountain biking trails in Lone Lake Park, Minnetonka, Minnesota, as described in more detail in the "Minnetonka Mountain Bike Study" attached hereto and incorporated herein by reference (the "Project").

Minn. R. 4410.1100, subp. 2B – Proposer of the Project
The proposer of the Project is the City of Minnetonka, through its City Council, City Park Board and City Staff.

Minn. R. 4410.1100, subp. 2C – The Name, Address, and Telephone Number of the Representative of the Petitioners
The name, address, and telephone number of the representative of the petitioners are:

Petitioners' Representatives:
Maureen Hackett, M.D.
Address: 4919 Arlington Dr., Minnetonka, MN 55343
Phone: 952 945-0447

Heather Holm
Address: 15327 Lake Shore Ave, Minnetonka, MN 55345
Phone: 952 949-2585

Minn. R. 4410.1100, subp. 2D – Brief Description of the Potential Environmental Effects Which May Result From the Project
The potential environmental effects which may result from the Project include the following: (1) trees, shrubs and vegetation, (2) spreading of invasive species, (3) soil erosion, (4) wildlife, (5) sensitive or threatened and endangered species and critical habitats, (6) noise, dust and visual impacts, (7) disruption of solitude for park users, and (8) public health. The potential environmental effects (1-7) are identified in the "Lone Lake Park Biological Assessment" prepared by Short Elliott Hendrickson Inc. ("SEH") for the City of Minnetonka, which is in Appendix D to the "Minnetonka Mountain Bike Study", and also attached is a May 31, 2018 letter report prepared by Stantec Consulting, Inc. Local Expert Bird Observations, Appendix E to
Effects to Trees, Shrubs and Vegetation.

The proposed 4.7 miles (24,816 ft) of mountain bike trails at 5-6 feet (124,080 sq ft to 148,896 sq ft) of initial disturbance would result in the initial direct loss of 2.85 to 3.42 acres of native forest vegetation in the park. Although the canopy and understory trees and shrubs are proposed to be avoided (some initial tree removal is anticipated during trail construction), the herbaceous layer, forest litter layer, and duff layer would be removed. These forest layers are critical for anchoring soil and retaining and infiltrating precipitation, in addition to providing habitat for amphibians, invertebrates, fungi, and rare pollinator species. The impacts from trail construction are in addition to long-term ongoing effects on trailside vegetation from trampling, soil disturbance, and compaction associated with trail use and repair, and trail maintenance activities. The trail impacts are not confined to one area in the park. Rather, they are spread throughout approximately 53 acres of intact, ecologically-restored woodlands, with over one mile of trail proposed to pass through high-value restoration areas with forest cover. The density of the proposed trails (with several instances where the trails are 15 to 20 feet apart) will lead to multiple passes, and therefore significant soil compaction and accelerated soil loss over the critical root zone (CRZ) of large trees and has the potential to lead to the long-term decline and death of these trees.

Additionally, the trails will be constructed in two areas deemed Areas of Ecological Significance by the Minnesota Department of Natural Resources (DNR) Land Cover Survey conducted in 2004. Since 1997, the park has had a sustained twenty-one year ecological landscape restoration investment. The trail configuration fragments cover by native woodland herbaceous vegetation on extremely steep slopes, with grades ranging from 25-35%. With multiple trail routes across steep slopes, even if following contours, the natural capacity of the woodland to absorb and retain rainfall and snow melt will be reduced. With current and projected increases in extreme rainfall events, the exposed soil on steep grades will be highly susceptible to erosion. In addition to the removal of live vegetation the trails create the increased susceptibility of additional secondary tree loss from exposed roots, soil erosion, and severing of root system mycorrhizal networks. The secondary loss of trees from the disruption to this root system network has the potential for significant environmental consequences including overall reduction in heat and water absorption, and lesser air quality along with the potential for even more erosion on the steep slopes. Mountain bikers are known to create more challenging features by constructing ramps and jumps using woody debris, rocks, and soil from habitat near the trail system. Such efforts increase trampling, soil disturbance, and compaction beyond the trail corridor and have the potential to magnify secondary loss of trees, shrubs, and herbaceous ground-level vegetation. The nature and extent of the impacts to the trees, shrubs, ground-level vegetation, leaf litter, duff layer, and the fauna that depend on these plants and habitats, have not been quantified and therefore an environmental review is needed. Additionally, a growing season evaluation would provide a comprehensive biological inventory of the park’s flora and fauna.
(2) **Spreading of invasive species.**
Trail systems are known vectors for the spread and perpetuation of invasive plant species, and field research demonstrates that mountain bikes are effective seed dispersers (as are people and pets). The proposed mountain biking trails will create nearly five more miles of conduit for the spread of invasive species through the park, including spread through high-value forest restoration areas. The biological assessment by SEH may have underestimated the potential for woody invasive species in woodland areas where extensive trail development is proposed. A growing season evaluation of invasive species cover in relation to the proposed trail routes would provide a better indication of the potential for spreading invasive species to higher quality areas. Garlic mustard and leafy spurge would be expected to spread to newly disturbed areas created by mountain bike trail construction and trail use. As indicated by ongoing and significant investments in invasive species control in the park, invasive species are difficult to control long-term. Best Management Practices for preventing and controlling the spread of invasive species have been established by the Minnesota DNR and are required for all work conducted on state land or funded by state grants. The emphasis on invasive species control and prevention for public lands should be a strong indicator of the importance of considering how the proposed trail system could exacerbate invasive species issues in the park. Because many of the other mountain biking destinations within a 20 mile radius of Lone Lake Park host a number of invasive species not currently managed, there is a real potential that new invasive species will be introduced from bike tires and trail construction equipment to Lone Lake Park. After the construction and use of the mountain bike trails in Terrace Oaks Park in Burnsville, Minnesota, the City of Burnsville has documented the spread of garlic mustard, *Alliaria petiolata*, a biennial, herbaceous invasive plant along the mountain bike trail corridor. The potential for the introduction of new, and the further spread of existing invasive species, into the interior of the restored woodland from the habitat fragmentation and trail use is significant and warrants further assessment via an environmental review.

(3) **Soil erosion from bare soil, and compaction from frequent use.**
Bare soil, which will result from the proposed trail, is far more susceptible to erosion and compacted soils within the drip lines of trees is damaging to their root systems. With the current and anticipated increase in extreme rainfall events in Minnesota, the capacity for these trails, with their projected frequent and intensive use, will further diminish the capacity of the soil to retain rainfall and result in accelerated soil erosion, particularly where trails are sited on extremely steep slopes (25-35% grades). Soil erosion from unauthorized mountain biking was documented by the City of Minnetonka over twenty years ago. “Left unchecked, these impacts will, over time, undermine the integrity of the natural system in the park where this activity occurs. Excessive compaction caused by mountain bikes precludes growth of soil-stabilizing vegetation.” City of Minnetonka, Parks, Open Space, and Trail System (POST) Plan, adopted 2001.

(4) **Fragmentation of habitat, disturbance to, and displacement of, wildlife.**
Lone Lake Park provides continuous forest cover that is not similarly available within approximately an 8-mile radius of the Park. Because of the sustained ecological restoration
efforts over the last twenty-one years, Lone Lake Park is a richly biodiverse park. As such, it is a critical island of habitat, especially for woodland-dependent wildlife species, and species with limited dispersal ability within a fragmented, urban landscape. In addition, it provides aquatic, wetland, and upland habitats in proximity, which is especially important for the amphibian and bird species known to occur in the park. The forest habitat alterations and fragmentation, and increased human activity that will result from development of a mountain biking trail system at Lone Lake Park should be further evaluated for impacts to these vulnerable species:

a) Woodland Bird Species

Despite its size and isolation from other natural areas, 99 bird species have been observed and documented in Lone Lake Park, of which 48 are known to nest in the park. Forty-one of those species nest in woodland habitat, and over half of those nest between the ground and up to 25 feet above ground. For comparison, a total of 87 bird species have been recorded for the DNR Wood-Rill Scientific and Natural Area, which is a preserve composed of over 100 acres of high quality remnant Big Woods forest northwest of Lone Lake Park in Orono. A wealth of ecological field research has documented negative effects of human activity on bird behavior and reproductive success. The continuous disturbance that would occur with the projected numbers of riders using the proposed trail through critical bird nesting habitat has the potential to reduce breeding and hatching success, increase nest desertion, decrease the ability for parents to feed their young, and decrease parental attendance of the nest. Given the current numbers of species that nest in woodland habitat in the park, the frequency of activity along the footpaths is compatible with maintaining bird diversity. However, human activity will substantially increase in the forest with introduction of additional trails. The land manager surveys provide preliminary indicators of the degree to which activity may increase. In addition to human activity from trail use, the proposed maintenance schedule suggests daily, weekly, and monthly activities (including groups of volunteers) to conduct trail monitoring, maintenance, and repair. Although maintenance is critical for a sustainable trail system, the human activity associated with it may not be compatible with sustaining suitable habitat for forest-nesting birds. Bird species that nest on the ground or within ten feet of the ground will be particularly susceptible to displacement. Indigo bunting is a species that is known to nest in the park and typically nests one to three feet above ground in dense shrubs. It is one of several species vulnerable to displacement by the proposed trail system. In addition, four bird Species in Greatest Conservation Need (SGCN) have been recorded for Lone Lake Park: Eastern wood-pewee, northern rough-winged swallow, veery, and ovenbirds. SGCN are species that have been identified by the MN DNR as in decline or vulnerable to decline in Minnesota. As their designation suggests, special conservation efforts are needed in Minnesota to help improve habitat availability and quality for these species and reverse population declines. For all of the significant potential impacts to birds detailed above, a thorough environmental assessment and biological inventory should be conducted. The nature and extent of the effects of these trails on this diverse bird habitat is indicated.
b) **Amphibians**

Because many amphibians migrate from water bodies (breeding sites) to upland areas (hibernacula) during their life cycle, they are particularly susceptible to habitat fragmentation from human-caused activities which can disrupt or inhibit this migration. Based on well documented geographic range data, seven of Minnesota’s fourteen species of Frog and Toad are likely to occur in Lone Lake Park, including: the Green Frog, Northern Leopard Frog, Wood Frog, Western/Boreal Chorus Frog, Cope’s Gray Treefrog, Gray Treefrog, and American Toad. The American Toad is particularly susceptible to the impacts of habitat fragmentation and its status and abundance within Lone Lake Park requires further study. Toadlets, the final stage before reaching full adulthood, resemble miniature full-grown toads, as small as ¼ inch. Thousands of these toadlets may emerge from the water at once, beginning a mass migration onto higher ground and into the forest where they require a dense cover of vegetation to avoid predation and successfully hunt. These toadlets may travel as much as a mile away from their hatching site and their dark brown coloration and small size make them difficult to see crossing trailways, even for pedestrian traffic. Gray Treefrogs, the Cope’s Gray Treefrog, and Western/Boreal Chorus Frog overwinter under leaf litter on the forest floor and have been documented to move 220 yards between foraging areas, overwintering sites, and breeding ponds. Additionally, the Western/Boreal Chorus Frog is a highly secretive frog and will cease calling the moment it senses a potential threat nearby. Continued disruption can cause the frogs to retreat to the water and stop their chorus all together, disrupting their breeding season and missing vital windows of time. Amphibians are especially vulnerable to disturbances due to their mixed life histories. Changes in the water impact their reproduction and survival as tadpoles, whereas changes on land may also impact reproduction and survival rates of adults. Presently, the decline of amphibians is viewed as the most critical threat to biodiversity around the world. An increase in trail density coinciding with an increase in habitat fragmentation has the significant potential to make these amphibians even more vulnerable to exposure and restrict their movements, negatively impacting their ability to hunt and reproduce. Their extinction rate is 211 times higher than the background extinction rate, or regular pace of extinction, or 25,000 to 45,000 times higher if endangered species of amphibians are are included in the computation. A leading cause of this decline is habitat destruction and fragmentation. An increase in trail density and human traffic is an increase in disturbance and fragmentation to the local amphibian population and its habitat. Given this park’s lakes, wetlands, and upland areas many common and uncommon amphibian species are likely present. An environmental assessment is needed to quantify the present species and to quantify the potential impacts of these trails on the amphibians.

c) **Mammals**

Lone Lake Park supports a diverse population of mammalian species, such as: white-tailed deer, raccoons, rabbits, squirrels, possum, groundhogs, and skunks. Red fox and coyote are present and breeding in the park. Bats are seen in the park and there
is habitat suitable for the long-eared bats (see section 5). The presence of predator species such as coyote and fox may have a cascading positive impact on public health according to recently published studies. According to the MN Department of Health, Hennepin County is listed as being at Moderate Risk for Tick-Borne Diseases (see section 8). A balanced small mammal population is maintained by having a variety of species and a predator-prey system. When predator species are present, small rodent populations have lower density and restricted movements which in turn allows for more bird and amphibian species. Habitat fragmentation reduces the actual space for the variety of species and increased human presence may nuisance out many species. This has significant potential to decrease the diversity of species and change the balance to having more rodents that tolerate human activity. Trail associated recreation has been shown to have negative impacts through causing avoidance, displacement, restricted movement which negatively impacts their ability to find food and reproduce successfully. There is significant potential that mountain biking trails will negatively affect the mammalian population which has the potential to affect the parks current ecosystem of species including insects and even owls. An environmental assessment of the nature and extent of the mammals currently existing in Lone Lake Park is needed. This assessment is also needed to quantify the potential impacts of increased trail density and mountain biking activity.

(5)  Impacts to sensitive species and/or encroachment into critical habitats.

The biological assessment for the Project appears to underestimate and minimize the potential impacts to imperiled wildlife species. Two federally-listed wildlife species are recorded near or within the park – i.e., the long-eared bat and rusty patched bumble bee. The park provides suitable roosting habitat for federally threatened long-eared bats. A hibernaculum for overwintering long-eared bats has been identified in Hennepin County.

The rusty-patched bumble bee is a federally endangered species that is threatened with extinction. This bee has declined by 87 percent in the last 20 years and the species is likely to be present in only 0.1% of its historical range, a range that still includes parts of Minnesota. This imperiled North American species has been documented in Lone Lake Park, and suitable foraging habitat (critical spring and fall floral resources are abundant in the wooded slopes of the park where the trails are proposed), nesting habitat, and overwintering habitat occur within the park. The presence of this endangered species in the Lone Lake Park could be attributed to the size of the park, the variety of habitats present, the lack of pesticide use, protection from pesticide use from neighboring land, and the years of restoration efforts resulting in an abundance of flowering plants, and high quality nesting and overwintering habitat. According to documents produced by the U.S. Fish and Wildlife Service (USFWS), overwintering habitat is often in or near woodlands or woodland edges that contain spring blooming herbaceous plants, shrubs, and trees, which allows proximity to woodland spring blooming flowers, particularly spring ephemeral wildflowers, a critical early spring food source. The USFWS has developed very specific guidance for conserving all of these habitat features for maintaining one or more colonies of rusty patched bumble bee. No change in, or degradation of, the existing habitat
where the species is known to occur - emphasis should be placed on protecting, creating, restoring, and maintaining habitats. With the projected loss of herbaceous ground-layer flowering plants during the construction and subsequent use of the proposed mountain bike trails, the removal of leaf litter, and the compaction of soil will directly impact the foraging, nesting, and hibernacula (overwintering site) of the rusty patched bumble bee. With the projected introduction of invasive plants and their subsequent spread, the critical spring- and fall-flowering native herbaceous ground-layer plants will potentially be outcompeted. USFWS biologists with the Endangered Species Program should be consulted to carefully identify and consider the risks and consequences of the proposed trail system for both imperiled species.

The forest habitat alterations and fragmentation and increased human activity that will result from development of a mountain biking trail system at Lone Lake Park should be further evaluated for impacts to these vulnerable species and therefore a thorough environmental review is necessary.

(6) Increases in noise and dust generation compared to pedestrian users, and from a potential increase in the number of overall trail users.
The addition of mountain biking will fundamentally change the character of the park. The noise and the speed of the activity will be disruptive of wildlife habitat, as well as the experience of users desiring a more passive, nature oriented experience.

(7) Disruption of solitude for other park users.
Passive recreational use of the park by hikers and wildlife watchers who use the formal and informal footpaths has been sustainable thus far for habitat protection and the park’s users. The three miles of existing informal trails are noted as a source of impact to the park but could be interpreted as an indicator of a high degree of park user interest in hiking through the park’s woodland habitats. Since there is not an actual trail plan, it is not possible to assess the frequency and intensity of future park use with these proposed trails. The significant change in quietude and user experience has not been evaluated. An assessment to quantify the changes for the park users’ experience of serenity is necessary to understand the impacts of mountain biking on the current park users.

(8) Public Health
Biodiverse habitats have positive benefits for public health by limiting infectious diseases such as West Nile Virus and Lyme Disease that thrive in degraded environments. Currently there is evidence that Lone Lake is a highly biodiverse habitat with predatory mammals and their offspring sighted, including red foxes. A recent twenty year study demonstrated that having red foxes present and hunting in a given area is the most effective way to break the cycle of infectious ticks that cause Lyme Disease. Vectors for these infectious ticks include deer and in particular, rodents because of their poor tick-grooming and removal habits. Red foxes are more effective than pesticide applications at reducing the numbers of infected ticks 80-90% over amounts seen without the foxes. The foxes consume mice and affect the behaviors of mice limiting their movements which limits their spreading the infection. Keeping the habitat intact for the foxes may become extremely important to the City as the prevalence of Lyme Disease...
continues to grow. As we learn more about the lifetime consequences of Lyme Disease, having this intact habitat has the potential to be very important for human health.

As habitats are fragmented and degraded, fewer species exist and those that remain and tolerate degraded habitat, tend to amplify infectious diseases. Fewer types of bird species are observed to be associated with increased viruses including West Nile virus because the virus tends to concentrate in bird species that are more resilient to a degraded, fragmented habitat. Currently, Lone Lake has many species that as with Lyme Disease, are more than likely acting as buffers to these viruses. The construction and use of mountain biking trails has the significant potential to drive away and reduce the variety and numbers of bird and mammal species, resulting in the degradation and reduction of biodiversity of the Lone Lake habitat. This is a potentially a significant environmental effect with documented public health consequences. The nature and extent of the public health features of these species has not been quantified. The nature and effects on these species and the unintended consequences on public health has not been quantified and therefore an assessment is needed.

Minn. R. 4410.1100, Subp. 2e - Material Evidence Indicating That, Because of the Nature Or Location of the Proposed Project, There May Be Potential For Significant Environmental Effects

The evidence indicating that, because of the nature and location of the proposed project, there is significant potential for negative environmental effects is set forth in this document which include references and within the Appendix D to the "Minnetonka Mountain Bike Study by SEH titled "Lone Lake Park Biological Assessment" and Stantec Consulting, Inc.'s May 31, 2018 letter report (see separate attachments).

In closing, the fact that the City's own consultant, SEH, (1) acknowledges in its "Lone Lake Park Biological Assessment" (Appendix D to the "Minnetonka Mountain Bike Study") that there will be environmental effects resulting from the Project and (2) specifically identifies the types of environmental effects that are to be expected as a result of the Project, but does not attempt to quantify the impacts and or provide any guidance as to how much adverse environmental effect would be too much, demonstrates and highlights the need for the preparation of an EAW.

References Cited


The IUCN Red List of Threatened Species. [http://www.iucnredlist.org/details/44937399/0](http://www.iucnredlist.org/details/44937399/0)


Petition for an Environmental Assessment Worksheet (EAW) for the Proposed
Mountain Biking Trails Project in Lone Lake Park, Minnetonka, Minnesota

Pursuant to Minn. R. 4410.1100, we, the undersigned, reside in and/or own property in the state of Minnesota and have concerns regarding the potential environmental effects which may result from the project titled “Minnetonka Mountain Biking Trail Study Lone Lake Park Mountain Bike Trail Concept Plan,” located in Minnetonka, Hennepin County, Minnesota, which is a project to construct mountain biking trails in Lone Lake Park, Minnetonka, Minnesota, as more fully described in the attached project description (the Project). We request that an Environmental Assessment Worksheet be completed prior to a decision by the Minnetonka City Council on the proposed Project. Our request is based on the potential for significant environmental effects described herein.

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<td>Nancy Hoy</td>
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All of the above.Minnetonka, MN 55343
Petition for an Environmental Assessment Worksheet (EAW) for the Proposed Mountain Biking Trails Project in Lone Lake Park, Minnetonka, Minnesota

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Petition for an Environmental Assessment Worksheet (EAW) for the Proposed Mountain Biking Trails Project in Lone Lake Park, Minnetonka, Minnesota

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<td>Reid Peterson</td>
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<tr>
<td>1</td>
<td>Angela Marcira</td>
<td>5554 Nantucket Pl, 55345</td>
<td>By Man</td>
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<tr>
<td>2</td>
<td>Joneth Miller</td>
<td>1510 Gaterood Dr, MN 55345</td>
<td>By Millie</td>
</tr>
<tr>
<td>3</td>
<td>Pamela Layton</td>
<td>5538 Nantucket Pl, 55345</td>
<td>By Layton</td>
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<tr>
<td>1</td>
<td>Linda Russell</td>
<td>5423 Maple Ridge Ct., Minnetonka 55343</td>
<td>Linda Russell</td>
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<td>John Munchka</td>
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<td>Bill Ehmke</td>
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<tr>
<td>1</td>
<td>Nancy Miller</td>
<td>206 5th Ave N Hopkins, MN 55429</td>
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<tr>
<td>2</td>
<td>A. Russell-Dempsey</td>
<td>15657 Woodgate Dr S MTKA 55345</td>
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<tr>
<td>3</td>
<td>Ann Moore</td>
<td>101 Main St NE #1 Mpls MN</td>
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<td>4</td>
<td>William Thompson</td>
<td>2500 38th Ave N.E. Npls MN</td>
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<td>Linda Voss-law</td>
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<td>Randy Patrick</td>
<td>3904 7th Ave S St Paul</td>
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<td>7</td>
<td>Stephen Russell-Dempsey</td>
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<td>Carol Wade</td>
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<td>Patricia Hager</td>
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<td>Baby Nelson Callan</td>
<td>4850 Spruce Lane, MN 55301</td>
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<td>Elizabeth Ayers</td>
<td>6124 Barlow Blvd, Mound, MN 55364</td>
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<td>Veronica Smith</td>
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<td>Donna Taylor</td>
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<tr>
<td>8</td>
<td>Paul Ryals</td>
<td>74 375th Avenue NW, Stanchfield, MN 55080</td>
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<td>9</td>
<td>Rose Anne Rozewski</td>
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<td>Karen Boon</td>
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<td>6034 Minnetonka 55345</td>
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<td>14</td>
<td>Marc Anderson</td>
<td>2100 Van Hsuus LN N Plymouth, MN 55447</td>
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<td>15</td>
<td>Justin Blum</td>
<td>6155 Church Rd, Excelsior MN 55331</td>
<td>Blum</td>
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<tr>
<td>17</td>
<td>Kay Daniels</td>
<td>1200 Bittersweet Dr E, P</td>
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<td>Carol James</td>
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<td>21</td>
<td>Diane Grotta</td>
<td>5233 Silver Maple Cir</td>
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<td>45</td>
<td>Rob Mounts</td>
<td>5325 Dominick Dr</td>
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<td>5542 Jesus Zepeda Dr. Minnetonka, MN 55343</td>
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<td>51</td>
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<td>Jim Templeton</td>
<td>1330 Birch Pond Trail, White Bear Lake, Minn. 55310</td>
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<td>Denise Templeton</td>
<td>1330 Birch Pond Trail, White Bear Lake, Minn. 55310</td>
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<td>Jane Bell</td>
<td>3422 Meadow Ln., Minnetonka, Minn. 55345</td>
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<td>Jeanette Dickinson</td>
<td>650 Polk St NE, Minneapolis, Minn. 55413</td>
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<td>George Skinner</td>
<td>15330 Lynn Terrace, Minnetonka MN 55345</td>
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<td>John Selisky</td>
<td>4761 Dominic Dr, Minnetonka, MN 55343</td>
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<td>Elizabeth Goldyn</td>
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<td>Marvin R. Bunnell</td>
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<td>Dee Charenc</td>
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<td>6300 Golden Valley MN 55427</td>
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<td>Robert Wark</td>
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<td>Kathleen Dunne</td>
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<td>Michael Beasley</td>
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<td>Mel Crath</td>
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<td>6313 Hamilton St. Minneapolis MN 55408</td>
<td></td>
</tr>
</tbody>
</table>
Petition for an Environmental Assessment Worksheet (EAW) for the Proposed Mountain Biking Trails Project in Lone Lake Park, Minnetonka, Minnesota

Pursuant to Minn. R. 4410.1100, we, the undersigned, reside in and/or own property in the state of Minnesota and have concerns regarding the potential environmental effects which may result from the project titled "Minnetonka Mountain Biking Trail Study Lone Lake Park Mountain Bike Trail Concept Plan," located in Minnetonka, Hennepin County, Minnesota, which is a project to construct mountain biking trails in Lone Lake Park, Minnetonka, Minnesota, as more fully described in the attached project description (the Project). We request that an Environmental Assessment Worksheet be completed prior to a decision by the Minnetonka City Council on the proposed Project. Our request is based on the potential for significant environmental effects described herein.

<table>
<thead>
<tr>
<th>Number</th>
<th>Name</th>
<th>Address (Full Street, City, and Zip Code)</th>
<th>Signature</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>DAVID SANDFORD</td>
<td>1540 OREO RD, MINNETONKA MN 55343</td>
<td>Paul Sandford</td>
</tr>
<tr>
<td>2</td>
<td>Victor Peterson</td>
<td>4178 DANE DR, MINNETONKA MN 55343</td>
<td>Victor Peterson</td>
</tr>
<tr>
<td>3</td>
<td>Matthew Nelson</td>
<td>11829 SHADY OAK LN, MN 55343</td>
<td>Matthew Nelson</td>
</tr>
<tr>
<td>4</td>
<td>Marlena Dvorak</td>
<td>2220 OLD BREN RD, MINNETONKA MN 55343</td>
<td>Marlena Dvorak</td>
</tr>
<tr>
<td>5</td>
<td>Chuck ECANDER</td>
<td>1214 OCO BREN RD, MINNETONKA MN 55343</td>
<td>Chuck ECANDER</td>
</tr>
<tr>
<td>6</td>
<td>Gary Leininger</td>
<td>16440 TEMPLE DR, MINNETONKA, MN</td>
<td>Gary Leininger</td>
</tr>
<tr>
<td>7</td>
<td>Thomas L Stock</td>
<td>5524 DOMINGO DF, MINNETONKA MN</td>
<td>Thomas L Stock</td>
</tr>
</tbody>
</table>
MINNETONKA MOUNTAIN BIKE STUDY
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EXECUTIVE SUMMARY

Mountain biking is an increasingly popular activity among all ages. The community desire for mountain bike trails in the city is evident by the number of residents showing their support for the project over the last two years through feedback gathered during the Imagine Minnetonka process, park board meetings, public engagement meetings and online forums. The potential for mountain bike trails has also seen opposition from community members who are concerned with the impacts on the natural environment, wildlife and the overall park user experience.

In February 2018, the park board directed staff to study Lone Lake Park as a potential site for mountain bike trails in the city of Minnetonka. Lone Lake Park is a 146-acre community park and preserve with 14 acres of developed land that includes amenities such as tennis courts, soccer field, playgrounds, parking lots and pickleball (summer 2018). Of the 132 acres of undeveloped land in the park, 52 of those acres are usable acres for potential mountain bike trails. The proposed trail concept plan presents 4.7 miles of mountain bike trails, 18-24” inches in width, totaling approximately 1.2 acres. The park has approximately 140 paved parking spots and is safely reachable by bike via regional trails and sidewalks.

As a community with a dynamic population, it can be expected that the needs of individuals and families living in Minnetonka will continue to change and evolve through time. The research, field work and creation of this study was a collaborative effort by city staff from Natural Resources, Public Works and Recreation Services as well as a third party biological assessment conducted by Short Elliott Hendrickson Inc. (SEH). City staff are committed to providing a comprehensive, balanced and sustainable system of parks, open space/natural areas, trails and recreation oriented activities/programs that respond to the community’s values.

It is important to note that city staff recognize that if mountain bike trails are built in Lone Lake Park there will be an environmental impact. Trails cannot be built through a woodland area without impact. The addition of mountain bike trails to the park would have some environmental impacts that may include loss of vegetation, soil erosion, spreading of invasive species and disturbance to wildlife. The environmental impacts of mountain biking are on par with the impacts from hiking (see Appendix C). If the project is approved, the city is committed to following International Mountain Bike Association (IMBA) Essential Elements of Sustainable Trail Design to minimize environmental impacts. A general maintenance plan would include daily, weekly and monthly inspection and maintenance.

Staff believes that it is feasible to build mountain bike trails in Lone Lake Park. The city has always tried to balance the preservation of its natural environment with providing the services and amenities desired by the community. The creation of mountain bike trails would be no different. If the park board and city council advance the project, it will be staff’s charge to minimize the impact of the trail construction and long-term maintenance. This includes properly siting and building sustainable trails to minimize impacts to trees, slopes and the general woodland environment. Through careful sustainable design, thoughtful construction and ongoing management, the potential negative impacts can be reasonably mitigated.
CHAPTER 1  BACKGROUND

Throughout the summer and fall of 2016, the City of Minnetonka asked residents to provide feedback for a community-wide visioning and strategic planning project called Imagine Minnetonka. Residents of all ages were asked to share their responses to the question: “How do you want your city to look and feel in the next 20 years?” Through this process, residents expressed interest in the creation of more trails in the city, including mountain bike trails.

An initial request for the addition of mountain bike trails to the city’s park system was introduced to the park board at their September 7, 2016 meeting by a Minnetonka resident, along with students and staff from the Minnetonka and Hopkins school districts. The park board directed staff to work with representatives of the mountain biking community, including the Minnetonka High School VANTAGE program, to prepare a proposal for park board consideration.

At the December 7, 2016 park board meeting, students from the VANTAGE program presented their findings and recommendations to the park board. The plan involved placing trails in Big Willow Park and Civic Center Park connected by the existing regional trail. In addition, the west side of the I-494 corridor from Stone Road to I-394 was considered as a future expansion to the initial two mountain biking trails. Following the presentation, the park board directed staff to work with students from the VANTAGE program and other community mountain biking enthusiasts to complete a feasibility study to determine the requirements and challenges for adding mountain biking to the Minnetonka park system.

At the June 7, 2017 park board meeting, Trail Source LLC provided a feasibility study and concept plans for potential mountain bike trails in Civic Center and Big Willow Parks. There was both support and opposition for trails in these parks. At this point, staff decided to take a step back to gain more feedback from the public and assess all of Minnetonka’s parks for the feasibility of adding mountain bike trails.

WSB and Associates was contracted in the fall of 2017 to assist in community outreach and engagement for the prospective mountain bike trails project. This outreach included four separate public meetings (see Community Engagement Process, Chapter 2, for additional details on this process).

At the February 7, 2018 park board meeting, staff presented the results of the public engagement process as well as the criteria created to determine the feasibility of a park to sustain mountain bike trails. That criteria was used to analyze all city parks in Minnetonka and Lone Lake Park was the only park that met the requirements. The park board then directed city staff to further study and develop a concept plan for mountain bike trails in Lone Lake Park.

The mission of the Minnetonka Park & Recreation Board is to proactively advise the City Council in ways that will:

- Protect and enhance Minnetonka’s natural environment
- Promote quality recreation opportunities and facilities
- Provide a forum for citizen engagement in our parks, trails, athletic facilities and open space
CHAPTER 2 COMMUNITY ENGAGEMENT PROCESS

2.1 Meetings and Engagement

Since September 2016, the potential for mountain biking trails has been on numerous park board agendas, advertised in the Minnetonka Memo, posted on the city website’s project page and updates have been sent to the over 700 email subscribers to the project on a regular basis.

The city hired WSB and Associates to conduct additional community engagement and outreach for the potential mountain bike trails project. Focus groups and public meetings occurred on Nov. 8, Nov. 16, Dec. 13, 2017 and Jan. 8, 2018 and drew over 400 total people at the four meetings.

In November 2017, Minnetonka residents were invited to two focus groups to share their thoughts on the concept of creating mountain bike trails in Minnetonka. The first focus group was aimed at residents concerned about the potential trails, while the second focus group convened residents who were advocates for mountain bike trails. Each group provided feedback on the prospect of trails and expressed priorities for the potential project.

Below is a summary of the findings from those focus groups:

Focus group #1:

**Concerns for Trails**

![Pie chart showing concerns for trails]

- Environmental Concerns
- Location
- Nuisance
- Park Character
- Parking
- Planning Process
- Programming
- Railroad
- Safety

Generally, focus group #1 attendees expressed concern for the safety of park users, bikers and pedestrians alike. They also wondered how the trails would add to parking pressures, noise pollution and environmental deterioration. Attendees also voiced a desire for increased communication and engagement surrounding the issue.
Focus group #2: Priorities for Trails

Generally, focus group #2 attendees expressed excitement at the prospect of mountain bike trails in Minnetonka. They see this as a growing sport that has potential to draw new/young people to outdoor recreation and physical activity. Similar to concerned residents, they prioritize safety and the mitigation of trail user conflict. They are also concerned with the design and construction of the trail, desiring a course that is high quality and challenging.

In December 2017, Minnetonka residents were invited to attend community conversations to share their thoughts on the concept of creating mountain bike trails in Minnetonka. They were presented with three options and asked for their opinion on each option. The options were:

A. Design mountain bike trails in Big Willow Park and/or adjacent city-owned location(s)
B. Design mountain biking trails in other city-owned location(s)
C. Do not build mountain bike trails

Residents were asked to write down the pros and cons of each option:

Option A, representative comments:

<table>
<thead>
<tr>
<th>Pro</th>
<th>Con</th>
</tr>
</thead>
<tbody>
<tr>
<td>Big Willow is close to potential trail users; they would not have to drive to the park</td>
<td>There is not enough parking at Big Willow</td>
</tr>
<tr>
<td>Big Willow is connected to the LRT</td>
<td>There may be conflict between bikers and walkers at trail intersections and on the bridge</td>
</tr>
<tr>
<td>Big Willow’s terrain is variable and suitable for mountain biking</td>
<td>The neighborhood would be disrupted</td>
</tr>
<tr>
<td>Trails at Big Willow would help local businesses</td>
<td>Big Willow is not a large enough park to support additional trails</td>
</tr>
</tbody>
</table>

Option B, representative comments:

<table>
<thead>
<tr>
<th>Pro</th>
<th>Con</th>
</tr>
</thead>
<tbody>
<tr>
<td>Other parks in Minnetonka are bigger and better able to accommodate trails</td>
<td>Other locations would be farther from Hopkins high school</td>
</tr>
<tr>
<td>Less controversy at other locations</td>
<td>Other sites would be less accessible/central for users</td>
</tr>
</tbody>
</table>
• If there are trails at multiple parks, the impact would be lessened and dispersed
• There may be fewer environmental concerns at other locations

• Less connectivity to regional trail system
• Other parks are flat – would not make for good mountain biking

Option C, representative comments:

<table>
<thead>
<tr>
<th>Pro</th>
<th>Con</th>
</tr>
</thead>
<tbody>
<tr>
<td>Current parks would not be disrupted</td>
<td>Makes Minnetonka less appealing to young families</td>
</tr>
<tr>
<td>No money would be spent</td>
<td>Does not support mountain bike community</td>
</tr>
<tr>
<td>Less influx of non-Minnetonka residents to use the parks</td>
<td>Unsanctioned use of trails for biking will continue</td>
</tr>
</tbody>
</table>

In January 2018, Minnetonka residents were invited to attend the fourth public engagement meeting. Residents filled out a questionnaire indicating their feelings on topics like space constraints, environmental protection and user conflict.

The following matrix shows responses to survey questions. Some residents did not respond to all questions.

<table>
<thead>
<tr>
<th>Adequate Space</th>
<th>Agree</th>
<th>Disagree</th>
</tr>
</thead>
<tbody>
<tr>
<td>A trail system should be able to sustain a minimum of 4 miles of single track trails. This could include a single park on its own or a circuit of parks in close proximity to one another. Staff believes that less than 4 miles would not be utilized.</td>
<td>79%</td>
<td>21%</td>
</tr>
<tr>
<td>If a circuit of parks is considered, a given park within the circuit should be able to support a minimum of 2 miles of mountain bike trails on its own.</td>
<td>73%</td>
<td>27%</td>
</tr>
<tr>
<td>If a circuit of multiple parks are needed, the parks should be located within one mile of another.</td>
<td>67%</td>
<td>33%</td>
</tr>
<tr>
<td>A mountain bike trail system should be within one mile of a regional bike trail.</td>
<td>60%</td>
<td>40%</td>
</tr>
<tr>
<td>A park must contain a minimum of 20 usable acres to be considered. Usable acreage is undeveloped acreage that could be used to build mountain bike trails. Acreage does not include wetlands, creeks, ponds, etc.</td>
<td>71%</td>
<td>29%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Environmental Protection</th>
<th>Agree</th>
<th>Disagree</th>
</tr>
</thead>
<tbody>
<tr>
<td>Trails should be built using the highest standards for development and pursuant of sustainable trail guidelines. This would limit erosion, vegetation loss and water quality problems.</td>
<td>99%</td>
<td>1%</td>
</tr>
<tr>
<td>Areas containing uncommon plants and high quality restoration areas (per city natural resources staff) should be avoided.</td>
<td>92%</td>
<td>8%</td>
</tr>
<tr>
<td>Generally, narrow trails (approximately 24&quot;) should be built to reduce the total area of intensive tread disturbance, slow trail users and minimize vegetation and soil compaction.</td>
<td>89%</td>
<td>11%</td>
</tr>
<tr>
<td>Site should be designed to minimize tree impact and removal.</td>
<td>97%</td>
<td>3%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Minimize User Conflict</th>
<th>Agree</th>
<th>Disagree</th>
</tr>
</thead>
<tbody>
<tr>
<td>The majority of existing mountain bike trails in the Twin Cities are one-way to avoid head on interactions. If built in Minnetonka, trails should also be one-way.</td>
<td>95%</td>
<td>5%</td>
</tr>
<tr>
<td>Mountain bike trails should be built to minimally intersect existing maintained trails and high use informal foot paths.</td>
<td>85%</td>
<td>15%</td>
</tr>
<tr>
<td>Mountain bike trails should not displace existing maintained trails and high-use informal foot paths.</td>
<td>78%</td>
<td>22%</td>
</tr>
</tbody>
</table>
Mountain bike trails should be designated as multi-use (open to runners, bird watchers, hikers, snowshoers, bikers, etc.). Ninety-two percent of all mountain bike trails in the Twin Cities are multi-use.  

| Adequate parking should be available at each proposed park. | 73% | 27% |

2.2 Site Evaluation Criteria

The following criteria was used to evaluate parks in Minnetonka to determine the feasibility of adding mountain bike trails.

<table>
<thead>
<tr>
<th>ADEQUATE SPACE</th>
</tr>
</thead>
<tbody>
<tr>
<td>A trail system should be able to sustain a minimum of 4 miles of single track trails. This could include a single park on its own or a circuit of parks in close proximity to one another. Staff believes that less than 4 miles would not be utilized.</td>
</tr>
<tr>
<td>If a circuit of parks is considered, a given park within the circuit should be able to support a minimum of 2 miles of mountain bike trails on its own.</td>
</tr>
<tr>
<td>If a circuit of multiple parks are needed, the parks should be located within 1 mile of another and provide safe, easy and navigable travel between each location.</td>
</tr>
<tr>
<td>A mountain bike trail system should be within 1 mile of a regional bike trail and provide safe, easy and navigable travel between.</td>
</tr>
<tr>
<td>A park must contain a minimum of 20 usable acres to be considered. <em>Usable acreage is undeveloped acreage that could be used to build mountain bike trails. Acreage does not include wetlands, creeks, ponds, etc.</em></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>ENVIRONMENTAL PROTECTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Trails should be built using the highest standards for development and pursuant of sustainable trail guidelines. This would limit erosion, vegetation loss and water quality problems.</td>
</tr>
<tr>
<td>Areas containing uncommon plants and high quality restoration areas (per city natural resources staff) should be avoided.</td>
</tr>
<tr>
<td>Generally, narrow trails (approximately 24”) should be built to reduce the total area of intensive tread disturbance, slow down trail users and minimize vegetation and soil compaction.</td>
</tr>
<tr>
<td>Site should be designed to minimize tree impact and removal.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>MINIMIZE USER CONFLICT</th>
</tr>
</thead>
<tbody>
<tr>
<td>The majority of existing mountain bike trails in the Twin Cities are one-way to avoid head on interactions. If built in Minnetonka, trails should also be one-way.</td>
</tr>
<tr>
<td>Mountain bike trails should be built to minimally intersect existing maintained trails and high-use informal foot paths. (High-use informal foot paths are trails that receive similar use as maintained trails and have experienced significant widening, erosion and impact as a result.)</td>
</tr>
</tbody>
</table>
Mountain bike trails should not displace existing maintained trails and high-use informal foot paths. (High-use informal foot paths are trails that receive similar use as maintained trails and have experienced significant widening, erosion and impact as a result.)

Mountain bike trails should be designated as multi-use (open to runners, bird watchers, hikers, snowshoers, bikers, etc.). Ninety-two percent of all mountain bike trails in the Twin Cities are multi-use.

Adequate parking should be available at each proposed park.

### 2.3 Minnetonka Parks Applied to Criteria

<table>
<thead>
<tr>
<th>Parks</th>
<th>Adequate Space</th>
<th>Environmental Protection</th>
<th>Minimize User Conflict/Maximize Safety</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>4 miles of trail</td>
<td>If circuit, 2 miles per location</td>
<td>If circuit, 1 mile from another</td>
</tr>
<tr>
<td>Lone Lake</td>
<td>X</td>
<td>X X X X X X X X X X X X</td>
<td>X X X X X</td>
</tr>
<tr>
<td>494 Corridor</td>
<td>X X X X X</td>
<td>X X X X X X X X X X X</td>
<td>X X X X X</td>
</tr>
<tr>
<td>Purgatory</td>
<td>X X X X X</td>
<td>X X X X X X X X X X X</td>
<td>X X X X X</td>
</tr>
<tr>
<td>Hilloway</td>
<td>X X X X X</td>
<td>X X X X X X X X X X X</td>
<td>X X X X X</td>
</tr>
<tr>
<td>Victoria-Evergreen</td>
<td>X X X X X</td>
<td>X X X X X X X X X X X</td>
<td>X X X X X</td>
</tr>
<tr>
<td>Big Willow</td>
<td>X X X X X</td>
<td>X X X X X X X X X X X</td>
<td>X X X X X</td>
</tr>
<tr>
<td>Civic Center</td>
<td>X X X X X</td>
<td>X X X X X X X X X X X</td>
<td>X X X X X</td>
</tr>
<tr>
<td>Jidana</td>
<td>X X X X X</td>
<td>X X X X X X X X X X X</td>
<td>X X X X X</td>
</tr>
<tr>
<td>Meadow</td>
<td>X X X X X</td>
<td>X X X X X X X X X X X</td>
<td>X X X X X</td>
</tr>
<tr>
<td>Covington</td>
<td>X X X X X</td>
<td>X X X X X X X X X X X</td>
<td>X X X X X</td>
</tr>
<tr>
<td>Mooney</td>
<td>X X X X X</td>
<td>X X X X X X X X X X X</td>
<td>X X X X X</td>
</tr>
<tr>
<td>Lake Rose</td>
<td>X X X X X</td>
<td>X X X X X X X X X X X</td>
<td>X X X X X</td>
</tr>
<tr>
<td>Crane Lake</td>
<td>X X X X X</td>
<td>All wetland remove from list</td>
<td>X X X X X</td>
</tr>
</tbody>
</table>

*To be determined. If selected, would require further research.

Based on the applied criteria, staff recommended to the park board at the February 7, 2018 meeting that Lone Lake Park be further studied as the only site for potential mountain bike trails. The board followed that recommendation and motioned for staff to move ahead with studying Lone Lake Park and creating a concept plan. See Appendix A for the full park board report from the February meeting.
CHAPTER 3 MOUNTAIN BIKING AT LONE LAKE PARK

3.1 What is Mountain Biking?

Mountain biking is the non-motorized sport of riding bicycles off-road. Mountain bikes are retrofitted with wider tires than a traditional bike designed for travel on pavement or gravel. This wider tire increases traction, balance and maneuverability, while mitigating the impact to the trail by increasing the surface area of contact between dirt and tire. The surface area of a mountain bike’s two tires can be seen as similar to that of a hikers two feet. In addition to wider tires, mountain bikes are typically also retrofitted with a front and sometimes a rear shock. These shocks further increase a rider’s experience by absorbing the bike’s impact with the trail.

Mountain biking is a broad term with a number of subcategories including: cross-country, trail riding, all mountain, downhill, freeride and dirt jumping. These subcategories support a wide variety of user groups and vary significantly in their appearance, trail impact, trail design and geographic location. Cross-country mountain bike riding is the most prevalent type of mountain biking in the Twin Cities and is the proposed style of trail at Lone Lake Park in Minnetonka.

3.2 Proposed Trails at Lone Lake Park

The mountain bike trails proposed at Lone Lake Park would be narrow trails called single-track. Once established, single-track trails average 18-24” in width, are not paved, vary in difficulty and are designed to flow through natural areas with gradual inclines and declines in topography. These single-track trails can be seen as similar to a narrow hiking path with the exception that mountain bike trails would be closed to the public when saturated with water after a significant rainfall, melting snow or melting frost, and would remain closed until dry to avoid erosion. Modern trail design and construction uses sustainable trail building techniques (for more details on sustainable trail building, please see Chapter 4). Single-track trails have been shown to have minimal impact on the environment, resist erosion through proper design, construction and maintenance, co-exist with the natural environment and blend with the surrounding area.

Mountain biking can vary in difficulty. Similar to Nordic and alpine skiing, trails are rated as easy (green), intermediate (blue), difficult (black) and extremely difficulty (double black). A trail rating takes into account the trail width, surface and grade; natural obstacles and technical trail features. Trail design at Lone Lake Park would be rated as mostly easy with sections of intermediate due to portions of sustained incline or decline in topography. The focus on developing a predominantly easy and intermediate mountain bike trail system would be to support a robust user-group, including younger riders, families and a variety of ability levels, including beginners.
3.3 Shifting Trends in Recreation

The Physical Activity Council, which tracks participation and trends in sports, fitness and recreation in the United States, has shown that while 72% of the U.S. population ages six and over are active, the level of activity continues to trend toward a lesser frequency. Further, trends in how people recreate continue to shift away from organized sports and toward more individualized activities and outdoor recreation, including mountain biking. The City of Minnetonka and surrounding communities’ recreation departments have seen a decline in the number of teams registering for softball, basketball, kickball and football leagues. Though not specific to the United States, recent publications by the Australian Sports Commission explored this trend, noting that participation in many organized sports is in decline, while non-organized sports are growing in popularity. Reasons cited for this shift include:

- Organized sports focus too heavily on competition rather than fun and enjoyment
- Organized sports choose teams on the basis of talent rather than friendship groups
- Organized sports lack flexibility around scheduling
- Organized sports provide limited opportunities for people with poor sporting competency
- Many adolescents report being self-conscious about poor sporting ability and find organized sporting environments intimidating and humiliating

Mountain biking enables people to ride for fun and enjoyment, as well as competition. People are able to choose their own riding groups - generally close friends. Mountain biking can be done anytime; it doesn’t require a minimum level of competency (other than the ability to ride a bicycle) and allows people to choose trails to match their ability. People that may be self-conscious about their ability can choose whom, where and when they ride.

Winter mountain biking, or fat tire biking, is also a fast growing activity among Minnesotans. As our climate continues to shift and the average annual snowfall decreases, opportunities for traditional winter activities, such as Nordic skiing, have seen a decrease in participation. Fat biking provides access to winter recreation without the need for ample snow. Fat biking uses the same trails as mountain biking, but the style of bike (specifically the increased width of the tire) provides easy riding through snow and ice. Winter bikers follow the same trail closure rules. The proposed trails would be open for winter biking, but there are no immediate plans for grooming the trails in the winter. Winter fat biking would increase park use during the underutilized time of year.

3.4 Growth in Mountain Biking

Recreational shifts toward an increased participation in mountain biking can be seen in a number of indices, including the level of support by the Minnetonka Mountain Bike Trail Advocates. Since the initial proposal for mountain bike trails in Minnetonka back in 2000, local advocacy for mountain biking has grown from a small group of local bikers to a large well-organized community of advocates. Mountain bike advocates in the Twin Cities have lobbied through the years to increase the number of miles of mountain bike trails from 10 miles in the late 1990’s to over 85 miles in the Twin Cities today.
A survey conducted by City of Minnetonka staff (see Appendix B) of local mountain bike land managers suggests that mountain bike trail heads within the Twin Cities see a range of 150-2,500 weekly users (dependent on location and time of year). Larger destination trail systems are seeing significantly higher use (Three Rivers Park District, Theodore Wirth and Lebanon Hills). Trail systems similar in size and scope (Carver Lake, Salem Hills, and Hillside) to the proposed trails at Lone Lake Park see an average of 140-300 users per week depending on the time of year. This robust use of mountain bike trails is expected to grow. Market research anticipates a compound annual growth rate of 9.84% in mountain bike sales from 2017-2021.

Organized sports continue to see a decline in participation, especially contact sports. The Minnesota High School Cycling League, founded in 2012, started with 150 student athletes, representing 16 teams. Today it has grown to 1,300 student athletes, on 60 teams that cover over 100 schools with 550 coaches in Minnesota. Minnetonka and Hopkins schools have started cycling teams and their clubs have close to 100 participants collectively. As family time continues to be stretched, parents and children look to share in recreational opportunities. The sport of mountain biking provides activity for the entire family. Compared to many organized sports, mountain biking is a healthy, lifelong recreational activity that individuals can easily participate in over the course of their life.

### 3.5 Access to Mountain Bike Trails

As trends in recreation shift toward access to more outdoor and individual based recreation, community members are seeking these experiences closer to home. A trail close to home removes a barrier to access for people who don’t have a car. Access to mountain bike trails in Minnetonka is not readily available and requires an increase in time and drive commitments (see table below). As mountain biking grows in popularity, users are requesting access similar to traditional sports. This is similar to a softball team requiring a local field to practice and play on without having to drive to another community to access their facilities. Users are also looking for access to mountain biking from a regional trail system allowing them to keep the car at home, warm up on their way to the trail and cool down on their way home. Lone Lake Park is conveniently located 0.6 miles from the Minnesota River Bluffs Regional Trail with a well-developed trail connecting the regional trail to a potential Lone Lake mountain bike trail. It also provides easy access to both Minnetonka and Hopkins schools (representing large populations of Minnetonka residents). Lone Lake Park is located within a 5-mile bike ride to either school and connects with the Regional Trail System.

<table>
<thead>
<tr>
<th>Trail Name</th>
<th>Location</th>
<th>Driving Distance in Miles (from Mtka City Hall)</th>
<th>Miles of Trail</th>
</tr>
</thead>
<tbody>
<tr>
<td>Theodore Wirth</td>
<td>Minneapolis</td>
<td>12</td>
<td>7</td>
</tr>
<tr>
<td>MN River Trail</td>
<td>Bloomington</td>
<td>17</td>
<td>12</td>
</tr>
<tr>
<td>Murphy Hanrehan</td>
<td>Prior Lake</td>
<td>21</td>
<td>10</td>
</tr>
<tr>
<td>Elm Creek</td>
<td>Champlin</td>
<td>22</td>
<td>14</td>
</tr>
<tr>
<td>Lake Rebecca</td>
<td>Rockford</td>
<td>22</td>
<td>14</td>
</tr>
<tr>
<td>Lebanon Hills</td>
<td>Eagan</td>
<td>23</td>
<td>12</td>
</tr>
<tr>
<td>Terrace Oaks</td>
<td>Burnsville</td>
<td>23</td>
<td>2</td>
</tr>
</tbody>
</table>
CHAPTER 4  TRAIL DESIGN AND BUILDING

4.1  Trail Design

The goal of all types of sustainable trails is to get water off the trail and keep users on it. Thoughtful trail design can simultaneously mitigate environmental impacts as well as minimize user conflict. For instance, singletrack trails (where users generally travel single file) tend to make trails more exciting, improve visibility of other users, and slow speeds of mountain bikers. These trails are typically 18”-24” in width and tend to wind around natural elements such as rocks, trees and landforms.

Thoughtfully designed mountain bike trails blend with and protect the surrounding environment, meet the needs of users, minimize conflicts between user groups and require little maintenance. All trails have environmental impacts, and mountain bike trail impacts have been found to be on par with those of hiking trails (see Appendix C).

4.2  Sustainable Trail Design Principles

Rolling contour trails gently travel alongside slopes and follow existing contours. These types of trails have undulating slopes of less than 10% called grade reversal and serve to minimize erosion potential. Trail treads should tilt slightly toward the downhill in order to allow water to drain in a non-erosive manner. Fall lines (the shortest route down a hill) and flat areas should be avoided in siting trails in order to further minimize erosion potential.

4.3  The IMBA 11 Essential Elements of Sustainable Trails

The International Mountain Bike Association (IMBA), founded in 1988, is a worldwide, non-profit organization that provides land managers guidance and best practices in the creation, enhancement and preservation of mountain bike trails. They promote responsible mountain biking, support volunteer trail work, assist land managers with trail management issues and work to enhance relations among trail user groups. IMBA members annually contribute more than one million hours to trail work projects on public land.
1. **Trail location:** Side slope trails are best to minimize erosion potential.

   ![Sidehill Trails Are the Best](image)

2. **Sustainable trail alignment:** Avoid the fall line.

3. **The Half Rule:** A trail’s grade should not exceed half the grade of the hillside or side slope that the trail traverses.

   ![Half Rule](image)

4. **The ten percent average guideline:** An average trail grade of 10% or less is the most sustainable and least likely to experience erosion.

5. **Maximum sustainable grade:** The maximum grade that will still result in a sustainable trail (generally less than 15% and varies based on soil type).

6. **Grade reversals:** A spot where a climbing trail levels out and then changes direction, dropping subtly for 10-50 linear feet before rising again, directing water off the trail before it gains too much momentum.
7. Outslope: The outer edge of the trail tread should tilt slightly downhill to encourage water to sheet off the trail and minimize erosion.

8. Adapt trail design to soil texture: Understand the soil types and their different physical properties and texture.

9. Minimize user-caused soil displacement: Gentle grades, side slop location, consistent flow, in-sloped turns, and potentially tread hardening (the addition of gravel to trails) all serve to minimize user-caused soil displacement.

10. Prevent user-created trails: The intended trail should provide a better experience than traveling off-trail, in addition to educational signage, prevents a majority of informal trail creation.
11. **Maintenance**: Routine trail maintenance includes removing leaf litter from the trail to promote drying, selectively trimming encroaching branches, removing fallen trees and assessing the condition of the trail to identify potential erosion issues before they become problematic.

4.4 **Trail Signage**

Trail signage types are either: informational/directional, regulatory/warning or educational/interpretive. They are for trail identification, route selection by riders, guidance to key points of interest, inform regulations and use, visitor education and etiquette, resource protection and hazard description.

Trailhead Signs/Kiosks: This signage typically includes a map and description of the trail segments including length and difficulty, trail regulations, safety tips, emergency contact information and educational messages. Trailhead kiosks can also include information about volunteer opportunities, natural and cultural resources, a message board or fliers. Appropriate language and messaging is important in order to ensure effective adherence to trail rules. For instance, engaging messages such as “restoration area, please remain on trail” is proven to be more effective than simply stating “keep out!”

Examples of trailhead signs:
Waymark and Trail Intersection Signs: Trail waymarkers are small and simple aluminum or plastic signs that can be fixed to a flexible post and serve to mark the way of the trail and provide mile markers. These signs allow riders to have a self-guided experience as well as serve to provide location information in the event of emergencies. Trail intersection signs provide directional information about how to return to the trailhead or continue along the trail.

Example of a waymarker:
4.5 Budget

The City of Minnetonka allocated $130,000 for mountain biking in its Capital Improvement Plan for 2018. Local students raised an additional $5,000 through online fundraising. To date, the city has used $35,000 for trail design, public engagement and a natural resources assessment. After a site visit and analysis of Lone Lake Park, the estimated cost to build a mountain bike trail including signage, trailheads and gates is $175,000 - $200,000. The difference of $75,000 - $100,000 is anticipated to be funded through grant opportunities and/or amending the CIP.

<table>
<thead>
<tr>
<th>Mountain Bike Trail Construction</th>
<th>Total Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Trail Build</td>
<td>$173,712</td>
</tr>
<tr>
<td>Trailheads (kiosks &amp; gates)</td>
<td>$10,000</td>
</tr>
<tr>
<td>Signs</td>
<td>$5,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$188,712</strong></td>
</tr>
</tbody>
</table>

CHAPTER 5 TRAIL MAINTENANCE AND MANAGEMENT

5.1 Minnesota Off-Road Cycling (MORC)

The local offshoot of IMBA, Minnesota Off-Road Cyclists (MORC), works to uphold the same principles as IMBA and is highly regarded by local land managers. MORC partners with area land managers to help enhance the sport of mountain biking in the Minneapolis/St. Paul metro area. MORC currently maintains approximately 85 miles of trail at 11 locations in the Twin Cities area. It is MORC’s mission to safeguard the future of mountain biking in Minnesota through the promotion of responsible riding, establishment and maintenance of mountain biking trails and preservation of Minnesota’s natural resources.

If trails are approved, the City of Minnetonka would enter into an agreement with MORC for services at Lone Lake Park. An agreement with MORC may include, but is not limited to, assistance with:

- Volunteer organization, recruitment and training
- Elements of trail construction
- Routine maintenance
- Seasonal invasive species removal and park restoration (see chapter 6)
- Inspection and hand-work maintenance of the trail
- Washout repair and downed tree removal
- Closing and opening the trail based on trail conditions

MORC would work closely with city staff and must receive prior approval for any significant maintenance or trail changes.

5.2 Maintenance Plan

Trail maintenance is an important aspect for keeping mountain bike trails sustainable for public use. It is imperative that the trails be built in a sustainable manner to minimize ongoing maintenance as the trail ages. A general maintenance plan could include:
Daily: Trail stewards take turns riding the trail each day to determine and report on its condition. Each steward to be assigned specific days of the week to conduct inspection rides.

Weekly: Volunteer nights including 8-10 people providing trail maintenance for two hours. Trail stewards act as the group supervisor and ensure the proper tools and supplies are available.

Monthly: Stakeholder groups work on specific trail maintenance projects. Trail stewards serve as the volunteer leaders, providing group instruction and supervision.

5.3 Staff and Volunteer Needs

It is estimated that approximately 40 hours of city staff time per year will be dedicated to maintaining the mountain bike trails. The city of Woodbury, who operates the Carver Lake Park trails, provided City of Minnetonka staff with this estimate. The Carver Lake Park trails are similar to those being studied in Lone Lake Park. This estimate does not include winter grooming of the trail and assumes that the trail is well designed and built in a sustainable way.

Volunteers are needed to assist with the maintenance schedule throughout the year. Hundreds of community members have expressed interest in volunteering with trail maintenance, management and overall park clean up and restoration. The following is a breakdown of the number of people who have already indicated that they are interested in volunteering, by volunteer opportunity:

- 379 - Park clean up (general clean up, invasive species removal, etc.)
- 412 - Trail maintenance
- 131 - Trail management (opening and closing gates, etc.)

5.4 Rules of the Trail

One of the unique characteristics of the mountain bike community is that users share in the responsibility of maintenance, restoration, oversight and fundraising for the trail system. This hands-on approach has been shown to create buy-in from users and reduce the cost of maintaining a trail system for land managers and tax payers. MORC’s relationship with local land managers is highly regarded as noted in the Land Managers Survey (see Appendix B). This mountain biking culture is further outlined by IMBA’s Rules of the Trail which focuses on creating responsible and courteous conduct while mountain biking. Its teachings are passed down to new riders through education at local trail heads, word-of-mouth and action:

IMBA’s Rules of the Trail:

A. Ride on open trails only: Respect trail and road closures – ask a land manager for clarification if you are uncertain about the status of a trail. Do no trespass on private land.
B. Leave no trace: Be sensitive to the dirt beneath you. Wet and muddy trails are more vulnerable to damage than dry ones. When the trail is soft, consider other riding options.
Stay on existing trails and do not create new ones or switchbacks. Pack out at least as much as you pack in.

C. Control your bike: Inattention for even a moment could put yourself and others at risk. Obey all bicycle speed regulations and recommendations and ride within your limits.

D. Yield to others: Do your utmost to let your fellow trail users know you’re coming – a friendly greeting or bell ring are good methods. Try to anticipate other trail users as you ride around corners. Bicyclists should yield to all other trail users, unless the trail is clearly signed for bike-only travel. Bicyclists traveling downhill should yield to ones headed uphill, unless the trail is clearly signed for one-way or downhill-only traffic. Strive to make each pass a safe and courteous one.

E. Never scare animals: Animals are easily startled by an unannounced approach, a sudden movement or a loud noise. Give animals enough room and time to adjust to you.

F. Plan ahead: Know your equipment, your ability and the area in which you are riding – and prepare accordingly. Strive to be self-sufficient: keep your equipment in good repair and carry necessary supplies for changes in weather or other conditions. Always wear a helmet and appropriate safety gear.

Mountain bike trail rules would be enforced similar to other park rules such as off-leash dogs, smoking, alcohol use and damage to park property. Signs will inform and educate trail users of the trail rules and etiquette.

5.5 Trail Closures

Single-track trails can be seen as similar to a narrow hiking path with the exception that trails are closed to the public when saturated with water after a storm, melting snow or melting frost. Trails remain closed until dry to avoid erosion, including tire and foot imprints in the dirt. It is in the interest of the mountain bike community to maintain low-impact, high quality, smooth surfaced trails. This enhances the users’ biking experience and reduces the maintenance needs by volunteers. Trail heads and main access points would be managed with three-foot wide farm gates and minimal fencing to inhibit users from access when the trail is deemed closed. MORC volunteers would coordinate with city staff to determine who is best suited to close the trails. Signage and education kiosks would be used to further educate the public on trail closure procedures and best practices. When the trail is deemed closed, communication with the public would be done through social media, MORC’s trail condition webpage and city websites.

5.6 Multi-Use Trails

The majority of mountain bike trails in the Twin Cities are considered multi-use trails. These trails are open to mountain bikers, hikers and trail runners, with the exception that many trails do not allow dogs. Dakota County’s Lebanon Hills is the only mountain bike specific trail system in the area. Multi-use trail systems are commonplace throughout the United States. Responsible bike use has been shown to be compatible with most other types of use. When all visitors observe basic trail etiquette, their encounters with other users will be harmonious and most people will have a satisfying experience on the trail. Further, trail design takes into account user interactions and works to build lines-of-sight and reduce biker speed.
5.7 One-Way Trails

The majority of mountain bike trails in the Twin Cities are designed to be ridden one-directionally. One-way trails have been shown to alleviate congestion, provide a more predictable experience (no on-coming trail users) and reduce the number of passes between users.

5.8 Events and Programming

The City of Minnetonka does not currently have any programs or events planned around the proposed mountain bike trail. In the future, there could be programming and event opportunities facilitated by Recreation Services. Any outside event or program would need to go through the same permitting process as any other park or facility in Minnetonka. Similar sized mountain bike trail systems in the Twin Cities see very few event and programming requests. The City of Minnetonka does not anticipate a large number of outside groups requesting permits for programs and/or events.

5.9 Managing Potential User Conflicts

Many conflicts between users along a trail are based on perception and can include environmental, safety or social differences. A misconception is that mountain bikers are less concerned about the environment and are not respectful of other trail users. In fact, most trail users share the similar value of enjoying nature while getting some fresh air and exercise. These perceived differences among users can be mitigated through education, design, experience and regulation. Land managers should understand, distinguish and document perceived and actual conflicts in order to determine if and when intervention or change is necessary.

Several studies indicate the environmental impacts of mountain biking are on par with those of hiking trails (see Appendix C). In fact, these impacts are mainly related to the design of the trail itself rather than the travel mode. All trail user types displace soil. The key is trail design that reflects site topography and soil types, keeping users on the trail and thoughtful management of trails during muddy conditions.

Another concern is safety threats due to fast riders causing collisions or near misses. This perception of conflict is often greater than the reality due to thoughtful trail design. The most effective way to address perceived and actual safety conflicts is to design the trail so these encounters do not occur in the first place. There are a number of ways to control rider speed and behavior including informative signage about trail rules, utilizing turns, narrow trail design (chokes) and corralling the trail (natural objects placed along the trail). Social conflicts can be mitigated through shared experiences that build trust and understanding between user groups. Opening channels for communication and ongoing dialogue between user groups is an essential tool to manage these relationships. Events such as trail maintenance or ecological restoration activities can serve to not only improve the environment, but also to enhance relationships.
Dogs would not be allowed on the designated mountain bike trails. Per park regulations, off-leash dogs under voice command are allowed in unmaintained areas.

5.10 Emergency Response

Mile markers would be posted along the mountain bike trail to assist responders in the event of an emergency. The Minnetonka Fire and Police departments would have access to trail maps that indicate access points, mile markers and trail heads. The Minnetonka Fire Department has a six-wheel drive Polaris Ranger that can be used for major park and trail emergencies.

5.11 Liability

The city of Minnetonka contacted the League of Minnesota Cities Insurance Trust (LMCIT) regarding liability of mountain bike trails. The LMCIT provided the city with the following information:

- Mountain biking activities would be treated just like any other recreational programs offered by the city.
- From an overall perspective, there is some increased risk to the city in offering mountain biking. That is true with any recreational activity. However, with the strong park and recreation immunity protection that cities have in Minnesota, the liability risk to the city is fairly low.
- Minnetonka offers many recreational activities. It is predicted that the effect on the city’s LMCIT premium by offering biking trails would be negligible. As a whole, recreation programs are not a big driver of the city’s overall LMCIT premium. Therefore, cost issues related to liability would not have much of an impact on the city’s decision to create mountain biking trails.

CHAPTER 6 NATURAL RESOURCES ASSESSMENT

City of Minnetonka Natural Resources staff provided background and content related to restoration activities at Lone Lake Park. The city hired SEH to provide an independent biological assessment (see Appendix D) of natural resources at Lone Lake Park. SEH is an employee-owned engineering, architectural, environmental and planning company that helps government, industrial and commercial clients find answers to complex challenges. Chapter 6 contains information from both city staff and the independent consultant.

6.1 POST Plan Designations

The POST Plan is a 17-year-old planning document created to guide decision making regarding parks and open spaces in the city. The mission states: “The purpose of the Minnetonka Parks, Open Space, and Trail system is to provide a comprehensive, balanced, and sustainable system of parks, open spaces/natural areas, trails, and recreation-oriented activities/programs for the city residents to use and enjoy in as cost effective manner as possible.” The POST plan is not a city ordinance.

The POST Plan identifies Lone Lake Park as not only a Community Park, but also a Community Preserve. Community Parks focus on meeting community-based recreational needs, as well as
preserving unique landscapes and open spaces. Community Preserves are lands set aside for
the preservation of natural resources, remnant landscapes, open space and visual
aesthetics/buffering that also provide passive use opportunities (i.e. nature type trails, overlook,
interpretive program, etc.). Similar to hiking trails, multi-use mountain bike trails can be viewed
as a nature type trail for riders, hikers and trail runners. According to the plan, the west, south,
and southwest areas of the park make up the community preserve portion of the larger park. In
addition, the POST plan notes that as needs change in future years, the system plan itself must
also change. The most important principle as identified in the POST plan is to implement a
balanced system plan that offers multiple community values.

Over the past 17 years, since the adoption of the POST Plan, the natural landscapes have
begun to change. One example is the area on the south side of the park adjacent to the water
tower. This area is identified in the plan as old fields and was once used as a ski hill. This area
is now reverting to forested land generally covered by red maple and oak due to restoration
work undertaken by the city, contractors and volunteers.

6.2 Natural Resources Stewardship Program

Given that Lone Lake Park has been part of the Natural Resources Stewardship Program (NRSP) for over 20 years,
it is important to discuss the history of restoration of this park as well as the current
restoration efforts.

In 1995, the City of Minnetonka commissioned a study of the five
community parks and three creek corridors to assess their
environmental health and quality. The study found that all vegetation
types throughout the city were seriously deteriorated or deteriorating. The NRSP for restoration
and improvement of degraded ecosystems in parks began in 1995. The goal was to achieve a
sustainable landscape quality to be maintained indefinitely.

The council policy for natural resource restoration and management followed, setting priorities
for the city’s five major parks (Big Willow, Civic Center, Lone Lake, Meadow and Purgatory) and
three creek corridors (Minnehaha, Purgatory and Nine Mile). The program was to be expanded,
under appropriate circumstances and available funding, to include other open space areas.

An ecological system based approach to restoration and management is promoted and used. General goals include:

- Protect or enhance ecosystem health and biological diversity of native habitats
- Provide balance between preservation, recreational use and community growth
- Maintain natural and historical integrity
- Establish partnerships and stakeholder involvement to perpetuate sustainable resources

6.3 Lone Lake Park Restoration Efforts

- 1995: Lone Lake was the first park researched for consideration of habitat restoration.
- 1996: Work began with the first large-scale buckthorn removal in the city. This was followed by prairie restoration of the mesic and wet/mesic sites located to the west, adjoining Nine Mile Creek.
- 2002: 75 percent of the upland areas had buckthorn removed.
- 2006: Restoration expanded to include noxious and invasive weed control and added new areas of upland buckthorn control.
- 2006-2009: Four large rain gardens were planted in and around the main parking lot south of the lake.
- 2013-2015: Greater than 50 percent of the upland areas were re-cut (approximately 32 acres of buckthorn and Asian honeysuckle).
- 2014-2017: Transition from meadow weeds to new prairie occurred at the Rowland Road entrance and trail junction.
- 2017: Lakeshore buffers were planted for pollinators and water quality improvement.

Over the past ten years, $233,881 has been spent on habitat restoration. The following table and graphic outlines and illustrates these costs.

<table>
<thead>
<tr>
<th>Year</th>
<th>Buckthorn</th>
<th>Garlic Mustard</th>
<th>Rain Gardens</th>
<th>Prairie</th>
<th>Noxious Weeds</th>
<th>Other</th>
<th>Yearly Total</th>
</tr>
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<tbody>
<tr>
<td>2008</td>
<td>$ -</td>
<td>$ 12,562.50</td>
<td>$ 2,992.44</td>
<td>$ -</td>
<td>$ 423.00</td>
<td>$ 1,123.33</td>
<td>$ 17,101.27</td>
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<td>2009</td>
<td>$ 6,066.00</td>
<td>$ 2,334.18</td>
<td>$ 1,188.75</td>
<td>$ 179.73</td>
<td>$ 1,673.81</td>
<td>$ -</td>
<td>$ 11,442.47</td>
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<td>2010</td>
<td>$ 12,527.88</td>
<td>$ 3,404.46</td>
<td>$ 1,161.74</td>
<td>$ 1,383.76</td>
<td>$ 721.39</td>
<td>$ 240.70</td>
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<td>2011</td>
<td>$ 3,429.23</td>
<td>$ 3,045.00</td>
<td>$ 714.45</td>
<td>$ 341.90</td>
<td>$ 156.30</td>
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<td>2012</td>
<td>$ 2,056.45</td>
<td>$ 403.99</td>
<td>$ 180.00</td>
<td>$ 361.25</td>
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<td>$ -</td>
<td>$ 3,001.69</td>
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<td>2013</td>
<td>$ 4,519.21</td>
<td>$ 3,592.90</td>
<td>$ 2,802.94</td>
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<td>$ 520.00</td>
<td>$ -</td>
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<td>2014</td>
<td>$ 50,419.70</td>
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<td>$ 1,388.75</td>
<td>$ 2,205.00</td>
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<td>2015</td>
<td>$ 49,434.13</td>
<td>$ 8,466.86</td>
<td>$ 4,110.00</td>
<td>$ 2,916.00</td>
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<td>$ 15,191.57</td>
<td>$ 14,995.29</td>
<td>$ 5,095.50</td>
<td>$ 3,300.36</td>
<td>$ 233,881.03</td>
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Restoration continues within four habitat types within the park: the woodlands, the prairie, rain gardens and lakeshore. More than 95 percent of the restoration work in Lone Lake Park is controlling invasive species and noxious weeds. Although volunteers have assisted with restoration efforts, contractors and work crews have completed most of the work. The inclusion of mountain bike trails through these areas would not counteract the restoration work done to date. If mountain biking is approved, volunteers will be an essential component in restoring and maintaining the habitat and in controlling the invasive species throughout the park.
6.4 Land Cover Types

In 2004, the city conducted a Minnesota Land Cover Classification System (MLCCS) that identified the land cover of the community. The MLCCS identified a range of cover types including areas such as hard surfaces, wetland types, disturbed non-native vegetation and remnant eco-types. The MLCCS is reflected on Hennepin County’s Interactive Map and each cover type is illustrated on the map below.

![Map of Land Cover Types](image)

6.5 Native and Invasive Vegetation *excerpted from SEH study

The primary vegetative resource within the park is the extensive wooded hills that surround the lake. Overall, the wooded areas are dominated by red and white oaks throughout the park, although there are portions where co-dominant species are also present, such as pockets of bigtooth aspen, basswood, red maple, and red cedar. Overall plant diversity is high, and the community is developing into a mature stand with a closed canopy. A list of the observed species is presented in the Table 1: below, based on a March 29 and May 2, 2018 field review by SEH.

Table 1: Observed Tree Species

<table>
<thead>
<tr>
<th>Common Name</th>
<th>Scientific Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>Box elder</td>
<td>Acer negundo</td>
</tr>
<tr>
<td>Red maple</td>
<td>Acer rubrum</td>
</tr>
<tr>
<td>Buckeye</td>
<td>Aesculus glabra</td>
</tr>
<tr>
<td>Tree Name</td>
<td>Scientific Name</td>
</tr>
<tr>
<td>-------------------</td>
<td>-----------------------</td>
</tr>
<tr>
<td>River birch</td>
<td>Betula nigra</td>
</tr>
<tr>
<td>Paper birch</td>
<td>Betula papyrifera</td>
</tr>
<tr>
<td>Hackberry</td>
<td>Celtis Occidentalis</td>
</tr>
<tr>
<td>Hawthorn</td>
<td>Crataegus sp.</td>
</tr>
<tr>
<td>Black walnut</td>
<td>Juglans nigra</td>
</tr>
<tr>
<td>Red cedar</td>
<td>Juniperus virginiana</td>
</tr>
<tr>
<td>Ironwood</td>
<td>Ostrya virginiana</td>
</tr>
<tr>
<td>White pine</td>
<td>Pinus strobus</td>
</tr>
<tr>
<td>Cottonwood</td>
<td>Populus deltoides</td>
</tr>
<tr>
<td>Bigtooth aspen</td>
<td>Populus grandidentata</td>
</tr>
<tr>
<td>Quaking aspen</td>
<td>Populus tremuloides</td>
</tr>
<tr>
<td>Black cherry</td>
<td>Prunus serotina</td>
</tr>
<tr>
<td>White oak</td>
<td>Quercus alba</td>
</tr>
<tr>
<td>Northern pin oak</td>
<td>Quercus ellipsoidalis</td>
</tr>
<tr>
<td>Burr Oak</td>
<td>Quercus alba</td>
</tr>
<tr>
<td>Red oak</td>
<td>Quercus rubra</td>
</tr>
<tr>
<td>Black locust</td>
<td>Roninia psuedoacacia</td>
</tr>
<tr>
<td>Black willow</td>
<td>Salix nigra</td>
</tr>
<tr>
<td>Basswood</td>
<td>Tilia americana</td>
</tr>
<tr>
<td>American elm</td>
<td>Ulmus americana</td>
</tr>
</tbody>
</table>

The wooded communities present are identified by the Minnesota Department of Natural Resources as a Southern Dry-Mesic Oak Forest. Mesic hardwood forest communities are present within the larger eastern broadleaf forest province where soils retain moisture, and wildfires are infrequent. These forests have continuous dense canopies of deciduous trees, with an understory of successively shorter strata composed of shade-adapted seedlings, shrubs, and herbaceous cover. Within Lone Lake Park, the dominant trees are red and white oak, although as is typical of mesic forests, other deciduous species such as maple, basswood, bigtooth aspen, ironwood, and black cherry trees are also present.

Coniferous trees are less frequent, but are present; including a few large white pine trees, which were planted. Red cedar trees are also present in a few larger areas, where it is locally dominant; particularly along the ridge west of Lone Lake. The red cedar trees are also mature, and likely have been present for a long period of time. Red cedar can be controlled by fire, which has likely been suppressed since settlement. Red cedar tend to be more of a nuisance species within prairie ecosystems, but are not likely to be problematic in a mature forested community.

Under the tree canopy, there is a moderately dense layer of native shrubs and vines. The invasive European buckthorn has been effectively controlled through extensive management, but can still be located in isolated areas of the park, such as the southeast corner, and where it is encroaching from adjacent areas. The shrub layer is healthy, and appropriate in composition for the mixed oak forest that is present. Shrub density is controlled by the limits of light penetration, and is naturally low density with the full canopy present, particularly on the north side.
and east facing slopes that naturally receive less sunlight. Table 2 is a summary of the observed shrub species based on a field review by SEH on March 29 and May 2, 2018.

Table 2: Observed Shrub and Vine Species

<table>
<thead>
<tr>
<th>Common Name</th>
<th>Scientific Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>Grey dogwood</td>
<td>Cornus racemosa</td>
</tr>
<tr>
<td>Red osier dogwood</td>
<td>Cornus sericea</td>
</tr>
<tr>
<td>Tatarian honeysuckle</td>
<td>Lonicera tatarica</td>
</tr>
<tr>
<td>Virginia creeper</td>
<td>Parthenocissus quinquefolia</td>
</tr>
<tr>
<td>Wild plum</td>
<td>Prunus americana</td>
</tr>
<tr>
<td>Common buckthorn</td>
<td>Rhamnus cathartica</td>
</tr>
<tr>
<td>Gooseberry</td>
<td>Ribes spp</td>
</tr>
<tr>
<td>Staghorn sumac</td>
<td>Rhus typhina</td>
</tr>
<tr>
<td>Riverbank grape</td>
<td>Vitis riparia</td>
</tr>
<tr>
<td>Prickly ash</td>
<td>Xanthoxylum americanum</td>
</tr>
</tbody>
</table>

Prairie and grassland habitat is a cover type in the western area of Lone Lake Park. Additionally, there is a larger area of non-native smooth brome grass on the southeast corner of the park where a south-facing slope is present. On the western side of the central ridge is small elevated meadow, which may be a historic open area, but is not remnant. Vegetation within this small meadow area includes smooth brome grass, Canada goldenrod, and black raspberry. Box elder trees are encroaching into this area. Overall, it is an open space, but is not high quality prairie.

Many of the woodlands in the metro area have been infested with a wide range of invasive species, including common buckthorn, garlic mustard, leafy spurge, and Tatarian honeysuckle. Through extensive efforts by the City of Minnetonka, Lone Lake Park is relatively free of these species, but this effort to manage for invasive species requires constant diligence to prevent reestablishment and spreading.

Overall, the occurrences of invasive species is low, which is a significant factor in the overall evaluation of habitat quality, and serves as an example of how continuous management can be successful in managing these species.

6.6 Wildlife and Endangered Species *excerpted from SEH study

Lone Lake Park is of sufficient size that is likely supports a diverse mammal population, including white tailed deer, raccoons, squirrels, rabbits, skunks, woodchucks, and probably the occasional red fox or coyote. All of these species are common within the region, and would be attracted to the wooded slopes where they can find food, shelter, and habitat. The support of mammals is likely high, but not unusual for species that have adapted to living within an urban area.

Similarly, the presence of reptiles and amphibians would be supported by the quality of the habitat, which would be expected to support multiple frog and snake species. The wetlands being free of predatory fish is advantageous to amphibian reproduction, and the abundant habitat within the steep slopes, trees, and rocky would support several of the woodland favoring
snakes, such as the common garter snake and brown snake. Turtles would be present within Lone Lake, and would utilize the sandy soils for ideal nesting habitat.

Of all the wildlife that may use the park, the ones with the greatest benefit may be the birds. While common species such as cardinals, chickadees, blue jays, wild turkeys, and crows would be expected to use the wooded areas of the park, the large intact wooded areas are also an attraction to less common species. Evidence was observed that woodpeckers are common, including the common downy and hairy woodpeckers, but also the large and prominent pileated woodpecker. Owls are likely residents within the woods, as are hawks, with areas open for roosting, nesting and hunting. Seasonally, migratory birds would use the woods for resting, and would include the various warblers, vireos, and other songbirds that are temporary residents. Breeding birds which are less common, but utilize large, intact, mature woods for their primary habitat include the scarlet tanager, rose-breasted grosbeak, catbirds, pewees, and flycatchers.

The use of the park for wildlife overall is likely average for a park of this size, but is higher for many of the woodland bird species, that require the larger areas of intact woods that Lone Lake Park provides.

*City staff notes that local experts have identified 99 species of birds in the park over the past nine years* (see Appendix E).

In addition to species that may just be less common, or are unique to the habitat present, there is the potential for Lone Lake Park to harbor plant and animal species that are listed by the State of Minnesota or the federal government as legally protected.

In order to determine if any state or federally listed species have been documented within Lone Lake Park, a review of the Minnesota Department of Natural Resources (MNDNR) Natural Resources Information Systems (NHIS) database was completed. This database identifies the known locations of listed species, critical habitats, and other unique resources that have been positively identified. Because some species are mobile, a one-mile buffer was used to identify any species that has been documented within or adjacent to the park, to ensure that a sufficient area was included. The database review failed to identify any species of concern within or adjacent to the park. While this doesn’t mean that a state listed species couldn’t be present, it is generally considered sufficient for meeting state requirements for sensitive species reviews.

Federally, Lone Lake Park is within the range of two listed species, the northern long-eared bat, and the more recently listed rusty patched bumble bee.

The northern long-eared bat utilizes wooded habitats during the summer, where it roosts under the bark of large trees, singly or in small colonies. Pups are also raised in these wooded habitats. During the winter, the bats congregate in hibernaculum, which usually consists of caves, structures, and sometimes large trees or snags. The wooded habitat present within the park would generally by suitable to this species during the roosting and pupping period, and potentially could offer some areas of hibernaculum. Current guidelines by the U.S Fish and Wildlife Service discuss tree removal, and limiting activities during the roosting period. These resources also identify the townships in which roosting trees and hibernaculum have been positively identified. While one hibernaculum has been positively identified within Hennepin County, it is not within the area of the park. Under federal guidelines, there would be no
restrictions on park amenities based on the known distribution of the bats, even though the habitat may be present.

While it cannot be confirmed that the northern long-eared bat is not utilizing Lone Lake Park, the biggest concern for this species is tree removal, loss of hibernaculum, and spreading of the white nosed fungus. The inclusion of bike trails is not expected to remove a large number of trees, and would not impact hibernaculum or influence the spread of the white nosed fungus.

The rusty patched bumble bee is a recently listed species, and was added following an alarming trend of declining populations of pollinator species. Like other bee species, the rusty patched bumble bee relies on pollen from flowering plants for sustenance, and has been harmed by a loss of prairies, grasslands, and other critical habitats; and potentially overuse of herbicides and insecticides. The bees nest underground, often using rodent burrows, but require relatively undisturbed conditions to flourish. The rusty patched bumble bee has been positively identified within Lone Lake Park, as reported to bee-tracking websites, utilizing the flowering plants in the rain gardens for nectar. Other have been positively confirmed in the area, and because they are mobile, are presumed to be present, although positive nesting is harder to document than foraging individuals. Nectar producing vegetation is generally absent from the wooded areas, as it is too shady for the primary nectar species to be present. Fringe areas may support more nectar species, as would some open areas, but overall the amount of nectar species is generally low within the park. It is unlikely that the inclusion of bike trails would decrease the availability of nectar plants. Direct habitat loss is possible, but given the limited direct area of disturbance, it is unlikely that a bumble bee nest would coincide with a trail.

While it cannot be definitively proven, it is unlikely that the inclusion of mountain bike trails within Lone Lake Park would have an effect on the northern long-eared bat or the rusty patched bumble bee.

### 6.7 Soils and Topography *excerpted from SEH study*

Soils within Lone Lake Park include the loamy soils associated with the lake, South Fork of Ninemile Creek and the associated wetlands and the sandy loam soils that dominate the adjacent hillsides. The dominant soil within the park is the Kingsley-Gotham Complex. The Kingsley component consists of very deep, well drained soils that formed in loamy glacial till on glacial moraines. These soils have moderate to moderately slow permeability, and slopes that range from 2 to 40 percent. The Gotham component consists of very deep, somewhat excessively drained soils formed in sandy glaciofluvial deposits on moraines, outwash plains, stream terraces, and glacial lake basins. Permeability is rapid, and slopes range from 0 to 35 percent.

One of the unique features of Lone Lake Park are the frequent hills and steep slopes. Elevations within the park are highly variable, and range from approximately 900 feet at Lone Lake and along the South Fork of Ninemile Creek, to a high elevation of 1,060 feet in the southeast portion of the park. These hills are glacial features, and are composed of till material dominated by sand and sandy loam. The hills can be separated into the tallest peak in the southeast corner, the northern slope and ravines in the southeast portion north of the water tower, the central north-south aligned ridge west of the lake, and the isolated peak located west of the creek.
The City of Minnetonka has steep slope and shoreland ordinances which regulate slopes. Large portions of the park are considered to be slopes or bluffs under the city definition and would be regulated. Pervious trails are a permitted use under these ordinances and a stormwater pollution prevention plan during construction disturbance would need to be created.

The majority of the hillsides are 20% slope, and except for areas of wetland, flatter areas would require crossing steep slopes to reach them. Smaller areas are 30% slopes, which is very steep and would be difficult areas to traverse.

6.8 Existing Formal and Informal Trails

There are currently 1.6 miles of maintained trails in Lone Lake Park that are 8’ wide. There is a paved section of maintained trail that is 1.3 miles long, and a crushed limestone trail that is 0.3 miles long. These trails are not maintained during winter months, but are open for use. These trails also provide regional connections to the Minnesota River Bluffs LRT Trail, Bryant Lake Park and Shady Oak Beach.

There are 2.72 miles of informal footpaths present throughout Lone Lake Park (see map below). These footpaths were created and are used by hikers, dog walkers, and bird watchers to get closer to nature and viewpoints, and are not maintained. These trails are not surfaced with gravel or pavement and are never formally closed from use, which has led to erosion issues in some locations where the trail has been established along a fall line.

Map of existing formal and informal footpaths at Lone Lake Park (Formal: black, Informal, red):
Photos of eroded footpaths at Lone Lake Park:

Some informal footpaths would be able to remain in the park for use by hikers and dog walkers wishing to avoid the multi-use mountain biking trail. Others that are located along fall lines or those causing significant erosion will need to be closed and revegetated. Signage will need to be included along the multi-use trail and informal footpaths at intersection points so all users are aware of potential interactions. The following map indicates which informal footpaths would be closed (red), remain open (light blue) and which would be converted to multi-use mountain bike trails (dark blue).
6.9 Lessons Learned from other Natural Resource Managers

Minnetonka’s natural resources staff contacted their peers from other Twin Cities parks that contain mountain bike trails. While each park is unique, other natural resource managers indicated that “constant” disturbance, the spread of invasive species, erosion, and having a few rogue bikers riding when the trail was closed were the most common problems. Two managers wished they would have provided more detailed specifications for trail building specifically in areas around trees where “too much [was] cut into banks,” and in areas where erosion was a problem.

At Three Rivers Elm Creek Park, dedicated mountain bike volunteers monitor for invasive species, organized their group and adopted areas. The manager indicated that they created a “dream volunteer situation… above and beyond average volunteers” allowing habitat restoration to improve beyond what was possible prior to mountain bike trails.

6.10 Going Forward

If approved, trails should be built using the highest standards for development and pursuant to sustainable trail guidelines in order to limit erosion, vegetation loss and water quality problems. Regardless of whether mountain bike trails are approved, the existing informal footpaths should be evaluated and addressed to minimize negative environmental impact.

City natural resources staff have identified areas containing uncommon plants and high quality restoration areas (see map on next page). For this study, high quality restoration areas are defined as areas in Lone Lake Park where investment (effort and dollars) have been focused over the past 15 years.

The site evaluation criteria related to environmental protection states that areas containing uncommon plants and high quality restoration areas (per city natural resources staff) should be avoided. The concept plan was created with the guidance of city natural resources staff to minimize trails in areas of high restoration. In these areas, trails are limited to connecting segments and maintaining a sustainable trail design.

If approved, city natural resources staff would participate in field siting the trail to minimize tree impact and removal, salvage uncommon native plant material (ideally April through May) and to protect native species close to the trail corridor.

The final trail design would be reviewed by staff as it relates to the city’s environmental ordinances to ensure it meets city code. The area considered for multi-use mountain bike trails is within the ‘bluff impact zone’ as regulated under the shoreland ordinance. If approved the mountain bike trails will also be regulated under the steep slope ordinance, wetland ordinance and floodplain ordinance. Pervious trails and footbridges are generally permitted uses within these regulated areas as long as impacts to surface waters do not occur. If approved, this project would demonstrate that:

A. demonstrate that soil erosion will not occur as a result of the project activity;
B. demonstrate preservation of the existing vegetation to the extent practical; and
C. provide screening of structures such as buildings and vehicles as viewed from the water in summer leaf on conditions. *does not apply to this project*

Due to the narrow width of the trail and the dirt material, rainwater will infiltrate into the adjacent landscape. The mountain bike trail would be considered pervious and self mitigating in terms of stormwater. If the mountain bike trail is approved staff will review the final trail location, obtain any required permits and ensure that the trails meet city code.

Trail users would need to be educated about the spread of invasive species and the importance of staying on the trail. Just as the sticky, clinging seeds of invasive species attach to wildlife, hikers and dogs, the seeds could also attach to mountain bikers’ clothing and bikes. In addition, volunteers would be needed to:

- Mulch disturbed areas
- Water salvaged transplanted plant material
- Prune diseased or damaged limbs as directed by natural resources staff
- Remove invasive plant material such as garlic mustard, buckthorn, grape vines, stickseed, and burdock and other summer weeds before they go to seed
- Monitor trail segments for new invasive species
- Monitor trail segments for muddy conditions or erosion potential
- Other needs as identified by staff and agreed upon by volunteers

Mountain bike trails would have an impact on the natural resources at Lone Lake Park. Through careful sustainable design, thoughtful construction and ongoing management, the potential negative impacts can be reasonably mitigated. Through meaningful partnerships with
volunteers, there could be an opportunity to expand the already robust restoration efforts at this park.

CHAPTER 7 CONCEPT PLAN

7.1 Concept Design

The trail concept was designed using International Mountain Bike Association sustainable trail principles, local experts and natural resources staff expertise. It has been reviewed by City of Minnetonka recreation, natural resources, and public works staff. This concept design more heavily utilizes areas of Lone Lake Park that have not been a focus of environmental restoration. Trails have been minimized in areas of high restoration. In these areas, trails are limited to connecting segments and maintaining a sustainable trail design.

The mountain bike trail segments were designed to minimize interactions with existing maintained walking trails through the park. There is only one trail segment that uses a 200’ portion of the maintained trail to connect the two southwest trailheads, and there are no trail crossings with the maintained trail. Trail design at both southwest trailheads manage bikers speed as they exit the proposed mountain bike trail onto the maintained trail. This would reduce the speed of the biker and prevent potential user conflicts. The trail layout is stacked, meaning riders have a number of turnaround points that allow them to ride only a portion of trail. This allows riders to reduce their mileage if needed, re-ride desired locations, prevents users from creating rogue trails and provides an easy out in the case of inclement weather or injury.

Trail segments may appear close together on the concept plan, but in reality would be a minimum of 25 feet from one another and much farther apart in most cases. This separation of trail will reduce the impact to the critical root zones of trees, reduce density and mitigate the overall impact of the trail. The proposed trail is projected to be 4.7 miles, which is an 11:1 ratio of usable acres per mile of trail. This density of acres per mile is consistent with other trail systems in the Twin Cities. Trail building would require an initial 3’ cut to build the trail. Revegetation would follow trail building. Once established, the trail would average 18-24” in width. An established 4.7 mile trail would equal approximately 1.2 acres of impact.

The majority of the trail segments through Lone Lake Park are designed as beginner trails with areas that would be considered intermediate due to prolonged inclines and declines. These segments would challenge beginners from a physicality standpoint, but not technically. This trail concept does not include any technical features including rock gardens, ladders, retaining walls, switchbacks, jumps or drops. Trails average 5% slope to minimize erosion potential, support a wide range of biking abilities and increase the flow and enjoyment of the trail.

As indicated in Chapter 6.8, there are currently 2.72 miles of informally built footpaths at Lone Lake Park. There are a few locations where these informal footpaths can be used, specifically in the high restoration area south of the basketball courts, lower parking lot and picnic area (water tower ridge). Informal footpaths in this area would be utilized when possible, reducing the amount of new impact in high restoration areas. It would be a future effort to restore informal footpaths that are causing significant erosion and direct hikers toward more sustainably built trails.
The three trail head locations were selected based on trail access and the ability to install gates to close the trail during muddy and wet conditions. Mile markers would be placed along the trail to assist in user navigation and communication in the event of an emergency. Markers would also be used in areas to assist with navigation including directional signs and wrong way signs. Design of the signage for the trailhead kiosks and waymarks would follow best practices of other local municipalities. Kiosks would be used to educate the public on trail etiquette, safety, invasive species prevention, trail layout and volunteer opportunities.

The concept layout, if approved, would be finalized in the field with the use of a clinometer and GPS to verify grades. It would also be field located with City of Minnetonka natural resources staff to avoid critical root zones of trees and other native plant material. This means the actual layout may change slightly from the concept plan prior to construction. It is not anticipated that the segments would deviate more than 10 feet in either direction. Distance between trail segments would be maintained or increased as much as possible.

7.2 Trail Construction Restrictions

If developed, a number of restrictions to mitigate the impact of trail building would be required of the trail builder. These restrictions will help balance the impact of a new amenity with the preservation and restoration of the park:

- Trail building machinery must be limited to under 36" of tread with the goal of a 3' or less cut trail (use of a micro excavator or similar).
- Trail building must work with volunteers to finish trail, salvage plants and revegetate disrupted soil.
- Must gain approval from natural resources staff before any deviation from the originally sighted trail.
- Must gain approval for the removal of any trees with the goal of not removing any mature trees and limiting removal to very small, immature, low quality trees.
- Avoid side casting of soil in order to prevent the growth of invasive species, working soil into the rolling contours of the trail.
- Access to the trail with equipment and machinery will be limited to pre-approved access points including recently cut trails, high impact informal trails and maintained trails.
- Extreme caution must be taken while working around the trees and plants adjacent to the proposed trail.
- Trail builder must follow IMBA’s Sustainable Trail Building techniques.

See next page for trail concept map.
APPENDIX A

FEBRUARY 2018
PARK BOARD REPORT
Minnetonka Park Board Item 5A
Meeting of Feb. 7, 2018

<table>
<thead>
<tr>
<th>Subject:</th>
<th>Mountain biking report</th>
</tr>
</thead>
<tbody>
<tr>
<td>Park Board related goal:</td>
<td>To renew and maintain parks and trails</td>
</tr>
<tr>
<td>Park Board related objective:</td>
<td>Renew, expand and maintain a trail system to encourage outdoor recreation and improve the connectivity and walkability of the community</td>
</tr>
<tr>
<td>Brief Description:</td>
<td>Review the report for potential mountain biking trails and hear public comment.</td>
</tr>
</tbody>
</table>

Background

Interest in mountain bike trail development was first expressed by residents through the communitywide Imagine Minnetonka visioning process the city conducted in 2016. During that strategic planning effort interest in mountain biking was brought forward to the Park Board by a group of resident students associated with the Minnetonka High School VANTAGE Program. Staff worked with interested residents and Trail Source Inc. to provide and present a possible concept to the park board. That grassroots effort focused primarily on only two of Minnetonka’s 51 parks, Big Willow and Civic Center. Since that time, city staff heard from many residents regarding the potential creation of mountain biking trails. While many residents support the idea of trails, others have voiced concern over the potential project.

Therefore, staff decided to take a step back and engage with the community through a more in-depth, targeted process. The city of Minnetonka engaged with the consulting firm WSB and Associates to assist in the community outreach and engagement for the prospective mountain biking trails project. At the October 2017 Park Board meeting the park board directed staff to the population-based outreach option, consisting of two focus groups and two public meetings.

Community Engagement Process

Between November 2017 and January 2018, the city of Minnetonka hosted four engagement events to discuss proposed new mountain bike trails in Minnetonka parks. The events occurred on Nov. 8, Nov. 16, Dec. 13, 2017 and Jan. 8, 2018. Each event used a specific format.

- The first two meetings were designed as focus groups meant to get feedback on concerns and priorities from people who were concerned or interested in the trails.
- The third event was a large community conversation on three potential outcomes of the engagement process: the construction of trails in Big Willow Park, the construction of trails in a different city-owned location, and no construction of trails. Community members discussed the pros and cons of each option.
- The final meeting was a large community meeting that delved into more detail about the trail proposal, asking residents to comment on specific issues surrounding adequate space, environmental protection, and user conflict.

The engagement process highlighted key resident concerns and showed that there is enthusiasm behind the trail proposals. All feedback will be considered as this process moves forward and it is attached for review.

Discussion Points:

- Does the park board have any questions regarding the community engagement process?
Site Evaluation Criteria

At the Jan. 8 general public meeting, attendees were presented with a list of criteria established based on feedback to determine if Minnetonka’s parks could support mountain bike trails. The public used a worksheet (see attachment) to indicate if they agreed or disagreed with the criteria and provided comments. The public overwhelmingly agreed with the proposed criteria as a whole. Based on the feedback, staff made some minor adjustments/additions (shown in blue) to the criteria.

<table>
<thead>
<tr>
<th>ADEQUATE SPACE</th>
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</thead>
<tbody>
<tr>
<td>A trail system should be able to sustain a minimum of 4 miles of single track trails. This could include a single park on its own or a circuit of parks in close proximity to one another. Staff believes that less than 4 miles would not be utilized.</td>
</tr>
<tr>
<td>If a circuit of parks is considered, a given park within the circuit should be able to support a minimum of 2 miles of mountain bike trails on its own.</td>
</tr>
<tr>
<td>If a circuit of multiple parks are needed, the parks should be located within 1 mile of another and provide safe, easy and navigable travel between each location.</td>
</tr>
<tr>
<td>A mountain bike trail system should be within 1 mile of a regional bike trail and provide safe, easy and navigable travel between.</td>
</tr>
<tr>
<td>A park must contain a minimum of 20 usable acres to be considered. <strong>Usable Acreage is undeveloped acreage that could be used to build mountain bike trails. Acreage does not include wetlands, creeks, ponds, etc.</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>ENVIRONMENTAL PROTECTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Trails should be built using the highest standards for development and pursuant of sustainable trail guidelines. This would limit erosion, vegetation loss and water quality problems.</td>
</tr>
<tr>
<td>Areas containing uncommon plants and high quality restoration areas (per city natural resources staff) should be avoided.</td>
</tr>
<tr>
<td>Generally, narrow trails (approximately 24”) should be built to reduce the total area of intensive tread disturbance, slow down trail users and minimize vegetation and soil compaction.</td>
</tr>
<tr>
<td>Site should be designed to minimize tree impact and removal.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>MINIMIZE USER CONFLICT</th>
</tr>
</thead>
<tbody>
<tr>
<td>The majority of existing mountain bike trails in the Twin Cities are one-way to avoid head on interactions. If built in Minnetonka, trails should also be one-way.</td>
</tr>
<tr>
<td>Mountain bike trails should be built to minimally intersect existing maintained trails and high-use informal foot paths. <strong>(High-use informal foot paths are trails that receive similar use as maintained trails and have experienced significant widening, erosion and impact as a result)</strong>.</td>
</tr>
</tbody>
</table>
Mountain bike trails should not displace existing maintained trails and high-use informal foot paths. (High-use informal foot paths are trails that receive similar use as maintained trails and have experienced significant widening, erosion and impact as a result)

Mountain bike trails should be designated as multi-use (open to runners, bird watchers, hikers, snowshoers, bikers, etc.). Ninety-two percent of all mountain bike trails in the Twin Cities are multi-use.

Adequate parking should be available at each proposed park.

Discussion Points:

- Does the park board agree with the proposed criteria?

Matrix

The following matrix shows a list of Minnetonka’s parks that have over 20 undeveloped acres and how they match with the proposed criteria.

<table>
<thead>
<tr>
<th>Parks</th>
<th>Adequate Space</th>
<th>Environmental Protection</th>
<th>Minimize User Conflict/Maximize Safety</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>4 miles of trail total</td>
<td>if circuit, 2 miles per location</td>
<td>if circuit, 1 mile from another</td>
</tr>
<tr>
<td>Lone Lake</td>
<td>X</td>
<td>X</td>
<td>X</td>
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<tr>
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*To be determined. If selected, would require further research.

Location Summaries:

**Big Willow Park**

Big Willow is a designated community preserve and athletic complex. While it is large in acreage, many of those acres have already been developed or are undevelopable. It has connectivity with the Lake Minnetonka Regional Trail. Parking is a concern at Big Willow Park. While there is parking for the six ball fields and one soccer field, these parking lots are at max capacity during high use times (weekends and evenings, April through October). Adding mountain bike trails would inevitably bring in bikers who wish to drive to the destination.
Big Willow is highly utilized by patrons. In addition to the maintained trails, a number of high-use informal trails that span up to six feet wide are located throughout the park. It would be difficult to create a safe trail concept that does not displace or minimally intersect the maintained and high-use informal trails. Usable acreage within the park consists of land north and south of the railroad. Bikers would have to use the maintained trail that parallels the Minnehaha Creek and crosses under the train tracks. This trail is frequently flooded during the year because of high creek levels. This leads to potentially unsafe passage between the north and south sections of the park and could potentially encourage bikers (and walkers) to cross the train tracks, trespassing on the BNSF Railway property.

With only 29 usable acres to build mountain bike trails, the ratio of acres-per-mile would be too dense to support four miles of trail. The southern half of the park contains high quality natural areas. Potential trails would put pressure on the restored woodland in this area. Big Willow is not recommended as a potential stand-alone site or circuit of trails.

*On January 30, 2018 staff received a petition regarding ‘Mountain Bike Trails being considered at Big Willow Park’. This petition is attached.

**Hilloway Park**
Hilloway is a medium sized community preserve that is tucked back into a secluded neighborhood. This park is relatively undeveloped and while it could provide mountain bike trail opportunities, it has a number of limitations. A network of high-use informal trails have been created throughout the park by walkers. These trails are up to six feet wide in locations and it would be difficult to avoid intersections with a mountain bike trail system. Further, very limited parking is available. There is no designated parking lot for this park. Adding mountain bike trails would inevitably bring in bikers who wish to drive to the destination. This would increase the number of cars parking on neighborhood streets. Patrons removing bikes from cars and gearing-up on the street would create safety concerns. Lastly, Hilloway could not sustain four plus miles of mountain bike trails on its own. In theory, it could be part of a circuit and support approximately two miles of trail.

**Civic Center Park**
Civic Center is a special use community park that is host to large scale facilities, hiking trails and soccer fields. Civic Center has connectivity to the regional trail system, ample parking and opportunity to connect with other potential trail systems. However, with only 15 usable acres and environmental concerns, a trail of two miles or more would not sustainably fit within this small footprint. Also, it would be difficult to create a safe trail concept that does not displace or minimally intersect the maintained and high-use informal trails. A park with less than 20 useable acres should not be considered.

**I-494 Corridor**
The I-494 Corridor is a parcel of city land on the west side of I-494 that narrowly stretches between I-394 and McGinty Road W. There is currently a maintained paved path that runs parallel to I-494. A mountain bike trail system could potentially run north on the east side of the maintained trail and turn back heading south on the west side of the maintained trail. It would be difficult to build a sustainable trail within this narrow footprint due to the topography. There are a few areas where slope gain could cause erosion issues and passage through low-land could be problematic. There are also areas where bikers would be detoured onto the maintained paved path before reentering a mountain bike trail. There is insufficient parking at this location.
Victoria Evergreen Park
Victoria Evergreen is a relatively undeveloped community preserve tucked back in a quiet residential neighborhood. It has good topography to support mountain bike trails. However, there is already a network of maintained trails that circumnavigate the park. If mountain bike trails were built, it would be difficult to avoid intersecting the maintained trail. Parking is a concern with only 8 spots. The addition of trails would bring in more cars and lead to an increase of users parking on residential streets. Further, this park has limited usable acreage for trail development and could not sustain a trail system on its own. It is within close proximity of the Lake Minnetonka Regional Trail, yet over a mile from another adequate park.

Purgatory Park
Purgatory Park is a community preserve that stretches and intertwines within a number of neighborhoods between Excelsior Boulevard and Townline Road. While this park is rich in acreage, much of that acreage is low-land that would not be suitable for mountain bike trails. Four plus miles of mountain bike trail in 37 usable acres is too dense of an acres-per-mile ratio. Staff recommends a minimum 10:1 ratio (usable acres per mile). The 37 usable acres in the most southern section of the park could not support four plus miles of mountain bike trails on its own and there is not a viable park in close proximity to create a circuit.

Purgatory does not have adequate parking. There is a small lot in the northern section of the park that would require bikers to ride over a half mile on the maintained walking paths in order to access potential mountain bike trails in the southern section of the park. And Purgatory Park is more than two miles from a Minnesota River Bluffs regional trail.

There are also environmental concerns with building mountain bike trails in Purgatory Park. The ridges and hilly knolls that are desirable for bikers contain the high quality woodland areas south of the creek and the remnant prairie on the east side of the park. About 10 acres of hilly land located south of the high quality woodland areas could be utilized without compromising the restoration efforts, however this amount of land area is inadequate for a trail system.

Lastly, Purgatory Park is used heavily by off-leash dog walkers which poses a safety concern with bikers.

Lone Lake Park
Lone Lake Park is a community park and preserve that has a soccer field, playground, tennis courts, picnic shelter, maintained trails and the addition of pickleball courts in 2018. A 0.6 mile paved path connects the park with the Minnesota River Bluffs Regional Trail. With over 52 usable acres and ample parking, it is foreseeable that Lone Lake could support four plus miles of mountain bike trails on its own. This acres-per-mile ratio is similar to other mountain bike trail systems in the twin cities.

While there is a network of maintained trails throughout portions of the park, the usable land to be considered is located away from maintained trails. There are some low-use informal trails within the usable land that would require further research for possible displacement or intersection. Lastly, restoration projects have taken place throughout the years in Lone Lake and should be evaluated when aligning a potential trail system.

Lone Lake was evaluated once prior for the addition of mountain biking trails beginning in 2000. The Park Board supported the staff recommendation to deny the proposed mountain biking plan for reasons of cost, natural resource management and budget at the April 2001 regular meeting. Since that time Lone Lake has undergone other changes.
In 2007/8 Lone Lake Park underwent the Park Renewal Process as a result of the 2001 voter-approved Park and Open Space referendum. After an involved neighborhood and park board review process, changes were made to the park infrastructure resulting in an updated basketball court, dock structure, picnic shelter modifications, trail improvements, water quality investments, parking lot changes, entrance realignment to Shady Oak Road, athletic field improvements and erosion control improvements from the water tower. Mountain biking was not brought up during that input process.

In 2009 Lone Lake Park was evaluated as a potential location to establish a dog park in the south east corner of the park adjacent to Shady Oak Road and Bren Road. This would have established an off-leash area north of the parking lot accessed via Rowland Road, east of Whitewater Dr. This area was an old homestead north and east of the walking trail, approximately 500 feet into the park. During the March 9, 2009 park board review of an off-leash dog park, the board voted 3-1 to “exclude Lone Lake Park from consideration for a dog park location and continue to support the concept of adding a dog park to the park system by identifying alternative locations with reduced impacts on residential properties.”

As noted, over time Lone Lake Park has been a focal point for the addition of new amenities to the park and trail system. Construction of six to eight (depending on bids) pickleball courts is scheduled for 2018. The addition of this amenity will increase the number of park patrons as well as parking demands in this high-use community park.

**Staff Recommendation**

By using the established criteria, staff recommends that Lone Lake Park be further studied as the site for potential mountain bike trails. Staff does not recommend any other park or open space be considered for mountain bike trails at this time.

If the park board recommends moving ahead with studying Lone Lake Park, the next steps in the process include:

- Establish a communication/notification plan
- Evaluate areas of environmental concern
- Create trail concept(s)
- Conduct community and neighborhood meeting(s) for public input
- Present study and concept(s) to the Park Board

**Discussion Points:**

- Does the park board agree with staff’s recommendation?

**Recommended Park Board Action:** Receive and discuss the mountain biking report. Allow for public input. Provide staff direction on mountain bike trails in Minnetonka.

**Attachments:**
Feedback provided to Staff
Feedback from Minnetonka Matters
Community Engagement Summary from WSB & Associates
Community Engagement Results from WSB & Associates
Twin Cities Mountain Bike Trails and Minnetonka Parks Comparison
Proposed Core Criteria Worksheet
Park Board reports and minutes – 2000/2001 Lone Lake Park Mountain biking study
Mountain Bike Trails being considered at Big Willow Park petition
Q1 Name (first and last):
Katie Pata

Q2 Job Title:
Visitor Services Coordinator

Q3 Name of trail system(s) managed:
Lebanon Hills Regional Park, Dakota County Parks

Q4 Age of trail system.
~20 years

Q5 How many miles of trail do you offer?
12 miles

Q6 Approximate number of users daily.
Varies each season. This a high-use facility and trail system. We have annual visit estimations (Met Council). Anecdotally: 50 on a winter weekend day (peak) over the course of the day, 500 on a summer weekend day (peak), over the course of the day.

Q7 Approximate number of users weekly.
Varies each season. This a high-use facility and trail system. We have annual visit estimations (Met Council). Anecdotally: 150 on a winter week, 2250 on a summer week.

Q8 Approximate number of users weekly.
Varies each season. This a high-use facility and trail system. We have annual visit estimations (Met Council). Anecdotally: 150 on a winter week, 2250 on a summer week.
**Q9** What days of the week have the highest usage?  
Saturday and Sunday

**Q10** What months have the highest usage?  
May-September

**Q11** What time of day has the highest usage?  
10 AM-3 PM on weekends.

**Q12** How many parking spots are available at your trail head(s)?  
150

**Q13** Do you experience parking shortages or other parking issues?  
We used to when our parking lot capacity was 75. We added paved parking capacity last year and now have parking onsite for 150. 150 seems to be the sweet spot, though we have on street and neighborhood parking too around the park, which is hard to measure.

**Q14** Are your trails one-way for bikers?  
Yes

**Q15** Are your trails multi-use?  
No

**Q16** If your trails are multi-use, do the non-bikers have to go one-way?  
N/A

**Q17** Please describe any multi-use related issues including any dog/bike conflicts.  
I would strongly recommend no multi-use trails with mountain bikers. Their trails have unique and specific needs.

**Q18** Do you allow winter riding on your trails?  
Yes,  
Comments:  
Yes, it's a growing use we expect to continue to grow.

**Q19** Are dog walkers allowed on your mountain bike trails?  
No

**Q20** If yes, do you groom your trails in the winter?  
N/A
Q21 Does your staff or volunteers groom the trails? Volunteers

Q22 Has the addition of mountain bike trails been positive for your park(s)? Was the project worth it?

Yes, this is a booming new recreational use bringing in all sorts of new park users in new demographics we’re not serving in other ways (teens). We love working with MORC--we have some of the best mountain bike trails in the state because of our close collaboration and partnership with MORC.

Q23 What are the biggest challenges you face with your trail system?

Opening and closing mountain bike trails when they are wet for erosion control. We have several entrances to the trail system (4) and need to gate and close all four. It would be easier and save in staff $ if we had one entry point and a way to automate gate/trail closure.

Q24 Does your organization work with MORC? Yes

Q25 If yes, do you have a written agreement with MORC? Yes

Q26 Please describe the pros and cons of partnering with MORC.

Only pros--we have the best dirt bosses who care deeply about the trails and more importantly, about our working relationship. They bring valuable incite and expertise to the planning table, are creative and get the "operations" side of things. They are passionate--we would not have the trails we do, nor at the quality we do, without them. I can't say enough about our relationship with MORC.

Q27 Do you have an emergency response/personnel plan for emergencies on the trail? Yes

Q28 How often do incidents occur on your trail?

It's can be common for 2 ambulance visits per day on a busy weekend. Lebanon Hills is a challenging and very technical trail system. We have a volunteer mountain bike patrol program to help with minor incidents and securing the scene helping EMS.

Q29 How many hours of maintenance per month are required on your trails?

Dakota County do not do any trail maintenance. MORC does it all and last year put in 988 total man hours.

Q30 What percentage of your maintenance is done by staff? 0

Q31 What percentage of your maintenance is done by volunteers? 100
Q32 What was the cost per mile to build your trails?

Unknown, MORC built nearly all the trails.

Q33 Do you allocate annual funds for environmental restoration? If yes, how much?

A county-wide and park-wide level, yes. Much is grant-funded with Legacy $.

Q34 What are your approximate annual maintenance costs?

We clean and maintain a full service trailhead with restroom facilities and picnicking. Are you asking for annual maintenance costs to Dakota County as it related to just the mountain bike trails? Or are you wanting something more comprehensive to the trailhead that serves mountain bike trails?
Q1 Name (first and last):
Tyler Pederson

Q2 Job Title:
Design Project Manager

Q3 Name of trail system(s) managed:
Theodore Wirth and Brownie Lake Parks

Q4 Age of trail system.
16 years

Q5 How many miles of trail do you offer?
About 10.5 miles

Q6 Approximate number of users daily.
Anywhere from 0 to 450 or more

Q7 Approximate number of users weekly.
1000 plus in summer

Q8 Approximate number of users weekly.
I assume you mean yearly. About 40,000
Q9 What days of the week have the highest usage?
Saturdays

Q10 What months have the highest usage?
Depends. Good weather means more riders. High School Leagues contribute many riders too.

Q11 What time of day has the highest usage?
Afternoons

Q12 How many parking spots are available at your trail head(s)?
200 or so, but it is shared with many other uses (beach, picnic, golf, ski, nature areas, etc.)

Q13 Do you experience parking shortages or other parking issues?
Yes, during peak hours. but a lot of bikers ride to the trails too.

Q14 Are your trails one-way for bikers? Yes

Q15 Are your trails multi-use? Yes

Q16 If your trails are multi-use, do the non-bikers have to go one-way? No

Q17 Please describe any multi-use related issues including any dog/bike conflicts.
only bike and foot travel is allowed. dogs have to be on a leash. there is always conflicts when you introduce modes of travel with different speeds. bikes must yield to all other foot travel users.

Q18 Do you allow winter riding on your trails? Yes, Comments::
trails closed to winter riding on the shoulder seasons due to slushy trails and potential damage to trail treads.

Q19 Are dog walkers allowed on your mountain bike trails? Yes

Q20 If yes, do you groom your trails in the winter? No
Q21 Does your staff or volunteers groom the trails?  
Volunteers

Q22 Has the addition of mountain bike trails been positive for your park(s)? Was the project worth it?  
yes, of course.

Q23 What are the biggest challenges you face with your trail system?  
having to close the trails when it rains or is too warm for winter riding. most riders get it, but some like to ride in the mud. we have to close the trails to keep them in good condition. our volunteers can't maintain a trail that is open during muddy or slushy times.

Q24 Does your organization work with MORC?  
Yes

Q25 If yes, do you have a written agreement with MORC?  
Yes

Q26 Please describe the pros and cons of partnering with MORC.  
all pros. they are a great group with many resources for your agency. plus they know how to design a trail system. don't attempt to do it without their help or another professional trail builder's help. IT IS NOT AS EASY AS BLAZING A TRAIL THROUGH THE WOODS! :)

Q27 Do you have an emergency response/personnel plan for emergencies on the trail?  
Yes

Q28 How often do incidents occur on your trail?  
every so often, but nothing major. there is just as much danger in playing a round of golf as there is riding a mountain bike. areas of advanced trails that have jumps or drops will increase chances, however. providing trails with beginner, intermediate, and advanced segments will be the best at alleviating any safety issues.

Q29 How many hours of maintenance per month are required on your trails?  
maybe 10, however more is always welcome, especially in spring.

Q30 What percentage of your maintenance is done by staff?  
0

Q31 What percentage of your maintenance is done by volunteers?  
100
Q32 What was the cost per mile to build your trails?

depends on the trail. usually between $2-4 per foot on relatively flat areas. can be upwards of $5-10 per foot on steeper side slopes. for technical features it is about $1000 per day (berms, jumps, boardwalks, etc)

Q33 Do you allocate annual funds for environmental restoration? If yes, how much?

no, there is no real need, other than seeding the front and back slopes of the trails. natural surface trails are very gentile on the environment. Certainly, there may need to be some invasive species removal too, and natural surface trails will help that and support more volunteers to help remove buckthorn and such.

Q34 What are your approximate annual maintenance costs?

$0
**#3**

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**Q1 Name (first and last):**

Tracy Petersen

**Q2 Job Title:**

Recreation Superintendent

**Q3 Name of trail system(s) managed:**

Salem Hills Mountain Bike Course, Inver Grove Heights

**Q4 Age of trail system.**

18

**Q5 How many miles of trail do you offer?**

4.3 miles

**Q6 Approximate number of users daily.**

20-30

**Q7 Approximate number of users weekly.**

200-250

**Q8 Approximate number of users weekly.**

see above
Q9 What days of the week have the highest usage?
weekends

Q10 What months have the highest usage?
May-Oct

Q11 What time of day has the highest usage?
early mornings, evenings

Q12 How many parking spots are available at your trail head(s)?
25

Q13 Do you experience parking shortages or other parking issues?
No

Q14 Are your trails one-way for bikers?  Yes

Q15 Are your trails multi-use?  Yes

Q16 If your trails are multi-use, do the non-bikers have to go one-way?  No

Q17 Please describe any multi-use related issues including any dog/bike conflicts.
Walkers and bikers can use course simultaneously. We have had issues with unleashed dogs.

Q18 Do you allow winter riding on your trails?  Yes, 
Comments::
Trails are not groomed during the winter

Q19 Are dog walkers allowed on your mountain bike trails?  Yes

Q20 If yes, do you groom your trails in the winter?  No
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<th>Q21</th>
<th>Does your staff or volunteers groom the trails?</th>
<th>Volunteers</th>
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| Q22 | Has the addition of mountain bike trails been positive for your park(s)? Was the project worth it? | The mountain bike course has been a great amenity for our parks system and is a highly used park. |

| Q23 | What are the biggest challenges you face with your trail system? | erosion issues, downed trees, having staff and volunteers to maintain the course on a consistent basis. |

| Q24 | Does your organization work with MORC? | Yes |

| Q25 | If yes, do you have a written agreement with MORC? | Yes |

| Q26 | Please describe the pros and cons of partnering with MORC. | They have been a great partner but over the years we have seen less work being done by the group to maintain the course to our expectation. We hope that our new service agreement helps with this issues and outlines who is responsible for what duties. |

| Q27 | Do you have an emergency response/personnel plan for emergencies on the trail? | No |

| Q28 | How often do incidents occur on your trail? | rarely |

| Q29 | How many hours of maintenance per month are required on your trails? | 8-10 hours per month |

| Q30 | What percentage of your maintenance is done by staff? | 70 |

| Q31 | What percentage of your maintenance is done by volunteers? | 30 |

| Q32 | What was the cost per mile to build your trails? | not sure |
Q33 Do you allocate annual funds for environmental restoration? If yes, how much?
We utilize funds from our parks maintenance budget.

Q34 What are your approximate annual maintenance costs?
I do not have an answer- Parks Superintendent would have that information.
Q1 Name (first and last):
Tim Sevcik

Q2 Job Title:
Public Works Superintendent

Q3 Name of trail system(s) managed:
Hillside City Park

Q4 Age of trail system.
25 years, reconstruction however in 2017-2018.

Q5 How many miles of trail do you offer?
9

Q6 Approximate number of users daily.
30

Q7 Approximate number of users weekly.
300

Q8 Approximate number of users weekly.
300
Q9 What days of the week have the highest usage?
Saturday and Sunday

Q10 What months have the highest usage?
May-October

Q11 What time of day has the highest usage?
Evenings

Q12 How many parking spots are available at your trail head(s)?
20

Q13 Do you experience parking shortages or other parking issues?
Occasionally, but infrequent

Q14 Are your trails one-way for bikers?
Yes

Q15 Are your trails multi-use?
Yes

Q16 If your trails are multi-use, do the non-bikers have to go one-way?
Yes

Q17 Please describe any multi-use related issues including any dog/bike conflicts.
Bikers being rude to walkers on trails

Q18 Do you allow winter riding on your trails?
Yes

Q19 Are dog walkers allowed on your mountain bike trails?
Yes

Q20 If yes, do you groom your trails in the winter?
Yes

Q21 Does your staff or volunteers groom the trails?
Volunteers
Q22 Has the addition of mountain bike trails been positive for your park(s)? Was the project worth it?

Yes, Yes

Q23 What are the biggest challenges you face with your trail system?

Ongoing maintenance, having enough volunteers to maintain the trail surface from erosion. Ongoing tree maintenance by staff, specifically hazardous tree removal.

Q24 Does your organization work with MORC? Yes

Q25 If yes, do you have a written agreement with MORC? Yes

Q26 Please describe the pros and cons of partnering with MORC.

Pros- Trained volunteers, assistance with trail construction to include design and RFQ, public outreach and information sharing.
Cons- None to date.

Q27 Do you have an emergency response/personnel plan for emergencies on the trail? No

Q28 How often do incidents occur on your trail?

Infrequent, less than 5 per year reported.

Q29 How many hours of maintenance per month are required on your trails?

40-80

Q30 What percentage of your maintenance is done by staff? 40

Q31 What percentage of your maintenance is done by volunteers? 60

Q32 What was the cost per mile to build your trails?

$13,300

Q33 Do you allocate annual funds for environmental restoration? If yes, how much?

No
#5

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**Last Modified:** Tuesday, March 27, 2018 3:23:40 PM

**Time Spent:** 00:10:43

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**Q1** Name (first and last):

Bri Koch

**Q2** Job Title:

Park Operations Supervisor

**Q3** Name of trail system(s) managed:

Lake Rebecca Singletrack

**Q4** Age of trail system.

2 years

**Q5** How many miles of trail do you offer?

13.3

**Q6** Approximate number of users daily.

8

**Q7** Approximate number of users weekly.

Respondent skipped this question

**Q8** Approximate number of users weekly.

Respondent skipped this question

**Q9** What days of the week have the highest usage?

Weekends
Q10 What months have the highest usage?
summer

Q11 What time of day has the highest usage?
Respondent skipped this question

Q12 How many parking spots are available at your trail head(s)?
114

Q13 Do you experience parking shortages or other parking issues?
No.

Q14 Are your trails one-way for bikers?
Yes

Q15 Are your trails multi-use?
Yes

Q16 If your trails are multi-use, do the non-bikers have to go one-way?
No

Q17 Please describe any multi-use related issues including any dog/bike conflicts.
We do not allow dogs on our turf trails. Only hikers.

Q18 Do you allow winter riding on your trails?
Yes

Q19 Are dog walkers allowed on your mountain bike trails?
No

Q20 If yes, do you groom your trails in the winter?
Yes

Q21 Does your staff or volunteers groom the trails?
Volunteers

Q22 Has the addition of mountain bike trails been positive for your park(s)? Was the project worth it?
Yes, I believe it is a nice addition.
**Q23** What are the biggest challenges you face with your trail system?

Opening and closing the trails, as weather conditions change.

**Q24** Does your organization work with MORC?  
Yes

**Q25** If yes, do you have a written agreement with MORC?  
N/A

**Q26** Please describe the pros and cons of partnering with MORC.

They have been great to partner with! MORC has taken the lead on the trail maintenance and assist with open/closing.

**Q27** Do you have an emergency response/personnel plan for emergencies on the trail?  
Yes

**Q28** How often do incidents occur on your trail?

Rarely.

**Q29** How many hours of maintenance per month are required on your trails?  
Respondent skipped this question

**Q30** What percentage of your maintenance is done by staff?  
Respondent skipped this question

**Q31** What percentage of your maintenance is done by volunteers?  
Respondent skipped this question

**Q32** What was the cost per mile to build your trails?  
Respondent skipped this question

**Q33** Do you allocate annual funds for environmental restoration? If yes, how much?  
Respondent skipped this question

**Q34** What are your approximate annual maintenance costs?  
Respondent skipped this question
Q1 Name (first and last):
Jay Thompson

Q2 Job Title:
Project Technician

Q3 Name of trail system(s) managed:
Murphy-Hanrehan, Elm Creek, Lake Rebecca

Q4 Age of trail system.
M-H - 7yrs, EC - 7yrs, LR - 2 yrs

Q5 How many miles of trail do you offer?
Approximately 40 mi

Q6 Approximate number of users daily.
Approximate average 200-400 daily

Q7 Approximate number of users weekly.
1500 to 2500

Q8 Approximate number of users weekly.
1500 to 2500
Q9 What days of the week have the highest usage?
Saturday-Sunday

Q10 What months have the highest usage?
June thru October

Q11 What time of day has the highest usage?
PM

Q12 How many parking spots are available at your trail head(s)?
Depending on location 50 to 125

Q13 Do you experience parking shortages or other parking issues?
Elm Creek experiences shortages frequently, but that trail is probably the most popular of our three trails and it has the smallest parking area.

Q14 Are your trails one-way for bikers? Yes

Q15 Are your trails multi-use? Yes

Q16 If your trails are multi-use, do the non-bikers have to go one-way? Yes

Q17 Please describe any multi-use related issues including any dog/bike conflicts.
Dog are not allowed on our singletrack trails

Q18 Do you allow winter riding on your trails? Yes

Q19 Are dog walkers allowed on your mountain bike trails? No

Q20 If yes, do you groom your trails in the winter? Yes

Q21 Does your staff or volunteers groom the trails? Volunteers
Q22 Has the addition of mountain bike trails been positive for your park(s)? Was the project worth it?

Very positive, very worthwhile.

Q23 What are the biggest challenges you face with your trail system?

Challenge in terms of problem? I can't say the trails have created any unforeseen challenges.

Q24 Does your organization work with MORC?

Yes

Q25 If yes, do you have a written agreement with MORC?

Yes

Q26 Please describe the pros and cons of partnering with MORC.

To date the relationship has been nothing but positive. The value that MORC provides is outstanding.

Q27 Do you have an emergency response/personnel plan for emergencies on the trail?

Yes

Q28 How often do incidents occur on your trail?

Incidents do occur but I'm not certain it's possible to estimate an average number.

Q29 How many hours of maintenance per month are required on your trails?

Most maintenance is provided by volunteers. It's hard to put a number on what is required.

Q30 What percentage of your maintenance is done by staff?

10

Q31 What percentage of your maintenance is done by volunteers?

90

Q32 What was the cost per mile to build your trails?

By a contractor? you can estimate $20K to $30K per/mi depending on terrain, specifications, design, etc.

Q33 Do you allocate annual funds for environmental restoration? If yes, how much?

none at this time
Q34 What are your approximate annual maintenance costs?

nominal because of the assistance from MORC
Q1 Name (first and last):
Reed Smidt

Q2 Job Title:
Recreation Manager

Q3 Name of trail system(s) managed:
Carver Lake Park Off-Road Cycling Trail

Q4 Age of trail system.
8 years since opening for use

Q5 How many miles of trail do you offer?
5.5

Q6 Approximate number of users daily.
20 avg. per day (over a year) Peak days over 100 and several days at zero due to closures or weather.

Q7 Approximate number of users weekly.
We don't have officials counts. This depends on the season. Average per week over a year is probably 140+ and that might be low.

Q8 Approximate number of users weekly. Respondent skipped this question

Q9 What days of the week have the highest usage?
Wednesdays and Weekends
Q10 What months have the highest usage?
May, June, July & August

Q11 What time of day has the highest usage?
4-8 p.m. weekdays, spread out over the weekends.

Q12 How many parking spots are available at your trail head(s)?
140

Q13 Do you experience parking shortages or other parking issues?
Only when the swimming beach is at peak use - 4th of July for example. The mtb parking is never an issue.

Q14 Are your trails one-way for bikers?
Yes

Q15 Are your trails multi-use?
Yes

Q16 If your trails are multi-use, do the non-bikers have to go one-way?
Yes

Q17 Please describe any multi-use related issues including any dog/bike conflicts.
We have some conflicts with dogs off leash on the trail.

trail runners, snowshoers, and walkers have all been able to get along and enjoy the trail with minimal conflict.

Trail runners and walkers tend to ignore trail closures which is frustrating.

Q18 Do you allow winter riding on your trails?
Yes

Q19 Are dog walkers allowed on your mountain bike trails?
No

Q20 If yes, do you groom your trails in the winter?
Yes

Q21 Does your staff or volunteers groom the trails?
Volunteers
Q22 Has the addition of mountain bike trails been positive for your park(s)? Was the project worth it?

It was well worth it and has been a great addition to the community. We provide recreation programs that are well attended and the mountain bike community is very respectful and willing to help out with other park improvement projects or clean-up projects that are not directly related to mtb trail. We have a park wide clean-up event on May 12 that is organized by the volunteer trail crew.

Q23 What are the biggest challenges you face with your trail system?

Popularity is a challenge, lots of riders during the peak season. Maintenance has very easy to keep up with. We had a couple user conflicts, but those have been addressed and improved. Its like any new facility....Adjustments need to be made that will improve the facility or park for all users.

Q24 Does your organization work with MORC?  
Yes

Q25 If yes, do you have a written agreement with MORC?  
Yes

Q26 Please describe the pros and cons of partnering with MORC.

MORC provides funding, volunteer support and visibility for the trail system. They take a lot of the work load off of the City and follow the Memorandum of Agreement perfectly.

Con- not a Woodbury based group, but they service the Twin Cities Metro area. The MORC volunteers are from Woodbury.

Q27 Do you have an emergency response/personnel plan for emergencies on the trail?  
Yes

Q28 How often do incidents occur on your trail?

Occasionally. The frequency is very similar to a twisted ankle on an athletic field, pickleball court or a playground mishap.

Q29 How many hours of maintenance per month are required on your trails?

Approximately 8 hours, but that is by choice of the dedicated volunteers. It could honestly be lower, but they take a lot of pride in the trail and go above and beyond.

Q30 What percentage of your maintenance is done by staff?  
10

Q31 What percentage of your maintenance is done by volunteers?  
90
Q32 What was the cost per mile to build your trails?
Avg. $20,000 per mile

Q33 Do you allocate annual funds for environmental restoration? If yes, how much?
Yes, but not directly related to this trail, but within our parks maint. budget.

Q34 What are your approximate annual maintenance costs?
Specifically for maintenance(not including new trail features): Under $500
APPENDIX C

TRAIL IMPACT STUDIES - REFERENCES
Trail Impact Studies - References


Lone Lake Park
Biological Assessment
City of Minnetonka, Minnesota
MINNE 145810 | May 2018
Biological Assessment

Lone Lake Park
Hennepin County
Minnetonka, Minnesota

SEH No. MINNE 145810

May 2018

I hereby certify that this Wetland Permit Application was prepared by me. The procedures and field methods used to delineation wetlands within the area of interest constitute an official wetland delineation in accordance with the 1987 U.S. Army Corps of Engineers Wetlands Delineation Manual and applicable Regional Supplement.

Prepared By: ____________________________ Date: May 15, 2018
Deric Deuschle, Aquatic Ecologist
Minnesota Certified Wetland Delineator No. 1009

Reviewed By: ____________________________ Date: May 15, 2018
Rebecca Beduhn, Wetland Biologist
Minnesota Certified Wetland Delineator No. 1243
Professional Wetland Scientist, No. 2758

Short Elliott Hendrickson Inc.
3535 Vadnais Center Drive
St. Paul, MN 55110-5196
651.490.2000
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Executive Summary

The City of Minnetonka is considering the inclusion of mountain bike trails within Lone Lake Park. As part of this consideration, the City has requested an assessment of the biological resources present, and a discussion of how incorporation of trails within the park may impact these resources.

Lone Lake Park contains Lone Lake, South Fork of Ninemile Creek, and an abundance of oak-dominated woodlands on relatively steep topography. While not old-growth, the quality of the woods are high, with intact tracts, high diversity, and mature trees present. Invasive species coverage is light, in part due to extensive management by the City of Minnetonka.

Wildlife use within the park is above average for a metro area, as it is largely intact, and supports high quality and diverse habitats. This habitat quality encourages the presence of typical urban wildlife species, but also may support some species that are less common and require the critical habitat that mature forests provide. Wildlife within Lone Lake Park may potentially include some federally listed species such as the long-eared bat, and the rusty patched bumblebee.

While the park contains approximately 1.6 miles of formal asphalt and crushed limestone trails, the hillsides and wooded portions of the park currently contain an abundance (more than three miles) of unofficial trails that have been formed over years of pedestrian use. These existing trails have had some impacts on the parks biota.

The inclusion of mountain biking within Lone Lake Park would potentially have some environmental impacts, and may include the following:

1. Removal of trees, shrubs, and herbaceous vegetation to establish trail routes, and loss of vegetation from frequent travel over routes
2. Spreading of invasive species
3. Soil erosion from bare soil, and compaction from frequent use
4. Disturbance to wildlife, particularly to woodland bird species
5. Impacts to sensitive species and/or encroachment into critical habitats
6. Increases in noise and dust generation compared to pedestrian users, and from a potential increase in the number of overall trail users
7. Disruption of solitude for other park users
The extent of potential impact is highly variable depending on the trail design and any implemented limitations for trail use. Inclusion of graded trails that could allow for multiple riders and grading of the hillslopes would likely have a significant impact. A less extensive design using “sustainable” and “low impact” techniques that limit grading, and establish narrow one-way paths could reduce impacts to negligible levels.

The following are considerations that may avoid or minimize impacts to the park’s natural resources:

- Minimize the trail design to single-file, and one-way routes
- Minimize tree removal, and select smaller trees of less desirable species when removal cannot be avoided
- Limit routing or decrease trail density within sensitive or highest quality areas
- Minimize steep slopes to limit erosion by routing the trail along contours and keeping grades to 5% or less.
- Where gully crossings are required, consider boardwalks, elevated trails, or routing to maintain contours.
- Avoid all crossings of wetlands or areas where concentrated overland flow from rain or snowmelt may occur.
- Restrict seasonal use to avoid spring snowmelt and periods where muddy conditions are prevalent.
- Maintain a diligent invasive species control program to limit sources of material from within the park, and install bike wash stations to reduce import from off-site.
- Develop trail rules for mountain bikers, and post informational signage on trail etiquette for all users. This may include consideration limitations on use of trails by pets

1.1 Location

The project site is located at 5624 Shady Oak Drive, which is within Section 35 in Township 117 North, Range 32 West in Minnetonka, Hennepin County, Minnesota as shown on Figure 1. The park is accessible via Shady Oak Drive, where there are four areas where parking is allowed adjacent to the soccer fields, tennis courts, and playground. The trail system on the west side of the park is accessible from a smaller parking area located off of Rowland Road.

Although not formal, access to the park is also possible from several adjacent areas including trails from adjacent private residents and trailheads originating from the water tower.

2 Existing Features

Lone Lake Park is 146 acres in size, and is distinguished by Lone Lake as a central feature. South Fork of Ninemile Creek also flows through the park, but is separated from Lone Lake by a central wooded ridge. A portion of the park is utilized for soccer fields, tennis courts, and a small playground, but the main features are the steep slopes and oak woods that instill a sense of isolation for park users.
Both paved and crushed limestone trails are present, and offer 1.6 miles of walking and running paths in the summertime. These trails are not maintained in winter, and can be used for snowshoeing or walking depending on snow cover. These trails connect regionally to Bryant Lake Regional Park to the south, north to Shady Oak Beach along Shady Oak Road, and from the south parking lot to the Three Rivers Parks Minnesota River Bluffs LRT Trail.

2.1 Historic Conditions

Historically, Lone Lake Park was located within the central mixed hardwoods, and would have included a mixture of oak, maple, basswood, and prairie areas on the southern and western facing slopes.

With European settlement, much of the landscape was dramatically changed to support agricultural purposes. Trees and prairie were cleared to create fields and pastures. Lone Lake Park was considerably different in the 1930s, when the area was farmed, and the only wooded portions were located on the west side of Lone Lake and pockets on the slopes below the current water tower ridge.

![Photo 1: 1937 aerial photograph of Lone Lake Park](image)

With the reduction in agricultural use as the Minneapolis metropolitan area developed and Minnetonka because a suburban community, the trees within the park grew back, and the park began to progress toward the familiar conditions observed today.

As a rough midway point from the 1937 to 2018, we can observe the conditions in 1971, where agriculture use has ceased, and there is increasing development for residential homes.

In 1971, the wooded component of the park is returning, including expansion from the oldest trees on the western lake ridge southward, and on the slopes below the current water tower. Of
note is the cleared area on the water tower ridge, which was not vegetated at the time to allow for skiing and sledding, and a road on the western side that generally follows the current trail system, with the northern half abandoned.

Photo 2: 1971 aerial photograph of Lone Lake Park

The review of historic aerial photographs allows us to understand the former land use, and the types of stressors and land changes that have occurred to allow the current conditions to be present. It also allows us to determine the age of features, which is a significant component of establishing biological integrity. The maturity of a wooded landscape is critical to determining the status as old growth, versus regrowth, or ecologically primary features, versus later successional species.

Based on the historic aerial photography, the majority of the trees within Lone Lake Park are relatively young, with the majority being less than 50 years old.

3 Biological Resources

While a portion of the park is used for active sports (soccer, tennis, basketball, playground, open areas), the majority is preserved and managed as open space. The majority of the park is wooded, and the City of Minnetonka has spent considerable effort in managing the site for control of invasive species, encouraging a healthy and diverse cover type, and educating park users about the resources around them. The following sections will discuss these resources, and provide an opinion on the quality of these resources.
3.1 Trees, Shrubs, and Vegetation

The primary vegetative resources within the park are the extensive wooded hills that surround the lake. Overall, the wooded areas are dominated by red and white oaks throughout the park, although there are portions where co-dominant species are also present, such as pockets of bigtooth aspen, basswood, red maple, and red cedar. Overall plant diversity is high, and the community is developing into a mature stand with a closed canopy. A list of the observed species is presented in Table 1, based on a March 29 and May 2, 2018 field review by SEH.

Table 1: Observed Tree Species

<table>
<thead>
<tr>
<th>Common Name</th>
<th>Scientific Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>Box elder</td>
<td>Acer negundo</td>
</tr>
<tr>
<td>Red maple</td>
<td>Acer rubrum</td>
</tr>
<tr>
<td>Buckeye</td>
<td>Aesculus glabra</td>
</tr>
<tr>
<td>River birch</td>
<td>Betula nigra</td>
</tr>
<tr>
<td>Paper birch</td>
<td>Betula papyrifera</td>
</tr>
<tr>
<td>Hackberry</td>
<td>Celtis Occidentalis</td>
</tr>
<tr>
<td>Hawthorn</td>
<td>Crataegus sp.</td>
</tr>
<tr>
<td>Black walnut</td>
<td>Juglans nigra</td>
</tr>
<tr>
<td>Red cedar</td>
<td>Juniperus virginiana</td>
</tr>
<tr>
<td>Ironwood</td>
<td>Ostrya virginiana</td>
</tr>
<tr>
<td>White pine</td>
<td>Pinus strobus</td>
</tr>
<tr>
<td>Cottonwood</td>
<td>Populus deltoides</td>
</tr>
<tr>
<td>Bigtooth aspen</td>
<td>Populus grandidentata</td>
</tr>
<tr>
<td>Quaking aspen</td>
<td>Populus tremuloides</td>
</tr>
<tr>
<td>Black cherry</td>
<td>Prunus serotina</td>
</tr>
<tr>
<td>White oak</td>
<td>Quercus alba</td>
</tr>
<tr>
<td>Northern pin oak</td>
<td>Quercus ellipsoidalis</td>
</tr>
<tr>
<td>Burr oak</td>
<td>Quercus macrocarpa</td>
</tr>
<tr>
<td>Red oak</td>
<td>Quercus rubra</td>
</tr>
<tr>
<td>Black locust</td>
<td>Robinia psuedoacacia</td>
</tr>
<tr>
<td>Black willow</td>
<td>Salix nigra</td>
</tr>
<tr>
<td>Basswood</td>
<td>Tilia americana</td>
</tr>
<tr>
<td>American elm</td>
<td>Ulmus americana</td>
</tr>
</tbody>
</table>

The wooded communities present are identified by the Minnesota Department of Natural Resources as a Southern Dry-Mesic Oak Forest. Mesic hardwood forest communities are present within the larger eastern broadleaf forest province where soils retain moisture, and wildfires are infrequent. These forests have continuous dense canopies of deciduous trees, with an understory of successively shorter strata composed of shade-adapted seedlings, shrubs, and herbaceous cover. Within Lone Lake Park, the dominant trees are red and white oak, although as is typical of mesic forests, other deciduous species such as maple, basswood, bigtooth aspen, ironwood, and black cherry trees are also present.
Photo 3: Typical oak-dominated woodland

Coniferous trees are less frequent, but are present; including a few large white pine trees, which were planted. Red cedar trees are also present in a few larger areas, where it is locally dominant; particularly along the ridge west of Lone Lake. The red cedar trees are also mature, and likely have been present for a long period of time. Red cedar can be controlled by fire, which has likely been suppressed since settlement. Red cedar tend to be more of a nuisance species within prairie ecosystems, but are not likely to be problematic in a mature forested community.

Photo 4: Red cedar trees within the forested portions of the park
Under the tree canopy, there is a moderately dense layer of native shrubs and vines. The invasive European buckthorn has been effectively controlled through extensive management, but can still be located in isolated areas of the park, such as the southeast corner, and where it is encroaching from adjacent areas. The shrub layer is healthy, and appropriate in composition for the mixed-oak woods that are present. Shrub density is controlled by the limits of light penetration, and is naturally low density with the full canopy present, particularly on the north and east facing slopes that naturally receive less sunlight. Table 2 is a summary of the observed shrub species based on a field review by SEH on March 29 and May 2, 2018.

Table 2: Observed Shrub and Vine Species

<table>
<thead>
<tr>
<th>Common Name</th>
<th>Scientific Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>Grey dogwood</td>
<td>Cornus racemosa</td>
</tr>
<tr>
<td>Red osier dogwood</td>
<td>Cornus sericea</td>
</tr>
<tr>
<td>Tatarian honeysuckle</td>
<td>Lonicera tatarica</td>
</tr>
<tr>
<td>Virginia creeper</td>
<td>Parthenocissus quinquefolia</td>
</tr>
<tr>
<td>Wild plum</td>
<td>Prunus americana</td>
</tr>
<tr>
<td>Common buckthorn</td>
<td>Rhamnus cathartica</td>
</tr>
<tr>
<td>Gooseberry</td>
<td>Ribes spp</td>
</tr>
<tr>
<td>Staghorn sumac</td>
<td>Rhus typhina</td>
</tr>
<tr>
<td>Riverbank grape</td>
<td>Vitis riparia</td>
</tr>
<tr>
<td>Prickly ash</td>
<td>Xanthoxylum americanum</td>
</tr>
</tbody>
</table>

Photo 5: Small stand of native shrubs in southeast portion of the park

Prairie and grassland habitat is a cover type in the western area of Lone Lake Park. Additionally, there is a larger area of non-native smooth brome grass on the southeast corner of the park where a south-facing slope is present. On the western side of the central ridge is small elevated
meadow, which may be a historic open area, but is not remnant. Vegetation within this small meadow area includes smooth brome grass, Canada goldenrod, and black raspberry. Box elder trees and shrubs are encroaching into this area. Overall, it is an open space, but is not high quality prairie.

![Photo 4: Small elevated meadow in western portion of the park with encroaching vegetation](image)

### 3.2 Invasive Species

Many of the woodlands in the metro area have been infested with a wide range of invasive species, including common buckthorn, garlic mustard, leafy spurge, and Tatarian honeysuckle. Through extensive efforts by the City of Minnetonka, Lone Lake Park is relatively free of these species, but this effort to manage for invasive species requires constant diligence to prevent reestablishment and spreading.

Wooded habitats do contain some occurrences of European buckthorn, but much of the park is managed periodically to ensure a low density, and limit the species to seedling that do not mature and bare fruits. Garlic mustard is an emerging concern, and is currently limited to more of the disturbed wooded edges than within the intact community. The City is currently completing garlic mustard management through herbicide applications to try and limit the spread of this species. Tatarian honeysuckle was observed, but only isolated individuals were located, and this does not seem to require active management to control.

The wet prairies are dominated by dense reed canary grass, and some occurrences of individual purple loosestrife, which are being actively managed in an effort to restore native vegetation to these areas. Plantings of native vegetation have occurred to promote a healthy a diverse shoreline and assist with discouraging establishment of invasive species.
Overall, the occurrences of invasive species is relatively low, which is a significant factor in the overall evaluation of habitat quality, and serves as an example of how continuous management can be successful in managing these species.

3.3 Aquatic Resources

Lone Lake is the primary aquatic feature within Lone Lake Park. Lone Lake is an approximately 17-acre kettle lake, formed by blocks of glacial ice which melted and formed the majority of shallow isolated lakes within the state. Lone Lake is relatively shallow, with a maximum depth of 27 feet based on Minnesota Department of Natural Resources data, although the majority of the lake is considerably shallower. Aquatic macrophytes are present, and form dense beds, including large areas of floating leaved vegetation dominated by a variety of lily pad species.

Publicly available fisheries data indicate that Lone Lake is dominated by warm water species, such as black bullhead, bluegill, and hybrid sunfish. Water clarity is moderate, with clarity ranging from 2 to 4 feet.

The Minnesota Pollution Control considers Lone Lake to be eutrophic, although for water clarity, it has been borderline mesotrophic, which indicates some nutrient enrichment, but generally a favorable assessment for a lake within a developed watershed. Good water quality is a benefit from the immediate watershed area being in a natural condition, and the lack of direct storm water discharge into the lake. The constructed rain gardens to treat parking lot runoff prior to discharge into the lake are certainly assisting with maintaining good water quality standards within the lake. Likely a result of the late ice-out conditions, there was some spring algal accumulations along the lake shoreline in May 2018.

The South Fork of Ninemile Creek is also present in the western portion of the park, where it flows from north to south, and is the reach between Minnetogo and Bryant Lakes. The stream is relatively small and shallow in this reach, and is not a significant fishery, with fathead minnows, central mudminnow, brook stickleback, and creek chub being the species observed by the Minnesota Pollution Control Agency (2003-2005 biological sampling).

Adjacent to the creek are areas of wet meadow, shallow marsh, shrub carr, and floodplain habitats. The creek and these associated wetland features dominate the western one fifth of the park, but are generally lower in quality with reed canary grass and hybrid cattails dominated the wetlands and creek watercourse.

In the central area of the park is a small wetland, which is bisected with an elevated trail. This isolated wetland is dominated by shallow open water, with a wet meadow fringe and several small trees. The vegetation within this wetland is dominated by reed canary grass, with some cattails and purple loosestrife observed. Trees within the wetland fringe include box elder, which are also lower in quality. While not a high quality assemblage of vegetative species, this central wetland contains no fish, and is a significant shallow area for amphibians such as frogs, toads, and salamanders to reproduce without predation.
3.4 **Wildlife**

Lone Lake Park is of sufficient size that is likely supports a diverse mammal population, including white tailed deer, raccoons, squirrels, rabbits, skunks, woodchucks, and probably the occasional red fox or coyote. All of these species are common within the region, and would be attracted to the wooded slopes where they can find food, shelter, and habitat. The support of mammals is likely high, but not unusual for species that have adapted to living within an urban area.

Similarly, the presence of reptiles and amphibians would be supported by the quality of the habitat, which would be expected to support multiple frog and snake species. The wetlands being free of predatory fish is advantageous to amphibian reproduction, and the abundant habitat within the steep slopes, trees, and rocky would support several of the woodland favoring snakes, such as the common garter snake and brown snake. Turtles would be present within Lone Lake, and would utilize the sandy soils for ideal nesting habitat.

Of all the wildlife that may use the park, the ones with the greatest benefit may be the birds, sometimes referred to as avifauna. While common species such as cardinals, chickadees, blue jays, wild turkeys, and crows would be expected to use the wooded areas of the park, the large intact wooded areas are also an attraction to less common species. Evidence was observed that woodpeckers are common, including the common downy and hairy woodpeckers, but also the large and prominent pileated woodpecker. Owls are likely residents within the woods, as are hawks, with areas open for roosting, nesting and hunting. Seasonally, migratory birds would use the woods for resting, and would include the various warblers, vireos, and other songbirds that are temporary residents. Breeding birds which are less common, but utilize large, intact, mature woods for their primary habitat include the scarlet tanager, rose-breasted grosbeak, catbirds, pewees, and flycatchers.
The use of the park for wildlife overall is likely average for a park of this size, but is higher for many of the woodland bird species that require the larger areas of intact woods that Lone Lake Park provides.

3.5 Threatened and Endangered Species

In addition to species that may just be less common, or are unique to the habitat present, there is the potential for Lone Lake Park to harbor plant and animal species that are listed by the State of Minnesota or the federal government as legally protected.

In order to determine if any state or federally listed species have been documented within Lone Lake Park, a review of the Minnesota Department of Natural Resources (MNDNR) Natural Resources Information Systems (NHIS) database was completed. This database identifies the known locations of listed species, critical habitats, and other unique resources that have been positively identified. Because some species are mobile, a one-mile buffer was used to identify any species that has been documented within or adjacent to the park, to ensure that a sufficient area was included. The database review failed to identify any species of concern within or adjacent to the park. While this doesn’t mean that a state listed species couldn’t be present it is generally considered sufficient for meeting state requirements for sensitive species reviews.

Federally, Lone Lake Park is within the range of two listed species, the northern long-eared bat, and the more recently listed rusty patched bumble bee.

The northern long-eared bat utilizes wooded habitats during the summer, where it roosts under the bark of large trees, singly or in small colonies. Bat pups are also raised in these wooded habitats. During the winter, the bats congregate in hibernaculum, which usually consists of caves, structures, and sometimes large trees or wooded snags. The wooded habitat present within the park would generally be suitable to this species during the roosting and pupping period, and potentially could offer some areas of hibernaculum. Current guidelines by the U.S Fish and Wildlife Service discuss tree removal, and limiting activities during the roosting period. These resources also identify the townships in which roosting trees and hibernaculum have been positively identified. While one hibernaculum has been positively identified within Hennepin County, it is not within the area of the park. Under federal guidelines, there would be no restrictions on park amenities based on the known distribution of the bats, even though the habitat may be present.

The rusty patched bumble bee is a recently listed species, and was added following an alarming trend of declining populations of pollinator species. Like other bee species, the rusty patched bumble bee relies on pollen from flowering plants for sustenance, and has been harmed by a loss of prairies, grasslands, and other critical habitats; and potentially overuse of herbicides and insecticides. The bees nest underground, often using rodent burrows, but require relatively undisturbed conditions to flourish. The rusty patched bumble bee has been positively identified within Lone Lake Park, as reported to bee-tracking websites, utilizing the flowering plants in the rain gardens for nectar. Other have been positively confirmed in the area, and because they are mobile, are presumed to be present, although positive nesting is harder to document than foraging individuals.

3.6 Soils

Soils within Lone Lake Park include the loamy soils associated with the lake, South Fork of Ninemile Creek and the associated wetlands and the sandy loam soils that dominate the adjacent
hillsides. The dominant soil within the park is the Kingsley-Gotham Complex. The Kingsley component consists of very deep, well drained soils that formed in loamy glacial till on glacial moraines. These soils have moderate to moderately slow permeability, and slopes that range from 2 to 40 percent. The Gotham component consists of very deep, somewhat excessively drained soils formed in sandy glaciofluvial deposits on moraines, outwash plains, stream terraces, and glacial lake basins. Permeability is rapid, and slopes range from 0 to 35 percent.

The majority of the soils are stable, and provided there is not a sustained gradient, are relatively less prone to erosion than finer textured soils may be. Where sand content is high, trails are more prone to erosion from use, and may require the placement of a cap to prevent unintentional widening. Overall, however, the soils are suitable to support a trail, and there would be limited need to import any material.

### 3.7 Slopes and Topography

One of the unique features of Lone Lake Park are the frequent hills and steep slopes. Elevations within the park are highly variable, and range from approximately 900 feet at Lone Lake and along the South Fork of Ninemile Creek, to a high elevation of 1,060 feet in the southeast portion of the park. These hills are glacial features, and are composed of till material dominated by sand and sandy loam. The hills can be separated into the tallest peak in the southeast corner, the northern slope and ravines in the southeast portion north of the water tower, the central north-south aligned ridge west of the lake, and the isolated peak located west of the creek.

The City of Minnetonka has a bluff ordinance, which establishes criteria for steep slopes and setback requirements in relation to proximity to aquatic features. Large portions of the park are considered to be bluffs under the city definition, and would have limitations on land use.

Using LiDAR data, all slopes greater than 20% and 30% have been identified in Figure 6. A 20% slope averages a one foot change in elevation for every five foot change horizontally. The majority of the hillsides are 20% slope, and except for areas of wetland, flatter areas would require crossing steep slopes to reach them. Smaller areas are 30% slopes, which is very steep and would be difficult areas to traverse.

### 3.8 Unique Features

Within Lone Lake Park are several areas that have merit in discussion as separate features. These include areas of vegetation, features, or amenities that add value to the park, and make it unique.

- **Basswood stand**: Located in the southwest portion of the park, near the top of the highest point is a small stand of basswood trees within the dominant red oak slopes. These basswood trees are relatively young, and are not remnant old-growth specimens, but do provide for a diverse tree assemblage and are appropriate native species for this setting.

- **Water tower ravine**: North of the water tower is a small ravine that drains to the north. This ravine is the outlet for the water tower, and has been graded to include drain tile, tile inlet structures, and rock checks, which minimize the ability for surface water runoff to accumulate and therefore reduce erosion. The tile system was installed to minimize erosion, and it is not readily apparent that it is present without observing the inlet structures. The tile outlets into a constructed rain garden located south of the playground parking lot, before discharge into Lone Lake.
• Parking lot rain gardens have been installed in the playground parking lot. These have been designed to allow collection and treatment of parking lot runoff, and have been planted with a variety of native species. These, and the created rain garden south of the lot, provide for pollinator species while also protecting lake water quality.

• Revegetation has occurred within the park, and are noted as areas where active management is being completed. Most recent revegetation has occurred at the southern end of the wetland in the center of the site, along the western bluff where some prairie has developed, and along the southern shoreline of Lone Lake where aquatic plants have been planted to stabilize and diversify the vegetation present.

• There are several deer exclosures within the park, which were set up to observe differences in vegetation when deer are prevented from accessing areas and browse is prevented.

4 Mountain Bike Trail Impact Considerations

4.1 Potential Impacts
The inclusion of mountain bike trails within Lone Lake Park will have some impact on the park’s resources. The exact impacts will depend on the trail design, route, and length, which will be identified as the process is finalized, and plans are prepared. Rather than quantifying the impacts, this assessment will discuss the types of impacts that can be anticipated, and a discussion of how they should be evaluated. The intent is not to quantify the impact, nor establish a level where the impact would be considered to be acceptable or unacceptable. Rather, it is to ensure consideration of all topics to ensure informed decision making.

4.2 Trees, Shrubs, and Vegetation
Routing a trail through a wooded area typically requires the removal of some trees to maintain a consistent corridor width, and to create a consistent surface. The number of trees removed is often dependent upon tree density, which is a consideration based on the age of the stand, and the composition of tree species present.

The wooded areas within Lone Lake Park are dominated by moderately dispersed mature species, which have a lower overall tree density, and more spacing between individual trees than would be present in a younger stand. The full canopy limits new trees from being established, and the understory shrub layer is present, but is similarly less dense than would be present in full sunlight.

Under a sustainable or low impact design, the alignment of the trail incorporates existing topography, and is intentionally variable in the lateral flow of movement. Depending on the technical difficulty, this may include very gradual shifts in alignment, or may be abrupt and more challenging. Under a moderate design, there may be a need to remove a limited number of trees to maintain the trail path. A more difficult alignment can incorporate the tight turns to potentially reduce the need for tree removal.

For this proposed project, tree removal is anticipated to a small quantity, but is unlikely to be completely avoidable. It is estimated that tree removal would be minimal, and would be limited to smaller trees. Removal of trees of sufficient size to alter the existing closed canopy would not be anticipated.
Although the direct removal of trees may be minimal, secondary impacts may occur from compaction of the soils, erosion which may expose and damage roots, and damage to trees from contact resulting in injury to trunk or branches. It is possible that these secondary impacts are a bigger consideration than the direct loss, although it is more difficult to quantify.

Shrubs would generally not be affected, provided dense stands are avoided. This is an achievable goal, as there are few areas of concentrated shrub coverage. Shrubs would be removed along trail alignments, but would not be a significant reduction as the entire understory has some shrub coverage, but is well dispersed and is not dense.

Herbaceous vegetation will also be affected where it is directly removed for the trails. Within the wooded areas, the herbaceous cover is sparse due to light limitation, but does include patchy Pennsylvania sedge, and other woodland species that thrive in shady environments. Impacts to herbaceous vegetation, like shrubs, would be expected to be direct, but limited to the width of the disturbed corridor itself. Prairie areas are elevated, and depressional, and would be impacted with trails passing through them for direct vegetation loss.

4.3 Invasive Species

Invasive plants thrive in disturbed conditions, where they can take advantage of opportunities to get established and outcompete native species. Inclusion of mountain bike trails will disturb the soils, and create corridors by which invasive species may spread. This may be limited by a lack of source material from within the park, but direct transport of seeds and reproductive material can also occur from dirt trapped in tire treads, which can be transported from off-site locations.

It is likely that increasing the amount of soil disturbance will promote the spread and establishment of invasive species, as it will create conditions more favorable to them than native species. Transport from other locations is also a serious concern, as it may introduce species not currently a concern.

The concern with mountain bike trails is lessened when you consider the total area disturbed, which is a small percentage of the park area. If the trails in total will disturb less than a half-acre, it is not a large quantity of space for invasive species to establish. The concern however, is that the small area of disturbance is not isolated to one area, but is dispersed throughout a third to a half of the park. The ability to transport invasive species seeds and biological material throughout the park may exacerbate the problem, as you may see establishment wherever the trails may be located.

4.4 Wetlands and Aquatic Resources

The primary aquatic features in the park (Lone Lake and South Fork of Ninemile Creek) are not appropriate for mountain biking, and would likely not be directly affected by the inclusion of trails within the park. Should the South Fork of Ninemile Creek need to be crossed, it would require the use of an existing crossing, or a permit for a new crossing, as an in-water crossing would not be permitted.

The large wetland located south of Lone Lake may need to be crossed to provide the desired length of bike trail, but that should be able to be achieved by routing the alignment far enough south to be outside of the wetland, utilize the existing crossing, or construct a new elevated crossing which eliminates any disturbance to the wetland.
Provided the wetlands can be avoided by routing the trail away or over them, there are no anticipated effects on aquatic resources.

4.5 Wildlife

Lone Lake Park has a diverse assemblage of native, mammal, bird, and reptile species. Most of these have persisted within the development of the area, and have accommodated to the presence of humans. While there are large areas of open space, there are existing trails and active areas that bisect the habitat. Few areas within the park exceed more than 500 feet from a trail, parking lot, or adjacent residence, and presumably the wildlife are accustomed to frequent encounters due to this proximity.

In consideration of wildlife impacts, you must determine the type of interaction, and the frequency of occurrence. Currently, the interaction of wildlife with walkers or joggers over a 2-mile trail route is infrequent, and likely predictable to the animal. With active bike trails, you have an increase in the frequency of interaction, as there would be a greater length of trails, and they would be more concentrated. It is expected that the trail users would be more likely to encounter a greater number of animals than a pedestrian, due to the greater distance traveled over a period of time.

Because of the speed of travel, the length of the trails, and concentration of the trails within desired areas, there is a greater opportunity for bike riders to be disruptive to wildlife. The full extent of this disruption is dependent on the number of riders, and how many participants are present on an average daily basis. For species that are highly adaptable and have thrived in the presence of humans, this is likely not a concern. For other animals, the frequent interaction may be sufficient for them to seek solitude in other areas.

It is challenging to determine when wildlife impacts from a park being “too busy” can be verified and quantified, but for some species the inclusion of bike trails may be sufficient for them to be displaced. This is most likely to occur with some of the nesting birds that prefer large intact tracts of woods, and prefer solitude.

Direct habitat loss is also a consideration, as bike trails physically remove vegetation, and could be considered a change in available habitat at the surface. Given the overall size of the park, the potential habitat loss is a relatively small fraction, but a five mile long trail, that is five feet in width would disturb approximately three acres. Because this is diffuse, and not in one area, it is probably negligible habitat loss, but it can be quantified. Fragmentation is also present, although the trail width is likely not sufficient to interrupt the complete canopy, and edge effects are likely not generated.

4.6 Threatened and Endangered Species

As previously discussed, there are no known state listed species within the park, however there are two federally listed species which warrant discussion.

Habitat for the northern long-eared bat is present, as these bats prefer wooded areas for roosting and pup rearing in the summertime. There are no confirmed occurrences, however, and the nearest hibernaculum, is located miles away. While it cannot be confirmed that the northern long-eared bat is not utilizing Lone Lake Park, the biggest concern for this species is tree removal, loss of hibernaculum, and spreading of the white nosed fungus. The inclusion of bike trails is not expected to remove a large number of trees, and would not impact hibernaculum or influence the spread of the white nosed fungus.
A United States Fish and Wildlife Service (USFWS) fact sheet on the long eared bat is presented in Appendix B.

The rusty patched bumble bee has been observed within the park, where it was utilizing flowering plants as a source of nectar. Nectar producing vegetation is generally absent from the wooded areas, as it is too shady for the primary nectar species to be present. Fringe areas may support more nectar species, as would some open areas, but overall the amount of nectar species is generally low within the park. It is unlikely that the inclusion of bike trails would decrease the availability of nectar plants. Direct habitat loss is possible, but given the limited direct area of disturbance, it is unlikely that a bumble bee nest would coincide with a trail.

While it cannot be definitively proven, it is unlikely that the inclusion of mountain bike trails within Lone Lake Park would have an effect on the northern long-eared bat or the rusty patched bumble bee.

A USFWS fact sheet on the rusty patched bumble bee is presented in Appendix C.

4.7 Erosion

Trails will disrupt the soil surface, and create areas devoid of vegetation. Bare soil is prone to erosion, but requires concentrated water movement and a gradient for it to be aggravated. Trails constructed on the contours, where slope is reduced, can be stable and control erosion. Trails that contain a slope or cross contours can encourage the channelization of water, which can form rills and exacerbate runoff until it is damaging and self-perpetuating. Once started, erosion can be very hard to control, and so it is important that it is prevented.

Currently, erosion does not seem to be a significant issue within the park, although it is noted that some of the pedestrian trails that are present have some concentrated flows where slopes are present and water can accumulate. Particularly downslope from the water tower to the park, where pedestrians have aggravated the conditions through frequent use. This is also be a concern for mountain bike trails, which will similarly have bare earth base, and more potential to rut and compact the soils. Where trails will go with contours, and there is no sustained gradient, erosion potential is greatly reduced.

4.8 Water Quality

Water quality, in consideration of Lone Lake and the South Fork of Ninemile Creek, is not expected to be affected by the inclusion of mountain bike trails within Lone Lake Park. Water quality is a function of nutrient inputs, rates and volume of storm water, sediment discharge, and internal factors such as temperate, vegetation, and existing water quality conditions.

While there is a small risk of elevating erosion potential, it is not anticipated that water quality will be affected. Eroded material would likely be captured by the vegetation between the hills and the lake/creek, and not enter the waterbodies. This will also limit the introduction of nutrients, which are associated with sediment, or deposition of organic material such as leaf litter. While compaction of soils could occur on the trails, it would not be sufficient to be an impervious surface. Therefore, storm water volume and rates of discharge into Lone Lake or South Fork of Ninemile Creek would be unchanged.
4.9 Noise, Dust, and Visual Impacts

Mountain biking is louder than walking, but generally produces little noise other than the sounds of peddling, clicking of gears, and the wheels in contact with the trail. While this may introduce noises to areas of the park that are normally quiet, it is at low decibels, and limited to the area immediately adjacent to the rider. It is unlikely that noise will be perceived by other park patrons unless they are immediately adjacent to the rider, and will likely not exceed the noises currently present by park patrons during sporting events, playing at the park, or having a conversation while walking the existing trails. Noise is likely not necessarily a biological issue, although it may be disturbing to some wildlife.

Dust will be generated by bicycle tires on earthen trails, however it is expected to be limited to a very small area along the route. It is not anticipated that any park patron would be aware of dust generation by bicycles. In wet conditions mud will form, which can aggravate trail conditions, particularly if cyclists reroute and expand trails to avoid ponded or muddy locations. This is more of an erosion control issue than a biological condition, however.

Visually, the occurrence of a bike rider on the hills may alter their enjoyment of the park, as it may affect the perception of isolation that is currently enjoyed by many park users. In summer when the shrubs and understory are leaved out, this may be less of a factor than in spring or fall when the entire hillside is visible and anyone of the slope is readily apparent. Visual effects are an important consideration, but are more of a social concern than biological.

5 Assessment of Probable Impacts at Lone Lake Park

Based on the anticipated layout of the trail route, there is an opportunity to discuss with greater specificity the type and extent of impacts that are most probable within Lone Lake Park. It is assumed that a “sustainable” or “low impact” design will be selected, and that the trail route will have a distance of approximately 4.5 miles.

A sustainable design may require 5-6 feet of space during construction, which allows for access for construction equipment needed to grade the trail. This will have an initial disturbance of approximately 2.7 acres within the park. The perimeter of this disturbance is allowed to restore to natural conditions, however, and leave a central path that is typically 2.5 in width. After this disturbed area has been restored, the permanent impacts are estimated to be 1.4 acres, which will remain as bare soil for the mountain bike trail. This is approximately 1% of the park’s area.

The current tree density allows for a complete canopy, but has sufficient spacing that a trail system can navigate the slopes without the needs for extensive tree removal. Because the trail design should use areas with low slopes, there may be a need to remove individual trees, but this is a tradeoff with the risk of erosion if steeper slopes are allowed. Overall, the loss of trees, provided they are not concentrated in one area, is likely minimal and will not affect the overall health of the forest. Shrub loss is also expected to be minimal, and the herbaceous layer is already sparse and not likely to be affected significantly.

Invasive species will likely find opportunity in the newly disturbed areas, particularly garlic mustard, which thrives in wooded areas. Invasive species management will need to continue, and may require accelerated demand in the initial years following construction, as it will be much
Biological Assessment

Impacts to aquatic resources are not anticipated, provided they are avoided from direct impacts. Secondary impacts from erosion or water quality seem to be limited in risk, and probably cannot be quantified as existing stressors likely exceed any negative changes from the introduction of mountain bike trails into the watershed.

It is anticipated that the existing wildlife have likely accommodated to life in an urban setting. While there is habitat and relative isolation, there are adjacent residents, open spaces, and existing trails that prevent large areas from truly being intact and undisturbed. The primary risk to wildlife is displacement, if the frequency of disturbance exceeds an individual animal’s tolerance threshold. For most species, this tolerance is high, as it is already a natural environment, but within a much larger developed area. It is plausible that some species will seek other areas for nesting that may provide less disturbance, but that is difficult to verify or quantify. Overall habitat loss is relatively small, but some fragmentation could occur in areas with dense trails. The habitat loss is probably negligible, and is less of a consideration than disturbance, which is already a stressor to some degree, but will be amplified with additional users.

Like wildlife overall, the two listed species that may be present are likely at low risk of direct loss, but have an increased risk in being disturbed and potentially displaced. Overall, the habitat for long-eared bats will remain, and is not expected to be significant. No impacts to the long earned bat are anticipated. The rusty patched bumble bee is harder to quantify, as there is less known about the species, and what is driving the decline. Much of the consensus is that habitat loss is a primary factor. The bee’s ideal habitat is not present in great quantity, and the proposed trail will not impact any areas that support an abundance of nectar species. Nesting habitat could be affected, but the likelihood of a trail and a nest occurring in the same area is small. While it is impossible to say that no impacts will occur, the chances of occurrence are small enough that it would likely not have an impact on the rusty patched bumble bee.

Provided the design follows the lowest impact guidelines, there should be a crown or slope that will allow water to shed, and avoid pooling on the trail. This is typically along the entire trail, and avoids concentrated areas where flows can aggravate erosion. While erosion is always a concern, it can be limited, and repaired if it is detected quickly. Steep slopes will need to be avoided, and while the overall slopes within the wooded hills is steeper than 20%, a route with a lesser gradient can be located if it goes with the contours, and flat areas are used for turn arounds. From a design standpoint, the trail can be laid out to minimize erosion, and have very little impact.

While the park has many areas with unique features, and areas of active management, the alignment can avoid these, and not disrupt current efforts to improve the park’s biota. There should be no impacts to the ongoing efforts to manage the park’s resources.
6 Existing Informal Trails

Although not recognized as part of the park's trail system, there are currently an abundance of trails within the wooded slopes. These originate from within and outside of the park, and are extensive. City staff have mapped the informal trails, and have measured more than three miles of trail, ranging from cleared corridors, to more modest footpaths. Most of these informal trails are subtle, and not readily apparent to casual observation. However in traversing the hillsides, it is readily apparent that there are miles of informal trails that have developed over the years. While some of these may be older, many are still used, as during the field assessment, SEH staff encountered one child and one person walking their dog on these wooded paths. A recent wooden fort was observed where children had congregated. Footprints in the snow and discarded trash indicate that trail use is continuing and is perhaps more frequent than realized.

The majority of trails are small, and would be a foot or two in width with little disturbance, while others are several feet in width and are practically established paths. Almost all of them follow the contours, as there are few areas where the paths directly go up or down the hillside. A mountain bike path would likely be similar in many regards to these existing trails, in terms of width, extent, and how they traverse the hillsides along the contours; including incorporation of relatively shallow sloped turning areas to ease climbing up or down the hillside.

It is not possible to quantify the impacts from these existing trails, but they do provide a preview of what a mountain bike trail may look like, and may serve as preliminary routes to consider where there is already an alignment that can be utilized. Unfortunately, many of the informal trails are wider and steeper than the mountain bike trails that are proposed, and not all areas can be utilized for the proposed alignment.

Numerous studies have compared the impacts resulting from hiking and mountain bike trails, and have concluded that many of the concerns are shared, regarding erosion, compaction, disturbance to wildlife, and spread of invasive species. The risks from mountain biking are slightly higher, but a well-traveled hiking trail is as likely to have as much, or even greater, environmental impacts as a well-designed bicycle route.

While the current discussion is based on the consideration of adding mountain biking trails within the park, some consideration may also be warranted to either promote or discourage unapproved hiking paths as well. Although not perceived, the damage from the existing trail system may exceed the damage from a proposed mountain bike trail, if properly designed and limited in extent.

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3 Quinn, Michael and Chernoff, Greg. 2010. Mountain Biking: A Review of the Ecological Effects
Photo 7: An existing informal trail in the woods, which is well-used and residents keep the corridor maintained.

Photo 8: A steep sloped existing informal trail with significant erosion control concerns
Mitigation Opportunities and Challenges

Overall, impacts from the inclusion of mountain bike trails are anticipated, but quantification is dependent upon determining a route, selection of trail dimensions, and determining where it may be allowed or excluded. Under an aggressive approach, with extensive wide trails, impacts could be significant; with tree removal required, erosion likely, invasive species transport assured, and wildlife disturbance expected.

Using a sustainable or low impact approach, where trails widths are limited (such as single file, one-way routes), trees are more likely to be preserved, erosion is negligible, and transport of invasive species is discouraged, impacts are likely not significantly greater than what has already occurred with the informal hiking paths that have developed.

In consideration of potential impacts, the following have been identified as potential approaches to limit or mitigate for impacts:

- Establish a trail design that has the smallest footprint while achieving the desired goals
  - Consider low-impact designs, such as one-way and single file routes.
  - Establish routes that allow multiple distances, which can allow the options to spread the route out, or concentrate to a limited area

- Limit vegetation loss and damage
  - Select an alignment that avoids tree removal. If unavoidable, select for removal of trees that are less mature, or of lower quality species. For example, remove a smaller aspen tree and avoid encroachment on a mature oak tree.
  - Limit damage to tree limbs by pruning rather than breaking limbs
  - Consider transplanting herbaceous spring ephemerals if they are located along a trail route

- Avoid accessing areas with unique habitats or sensitive species
  - Buffer areas that are intended to be avoided

- Control erosion
  - Limit distances where trails cross contours and prevent the buildup of concentrated runoff. Vary routing so there are series of small hills and valleys, and slope trails so water can runoff and discourage formation of mud holes. Avoid flat ground where compaction and rutting can promote water collection and lead to mud holes, trail widening, bypass trail formation, and perpetuate erosion
  - Consider boardwalks over gullies and depressions, or elevate the trail to discourage accelerated runoff downslope.
  - Restrict seasonal use to avoid spring snowmelt and periods where muddy conditions are prevalent.

- Maintain invasive species control programs
• Concentrate efforts of maintaining areas cleared of invasive species, and monitor for signs of spreading due to trails.

• Install bike wash stations to reduce import of soils and weed seeds from off-site.

• Promote wildlife use

  o Increase plantings of native species, nectar species, and establish additional areas of prairie

  o Provide educational material on what individuals can do to promote bee habitat, plant and maintain nectar species, and support protection of pollinator species

  o Restrict or limit access to critical habitats for sensitive species

• Establish and enforce mountain bike user etiquette

  o Promote mountain bike users to be engaged in supporting volunteer programs to maintain the parks resources

• Locate, repair, and prevent future use of the highly eroded existing informal trails.
Figures

Figure 1 – Site Location and Topographic Map
Figure 2 – Aerial Photograph
Figure 3 – Aquatic Resources
Figure 4 – Hennepin County Soil Survey
Figure 5 – LiDAR and topography
Figure 6 – Steep Slopes
Figure 7 – MLCCS Land Cover
Figure 8 – Land Coverage and Notable Features within Potential Trail Areas
LONE LAKE PARK STUDY
Minnetonka, Minnesota

Legend
- Park Property Boundary

Map by: B. Tolcser
Projection: NAD83 UTM 15N
Source: MNDNR, SEHINC, City of Minnetonka
Background: USGS 24k Topographic
Project: MINNE 145810
Print Date: 4/30/2018

This map is neither a legally recorded map nor a survey map and is not intended to be used as one. The map is a compilation of records, information, and data gathered from various sources listed on this map and is to be used for reference purposes only. SEH does not warrant that the Geographic Information System (GIS) Data used to prepare this map are error free, and SEH does not represent that the GIS Data can be used for navigational, tracking, or any other purpose requiring exacting measurement of distance or direction or precision in the depiction of geographic features. The user of this map acknowledges that SEH shall not be liable for any damages which arise out of the user's access or use of data provided.
LONE LAKE PARK STUDY
Minnetonka, Minnesota

Aerial Photograph

Figure 2
This map is neither a legally recorded map nor a survey map and is not intended to be used as one. This map is a compilation of records, information, and data gathered from various sources listed on this map and is to be used for reference purposes only. SEH does not warrant that the Geographic Information System (GIS) Data used to prepare this map are error free, and SEH does not represent that the GIS Data can be used for navigational, tracking, or any other purpose requiring exacting measurement of distance or direction or precision in the depiction of geographic features. The user of this map acknowledges that SEH shall not be liable for any damages which arise out of the user's access or use of data provided.

Minnetonka, Minnesota
Map by: B. Tolcser
Projection: NAD83 UTM 15N
Source: MNDNR, SEHINC, City of Minnetonka
Background: 2016 MNDNR
Project: MINNE 145810
Print Date: 4/30/2018
Path: S:\KO\M\Minne\145810\3-env-stdy-regs\GIS\fig05_Topography.mxd

Legend
- Park Property Boundary
- Contour Lines (10')

Digital Elevation Model (ft)
- High: 1,070'
- Low: 880'

LONE LAKE PARK STUDY
Minnetonka, Minnesota

Lidar Topography
Figure 5
LONE LAKE PARK STUDY
Minnetonka, Minnesota

Legend

Park Property Boundary

Site Slopes (No Width Req.)

- >45%
- 30-45%
- 20-30%

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Legend
MLCCS Classifications (Outside Site)

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<td>42120</td>
<td>4.de.UP.mOW</td>
<td>Oak woodland/brushland</td>
</tr>
<tr>
<td>42130</td>
<td>4.de.UP.pAT</td>
<td>Alter-dominated deciduous woodland</td>
</tr>
<tr>
<td>61320</td>
<td>6.ge.WA.nAT</td>
<td>Temporarily flooded altered-dominated grassland</td>
</tr>
<tr>
<td>61530</td>
<td>6.ge.WC.nAT</td>
<td>Seasonally flooded altered-dominated emergent vegetation</td>
</tr>
<tr>
<td>61630</td>
<td>6.ge.WF.nAT</td>
<td>Semipermanently flooded altered-dominated vegetation</td>
</tr>
<tr>
<td>93300</td>
<td>9.ww.OW</td>
<td>Palustrine open water</td>
</tr>
</tbody>
</table>

This map is neither a legally recorded map nor a survey map and is not intended to be used as one. This map is a compilation of records, information, and data gathered from various sources listed on this map and is intended for reference purposes only. SEH does not warrant that the Geographic Information System (GIS) Data used to prepare this map are error free, and SEH does not represent that the GIS Data can be used for navigational, tracking, or any other purpose requiring exacting measurement of distance or direction or precision in the depiction of geographic features. The user of this map acknowledges that SEH shall not be liable for any damages which arise out of the user's access or use of data provided.
Site Photographs of Lone Lake Park from March 29 and May 1, 2018

Trailhead of informal trail near the tennis court

Oak-dominated woods on east side of park
Oak-dominated woods on east side of park
Exposed rock and cobble at top of hill indicate glacial till soils

Informal trail through oak trees on east side of park
Planted white pine and sumac shrubs on east side of park

View west across ravine near water tower
Drain tile inlet and rock check in water tower ravine

Well worn footpath on water tower ridge
Common garter snake emerging hibernation in spring

Steep slopes on water tower ridge, view north towards playground
Informal trail through south side of the main north-south ridge west of Lone Lake

Deer exclosure on west side of park
Wet meadow associated with Ninemile Creek

Emerging marsh marigold in wet meadow
Oak-dominated woods on western shore of Lone Lake

West Branch of Ninemile Creek
Crushed limestone trail along western bank of Lone Lake

View of western shore of Lone Lake
Lone Lake, view from parking lot

Shoreland plantings on south shore of Lone Lake
Rain garden in playground parking lot

Vertical trail from water tower to playground, with severe erosion.
Wood anemone in bloom on eastern side of the park in spring-ephemeral rich area

Interrupted fern fiddleheads emerging in spring throughout the park
The northern long-eared bat is federally listed as a threatened species under the Endangered Species Act. **Endangered** species are animals and plants that are in danger of becoming extinct. **Threatened** species are animals and plants that are likely to become endangered in the foreseeable future. Identifying, protecting and restoring endangered and threatened species is the primary objective of the U.S. Fish and Wildlife Service’s Endangered Species Program.

**What is the northern long-eared bat?**

**Appearance:** The northern long-eared bat is a medium-sized bat with a body length of 3 to 3.7 inches and a wingspan of 9 to 10 inches. Their fur color can be medium to dark brown on the back and tawny to pale-brown on the underside. As its name suggests, this bat is distinguished by its long ears, particularly as compared to other bats in its genus, *Myotis*.

**Winter Habitat:** Northern long-eared bats spend winter hibernating in caves and mines, called hibernacula. They use areas in various sized caves or mines with constant temperatures, high humidity, and no air currents. Within hibernacula, surveyors find them hibernating most often in small crevices or cracks, often with only the nose and ears visible.

**Summer Habitat:** During the summer, northern long-eared bats roost singly or in colonies underneath bark, in cavities or in crevices of both live trees and snags (dead trees). Males and non-reproductive females may also roost in cooler places, like caves and mines. Northern long-eared bats seem to be flexible in selecting roosts, choosing roost trees based on suitability to retain bark or provide cavities or crevices. They rarely roost in human structures like barns and sheds.

**Reproduction:** Breeding begins in late summer or early fall when males begin to swarm near hibernacula. After copulation, females store sperm during hibernation until spring. In spring, females emerge from their hibernacula, ovulate and the stored sperm fertilizes an egg. This strategy is called delayed fertilization.

After fertilization, pregnant bats migrate to summer areas where they roost in small colonies and give birth to a single pup. Maternity colonies of females and young generally have 30 to 60 bats at the beginning of the summer, although larger maternity colonies have also been observed. Numbers of bats in roosts typically decrease from the time of pregnancy to post-lactation. Most bats within a maternity colony give birth around the same time, which may occur from late May or early June to late July, depending where the colony is located within the species’ range. Young bats start flying by 18 to 21 days after birth. Maximum lifespan for the northern long-eared bat is estimated to be up to 18.5 years.

**Feeding Habits:** Like most bats, northern long-eared bats emerge at dusk to feed. They primarily fly through the understory of forested areas feeding on moths, flies, leafhoppers, caddisflies, and beetles, which they catch while in flight using echolocation or by gleaning motionless insects from vegetation.

**Range:** The northern long-eared bat’s range includes much of the eastern and north central United States, and all Canadian provinces from the Atlantic Ocean west to the southern Yukon Territory and eastern British Columbia. The species’ range includes 37 States and the District of Columbia: Alabama, Arkansas, Connecticut, Delaware, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and Wyoming.

**Why is the northern long-eared bat in trouble?**

**White-nose Syndrome:** No other threat is as severe and immediate as
northern long-eared bats, although a small number have been found to date. However, there are many wind projects within a large portion of the bat’s range and many more are planned.

What Is Being Done to Help the Northern Long-Eared Bat?

Disease Management: Actions have been taken to try to reduce or slow the spread of white-nose syndrome through human transmission of the fungus into caves (e.g. cave and mine closures and advisors; national decontamination protocols). A national plan was prepared by the Service and other state and federal agencies that details actions needed to investigate and manage white-nose syndrome. Many state and federal agencies, universities and non-governmental organizations are researching this disease to try to control its spread and address its affect. See www.whitenosesyndrome.org for more.

Addressing Wind Turbine Mortality: The Service and others are working to minimize bat mortality from wind turbines on several fronts. We fund and conduct research to determine why bats are susceptible to turbines, how to operate turbines to minimize mortality and where important bird and bat migration routes are located. The Service, state natural resource agencies, and the wind energy industry are developing a Midwest Wind Energy Habitat Conservation Plan, which will provide wind farms a mechanism to continue operating legally while minimizing and mitigating listed bat mortality.

Listing: The northern long-eared bat is listed as a threatened species under the federal Endangered Species Act. Listing a species affords it the protections of the Act and also increases the priority of the species for funds, grants, and recovery opportunities.

Hibernacula Protection: Many federal and state natural resource agencies and conservation organizations have protected caves and mines that are important hibernacula for cave-dwelling bats.

What Can I Do?

Do Not Disturb Hibernating Bats: To protect bats and their habitats, comply with all cave and mine closures, advisories, and regulations. In areas without a cave and mine closure policy, follow approved decontamination protocols (see http://whitenosesyndrome.org/topics/decontamination). Under no circumstances should clothing, footwear, or equipment that was used in a white-nose syndrome affected state or region be used in unaffected states or regions.

Leave Dead and Dying Trees Stading: Like most eastern bats, the northern long-eared bat roosts in trees during summer. Where possible and not a safety hazard, leave dead or dying trees on your property. Northern long-eared bats and many other animals use these trees.

Install a Bat Box: Dead and dying trees are usually not left standing, so trees suitable for roosting may be in short supply and bat boxes may provide additional roost sites. Bat boxes are especially needed from April to August when females look for safe and quiet places to give birth and raise their pups.

Support Sustainability: Support efforts in your community, county and state to ensure that sustainability is a development goal. Only through sustainable living will we provide rare and declining species, like the northern long-eared bat, the habitat and resources they need to survive alongside us.

Spread the Word: Understanding the important ecological role that bats play is a key to conserving the northern long-eared and other bats. Helping people learn more about the northern long-eared bat and other endangered species can lead to more effective recovery efforts. For more information, visit www.fws.gov/midwest/nleb and www.whitenosesyndrome.org

Join and Volunteer: Join a conservation group; many have local chapters. Volunteer at a local nature center, zoo, or national wildlife refuge. Many state natural resource agencies benefit greatly from citizen involvement in monitoring wildlife. Check your state agency websites and get involved in citizen science efforts in your area.
Appendix C

Rusty Patched Bumble Bee Fact Sheet
The U.S. Fish and Wildlife Service listed the rusty patched bumble bee as endangered under the Endangered Species Act. Endangered species are animals and plants that are in danger of becoming extinct. Identifying, protecting and recovering endangered species is a primary objective of the U.S. Fish and Wildlife Service’s endangered species program.

What is a rusty patched bumble bee?

Appearance: Rusty patched bumble bees live in colonies that include a single queen and female workers. The colony produces males and new queens in late summer. Queens are the largest bees in the colony, and workers are the smallest. All rusty patched bumble bees have entirely black heads, but only workers and males have a rusty reddish patch centrally located on the back.

Habitat: Rusty patched bumble bees once occupied grasslands and tallgrass prairies of the Upper Midwest and Northeast, but most grasslands and prairies have been lost, degraded, or fragmented by conversion to other uses. Bumble bees need areas that provide nectar and pollen from flowers, nesting sites (underground and abandoned rodent cavities or clumps of grasses), and overwintering sites for hibernating queens (undisturbed soil).

Reproduction: Rusty patched bumble bee colonies have an annual cycle. In spring, solitary queens emerge and find nest sites, collect nectar and pollen from flowers and begin laying eggs, which are fertilized by sperm stored since mating the previous fall. Workers hatch from these first eggs and colonies grow as workers collect food, defend the colony, and care for young. Queens remain within the nests and continue laying eggs. In late summer, new queens and males also hatch from eggs. Males disperse to mate with new queens from other colonies. In fall, founding queens, workers and males die. Only new queens go into diapause (a form of hibernation) over winter - and the cycle begins again in spring.

Feeding Habits: Bumble bees gather pollen and nectar from a variety of flowering plants. The rusty patched emerges early in spring and is one of the last species to go into hibernation.

Why conserve rusty patched bumble bees?

As pollinators, rusty patched bumble bees contribute to our food security and the healthy functioning of our ecosystems. Bumble bees are keystone species in most ecosystems, necessary not only for native wildflower reproduction, but also for creating seeds and fruits that feed wildlife as diverse as songbirds and grizzly bears.

Bumble bees are among the most important pollinators of crops such as blueberries, cranberries, and clover and almost the only insect pollinators of tomatoes. Bumble bees are more effective pollinators than honey bees for some crops because of their ability to “buzz pollinate.” The economic value of pollination services provided by native insects (mostly bees) is estimated at $3 billion per year in the United States.
It needs a constant supply and diversity of flowers blooming throughout the colony’s long life, April through September.

Range: Historically, the rusty patched bumble bee was broadly distributed across the eastern United States and Upper Midwest, from Maine in the U.S. and southern Quebec and Ontario in Canada, south to the northeast corner of Georgia, reaching west to the eastern edges of North and South Dakota. Its range included 28 states, the District of Columbia and 2 provinces in Canada. Since 2000, this bumble bee has been reported from only 13 states and 1 province: Illinois, Indiana, Iowa, Maine, Maryland, Massachusetts, Minnesota, North Carolina, Ohio, Pennsylvania, Tennessee, Virginia, Wisconsin – and Ontario, Canada.

Why is the rusty patched bumble bee declining?
Habitat loss and degradation: Most prairies and grasslands of the Upper Midwest and Northeast have been converted to monoculture farms or developed areas, such as cities and roads. Grasslands that remain tend to be small and isolated.

Intensive farming: Increases in farm size and technology advances improved the operating efficiency of farms but have led to practices that harm bumble bees: increased use of pesticides, loss of crop diversity resulting in flowering crops being available for only a short time, loss of hedgerows with flowering plants, and loss of legume pastures.

Disease: Pathogens and parasites may pose a threat, although their prevalence and effects in North American bumble bees are not well understood.

Pesticides: The rusty patched bumble bee may be vulnerable to pesticides. Pesticides are used widely on farms and in cities and have both lethal and sublethal toxic effects.

Bumble bees can absorb toxins directly through their exoskeleton and through contaminated nectar and pollen. Rusty patched bumble bees nest in the ground and may be susceptible to pesticides that persist in agricultural soils, lawns and turf.

Global climate change: Climate changes that may harm bumble bees include increased temperature and precipitation extremes, increased drought, early snow melt and late frost events. These changes may lead to more exposure to or susceptibility to disease, fewer flowering plants, fewer places for queens to hibernate and nest, less time for foraging due to high temperatures, and asynchronous flowering plant and bumble bee spring emergence.

What is being done to conserve rusty patched bumble bees?

U.S. Fish and Wildlife Service: Several Service programs work to assess, protect, and restore pollinators and their habitats. Also, the Service works with partners to recover endangered and threatened pollinators and pollinator-dependent plants. Concern about pollinator declines prompted formation of the North American Pollinator Protection Campaign, a collaboration of people dedicated to pollinator conservation and education. The Service has a Memorandum of Understanding with the Pollinator Partnership to work together on those goals. The Service is a natural collaborator because our mission is to work with others to conserve, fish, wildlife, and plants and their habitats.

Other Efforts: Trusts, conservancies, restoration groups and partnerships are supporting pollinator initiatives and incorporating native plants that support bees and other pollinators into their current activities. For example, the USDA Natural Resource Conservation Service is working with landowners in Michigan, Minnesota, Montana, North Dakota, South Dakota, and Wisconsin to make bee-friendly conservation improvements to their land. Improvements include the practices of planting cover crops, wildflowers, or native grasses and improved management on grazing lands.

Research: Researchers are studying and monitoring the impacts of GMO crops and certain pesticides on pollinators. Efforts by citizen scientists and researchers to determine the status of declining bee species are underway throughout the United States.

What can I do to help conserve the rusty patched bumble bee?

Garden: Grow a garden or add a flowering tree or shrub to your yard. Even small areas or containers on patios can provide nectar and pollen for native bees.

Native plants: Use native plants in your yard such as lupines, asters, bee balm, native prairie plants and spring ephemerals. Don’t forget spring blooming shrubs like ninebark and pussy willow! Avoid invasive non-native plants and remove them if they invade your yard. For more information on attracting native pollinators, visit www.fws.gov/pollinators/pdfs/PollinatorBookletFinalrevWeb.pdf.

Natural landscapes: Provide natural areas - many bumble bees build nests in undisturbed soil, abandoned rodent burrows or grass clumps. Keep some unmowed, brushy areas and tolerant bumble bee nests if you find them. Reduce tilling soil and mowing where bumble bees might nest. Support natural areas in your community, county and state.

Minimize: Limit the use of pesticides and chemical fertilizer whenever possible or avoid them entirely. Pesticides cause lethal and sublethal effects to bees and other pollinators.
Sustainable buildings, sound infrastructure, safe transportation systems, clean water, renewable energy and a balanced environment. Building a Better World for All of Us communicates a companywide commitment to act in the best interests of our clients and the world around us.

We’re confident in our ability to balance these requirements.
<table>
<thead>
<tr>
<th>Common Name</th>
<th>Scientific Name</th>
<th>Breeding Habitat/Nesting Site</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>canada goose</td>
<td>Branta canadensis</td>
<td>Y tundra, fresh marshes, salt marshes, lakes</td>
<td>Stable, increasing population</td>
</tr>
<tr>
<td>Greater White-fronted Goose</td>
<td>Anser albifrons</td>
<td>Tree cavity near water, up to 60' above ground</td>
<td>Climate Threatened</td>
</tr>
<tr>
<td>Tundra Swan</td>
<td>Cygnus columbianus</td>
<td>Tree cavity near water, usually 10-50' above ground</td>
<td>Climate Endangered</td>
</tr>
<tr>
<td>Wood Duck</td>
<td>Aix sponsa</td>
<td>Tree cavity near water, usually 10'-50' above ground, rarely up to 80' or more</td>
<td>Climate Threatened</td>
</tr>
<tr>
<td>Mallard</td>
<td>Anas platyrhynchos</td>
<td>Y Shallow water in marsh, nest to opening so that birds can approach nest underwater.</td>
<td>Stable, common</td>
</tr>
<tr>
<td>American Wigeon</td>
<td>Mareca americana</td>
<td>Climate Threatened</td>
<td></td>
</tr>
<tr>
<td>Hooded Merganser</td>
<td>Lophodytes cucullatus</td>
<td>Climate Threatened</td>
<td></td>
</tr>
<tr>
<td>Red-billed Grebe</td>
<td>Podilymbus podiceps</td>
<td>Climate Endangered</td>
<td></td>
</tr>
<tr>
<td>Double-crested Cormorant</td>
<td>Phalacrocorax auritus</td>
<td>Climate Threatened</td>
<td></td>
</tr>
<tr>
<td>Sandhill Crane</td>
<td>Antigone canadensis</td>
<td>Climate Threatened</td>
<td></td>
</tr>
<tr>
<td>Great Blue Heron</td>
<td>Ardea herodias</td>
<td>Stable, common</td>
<td></td>
</tr>
<tr>
<td>great egret</td>
<td>Ardea alba</td>
<td>Stable, common</td>
<td></td>
</tr>
<tr>
<td>Green Heron</td>
<td>Butorides virescens</td>
<td>Y In shrub or tree 5-30' above ground, sometimes on ground; often very close to water but can be quite distant.</td>
<td>Stable, common</td>
</tr>
<tr>
<td>Killdeer</td>
<td>Charadrius vociferus</td>
<td>Stable, common</td>
<td></td>
</tr>
<tr>
<td>spotted sandpiper</td>
<td>Actitis macularius</td>
<td>Stable, common</td>
<td></td>
</tr>
<tr>
<td>Caspian Tern</td>
<td>Hydroprogne caspia</td>
<td>Stable, common</td>
<td></td>
</tr>
<tr>
<td>Forster's Tern</td>
<td>Sterna forsteri</td>
<td>Climate Threatened</td>
<td></td>
</tr>
<tr>
<td>Herring Gull</td>
<td>Larus argentatus</td>
<td>Climate Threatened</td>
<td></td>
</tr>
<tr>
<td>ring-billed gull</td>
<td>Larus delawarensis</td>
<td>Climate Endangered</td>
<td></td>
</tr>
<tr>
<td>Wild Turkey</td>
<td>Meleagris gallopavo</td>
<td>Y On ground, often at base of tree, under shrub, or in tall grass.</td>
<td>Climate Threatened</td>
</tr>
<tr>
<td>Eastern Screech Owl</td>
<td>Megascops asio</td>
<td>Cavity in tree, including natural hollows and abandoned woodpecker holes; usually 10-30' above ground, can be 5-80' up.</td>
<td>Stable, common</td>
</tr>
<tr>
<td>Great Horned Owl</td>
<td>Bubo virginianus</td>
<td>Y Typically uses old nest of other large bird, such as hawk, eagle, crow, heron, usually 20-60' above ground</td>
<td>Stable, common</td>
</tr>
<tr>
<td>Barred Owl</td>
<td>Strix varia</td>
<td>Y Large natural hollow in tree, broken-off snag, or on old nest of hawk, crow, or squirrel.</td>
<td>Stable, common</td>
</tr>
<tr>
<td>Turkey Vulture</td>
<td>Cathartes aura</td>
<td>Stable, common</td>
<td></td>
</tr>
<tr>
<td>Cooper's Hawk</td>
<td>Accipiter cooperi</td>
<td>Y In tree, either deciduous or coniferous, usually 25-50' above ground.</td>
<td>Stable, common</td>
</tr>
<tr>
<td>red-tailed hawk</td>
<td>Buteo jamaicensis</td>
<td>Usually in tree, up to 120' above ground; nest tree often taller than surrounding trees.</td>
<td>Stable, common</td>
</tr>
<tr>
<td>Osprey</td>
<td>Pandion haliaetus</td>
<td>Climate Endangered</td>
<td></td>
</tr>
<tr>
<td>Bald Eagle</td>
<td>Haliaeetus leucocephalus</td>
<td>Climate Threatened</td>
<td></td>
</tr>
<tr>
<td>Broad-winged Hawk</td>
<td>Buteo platypterus</td>
<td>Climate Threatened</td>
<td></td>
</tr>
<tr>
<td>Ruby-throated Hummingbird</td>
<td>Archilochus colubris</td>
<td>Y Tree or large shrub, 5-50 feet above the ground, usually 10-20 feet.</td>
<td>Stable, common</td>
</tr>
<tr>
<td>Mourning Dove</td>
<td>Zenaida macroura</td>
<td>Y Tree or shrub, sometimes on ground, usually lower than 40', can be lower or much higher.</td>
<td>Stable, common</td>
</tr>
<tr>
<td>Red-bellied Woodpecker</td>
<td>Melanerpes carolinus</td>
<td>Y Cavity excavated in dead wood, usually less than 50' above ground.</td>
<td>Stable, common</td>
</tr>
<tr>
<td>Downy Woodpecker</td>
<td>Picoides pubescens</td>
<td>Y Cavity (excavated by both sexes) in dead limb or dead tree, usually 12-30' above ground</td>
<td>Stable, common</td>
</tr>
<tr>
<td>Hairy Woodpecker</td>
<td>Picoides villosus</td>
<td>Y Cavity (excavated by both sexes), mainly in deciduous trees</td>
<td>Climate Threatened</td>
</tr>
<tr>
<td>Northern Flicker</td>
<td>Colaptes auratus</td>
<td>Y Cavity (excavated by both sexes) in tree, rarely in a burrow in the ground, typically 6-20' above ground.</td>
<td>Declining population</td>
</tr>
<tr>
<td>Yellow-bellied Sapsucker</td>
<td>Sphyrapicus varius</td>
<td>Climate Threatened</td>
<td></td>
</tr>
<tr>
<td>Pileated Woodpecker</td>
<td>Dryocopus pileatus</td>
<td>Y Cavity in a dead tree or in dead branch of a live tree, usually 15-80' above ground.</td>
<td>Stable, common</td>
</tr>
<tr>
<td>great crested flycatcher</td>
<td>Myiarchus crinitus</td>
<td>Y Hole in tree, either natural cavity or old woodpecker hole, usually 20-50' above the ground.</td>
<td>Vulnerable - stable</td>
</tr>
<tr>
<td>Empidonax sp.</td>
<td></td>
<td></td>
<td>Stable, common</td>
</tr>
<tr>
<td>Eastern Phoebe</td>
<td>Sayornis phoebe</td>
<td>Y Vertical streambanks or small rock outcrops in the woods, also man-made structures.</td>
<td>Stable, common</td>
</tr>
<tr>
<td>Eastern Wood-Pewee</td>
<td>Contopus virens</td>
<td>Y On horizontal tree branch (usually deciduous), well out from the trunk. Usually 15-45' above ground, can be lower or much higher.</td>
<td>Climate Threatened</td>
</tr>
<tr>
<td>Least Flycatcher</td>
<td>Empidonax minimus</td>
<td>Y Deciduous sapling or small tree, placed in a vertical fork in a branch, 12-25' above ground.</td>
<td>Climate Threatened</td>
</tr>
<tr>
<td>Olive-sided Flycatcher</td>
<td>Contopus cooperi</td>
<td>Declining population</td>
<td></td>
</tr>
<tr>
<td>Eastern Kingbird</td>
<td>Tyrannus tyrannus</td>
<td>Y In deciduous tree or large shrub, 7-30' above the ground, sometimes lower or much higher.</td>
<td>Stable, common</td>
</tr>
<tr>
<td>Warbling Vireo</td>
<td>Vireo gilvus</td>
<td>Y Placed high in tree, up to 90', suspended by its rim from a forked twig.</td>
<td>Stable, common</td>
</tr>
<tr>
<td>Red-eyed Vireo</td>
<td>Vireo olivaceus</td>
<td>Y 5-30' above the ground, sometimes 2-60' up, in deciduous shrub or sapling.</td>
<td>Stable, common</td>
</tr>
<tr>
<td>Blue Jay</td>
<td>Cyanocitta cristata</td>
<td>Y In tree, placed in vertical crotch of trunk or fork in limb well out from trunk; usually 8-30' above ground.</td>
<td>Stable, common</td>
</tr>
<tr>
<td>American Crow</td>
<td>Corvus brachyrhynchos</td>
<td>Y In tree or large shrub, 10-70' above the ground, usually in vertical fork or at base of branch against trunk.</td>
<td>Stable, common</td>
</tr>
<tr>
<td>Northern Rough-winged Swallow</td>
<td>Stelgidopteryx serripennis</td>
<td>Stable, common</td>
<td></td>
</tr>
<tr>
<td>Tree Swallow</td>
<td>Tachycineta bicolor</td>
<td>Y Holes in dead trees, or in old sapsucker holes in live trees; also very frequently uses nest boxes</td>
<td>Climate Threatened</td>
</tr>
<tr>
<td>Barn Swallow</td>
<td>Hirundo rustica</td>
<td>Y Sheltered crevices in cliffs or shallow caves, open buildings, under eaves, under bridges or docks.</td>
<td>Stable, common</td>
</tr>
<tr>
<td>Chimney Swift</td>
<td>Chaetura pelagica</td>
<td>Stable, common</td>
<td></td>
</tr>
<tr>
<td>Black-capped Chickadee</td>
<td>Poecile atricapillus</td>
<td>Y Small natural cavity in rotten wood, sometimes old woodpecker hole; usually 5-20' above the ground.</td>
<td>Stable, common</td>
</tr>
<tr>
<td>house wren</td>
<td>Troglodytes aedon</td>
<td>Y Nest site is in any kind of cavity, including natural hollows in trees and stumps, old woodpecker holes.</td>
<td>Stable, common</td>
</tr>
<tr>
<td>blue-grey gnatcatcher</td>
<td>Polioptila caerulea</td>
<td>Y Nest site is in tree, more often deciduous on top of horizontal limb of tree, less often in fork of horizontal limb.</td>
<td>Stable, common</td>
</tr>
<tr>
<td>Golden-crowned Kinglet</td>
<td>Regulus satrapa</td>
<td>Stable, common</td>
<td></td>
</tr>
<tr>
<td>Ruby-crowned Kinglet</td>
<td>Regulus calendula</td>
<td>Stable, common</td>
<td></td>
</tr>
<tr>
<td>Brown Creeper</td>
<td>Certhia americana</td>
<td>Climate Endangered</td>
<td></td>
</tr>
<tr>
<td>White-breathed Nuthatch</td>
<td>Sitta carolinensis</td>
<td>Y Large natural cavity or old woodpecker hole, usually 15-60' above ground.</td>
<td>Climate Threatened</td>
</tr>
<tr>
<td>Bird Name</td>
<td>Scientific Name</td>
<td>Nesting Habitat</td>
<td>Status</td>
</tr>
<tr>
<td>---------------------------</td>
<td>----------------------</td>
<td>----------------------------------------------------------------------------------</td>
<td>----------------------</td>
</tr>
<tr>
<td>Eastern Bluebird</td>
<td>Sialia sialis</td>
<td>Natural hollow in tree, in old woodpecker hole, or in birdhouse. Usually nests fairly low (2-20' above the ground).</td>
<td>Vulnerable - stable</td>
</tr>
<tr>
<td>Swainson's Thrush</td>
<td>Catharus ustulatus</td>
<td></td>
<td>Stable, common</td>
</tr>
<tr>
<td>Gray-cheeked Thrush</td>
<td>Catharus minimus</td>
<td></td>
<td>Climate Threatened</td>
</tr>
<tr>
<td>Veery</td>
<td>Catharus fuscens</td>
<td></td>
<td>Climate Threatened</td>
</tr>
<tr>
<td><strong>UNIDENTIFIED THRUSH</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>American Robin</td>
<td>Turdus migratorius</td>
<td>Y Horizontal branch of tree or shrub, usually 5-25' above ground</td>
<td>Stable, common</td>
</tr>
<tr>
<td>Gray Catbird</td>
<td>Dumetella carolinensis</td>
<td>Y Dense shrubs, thickets, briar tangles, or low trees, usually 3-10' above the ground.</td>
<td>Stable, common</td>
</tr>
<tr>
<td>Brown Thrasher</td>
<td>Toxostoma rutum</td>
<td></td>
<td>Stable, common</td>
</tr>
<tr>
<td>Tennessee Warbler</td>
<td>Oreohtlypis peregina</td>
<td></td>
<td>Climate Threatened</td>
</tr>
<tr>
<td>Orange-crowned Warbler</td>
<td>Oreohtlypis celata</td>
<td></td>
<td>Stable, common</td>
</tr>
<tr>
<td>Nashville Warbler</td>
<td>Oreohtlypis ruficapilla</td>
<td></td>
<td>Climate Threatened</td>
</tr>
<tr>
<td>Yellow warbler</td>
<td>Setopphaga petechia</td>
<td>Y Upright fork of branches in shrubs, small trees, and briars from 2-60' above ground.</td>
<td>Stable, common</td>
</tr>
<tr>
<td>chestnut-sided warbler</td>
<td>Setopphaga pensylvanica</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Magnolia Warbler</td>
<td>Setopphaga magnolia</td>
<td></td>
<td>Climate Threatened</td>
</tr>
<tr>
<td>Yellow-rumped warbler</td>
<td>Setopphaga coronata</td>
<td></td>
<td>Stable, common</td>
</tr>
<tr>
<td>Palm Warbler</td>
<td>Setopphaga palmarum</td>
<td></td>
<td>Climate Endangered</td>
</tr>
<tr>
<td>Bay-breasted Warbler</td>
<td>Setopphaga castanea</td>
<td></td>
<td>Climate Threatened</td>
</tr>
<tr>
<td>Blackpoll Warbler</td>
<td>Setopphaga strata</td>
<td></td>
<td>Climate Threatened</td>
</tr>
<tr>
<td>Black-and-white Warbler</td>
<td>Minnilka varia</td>
<td></td>
<td>Climate Threatened</td>
</tr>
<tr>
<td>American Redstart</td>
<td>Setopphaga rutilia</td>
<td>Y In fork of tree, 4-70' above the ground.</td>
<td>Climate Threatened</td>
</tr>
<tr>
<td>Ovenbird</td>
<td>Seiurus aurocapilla</td>
<td></td>
<td>Climate Threatened</td>
</tr>
<tr>
<td>Common Yellowthroat</td>
<td>Geothlypis trichas</td>
<td>Y (less than 3' up) on tussocks of weeds, grasses, or shrubs, and among cattails, bulrushes, sedges in marshes.</td>
<td>Stable, common</td>
</tr>
<tr>
<td>Wilson's Warbler</td>
<td>Cardelina pusilla</td>
<td></td>
<td>Stable, common</td>
</tr>
<tr>
<td>swamp sparrow</td>
<td>Melospiza georgiana</td>
<td>Y In marsh vegetation such as cattail, sedge tussocks, or bushes, often directly above the water, up to 5' high</td>
<td>Climate Threatened</td>
</tr>
<tr>
<td>White-throated Sparrow</td>
<td>Zonotrichia albicollis</td>
<td></td>
<td>Climate Threatened</td>
</tr>
<tr>
<td>Chipping Sparrow</td>
<td>Spizella passerina</td>
<td>Y Usually in a conifer, (or deciduous tree) or sometimes on the ground; usually lower than 15' above the ground</td>
<td>Stable, common</td>
</tr>
<tr>
<td>Song Sparrow</td>
<td>Melospiza melodia</td>
<td>Y Usually on ground under clump of grass or shrub, or less than 4' above the ground, sometimes up to 10' or higher.</td>
<td>Stable, common</td>
</tr>
<tr>
<td>Dark-eyed Junco</td>
<td>Junco hyemalis</td>
<td></td>
<td>Stable, common</td>
</tr>
<tr>
<td>House Finch</td>
<td>Haemorrhous mexicanus</td>
<td>Y In conifers, ivy on buildings, holes in manmade structures, averaging about 12-15' above the ground.</td>
<td>Climate Threatened</td>
</tr>
<tr>
<td>Cedar Waxwing</td>
<td>Bombycilla cedrorum</td>
<td>?????</td>
<td>Stable, common</td>
</tr>
<tr>
<td>Scarlet Tanager</td>
<td>Piranga olivacea</td>
<td>Y In tree (usually deciduous), typically 20-30' above ground, sometimes lower or much higher.</td>
<td>Climate Threatened</td>
</tr>
<tr>
<td>Northern Cardinal</td>
<td>Cardanis cardinalis</td>
<td>Y Usually well hidden in dense shrubs, vines, or low trees, placed 3-10' above ground, sometimes higher.</td>
<td>Stable, common</td>
</tr>
<tr>
<td>Rose-breasted Grosbeak</td>
<td>Pheucticus ludovicianus</td>
<td></td>
<td>Vulnerable - stable</td>
</tr>
<tr>
<td>Indigo Bunting</td>
<td>Passerina cyanea</td>
<td>Y Nest site is usually 1-3' above ground, rarely up to 30' or more, in dense shrub or low tree.</td>
<td>Stable, common</td>
</tr>
<tr>
<td>Baltimore Oriole</td>
<td>Icterus galbula</td>
<td>Y Nest site is in tall deciduous tree, placed near end of drooping branch, usually 20-30' up, can be higher.</td>
<td>Climate Threatened</td>
</tr>
<tr>
<td>Red-winged Blackbird</td>
<td>Agelaius phoniceus</td>
<td>Y Marsh growth such as cattails or bulrushes, in bushes or saplings close to water, or in dense grass in fields.</td>
<td>Stable, common</td>
</tr>
<tr>
<td>Brown-headed Cowbird</td>
<td>Molothrus ater</td>
<td>Y</td>
<td>Stable, common</td>
</tr>
<tr>
<td>Common Grackle</td>
<td>Quiscalus quisquilla</td>
<td>?????</td>
<td>Stable, common</td>
</tr>
<tr>
<td>American Goldfinch</td>
<td>Spinus tristis</td>
<td>Y In deciduous shrubs or trees, sometimes in conifers or in dense wees, less than 30' above the ground.</td>
<td>Stable, common</td>
</tr>
<tr>
<td>American Woodcock</td>
<td>Scolopax minor</td>
<td>? On ground, usually in open woods or overgrown field, in area with many dead leaves.</td>
<td>Stable, common</td>
</tr>
</tbody>
</table>
THIS EMAIL IS NOT A PROJECT CLEARANCE

This information has recently been updated, please read the note below carefully.

This message simply reports the results of the cultural resources database search you requested. The database search produced results for only previously known archaeological sites and historic properties.

No archaeological sites were identified in a search of the Minnesota Archaeological Inventory and Historic and Architectural Inventory for the search area requested. A report containing the history/architectural properties identified is attached.

The result of this database search provides a listing of recorded archaeological sites and historic/architectural properties that are included in the current MN SHPO databases. Because the majority of archaeological sites in the state and many historic/architectural properties have not been recorded, important sites or properties may exist within the search area and may be affected by development projects within that area. Additional research, including field survey, may be necessary to adequately assess the area's potential to contain historic properties.

Properties that are listed in the National Register of Historic Places (NRHP) or have been determined eligible for listing in the NRHP are indicated on the reports you have received. The following codes on the reports you received are:

**NR** – National Register listed. The properties may be individually listed or may be within the boundaries of a National Register District.

**CEF** – Considered Eligible Findings are made when a federal agency has recommended that a property is eligible for listing in the National Register and MN SHPO has accepted the recommendation for the purposes of the Review and Compliance Process. There properties need to be further assessed before they are officially listed in the National Register.

**SEF** – Staff eligible Findings are those properties the MN SHPO staff considers eligible for listing in the National Register, in circumstances other than the Review and Compliance process. **DOE** – Determination of Eligibility is made by the National Park Service and are those properties that are eligible for listing in the National Register, but have not been officially listed.
CNEF – Considered Not Eligible Findings are made during the course of a Review and Compliance process. For the purposes of the review a property is considered not eligible for listing in the National Register. These properties may need to be reassessed for eligibility under additional or alternate contexts.

Properties without NR, CEF, SEF, DOE, or CNEF designations in the reports you received may not have been evaluated and therefore no assumption to their eligibility can be made. Integrity and contexts change over time, therefore any eligibility determination made ten (10) or more years for the date of the current survey are considered out of date and the property will need to be reassessed.

If you require a comprehensive assessment of a project’s potential to impact archaeological sites or historic/architectural properties, you may need to hire a qualified archaeologist and/or historian. If you need assistance with a project review, please contact Kelly Gragg-Johnson in Review and Compliance @ 651-201-3285 or by email at kelly.graggjohnson@state.mn.us.

The Minnesota SHPO Survey Manuals and Database Metadata can be found at https://mn.gov/admin/shpo/identification-evaluation/

MN SHPO research hours are 8:30 AM – 4:00 PM Tuesday-Friday. Please call ahead at 651-201-3295 to ensure staff is available to assist you, if necessary.

The Office is closed on Mondays.

From: Kelly O'Dea <kodega@eminnetonka.com>
Sent: Thursday, July 19, 2018 11:06 AM
To: MN_MNIT_Data Request SHPO <DataRequestSHPO@state.mn.us>
Subject: RE: City of Minnetonka

Jesse,

Lone Lake Park is in township 117, range 22, section 35.

Kelly O'Dea | Recreation Director
City of Minnetonka | eminnetonka.com
Office: 952-939-8360

From: MN_MNIT_Data Request SHPO <DataRequestSHPO@state.mn.us>
Sent: Thursday, July 19, 2018 10:15 AM
To: Kelly O'Dea <kodega@eminnetonka.com>
Subject: RE: City of Minnetonka
Hi Kelly,

Would it be possible for you to send me a list of all townships, ranges, and sections that your search area falls within?

Thank you, and let me know if you have any questions.

Jesse

From: Kelly ODea <kodea@eminnetonka.com>
Sent: Wednesday, July 18, 2018 2:10 PM
To: MN_MNIT_Data Request SHPO <DataRequestSHPO@state.mn.us>
Cc: Carol Hejl <chejl@eminnetonka.com>; Sara Woeste <swoeste@eminnetonka.com>
Subject: City of Minnetonka

Good afternoon,

The City of Minnetonka is proposing the construction of a 4.7 mile long singletrack mountain bike trail in a Lone Lake Park, Minnetonka. In anticipation of a possible EAW, we are requesting a search of your inventory and reports databases to see if there are historic resources or information about possible archaeological or historical resources at the site we should be aware of. For context, the construction of the trail would include excavation no more than 3’ in width and some minimal depth cutting into the hillside to create an out-sloped trail tread. The site has formerly been used for agriculture and as a ski hill. A Google Maps link to the park and a map showing the project area are included below for your reference. Please let me know if you have any questions or need any additional information from me.

https://www.google.com/maps/place/Lone+Lake+Park/@44.8998927,-93.43431.16.02z/data=!4m5!3m4!1s0x87f6f64edd8edc7:0x92015c9c20965fb18m2!3d44.9013516!4d-93.4275339

We have previously reached out to Amanda Gronvohd and Jim Jones in the Office of the State Archeologist. Amanda noted that there are no burial grounds or cemeteries recorded within the project area, but that there is high potential for unrecorded archaeological and cemetery sites in this vicinity.
FYI...

Jesse Izquierdo | Recreation Program Manager
City of Minnetonka | eminnetonka.com
Office: 952-939-8351

From: Gronhovd, Amanda (ADM) <amanda.gronhovd@state.mn.us>
Sent: Thursday, April 5, 2018 2:07 PM
To: Jesse Izquierdo <jizquierdo@eminnetonka.com>; Jones, Jim (MIAC) <jim.jones@state.mn.us>
Subject: RE: Proposed Trails in Minnetonka

Jesse —

The Office of the State Archaeologist doesn't have any sites or cemeteries recorded within the red area, but there is a very high potential for unrecorded archaeological and cemetery sites in this vicinity. I strongly recommend that you plan on having the area surveyed by an archaeologist prior to development.

Please let me know if you have questions or concerns!
Amanda

DEPARTMENT OF ADMINISTRATION

Amanda Gronhovd | State Archaeologist
Fort Snelling History Center
200 Tower Avenue
Saint Paul, MN 55111
(612) 725-2411
Amanda.Gronhovd@state.mn.us
http://mn.gov/admin/archaeologist

From: Jesse Izquierdo [mailto:jizquierdo@eminnetonka.com]
Sent: Friday, March 16, 2018 12:35 PM
To: Jones, Jim (MIAC) <jim.jones@state.mn.us>; Gronhovd, Amanda (ADM) <amanda.gronhovd@state.mn.us>
Subject: Proposed Trails in Minnetonka

Amanda and Jim,
The City of Minnetonka is in the process of conducting a feasibility study to evaluate if mountain bike trails could be added to Lone Lake Park in Minnetonka. We are a month away from completion of this study and wanted to check in with you to see if there were any potential conflicts with Indian burial grounds in the proposed location(s). Both of your contacts were passed onto me by my coworker, Jo Colleran - Manager of Natural Resources. I have attached a map below. The areas within the red lines are where we are currently looking at adding trails.

Please let me know what additional information you need from me and what to expect from this process?

Sincerely,

Jesse Izquierdo | Recreation Program Manager
City of Minnetonka | eminnetonka.com
14600 Minnetonka Blvd. | Minnetonka, MN 55345
Office: 952-939-8351
Submitted on behalf of petitioners

August 1, 2018

Minnetonka City Council
14600 Minnetonka Boulevard
Minnetonka, MN 55345

Subject: Technical Memorandum – Proposed Lone Lake Park Mountain Bike Trails

Dear City Council Members,

The City of Minnetonka has received a “Petition for the Preparation of an Environmental Assessment Worksheet Regarding proposed Mountain Biking Trails in Lone Lake Park, Minnetonka Minnesota.” The attached technical memorandum has data and analyses to inform the City Council and assist in your decision about the need for an Environmental Assessment Worksheet.

If you need more information, please contact me at the number below, or contact the petitioners:

Maureen Hackett, M.D.
Protect Our Minnetonka Parks
(612) 991-7737

Sincerely,

Stu Grubb, P.G.
Senior Project Manager
Project Name | Lone Lake Park – Proposed Mountain Bike Trail  
To | Minnetonka City Council  
Cc | Protect Our Minnetonka Parks, Inc.  
From | Stu Grubb, PG  
Regarding | Environmental Effects/Need for an Environmental Assessment Worksheet

Executive Summary

Emmons & Olivier Resources, Inc. (EOR) reviewed the Minnetonka Mountain Bike Study prepared by Minnetonka City Staff and Short Elliott Hendrickson Inc. (SEH). The purpose of the review is to determine whether the Lone Lake Park mountain bike trail, as proposed, has the potential to cause material adverse effects or impacts upon the environment. We also made our own observations and assessments at Lone Lake Park. We focused on the following areas of concern:

- **Water Resources.** Wetlands, lakes, and streams within Lone Lake Park will be adversely affected by the proposed mountain bike trail. Due to the prevalence of wetland features and hydric soils within the park, the City of Minnetonka should engage in a wetland delineation review of the entire construction corridor associated with the trail. The Minnesota Wetland Conservation Act requires permitting of temporary and permanent fill or changes in structure or function of a wetland. Crossing of Public Waters will similarly require permitting from the MN DNR.

  Lone Lake balances on the threshold of a mesotrophic and eutrophic (i.e. lots of algae) trophic status. Changes in the surrounding small watershed that could increase sedimentation or nutrient loading to the lake, such as mountain bike trails, could shift the lake to a permanently eutrophic state. This would result in large algal blooms, reduction of light penetration and water clarity, and, consequently, a reduced submergent aquatic plant community and habitat for water birds.

  The South Fork of Nine Mile Creek is already adversely impacted by erosion and sedimentation from the existing trails in the park. Sediment from some of the proposed mountain bike trails would also be deposited in the creek, further degrading the aquatic habitat.

- **Erosion.** Regardless of trail design, erosion will occur due to increased impervious and unvegetated surface area resulting from mountain bike trails. Even well-managed and designed trails are likely to experience erosional issues and tree loss over time. The proposed mountain bike trails will also inevitably attract hikers, compounding the damage.

  Concern over erosional impact from mountain biking was documented by the City of Minnetonka twenty years ago. “Left unchecked, these impacts will, over time, undermine the integrity of the natural system in the park where this activity occurs. Excessive compaction caused by mountain bikes precludes growth of soil-stabilizing vegetation,” (City of Minnetonka, Parks, Open Space, and Trail System (POST) Plan, adopted 2001). The City recently conducted a Land Manager Survey of other parks, but Battle Creek Regional Park was not included in the survey. Battle Creek Regional Park has severe erosional problems related to mountain bike trails.

  The potential trail layout intersects existing trails over 50 times. These intersections could result in a two-fold problem: 1) A cumulative stormwater effect that could significantly increase current erosional issues and simultaneously create new erosional issues, and 2) Trail navigation could be
very confusing and lead to biking activity (unintentionally or intentionally) on hiking trails not
designated for mountain biking and hiking activity on mountain bike trails.

- **Wildlife Habitat.** Lone Lake Park encompasses a variety of upland habitat types and is a large
contiguous area (146 acres) of relatively high quality natural areas. As a result, the park is known
to provide valuable habitat for a variety of species and is likely to support habitat for many species
yet to be studied or documented within the park. Based on length and location of the proposed trail
in association with the existing wildlife populations, natural communities, and likely users of the
proposed trail systems, there are several impacts the City of Minnetonka should consider and
thoroughly investigate before finalizing a trail design or identifying whether a mountain biking trail
is compatible with the natural resources of Lone Lake Park.

The City of Minnetonka should consider the costs of potential increased spread of invasive species,
especially in light of the expense and time incurred by park staff and Minnetonka residents to
manage invasive species at Lone Lake Park. Dense dissection of the park by trails also has potential
to limit habitat suitability for larger wildlife like foxes and coyotes. Fragmentation effects are more
serious when you also consider usage frequency, speeds, and unpredictability of biking. The City
of Minnetonka needs to determine the impacts of fragmentation created physically on the landscape
and as a product of intense and unpredictable usage, and how the anticipated levels of usage will
impact wildlife at different times of day and year (e.g., prime forage times, mating and nesting
season for various wildlife).

- **Wildlife.** The rusty patched bumble bee is a federally listed endangered species. The Twin Cities
metropolitan area is one of the last remaining places it is still documented. The presence of this
endangered species in Lone Lake Park is likely due to the park’s size, the different habitats present,
the lack of extensive pesticide use, the park providing protection from pesticide use in neighboring
land, and the years of restoration efforts resulting in a high diversity of flowering plants and high
quality nesting and overwintering habitat.

The conclusions of the SEH (2018) report regarding the absence rusty patched bumble bee habitat
in trail areas are not correct. Suitable foraging habitat (critical spring and fall floral resources
abundant on the wooded slopes of the park where the trails are proposed), nesting habitat, and
overwintering habitat occur within the park. In order to properly assess the rusty patched bumble
bee habitat in Lone Lake Park, it is recommended that a careful and thorough survey for additional
foraging and nesting sites be conducted prior to any alteration of habitat.

Four bird Species in Greatest Conservation Need (SGCN) have been recorded for Lone Lake Park
and also prefer habitats with low disturbance and intact quality woodland: Eastern wood-pewee,
northern rough-winged swallow, veery, and ovenbirds. Breeding birds (those known to nest in the
park) include 48 different species, 41 of which nest in woodland habitats. The large intact
woodland is very important to bird species, especially those that require mature, high quality forest
areas for habitat.

Due to the variety of tree species and mature nature of parts of the forest, suitable habitat is available
for several species of Minnesota bats. In fact, observations of bats have been documented by park
visitors. It is well documented by the MN DNR and Minnesota Department of Transportation (MN
DOT) that most species of bats in the state are in decline.
The wetland, open-water, forest mosaic within the park is particularly suitable for several species of amphibians and reptiles. These species are particularly vulnerable when they emerge in the spring. They are typically lethargic and very slow; as such, fast moving bikes would be a very difficult obstacle to avoid or escape. Trails near water features used by frogs and turtles will inevitably lead to collisions between wildlife and bikers. Trails will also create fragmentation between mating, foraging, and overwintering habitats.

- **Traffic and Noise.** The park is designated as an area of passive recreation, which is also not compatible with the proposed mountain bike trails. Traffic increases will not only come from mountain bikes, but also the cars that bring mountain bikers to the park. The City should invest in traffic and noise studies to identify and quantify the level of increased activity and noise the park would incur with the construction of mountain bike trails.

- **Archaeological, Historical, and Cultural Resources.** The park does not appear to have been inventoried by a professional archaeologist or historian for archaeological or other cultural resources. There is a moderate to strong potential for previously unrecorded archaeological resources to occur within the Park, based on landscape position and setting, distance to permanent water, and historical records. Before the proposed trail network is installed, project plans should be submitted to the MnSHPO, Minnesota Office of the State Archaeologist, and the Indian Affairs Council for review and assessment of potential impacts to archaeological and cultural resources. This should require an intensive archaeological and cultural resources survey of the proposed trail network to assess potential impacts and develop an informed decision based on project plans. Development of the proposed trails system without the necessary reviews by the MnSHPO, Minnesota Office of the State Archaeologist, and the Indian Affairs Council, and without consideration for preserving significant archaeological resources may result in the trails being non-compliant with the *Field Archaeology Act* and the *Minnesota Historic Sites Act.*

- **Cumulative Effects.** The proposed mountain bike trail and its environmental effects should not be viewed as an isolated project. They must be viewed in the larger context of other projects in and around the park, now and in the future. The pickle ball courts currently under construction are of particular concern. Stormwater modeling is necessary to determine the effect of the increased impervious surface of the pickle ball courts, together with the proposed 0.8+ acres of mountain bike trail, will have on future water levels in Lone Lake. Cumulative traffic and parking issues must also be addressed.

Our conclusion is that the proposed mountain bike trail has the potential to cause significant adverse material impacts to natural resources in Lone Lake Park. Minnesota Rule 4410.1100, Subd. 6 states in part: “The RGU shall order the preparation of an EAW if the evidence presented by the petitioners, proposers, and other persons or otherwise known to the RGU demonstrates that, because of the nature or location of the proposed project, the project may have the potential for significant environmental effects.” [Emphasis added.] Based on the facts of this case, an Environmental Assessment Worksheet must be ordered. Furthermore, environmental review must be completed prior to the City Council’s decision to build a mountain bike trail.
1. **Introduction and Purpose**

The City of Minnetonka has proposed construction of a mountain bike trail in Lone Lake Park. The purpose of this memorandum is to examine potential environmental impacts from the construction and use of the proposed trail, and to determine whether an Environmental Assessment Worksheet must be completed, before the trail is approved and constructed.

2. **Water Resources**

Water resources within Lone Lake Park will be adversely affected by the proposed mountain bike trail. Effects will vary for wetlands, lakes, and streams.

**Wetlands**

Several acres of wetland are found within the park, including one Minnesota Department of Natural Resources (MN DNR) Public Water Wetland located along the western edge of the park, along with seasonally flooded basins, shallow marsh, deep marsh, shallow open water, shrub swamp, and wooded swamp communities. The western portion of the park is almost entirely mapped as wetland; wetland features also extend south and east of Lone Lake. It is possible additional wetlands are located within the park and have not been mapped based on extent of hydric soils and park topography. Wetlands are associated with hydric soils and many areas across the eastern and western portions of the park are associated with All Hydric or Predominately Hydric soil classification. Hydric soils tend to be saturated or inundated for extended periods of time and will be more susceptible to compaction, rutting, and erosion.

Wetland features within the park are highly valuable habitat for wildlife, provide flood attenuation along the creek, and are important landscape feature for filtering and mitigating movement of sediments and pollution to other surface waters. Many of these wetlands are isolated, ephemeral, and do not contain fish; providing valuable habitat to amphibians and reptiles. Filling or damage to wetlands within the park would reduce the ability of these systems to provide these important ecosystem services.

Due to the prevalence of hydric soils and wetland features within the park, the City of Minnetonka should engage in a wetland delineation review of the entire construction corridor associated with the trail. The Minnesota Wetland Conservation Act requires permitting of temporary and permanent fill or changes in structure or function of a wetland. Furthermore, additional crossing of Public Waters will similarly require permitting from the MN DNR. The City should avoid all crossings of wetlands or areas where concentrated overland flow from rain or snowmelt may occur, to prevent degradation of important habitat.

**Lone Lake**

Lone Lake is located in the north-central portion of the park and extends outside of the park boundary to the north. This 17-acre kettle lake is considered a shallow lake (on average less than 15 feet deep) and is a MN DNR Public Water. This lake is highly productive, supporting a variety of submergent, floating, and emergent aquatic plants. These dense communities of aquatic plants, along with adjacent shrubs and trees provide foraging and nesting habitat for ducks, green herons, great blue herons, and other water birds; they also provide important habitat for aquatic invertebrates, such as dragonflies and damselflies. This shallow lake balances on the threshold of a mesotrophic and eutrophic (i.e. lots of algae) trophic status. Changes in the surrounding small watershed that could increase sedimentation or nutrient loading to the lake, such as mountain bike trails, could shift the lake to a permanently eutrophic state. This would result in large algal
blooms, reduction of light penetration and water clarity, and, consequently, a reduced submergent aquatic plant community and habitat for water birds. High vegetative cover on wooded slopes and installed stormwater features currently help to reduce nutrient and sediment inputs to the lake.

**South Fork of Nine Mile Creek**

The South Fork of Nine Mile Creek crosses through the western third of the park, meandering north to south. The stream is considered an altered waterway by MN DNR and is also a Public Watercourse. This stream is fairly shallow and clear, with sandy bottoms; providing habitat for small fish, amphibians, and a variety of aquatic insects. The creek is already adversely impacted by erosion and sedimentation from the existing trails in the park. Deposition of finely crushed rock from the trails is visible from trail crossings (Figure 1). Sediment from some of the proposed mountain bike trails could also be deposited in the creek, further degrading the aquatic habitat.

![Figure 1. Erosion of a Lone Lake Park maintained trail and sedimentation in Nine Mile Creek.](image)
Soils associated with woodland areas within the park consist of sandy loam and are friable [meaning the soils are easily crumbled or disturbed]. Additionally, as previously mentioned, many soils within the park are hydric, and are susceptible to compaction, rutting, and erosion. Regardless of trail design, erosion will occur due to increased impervious and un-vegetated surface area resulting from mountain bike trails. The question is whether erosion will be significant to the extent it has deleterious effects on receiving water features or habitat and natural resources adjacent to trails. Although some research papers identify per area erosive impacts of biking area similar, or even less, when compared to hiking or horseback riding, erosive actions of braking around bends and downhill can be greater than that of hiking (Marion and Wimpey, 2018). Most studies do not consider the inevitability of trail widening, especially around corners over time and do not account for soil loss and around trees and damage to root systems that could result in loss of trees and soil stabilization (Figure 2). Even well-managed and designed trails are likely to experience erosional issues and tree loss over time. Finally, the proposed mountain bike trails will inevitably attract hikers, compounding the damage.

For example, based on the Land Manager Survey results included as Appendix A of the Minnetonka Mountain Bike Study, 4 of the 7 people surveyed identified erosion and downed trees as an ongoing issue, even with MORC actively managing trails. Several people specifically identified muddy and wet conditions as a particular issue when dealing with trail erosion and maintenance and also listed difficulties in managing/preventing ridership when soil conditions are susceptible to rutting and erosion.

Battle Creek Regional Park was not included in the conducted survey and has severe erosional problems related to mountain bike trails (Figure 2 and Figure 3). Battle Creek is similar in soil type and has steep slopes similar to that found in Lone Lake Park. It also has an existing system of paved and unofficial hiking trails, further paralleling the conditions at Lone Lake Park. The severity of the problem highlights the need for thoughtful and detailed consideration of the potential natural resource impacts of the actual trail design, not just conceptual plans.
Concern over erosional impact from mountain biking has been documented by the City of Minnetonka twenty years ago. “Left unchecked, these impacts will, over time, undermine the integrity of the natural system in the park where this activity occurs. Excessive compaction caused by mountain bikes precludes growth of soil-stabilizing vegetation,” (City of Minnetonka, Parks, Open Space, and Trail System (POST) Plan, adopted 2001). Members of Protect Our Minnetonka Parks indicated that several of the existing unofficial trails, currently experiencing erosion and causing sediment deposition, are remnant trails resultant for unauthorized mountain biking activity and a previously existing ski slope. These trails often have a very steep trajectory down slope and are channeling stormwater flows on the slopes creating erosional issues in the park many years after activities mountain biking was disallowed.

In addition, the potential trail layout intersects existing trails over 50 times (Figure 4). These intersections could result in a two-fold problem: 1) A cumulative stormwater effect that could significantly increase current erosional issues and simultaneously create new erosional issues, and 2) Trail navigation could be very confusing and lead to biking activity (unintentionally or intentionally) on hiking trails not designated for mountain biking. At Battle Creek Regional Park, Ramsey County Staff have indicated issues with mountain bikers creating new trails or utilizing some of the pre-existing unofficial hiking trails for biking, indicating precedent for such complications in a park with similar trail systems. Bikers are also known to create more challenging features by creating ramps and jumps using woody debris, rocks, and soil from habitat near the trail system which can exacerbate trampling and soil disturbance outside of the official trail corridor.
Figure 4. Locations where the proposed trail intersects existing trails (Stantec, 2018).

Potential for unauthorized trail usage and creation in Lone Lake Park is further complicated by the forest structure. Survey results and discussion with Dakota County staff indicate that trail systems with dense shrubby understory, often of buckthorn, force bikers to stay on designated paths and are less prone dramatic trail widening. However, due to extensive invasive shrub management, Lone Lake Park has a healthy herbaceous layer with few shrubs; providing little interference or deterrence to wandering intentionally or unintentionally off-trail.

4. Wildlife Habitat

Lone Lake Park encompasses a variety of upland habitat types and is a large contiguous area (146 acres) of relatively high quality natural areas. As a result, the park is known to provide valuable habitat for a variety of species and is likely to support habitat for many species yet to be studied or documented within the park. The following section outlines known and suspected wildlife communities within the park, identifies specific threats to wildlife related to mountain bike trail development, and outlines suggested actions for the city to consider regarding investigation and mitigation of these potential impacts.

Habitat Classification

Southern Dry-Mesic Oak Forest

Based on field visits and assessment by both SEH and EOR staff, woodland within the park has high vegetative diversity and low invasive species cover for an urban park. For instance, SEH, identified 23 tree species. Although SEH had previously described the forest floor as sparsely vegetated, based on observations during the growing season, this is apparently inaccurate. Although cover is not continuous, it
is robust and diverse. EOR identified hepatica, Clayton’s sweetroot or sweet cicely, wood anemone, interrupted fern, lady fern, early meadow rue, columbine, hog peanut, jack-in-the-pulpit, spring beauty, culver’s root, Canada golden rod, wild bergamot, ironweed, grey headed coneflower, black-eyed Susan, wild sarsaparilla, wild ginger, bloodroot, and wild geranium during a brief one-hour hike through the wooded areas of the park. Many of these herbaceous plants are spring ephemerals, providing important foraging opportunities for pollinators in the early spring (Holms 2017; USFWS 2017a, b, c).

Based on species composition, canopy structure, and review of historical imagery, the forests appear to be succeeding to mature forest and with proper management could provide an extremely valuable habitat to many species of wildlife (MNDNR 2005). Mature areas and pockets of forest within the park provide important habitat diversity, not only as a result of species composition but also as a result of diversified age classes, snags and fallen trees, and the resulting diversification of microhabitat structure. Based on presentations provided by the MN DNR at the 2018 annual Native Plant Society Symposium, some birds, mammals, plants, and lichens are specialized to the habitats available in mature to old growth forests, suggesting that the more mature areas of Lone Lake Park could provide a very rare ecological niche in an overwhelmingly urban setting.

The ridge adjacent to and west of Lone Lake and pockets on slopes below water tower ridge are remnant woodland from prior to 1930. These areas, in particular, are important to protect given their age structure. As currently designed, the ridges west of Lone Lake have the highest density of mountain bike trails in the park. Remaining forest in the park appears to be less than 50 years old; however, canopy composition and structure suggest younger areas of forest are succeeding to a mature closed-canopy forest. Considering the potential for erosion, harm to tree roots, and introduction of invasive species, woodland areas of high integrity and high nativity should not be considered for mountain bike trail construction.

Grassland/Wet Meadow

Wet prairie and grassland habitat is found in several locations across the park. These areas are primarily remnant restoration areas or associated with rain gardens. Although these spaces are not remnant or native, they still harbor many flowering forbs important for pollinators during the summer and early fall and provide robust herbaceous cover for birds and other wildlife all year round (Holms 2017; USFWS 2017a, b, c).

Wetlands/Water Bodies

As mentioned previously, the water features within the park are valuable habitat to numerous water birds, amphibians, reptiles, and insects. Among the birds documented several are likely to rely on these water features including: wood duck, mallard, hooded merganser, pied-billed grebe, double-crested cormorant, great blue heron, great egret, green heron, killdeer, spotted sandpiper, Caspian tern, Forester’s tern, herring gull, bald eagle, flycatchers, common yellowthroat, American woodcocks, red-wing blackbird, swamp sparrow, osprey, ring-billed gull, swans, and geese.

Potential Impacts to Habitat Integrity

Based on length and location of the proposed trail in association with the existing wildlife populations, natural communities, and likely users of the proposed trail systems, there are several impacts the City of Minnetonka should consider and thoroughly investigate before finalizing a trail design or identifying whether a mountain biking trail is compatible with the natural resources of Lone Lake Park. The following items are of particular concern to habitat integrity:
Invasive Species

The City of Minnetonka has invested considerable time and money, including substantial citizen volunteer efforts, to remove and manage invasive species within the city park system. In particular, Lone Lake Park has undergone extensive removal and management of buckthorn as well as efforts to restore wet meadow areas and upland prairie. As a result of these thoughtful efforts, Lone Lake Park has a healthy understory of native herbaceous vegetation, especially in wooded areas and fewer invasive plants than many Metro area parks.

According to the SEH Lone Lake Park Biological Assessment:

“Invasive plants thrive in disturbed conditions, where they can take advantage of opportunities to get established and outcompete native species. Inclusion of mountain bike trails will disturb the soils, and create corridors by which invasive species may spread … It is likely that increasing the amount of soil disturbance will promote the spread and establishment of invasive species, as it will create conditions more favorable to them than native species. Transport from other locations is also a serious concern, as it may introduce species not currently a concern.” (SEH, 2018. Page 14.)

Currently, the park has known populations of reed canary grass, garlic mustard, leafy spurge, black locust, exotic honey suckle, and buckthorn. Although these populations are managed or concentrated in wetland areas, there is viable seed bank in the park that could be transferred to other areas via shoes and bike tires. It is also possible, since many of the other metro area mountain biking trails are often buffered by robust invasive species populations, transfer of invasive seeds from outside the park could also occur.

Introduction of garlic mustard to interior forested areas of the park would be particularly upsetting as it is very aggressive and difficult to treat and manage. It is currently in the park along disturbed areas of the woodlands and likely to spread with increased disturbance in forested areas. Scientific articles and publications often refer to this species as a tragedy to deciduous forests due to it ferocious spread and potential to decimate native plant communities (Czarapata 2005). Introduction of leafy spurge would be of similar consequence in grassland and wet prairie areas. Concern for spread of these exotic plants is validated by the consequences observed in Terrace Oaks Park in Burnsville, Minnesota, where the City of Burnsville has documented the spread of garlic mustard along the mountain bike trail corridor.

Reintroduction of buckthorn to the forested areas, especially steep slopes, could have a variety of consequences. By out-competing native plants for light, water, and nutrients, buckthorn inhibits regeneration of native tree and shrub seedlings, and reduces herbaceous ground cover. As a result, dense monoculture thickets of buckthorn reduce habitat complexity and plant diversity; reducing forage for native pollinators and detritus important to frogs. Furthermore, buckthorn berries have a laxative nature, resulting in little benefit to berry-consuming birds and wildlife. In terms of water quality, the resulting deterioration of the surface litter layer and reduction of herbaceous understory cover will reduce infiltration and increase erosion and sedimentation.

The City of Minnetonka should consider the costs of potential invasions, especially in light of the expense and time incurred by park staff and Minnetonka residents to manage invasive species at Lone Lake Park. Additionally, invasions can have long lasting consequences for habitat and water quality that should be quantified. The City should also consider methods for mitigating introduction and enforcement of rules to prevent invasive species spread on trails.
Fragmentation

The proposed 4.7 miles (24,816 ft.) of mountain bike trails at 5-6 feet (124,080 sq. ft. to 148,896 sq. ft.) of initial disturbance would result in the initial direct loss of 2.85 to 3.42 acres of native forest vegetation in the park. Although, the final trail width is fairly narrow (2.5 ft.) and would likely result in negligible fragmentation of the tree canopy, the addition of mountain bike trails creates a dense network of trails throughout all habitats and areas of the park, creating continuous interruption of the herbaceous layer. With the additional trails, few areas of the park will exceed more than 500 feet from a trail, parking lot, or adjacent residential development. In some areas, the trails are only 15 to 20 feet apart. This intensive dissection of the park has potential to limit habitat suitability for larger wildlife like foxes and coyotes and smaller wildlife such as toads. According to SEH’s Lone Lake Park Biological Assessment, fragmentation effects are more serious when you also consider usage frequency, speeds, and unpredictability of biking:

“This currently, the interaction of wildlife with walkers or joggers over a 2-mile trail route is infrequent, and likely predictable to the animal. With active bike trails, you have an increase in the frequency of interaction, as there would be a greater length of trails, and they would be more concentrated. It is expected that the trail users would be more likely to encounter a greater number of animals than a pedestrian, due to the greater distance traveled over a period of time. Because of the speed of travel, the length of the trails, and concentration of the trails within desired areas, there is a greater opportunity for bike riders to be disruptive to wildlife … but for some species the inclusion of bike trails may be sufficient for them to be displaced.” (SEH, 2018. Page 15.)

This is particularly concerning when usership rates of other Metro area parks are examined. Based on the survey included in the Minnetonka Mountain Bike Study, usership at Metro mountain biking trails ranged from 0-500/day, depending on season. An average of the low estimates provided by each park is a ridership of 47 persons/day (Min 0, Max 200, n=7). This is could be a highly disruptive increase in disturbance to wildlife when trail length and timing of usage is considered, given it is likely trail usage will be higher at particular time and on particular days.

The City of Minnetonka needs to determine the impacts of fragmentation created physically on the landscape, and as a product of intense and unpredictable usage, and how the anticipated levels of usage will impact wildlife at different times of day and year (e.g., prime forage times, mating and nesting seasons for wildlife).
5. Wildlife
Rusty Patched Bumblebee

Background Information

The rusty patched bumble bee is a federally listed endangered species. The species has exhibited a 92.54% relative abundance decline over the past decade. Its historical range covered the Upper Midwest, Northeast, as well as a corridor south into Georgia along the Appalachian Mountains. The Twin Cities metropolitan area is one of the last remaining places it is still documented. The presence of this endangered species in Lone Lake Park is likely due to the park’s size, the different habitats present, the lack of extensive pesticide use, the park providing protection from pesticide use in neighboring land, and the years of restoration efforts resulting in a high diversity of flowering plants, and high quality nesting and overwintering habitat (Figure 5).

![Rusty patched bumble bees in Lone Lake Park](image)

Figure 5. Rusty patched bumble bees photographed in Lone Lake Park in July 2018

The rusty patched bumble bee is known to nest below ground in woodlands or woodland edges and has a long foraging season, starting in early to mid-May in central Minnesota (queen emergence from hibernation) to late September or early October. According to the USFWS (2017a), “Queen hibernation occurs from October until May … in small chambers in loose soil and/or leaf litter just a few centimeters below the ground or they use compost or rodent hills/mounds…Overwintering habitat is often in or near woodlands or woodland edges that contain spring blooming herbaceous plants, shrubs, and trees, which allows proximity to woodland spring blooming flowers, particularly spring ephemeral wildflowers, a critical early spring food source.” In addition IUCN (2018) suggests “All known and potential sites of this species should be protected from pesticides, habitat alteration, grazing, and other threats that can interfere
with the habitat requirements of this species (availability of nectar and pollen throughout the colony season, underground nest sites, and hibernacula).”

**Lone Lake Park Observations**

Heather Holm is a resident of Minnetonka and is also a national expert on pollinators and specifically bees. Ms. Holm conducted informal pollinator surveys at Lone Lake Park since 2014. Flower-visiting insects including bees, wasps, butterflies, moths, beetles, and flies were recorded for each survey date. All survey dates were between 1 and 2.5 hours in length and between the months of June and September. All species listed were photographed and identified to genus or species. The results are summarized in Table 1.

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of Surveys Conducted</th>
<th>Survey Window</th>
<th>Number of Pollinator Species Observed</th>
</tr>
</thead>
<tbody>
<tr>
<td>2017</td>
<td>8</td>
<td>Between June 19 and July 22</td>
<td>20</td>
</tr>
<tr>
<td>2016</td>
<td>16</td>
<td>Between June 2 and September 13</td>
<td>44 (RPBB)</td>
</tr>
<tr>
<td>2015</td>
<td>5</td>
<td>Between June 30 and August 3</td>
<td>21</td>
</tr>
<tr>
<td>2014</td>
<td>10</td>
<td>Between July 6 and September 8</td>
<td>34</td>
</tr>
</tbody>
</table>

A worker rusty patched bumble bee was documented on July 21, 2016. In 2018, between July 14 and July 17 and on July 20, several worker rusty patched bumble bee workers were observed and documented in multiple locations within Lone Lake Park, demonstrating that there is at least one, and possibly more than one, active colony nesting within, or in close proximity to the park. Typical bumble bee foraging ranges occur between 500 yards and 1 mile, although flight range studies have demonstrated that bumble bees can find their way back to nests when transported up to 7 miles away. Bumble bees will balance energy expenditure and consuming forage resources seeking out the closest opportunities to their nesting sites.

On May 23, 2018, Ms. Holm walked the park and briefly assessed the herbaceous plants (absent from the SEH [2018] report). There are several primary spring pollen/nectar plants for the rusty patched bumble bee growing in the wooded slopes of the park where the trails are proposed including *Geranium maculatum*, *Hydrophyllum virginianum*, and *Aquilegia canadensis*. Fall forage plants present on the same slopes include *Ageratina altissima* and *Solidago flexicaulis*. Because queen rusty patched bumble bees, after emerging from hibernation, initially forage in woodlands on spring-flowering woodland wildflowers, it is possible that nest initiation may occur in close proximity to the initial source of forage. However, bumble bee nests are very difficult to find.

**Recommendations**

The conclusions of the SEH (2018) report regarding rusty patched bumble bees are not correct. The report states that "Nectar producing vegetation is generally absent from the wooded areas, as it is too shady for the primary nectar species to be present” (p. 16). It also states that "The bee’s ideal habitat is not present in great quantity, and the proposed trail will not impact any areas that support an abundance of nectar species” (p. 18). In fact, wooded areas are vital for nesting, spring emergence of queens, and spring ephemerals for foraging. According to documents produced by the U.S. Fish and Wildlife Service (USFWS), overwintering habitat is often in or near woodlands or woodland edges that contain spring blooming herbaceous plants, shrubs, and trees, which allows proximity to woodland spring blooming flowers,
particularly spring ephemeral wildflowers, a critical early spring food source. Suitable foraging habitat (critical spring and fall floral resources abundant in the wooded slopes of the park where the trails are proposed), nesting habitat, and overwintering habitat occur within the park.

In order to properly assess the rusty patched bumble bee habitat in Lone Lake Park, it is recommended that a careful and thorough survey for additional foraging and nesting sites be conducted prior to any alteration of habitat. The survey should cover one full growing season to properly assess the location and abundance of forage plants and foraging locations, potential nesting and overwintering sites. USFWS biologists with the Endangered Species Program should be consulted to carefully identify and consider the risks and consequences of the proposed trail system for endangered species.

**Birds**

Many bird species have been observed in the park that require intact woodland or woodland margins for habitat including: wild turkey, eastern screech owl, great-horned owl, barred owl, red-bellied woodpecker, downy woodpecker, hairy woodpecker, pileated woodpecker, flycatchers, eastern phoebe, eastern wood-pewee, eastern king bird, swallows, ruby-crowned kinglet, white breasted nuthatch, chimney swift, house wren, northern flicker, thrushes, warblers, sparrows, indigo bunting, oven bird, Baltimore oriole, rose-breasted grosbeak, cedar waxwing, dark-eyed junco, American redstart, veery, grey catbird, American robin, brown creeper, blue-grey gnatcatcher, scarlet tanager, and finches.

Of the aforementioned birds, several are worth specific discussion in relation to mountain biking trials. American redstart, scarlet tanager, and flycatchers are highly secretive birds and require large intact areas of woodland for habitat. In addition, four bird Species in Greatest Conservation Need (SGCN) have been recorded for Lone Lake Park and also prefer habitats with low disturbance and intact quality woodland: Eastern wood-pewee, northern rough-winged swallow, veery, and ovenbirds (Cornell lab of Ornithology 2018, MNDNR 2018b). Eastern wood-pewee need forested habitat and nest in small trees and shrubs and northern rough-winged swallow nest individually near water. Veerys require hardwood forest, nest on ground or in trees, and do not do well with disturbance. Ovenbirds are also ground nesting and tend to nest in lowland areas and spend a significant amount of time foraging on the ground. Although not listed as a species of concern, the indigo bunting also nests on or near the ground and would be susceptible to trail-related disturbances (Cornell lab of Ornithology 2018; MNDNR 2018c).

Breeding birds (those known to nest in the park) include 48 different species, 41 of which nest in woodland habitats. Research regarding bird community composition and populations in relation to trail development suggest that species compositions shift to more disturbance tolerant species along trail corridors and numbers of birds nesting and utilizing these corridors declines. For example, the park is known to support populations of brown-headed cowbirds, a parasitic bird that can be damaging to populations songbirds, especially those that are non-aggressive and rare. Brown-headed cowbirds prefer areas with less dense vegetation and are likely to increase usage of areas near trails, due to decreased vegetative cover. Theoretically, any bird that plays host to brown-headed cowbird brood parasitism would be more susceptible to parasitization, where there are increased corridor spaces throughout the park. Because this park is a woodland sanctuary for over 90 species of birds, it is important that this valuable habitat space not be disturbed. The large intact woodland is very important to bird species, especially those that require mature, high quality forest areas for habitat.
Bats

Due to the variety of tree species and mature nature of parts of the forest, suitable habitat is available for several species of Minnesota bats. In fact, observations of bats have been documented by park visitors. It is well documented by the MN DNR that several species of bats in the state are in decline (little brown bats, northern long-eared bats, big brown bats, and tri colored bats) (MNDNR 2018a, b). Of particular concern is the Northern Long-Eared bat (NLEB), a federally threatened bat species. NLEB often inhabit intact mesic hardwood forests, especially those near water features (Bat Conservation International 2018; MNDNR 2018a). This species mates in the fall, emerges from hibernation in May, and bears offspring in June or July. The NLEB forage at dusk using echolocation to feed on moths, flies, leafhoppers, caddisflies, and beetles. They typically forage in woodland clearings, under tree canopies, and over water. Lone Lake Park, due to its size and habitat composition, could support NLEB. In addition, to NLEB, Silver-haired bats need large tracts of mature forest and, as a result, could also be impacted by increased fragmentation of the forest (MNDNR 2018a).

Herptofauna

In addition to birds, the wetland, open-water, forest mosaic within the park is particularly suitable for several species of amphibians and reptiles. Northern leopard frog, wood frog, cricket frog, chorus frog, cope’s grey treefrog, spring peeper, grey treefrog, and American toad are likely occupants of the park (Moriarty and Hall 2014; MNDNR 2018d). In addition, the park also has potential habitat for tiger salamanders and eastern newts, painted turtles, Blanding’s turtles (state threatened species), and pond sliders are possible inhabitants of Lone Lake and larger wetlands within the park.

Northern leopard frogs, green frogs, cricket frogs, and Cope’s grey treefrogs typically live near to open water and grassland areas their entire lives. Grey treefrogs are found in woodland habitats with wetlands nearby. This species emerges in the spring and primarily forages in wooded uplands until mid-May. Spring peepers and wood frogs also live in woodlands and typically inhabit wetlands with no fish. Spring peepers, grey treefrogs, Cope’s grey tree frogs, wood frogs, and chorus frogs, overwinter in leaf litter, in logs, or under rocks. To survive freezing temperatures, they produce natural antifreeze to prevent major organs from freezing; however, about 65% of their total body water content does freeze. As a result, these species are particularly vulnerable when they emerge in the spring (Moriarty and Hall 2014; MNDNR 2018d). They are typically lethargic and very slow; as such, fast moving bikes would be a very difficult obstacle to avoid or escape. Wood frogs, grey treefrogs, and spring peepers overwinter in woodland areas and also utilize forested areas exclusively for foraging, prior to migrating to wetlands for mating season. Grey tree frogs spend their days under loose bark and in tree cavities, while spring peepers and wood frogs utilize leaf litter and logs on the forest floor. As such, these three species in particular, will be highly vulnerable to disturbance and fragmentation of wooded areas within the park. The boreal chorus frog is also very sensitive to disturbance. As described in the Protect Our Minnetonka Parks’ Petition of an EAW, “Additionally, the Western/Boreal Chorus Frog is a highly secretive frog and will cease calling the moment it senses a potential threat nearby. Continued disruption can cause the frogs to retreat to the water and stop their chorus all together, disrupting their breeding season and missing vital windows of time.”

Trails near water features used by frogs and turtles will inevitably lead to collisions between wildlife and bikers. Trails will also create fragmentation between mating, foraging, and overwintering habitats and create greater potential for collision with emerging or juvenile frogs.

6. Traffic and Noise
Lone Lake Park has long been valued as a place where people can enjoy the solitude and quietude of nature. The proposed mountain bike trail is not compatible with these values. The park is designated as an area of passive recreation, which is also not compatible with the proposed mountain bike trails.

Traffic increases will not only come from mountain bikes. Additional cars will bring mountain bikers to the parks. The roads surrounding the park are not very biker-friendly. They are high-speed roads with little or no shoulders or bike lanes. This means that bikers will be inclined to transport, rather than ride, their bikes to the park. The increased number of cars will add to traffic and parking problems at the park.

Although the noise of an individual bike and rider is likely similar to that of hiker or walker, increased noise to the park is guaranteed through increased patronage of the park. This includes both increased vehicle traffic noise and more continuous noise generated by higher usage of the park. Although the SEH (2018) report suggests noise is not a biological issue, various peer-reviewed papers have identified the negative effects of ambient noise on wildlife, especially birds and insects. Ambient noise can significantly impair wildlife’s ability to identify mating calls, approaching danger, and sources of food and water. As a park space important to both a federally endangered bee species and several special concern birds, increased noise from trail usage and increased traffic is a valuable consideration. The City should invest in traffic and noise studies to identify and quantify the level of increased activity and noise the park would incur with the construction of mountain bike trails.

7. Archaeological, Historical, and Cultural Resources

A study was undertaken to assess and identify potentially significant archaeological and cultural resources that could be affected by the proposed trail network. Background research was conducted using the Minnesota State Historic Preservation Office (MnSHPO) site files for information on previously identified archaeological sites within one mile (1.6 kilometer) of the project area. Previously inventoried architectural and historical properties and reports of previously conducted surveys near the project area were also reviewed. In addition, researchers examined historical maps of the project area at the Minnesota Historical Society library and historical aerial photographs at the University of Minnesota’s Borchert Map Library. The goals of this study were accomplished using a variety of methods and approaches, specifically:

- An on-line literature search and review of records and county histories at the National Register and the Minnesota State Register (http://www.mnhs.org/shpo/nrhp/)
- A review of Minnesota State Historic Preservation data collected for the project area;
- A review of historic aerial photographs of the proposed project area; and
- Review supplementary GIS data to determine the potential for archaeology and cultural resources.

Archaeological Resource Potential

There is the potential for discovering intact, precontact archaeological resources anywhere on the Des Moines Lobe where the ground remains relatively undisturbed. However, there is greater potential if undisturbed land is:

- within 500 feet (150 meters) of an existing or former water source of 40 acres (19 hectares) or greater in extent, or within 500 feet (150 meters) of a former or existing perennial stream;
- located on topographically prominent landscape features;
- located within 300 feet (100 meters) of a previously reported site; or
• located within 300 feet (100 meters) of a former or existing historic structure or feature, such as a building foundation or cellar depression.

In addition, archaeologists compared historical documentation, such as plat maps and aerial photographs, with current field conditions to assess the potential within the project area for intact historical archaeological sites. Areas having a relatively low potential for containing intact archaeological resources include inundated areas, former or existing wetland areas, poorly drained areas, and areas with a 20 percent or greater slope. “Low potential areas” and areas in which Holocene (less than 10,000 years old) deposits have been significantly disturbed have little or no potential for containing intact archaeological resources.

A number of high kame ridges and high benches ring Lone Lake in a nearly continuous circle (Figure 6). All are within 500 feet of the lake’s edge. While the exact age and site type is difficult to determine given the limited research conducted in the immediate area, these types of features in this landscape position are known to be “high sensitivity areas” for pre-contact, contact, and post-contact period Native American and European archaeological resources.
Figure 6. Topographic maps of the Lone Lake Park area.
Native American Consultation

In the greater Saint Paul-Minneapolis metropolitan area, Native American groups are active in protecting, preserving, and transmitting their cultural heritage and patrimony. The preservation of “Traditional Cultural Properties (TCPs)” is especially important to these groups. Broadly defined, TCPs are properties associated with the cultural practices and beliefs of a living community. These practices or beliefs are rooted in that community’s history and are important in maintaining the cultural identity of the community. Examples of TCPs may include dancing grounds, hunting and collecting areas, farm fields, burial grounds, or “shrines.” Based on a review of available documents, it is difficult to determine if any of the Native American groups listed on the U.S. Department of Housing and Urban Development website, who have a stated some interest in activities that could affect TCPs in the metro area, have been consulted regarding the installation of trails through the area.

Discussion and Recommendations

This document is designed to provide an initial assessment and evaluation of known and potential significant archaeological and cultural resources in areas affected by the installation of mountain bike trails in Lone Lake Park. This preliminary literature review shows that little is known about archaeological or cultural resources within the Park. Given the Park’s position within a kettle-and-kame landscape—with several prominent kame ridges which have a strong potential for both prehistoric and historic-period Native American and European archaeological resources—there is a very real possibility that significant, previously unknown and unrecorded archaeological and cultural resources could be adversely and irreparably affected and impacted by any proposed development within the Park. The lack of known archaeological resources within the Park does not equate to the absence of these kinds of irreplaceable resources.

At this time, there does not appear to be a nexus that would necessitate compliance with Section 106 of the National Historic Preservation Act for construction of the proposed mountain bike trail system. While some jurisdictional waters of the United States (including regulated wetland resources) could be involved and the project would be subject to Section 404 authorization under the Clean Water Act, it is unlikely the U.S. Army Corps of Engineers would “federalize” the entire project area. Under current guidance, the USACE would likely only require a review of areas in its jurisdiction (which are in low probability areas for archaeological resources).

Minnesota Statue § 138.40 subdivision 3 of the Field Archaeology Act requires state and local agencies to submit development plans to the MnSHPO, Minnesota Office of the State Archaeologist, and to the Indian Affairs Council for review of potential impacts to significant archaeological and cultural resources. This statute states:

“When significant archaeological or historic sites are known or, based on scientific investigations, are predicted to exist on public lands or waters, the agency or department controlling said lands or waters shall submit construction or development plans to the state archaeologist and the director of the society for review prior to the time bids are advertised. The state archaeologist and the society shall promptly review such plans and within 30 days of receiving the plans shall make recommendations for the preservation of archaeological or historic sites which may be endangered by construction or development activities. When archaeological or historic sites are related to Indian history or religion, the state archaeologist shall submit the plans to the Indian Affairs Council for the council's review and recommend action.” Minn. Stat. § 138.40 subd. 3
Before the proposed trail network is installed, and as part of the environmental review process, project plans should be submitted to the MnSHPO, Minnesota Office of the State Archaeologist, and the Indian Affairs Council for review and assessment of impacts to potentially significant archaeological and cultural resources. This should require an intensive archaeological and cultural resources survey of the proposed trail network so potential impacts can be assessed and an informed decision developed based on project plans. Development of the proposed trails system without the necessary reviews by the MnSHPO, Minnesota Office of the State Archaeologist, and the Indian Affairs Council and without consideration to preserving significant archaeological resources would result in the project being non-compliant with the Field Archaeology Act and the Minnesota Historic Sites Act.

8. Cumulative Effects

The proposed mountain bike trail and its environmental effects should not be viewed as an isolated project. They must be viewed in the larger context of other projects in and around the park, now and in the future. The cumulative effects on the environment by all these projects must be considered before authorizing construction of any one project.

The pickle ball courts currently under construction are of particular concern. The increased impervious surface area will increase stormwater runoff to Lone Lake. The lake is currently very high and encroaching on the maintained trails due to high precipitation in recent months. Had the pickle ball courts been constructed earlier, the lake would be at an even higher stage. The high rainfall amounts experienced this year are not unprecedented, and they will occur again in the future. Stormwater modeling is necessary to determine the effect of the increased impervious surface of the pickle ball courts, together with the proposed 0.8+ acres of mountain bike trail, will have on future water levels in Lone Lake. Cumulative traffic and parking issues must also be addressed.

9. Conclusions

The proposed mountain bike trail will have significant adverse material impacts to natural resources in Lone Lake Park, including the water resources, wildlife habitat, endangered species, and other passive recreation activities at the park. The current proposed plan lacks enough specific information to adequately assess and quantify the environmental impacts.

An Environmental Assessment is required if the proposed project “… may have the potential for significant environmental effects.” [Minn. Rule 4410.1100, Subd. 6]. Based on the facts of this case, an Environmental Assessment Worksheet must be ordered. The environmental review process must be completed prior to the City Council’s decision to build a mountain bike trail.

10. References and Bibliography


Minnesota Department of Natural Resources, 2005. Native Plant Communities of Minnesota: The eastern Broadleaf Forest Province. Ecological Land Classification Program, Minnesota County Biological Survey, and Natural Heritage and Nongame Research Program. MNDNR St. Paul, MN.


Moriarty, John J. and Hall, Carol D. 2014. Amphibians and Reptiles in Minnesota. Minnesota Department of Natural Resources. University of Minnesota Press, Minneapolis, MN.


Stantec, Inc., 2018. “Summary of review and information related to the Minnetonka Mountain Bike Study, Appendices A-E, as they relate to proposed Mountain Biking Trails at Lone Lake Park.” May 31, 2018.


<table>
<thead>
<tr>
<th>Subject Matter</th>
<th>Treatment in EAW</th>
<th>Treatment in Biological Assessment (BA) or City MTB Study &amp; Park Board Presentation</th>
<th>Additional Information Needed</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Project description</td>
<td>Describe project</td>
<td>Describe project</td>
<td>No</td>
<td>Similar treatment in both documents</td>
</tr>
<tr>
<td>Cover types</td>
<td>Broad land use types used</td>
<td>Biological communities described</td>
<td>No</td>
<td>BA more detailed than EAW, the net landscape change is minimal as the trails will be within a cover type and are not a conversion</td>
</tr>
<tr>
<td>Permits Required</td>
<td>List of other approvals needed</td>
<td>Indicates permits will be required</td>
<td>Yes</td>
<td>Required permits have been identified; city approvals, Nine Mile Creek Watershed District, SWPPP and NPDES permits and clearance from USFWS</td>
</tr>
<tr>
<td>Land use</td>
<td>Describe land use and zoning</td>
<td>Land use described in BA, land use and compatibility discussed in City MTB Study. No intent to change zoning of the park.</td>
<td>No</td>
<td>Similar treatment in both documents, POST plan discussion would be included in EAW narrative, but is seen as a compatible land use. Reference to comprehensive plan and zoning details could be included (floodplain, wetland)</td>
</tr>
<tr>
<td>Geology</td>
<td>Describe susceptible geologic features</td>
<td>Not discussed</td>
<td>No</td>
<td>Geology not a limitation; no karst, limestone, or shallow aquifer conditions present</td>
</tr>
<tr>
<td>Soils, and topography</td>
<td>Discuss soils present and any limitations due to steep slopes, include volume of acreage of grading</td>
<td>Soil types described, and areas of steep slopes have been identified using LiDAR. Disturbed area quantified</td>
<td>No</td>
<td>Similar treatment in both documents</td>
</tr>
<tr>
<td>Water resources - surface water</td>
<td>Describe surface water features and</td>
<td>Features within the park are described and mapped</td>
<td>No</td>
<td>Ninemile Creek is impaired beginning at the southfork, south of Bryant Lake.</td>
</tr>
<tr>
<td>Water resources - groundwater</td>
<td>Identify depth to groundwater, wellhead protection, and well locations</td>
<td>Not discussed</td>
<td>Yes</td>
<td>Project will not affect groundwater, but wellhead protection areas and locations were not identified in the study; information is readily available. No impact is anticipated</td>
</tr>
<tr>
<td>Wastewater</td>
<td>Describe source and quantity of wastewater generation</td>
<td>Not discussed</td>
<td>No</td>
<td>Project will not generate wastewater</td>
</tr>
<tr>
<td>Stormwater</td>
<td>Describe quantity and quality of stormwater runoff</td>
<td>Not discussed</td>
<td>No</td>
<td>The trail will become compacted but will be self mitigating since the runoff will be absorbed by the surrounding landscape</td>
</tr>
<tr>
<td>Topic</td>
<td>Description</td>
<td>Information Provided</td>
<td>Discussion Needed</td>
<td>Notes</td>
</tr>
<tr>
<td>-----------------------------------</td>
<td>-----------------------------------------------------------------------------</td>
<td>------------------------------------------</td>
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<td>----------------------------------------------------------------------</td>
</tr>
<tr>
<td>Erosion control</td>
<td>Describe storm water pollution prevention plan and best management practices to control erosion</td>
<td>General considerations for erosion control practices have been discussed</td>
<td>No</td>
<td>A SWPPP and NPDES permit will be needed, but the information generated already is sufficient for discussion in the EAW</td>
</tr>
<tr>
<td>Water appropriation</td>
<td>Describe source, quantity, duration, and use of surface and groundwater</td>
<td>Not discussed</td>
<td>No</td>
<td>Project will not require water appropriation</td>
</tr>
<tr>
<td>Wetlands</td>
<td>Describe wetlands and impacts</td>
<td>Wetlands identified, and avoidance measures described</td>
<td>No</td>
<td>No impacts to wetlands proposed</td>
</tr>
<tr>
<td>Surface waters</td>
<td>Discuss impacts to lakes, streams, etc</td>
<td>Resources identified, impacts not anticipated</td>
<td>No</td>
<td>No impacts to surface waters proposed</td>
</tr>
<tr>
<td>Contamination and hazardous waste</td>
<td>Discuss existing contamination, solid waste handling, and generation/storage or hazardous material</td>
<td>Not discussed</td>
<td>No</td>
<td>Project area not contaminated, and project will not generate contamination or hazardous waste</td>
</tr>
<tr>
<td>Fish and wildlife habitat</td>
<td>Describe fish and wildlife habitat</td>
<td>Existing and historic habitat is discussed</td>
<td>No</td>
<td>The habitat and likely species present are discussed in the BA</td>
</tr>
<tr>
<td>State rare features</td>
<td>Describe rare features and Natural Heritage Database review</td>
<td>NHIS database was searched, and no features identified; habitat quality discussed</td>
<td>No</td>
<td>BA included discussion of site and noted lack of documented rare features, and no state listed species identified</td>
</tr>
<tr>
<td>Federally listed sensitive species</td>
<td>Federally listed species no specifically identified for discussion, but typically included</td>
<td>Discussed potential impacts to long-eared bat and rusty-patched bumblebee</td>
<td>No</td>
<td>The BA included discussion of the two species, and noted that the bee has been confirmed in the park; fact sheets were provided; consultation with the US Fish and Wildlife Service can occur independent of the EAW. Preliminary discussions with USFWS have occurred, more detailed discussion to come.</td>
</tr>
<tr>
<td>Plant communities</td>
<td>Discuss how plant communities may be affected by the project</td>
<td>The BA notes that tree and shrub removal may occur, and that root zone impacts could occur from compaction and soil disturbance</td>
<td>No</td>
<td>The level of discussion in the BA is similar to the level of discussion in a typical EAW</td>
</tr>
<tr>
<td>Invasive species</td>
<td>Discuss introduction and spread of invasive species</td>
<td>The BA and the MTB Study discussed current extent of invasive species and potential spreading from construction and use of new trails</td>
<td>No</td>
<td>The level of discussion in the BA MTB Study is similar to the level of discussion in a typical EAW</td>
</tr>
<tr>
<td>Wildlife - woodland birds</td>
<td>Discussed as part of impacts to wildlife resources and habitats</td>
<td>The BA discussed potential loss of woodland bird species due to habitat loss and disturbance</td>
<td>No</td>
<td>The level of discussion in the BA is similar to the level of discussion in a typical EAW, and already acknowledges that impacts may occur</td>
</tr>
<tr>
<td>Wildlife - amphibians</td>
<td>Discussed as part of impacts to wildlife resources and habitats</td>
<td>The BA did not specifically discuss amphibians, but did discuss wetlands as part of their critical habitat</td>
<td>No</td>
<td>The level of discussion in the BA is similar to the level of discussion in a typical EAW, although the EAW would elaborate further on the connection of amphibians to the adjacent uplands; impacts to individual amphibians may occur, but effects to the population are not anticipated</td>
</tr>
<tr>
<td>Wildlife - mammals</td>
<td>Discussed as part of impacts to wildlife resources and habitats</td>
<td>The BA discussed potential loss of habitat and disturbance on mammals, but anticipated minimal impacts</td>
<td>No</td>
<td>The level of discussion in the BA is similar to the level of discussion in a typical EAW</td>
</tr>
<tr>
<td>Impact avoidance, minimization, and mitigation</td>
<td>Discuss measures taken to avoid, minimize, and mitigate for fish and wildlife impacts</td>
<td>Means to avoid and minimize impacts were discussed in the BA</td>
<td>No</td>
<td>Means to reduce impacts have been discussed, and mitigation opportunities have been identified</td>
</tr>
<tr>
<td>Historic properties</td>
<td>Describe historic properties, contact SHPO</td>
<td>City has letter from state archeologist and SHPO</td>
<td>No</td>
<td>No historic property impacts anticipated</td>
</tr>
<tr>
<td>Visual</td>
<td>Describe scenic vistas, and visual effects from vapor plumes, intense lights, etc</td>
<td>Visual impacts not discussed</td>
<td>No</td>
<td>Visual issues not anticipated; observing other park users is not considered to be an environmental impact</td>
</tr>
<tr>
<td>Stationary air emissions</td>
<td>Describe source and composition from stationary sources</td>
<td>Not discussed</td>
<td>No</td>
<td>The project will not have boilers or exhaust stacks</td>
</tr>
<tr>
<td>Vehicle emissions</td>
<td>Describe the effect of the project on traffic generation</td>
<td>Not discussed</td>
<td>No</td>
<td>Project is not anticipated to be a significant generator of vehicle emissions.</td>
</tr>
<tr>
<td>Dust generation</td>
<td>Describe sources of dust and nearby sensitive receptors</td>
<td>Dust is noted, but more for erosion control purposes than significant generation and impacts to sensitive receptors</td>
<td>No</td>
<td>While some dust may generate from users on earthen trails, it is localized and will not leave the immediate vicinity</td>
</tr>
<tr>
<td>Odor generation</td>
<td>Describe sources of odors and nearby sensitive receptors</td>
<td>Not discussed</td>
<td>No</td>
<td>Project is not anticipated to generate odors</td>
</tr>
<tr>
<td>--------------------------------------</td>
<td>----------------------------------------------------------</td>
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<td>---------------------------------------------</td>
</tr>
<tr>
<td>Noise</td>
<td>Describe existing noise levels, nearby receptors, conformance to state standards, and quality of life</td>
<td>Noise is noted in the BA, but impacts are noted as minimal</td>
<td>No</td>
<td>Mountain biking is not anticipated to raise noise levels above existing conditions, and is below any state standard. Quality of life is subjective, but no effect on nearby sensitive receptors</td>
</tr>
<tr>
<td>Transportation - project related</td>
<td>Describe existing and proposed parking, daily traffic, peak usage times, trip generation, and alternative transportation modes</td>
<td>City's report identifies current parking capacity and anticipated number of users, but does not quantify current traffic counts or timing; many users expected to ride to park, not use vehicles</td>
<td>No</td>
<td>Discussion of parking opportunities for all users of the park is warranted, but for purposes of an EAW the discussion is complete.</td>
</tr>
<tr>
<td>Transportation - regional patterns</td>
<td>Discuss the effect on traffic congestion and any traffic improvement needs</td>
<td>City's report notes no changes in road infrastructure proposed</td>
<td>No</td>
<td>Project should not affect traffic congestion, and peak hour traffic generation is expected to be a minimal change</td>
</tr>
<tr>
<td>Cumulative effects</td>
<td>Discuss impacts from foreseeable future projects</td>
<td>Not discussed</td>
<td>No</td>
<td>No future projects currently-identified.</td>
</tr>
<tr>
<td>Existing trails</td>
<td>Potentially discussed under existing conditions</td>
<td>Impacts from current informal trails are described</td>
<td>No</td>
<td>The EAW would not discuss the existing impacts from pedestrian trails, or the similar impacts that ped and bike trails both have on the landscape</td>
</tr>
<tr>
<td>User experience</td>
<td>The EAW doesn't include this topic</td>
<td>The BA and City reports acknowledge that the user experience may change with the inclusion of new activities within the park</td>
<td>No</td>
<td>The potential disruption of solitude should be a factor that is considered by the City Council, but is not an appropriate subject for an EAW as it is highly subjective, is a personal assessment, and is difficult to quantify</td>
</tr>
<tr>
<td>Public Health</td>
<td>The EAW doesn't include this topic</td>
<td>The BA and City reports do not discuss public health aspects of this project, other than noting that the resident survey support for additional recreational opportunities</td>
<td>No</td>
<td>The EAW would not address public health, although the City Council may consider the risks of insect borne pathogens if they choose; similarly the health benefits from being physically active</td>
</tr>
</tbody>
</table>
Resolution No. 2018-

Resolution denying a petition for preparation of an environmental assessment worksheet for the proposed mountain biking trail project in Lone Lake Park, Minnetonka, Minnesota

Be it resolved by the City Council of the City of Minnetonka, Minnesota as follows:

Section 1. Background.

1.01 On July 10, 2018, the City of Minnetonka received from the Environmental Quality Board (EQB), a petition requesting that the city council require an environmental assessment worksheet (EAW) for the potential mountain bike trail project (Project), which has been proposed to be located at Lone Lake Park, 5624 Shady Oak Rd, Minnetonka, MN 55343.

1.02 The EQB has designated the city as the responsible governmental unit (RGU) for the Project.

1.03 The city council considered the request for an EAW at its meeting of August 6, 2018. The petitioners and their representatives were provided the opportunity to present information. The city council considered all of the information and the staff report, which are incorporated by reference into this resolution.

Section 2. Standards.

2.01 The EQB rules require the city to determine whether, because of the nature or location of the Project, the Project may have the potential for significant environmental effects.

2.02 The EQB rules further require the city to consider the following factors:

- Type, extent, and reversibility of environmental effects.

- Cumulative potential effects: whether the cumulative potential effect is significant; whether the contribution from the project is significant when viewed in connection with other contributions to the cumulative potential effect; the degree to which the project complies with approved mitigation measures specifically designed to address the cumulative potential effect; and the efforts of the proposer to minimize the contributions from the project.

- The extent to which the environmental effects are subject to mitigation by ongoing public regulatory authority.

- The extent to which environmental effects can be anticipated and controlled as a result of other available environmental studies undertaken by public agencies or the project proposer, including other EISs.

2.03 The city council has adopted a policy that requires consideration of the following additional criteria when reviewing requests for environmental review:

- The ability to implement the policies and standards of the comprehensive plan.
• Impact upon the design, capacity and nature of the local roadway system.

• Impact upon the existing and planned improvements to the city’s park and open space system, public facilities and utilities.

• The ability of the city to provide normal city services in an equitable manner.

• Impact upon existing and planned residential neighborhoods, and commercial and industrial areas in terms of a project’s compatibility and long term effect.

• Impact upon the natural environment of the city.

Section 3. Findings and city council action.

3.01. Based on all of the evidence presented and the findings below, the city council determines that the Project does not present the potential for significant environmental effects:

**Nature and location of Project**

1) The Project involves construction of approximately 4.7 miles of single-track mountain bike trails within Lone Lake Park.

2) Multi-use single-track trails are unpaved and average 18-24” in width. Single-track trails have been shown to have minimal impact on the environment, resist erosion through proper design, construction and maintenance, co-exist with the natural environment, and blend with the surrounding area.

3) The Project is proposed to wind through a wooded area of Lone Lake Park.

4) Lone Lake Park is a 146-acre community park and community preserve that provides both active and passive recreational amenities.

5) Lone Lake Park is identified as a community park and community preserve in the city’s Parks, Open Space and Trail System Plan (POST Plan), which was adopted in April 2001.

6) The active areas of Lone Lake Park include a wide variety of amenities including, but not limited to, tennis, basketball, volleyball and horseshoe courts, children’s play area, and picnic shelters and picnic areas.

7) The community preserve area of the park consists of wetland, prairie and forested areas, through which an extensive trail network has been extended. There are approximately 1.6 miles of formal maintained trails within the preserve area. In addition, there are approximately three miles of informal footpaths throughout the preserve area. Approximately 700’ of these informal footpaths would be incorporated into the Project. Approximately 1.7 miles would be closed due to erosion and conflicts with the Project. Park visitors make use of the informal footpaths, even though the city has not designated the footpaths as park trails.
8) The city has recreational trails in community preserve areas of city parks throughout the city. The POST plan specifically identified community preserves as areas where “nature-type” trails are allowed. Mountain biking trails provide opportunities for bikers to observe and appreciate natural surroundings, in the same manner as existing city trails through other community preserves.

9) The city’s POST Plan noted that Lone Lake Park has served as a de facto location for mountain bike trails. The POST plan also noted that uncontrolled mountain bike use could result in mild to severe erosion of soils and destruction of understory vegetation. As an alternative to uncontrolled use, the POST plan identified the alternative of developing a defined trail for mountain bike use.

10) The proposed Project is the result of an extensive community engagement process and study, consistent with the POST plan recommendation that any location for a mountain bike trail be carefully selected and have a defined location.

Type, extent, and reversibility of environmental effects

11) All trails – whether improved or unimproved or for use by pedestrians, bicycles or mountain bikes -- have some environmental impacts. The evidence demonstrates that the Project is not likely to have significant environmental impacts.

12) Studies have shown that the environmental impacts from properly designed mountain bike trails are similar to those of hiking trails. The city has hiking trails throughout wooded areas of the city, and those trails have not caused significant environmental impacts to those areas.

13) The petitioners assert that the Project will have seven types of environmental impact. Each of those is addressed in the findings below.

   Removal of trees, shrubs and herbaceous vegetation

14) Construction of the trail system will result in minimal tree removal. The trail location will be field sited, so that only smaller trees will be removed. Trees of significant size will not be removed, and overall tree removal will not alter the existing closed canopy of trees in the park.

15) There are few areas of concentrated shrub coverage in the Project area. Field location will allow the Project to avoid removal of dense shrub stands. In addition, it will be possible to salvage shrubs, if needed, along trail alignments.

16) Within the wooded areas, the herbaceous cover is intermittent and includes various woodland species that thrive in shady environments. Impacts to herbaceous vegetation, similar to shrubs, will be limited by field siting the trail location. Species will be salvaged, if needed, along trail alignments.
17) The extent of tree, shrub and herbaceous vegetation removal is minimal and does not present the potential for significant environmental impacts. Any impacts are reversible -- a sizable portion of the existing wooded area in Lone Lake Park is new-growth forest that has been established since the elimination of a ski hill recreational area in the 1970’s.

Spreading of invasive species

18) The city has undertaken significant efforts within Lone Lake Park to control invasive species, principally buckthorn. In the 1990s, with the adoption of the Natural Resource Stewardship Plan, the city began efforts to restore wooded areas by removal of buckthorn and other invasive species. Through those ongoing efforts, the city has created the high quality woodland areas in which a portion of the Project will be located. The Project will also be located in areas that remain degraded by invasive species – where the city’s restoration efforts have been minimal.

19) Removal of buckthorn typically provides the opportunity for the growth of a different invasive species – garlic mustard. The presence of garlic mustard is prevalent throughout wooded areas of the city. The city has an active program for management of both buckthorn and garlic mustard in Lone Lake Park.

20) Like the people, pets and wildlife who frequent Lone Lake Park in its current state, there is the potential that mountain bike trail users may disperse seeds of invasive plants within the park. Bike washing stations at park entrances could reduce the potential for seed dispersal. However, the primary protection against the spread of invasive species like buckthorn and garlic mustard within the park is the city’s continuing commitment to its program for restoration and management. In the absence of ongoing management, invasive species are highly likely to proliferate within the park – even if no mountain bike trails are built.

21) In addition, the potential for spreading invasive species will be controlled during construction by sustainable trail building techniques, including the avoidance of side-casing soil, timing of construction, mulching exposed soils and revegetation of disturbed soils with salvaged plant material and re-seeding.

22) The effects of the Project, relative to invasive species, is also reversible through ongoing management. This is evidenced by the success of the city’s restoration program.

Soil erosion and compaction

23) The petitioners assert that bare soil is more susceptible to erosion and that trail use will compact the soils within the drip lines of trees, causing damage to tree root systems.

24) The extent of soil erosion and compaction will be limited, because the trails
will be constructed using best management practices established by the International Mountain Bike Association and adopted by the National Park Service.

25) The location of the trails will be sited in the field prior to construction. Trails will be routed to create a series of small hills and valleys, and trails will be sloped to allow water to run off rather than form mud holes. Trails will avoid flat ground, where compaction and rutting can promote water collection, lead to mudholes, and perpetuate erosion.

26) Trails will follow existing contours and have undulating slopes of less than 10% grade reversal, which will minimize erosion potential. Trail treads will tilt slightly toward the downhill in order to allow water to drain in a non-erosive manner.

27) Boardwalks will be constructed over gullies and depressions to discourage accelerated runoff.

28) In addition, the trails will be subject to seasonal restrictions, to prohibit use of the trails during spring snowmelt and periods where muddy conditions are prevalent.

29) Field siting the trail will minimize impacts to the critical root zones of trees. If tree roots become exposed, mitigation strategies will be implemented.

30) The quotation from the POST plan cited in the petition materials and in the technical memorandum dated August 1, 2018 is not applicable. (“Left unchecked, these impacts will, over time, undermine the integrity of the natural system in the park where this activity occurs …”) The quoted segment referred to the impacts that would result from unchecked, uncontrolled and unplanned mountain bike usage. The Project involves a carefully planned and sited trail system using best management practices that have been developed since the POST plan was adopted.

31) As a result of the use of field location of the trail, use of appropriate design and construction methods, and imposition of seasonal use restrictions, soil erosion and compaction will not be significant.

Disturbance to wildlife

32) Lone Lake Park provides habitat for a wide variety of urban wildlife species. The park is surrounded by urban development, and within the park, a variety of active and passive recreational activities occur – all of which create the potential for human interaction with wildlife. Few areas within the park are more than 500 feet distant from a trail, parking lot, or residence.

33) Potential habitat loss due to the Project is minimal (approximately one acre) and represents a small fraction of the habitat within the 146-acre park. Impacts on tree habitat are addressed above.

34) The Project could have impacts to individual animals, but the Project will not
have significant adverse effects on the overall population of any animal class (mammals, birds, amphibians, reptiles) or individual species. The potential exists for some woodland bird species to be displaced from the Project area and into other areas, including other areas of the park. This is not considered to be a significant adverse environmental impact.

**Impacts to sensitive species**

35) The petitioners have raised concerns about potential impacts to two endangered species: the northern long-eared bat and the rusty-patched bumble bee.

36) The northern long-eared bat has not been identified as present in Lone Lake Park or its vicinity. The nearest identified hibernaculum for the northern long-eared bat is in Lilydale, approximately 16 miles distant from Minnetonka, as the crow flies. The biological assessment identified the hibernaculum as being located in Hennepin County, because the Department of Natural Resources reports those location based upon U.S. Geographical Service townships. The relevant township includes portions of Hennepin, Ramsey and Dakota Counties. The hibernaculum is not located in Hennepin County.

37) There is no evidence that the Project will negatively impact the northern long-eared bat or its habitat.

38) The rusty patched bumble bee has been identified as present in the vicinity of Lone Lake Park. In comparison to other endangered species, less is known about what is causing the species to decline. A general consensus is that loss of habitat is a primary factor.

39) Any potential impacts of the Project on the bumble bee or its habitat will be fully and adequately addressed by the Project proposer’s coordination with the U.S. Fish & Wildlife Services (USFWS). After field siting the location of the trail, the Project proposer’s staff will conduct a joint inspection of the trail location with a USFWS representative, to identify any potential nesting sites. The trail will be re-located to avoid any nesting sites, as recommended by the USFWS representative.

40) Construction of the trail will be performed at the optimal season of the year, to avoid disturbance of the queen coming out of hibernation, or disturbance of foraging habitat while it is blooming, following guidelines or requirements of the USFWS.

41) The Project proposer will apply for all permits as recommended or required by the USFWS and will comply with all conditions of such permits.

**Increases in noise and dust**

42) The petitioners assert that the Project will cause noise and dust that will disrupt wildlife habitat as well as park users.

43) Mountain biking generally produces little noise other than the sounds of
peddling, clicking of gears, and the wheels in contact with the trail. It is unlikely that noise will be perceived by other park patrons unless they are immediately adjacent to the rider, and will likely not exceed the noises currently generated by park patrons during sporting events, playing at the park, or having a conversation while walking the existing trails. It is not anticipated that any park patron would be aware of dust generated by bicycles. Any dust generated would be limited to a very small area along the trail.

44) Dust and noise impacts of the Project are not expected to be different in kind or nature from those experienced in other locations where mountain biking trails have been constructed. There is no evidence that other similar trails have caused significant adverse impacts related to noise or dust.

Disruption of solitude

45) Although the petitioners assert that the Project will disrupt solitude for other park users, there is no evidence that the Project will cause a significant environmental impact.

46) The potential disruption of solitude is highly subjective, personal, and is difficult to quantify. The Project is expected to generate approximately 150-300 additional users per week. The additional 25-50 users dispersed through the day will minimally change the user experience in the park.

Public health

47) Petitioners assert that the Project will impact public health by negatively impacting wildlife such as red foxes and increasing the potential for Lyme disease and West Nile virus.

48) The evidence does not support the petitioners’ assumption that wildlife will be negatively impacted. The evidence is to the contrary. As noted in the biological assessment prepared by SEH, the Project will not negatively impact the habitat of predatory animals.

49) As noted in the biological assessment, the introduction of mountain bike trails will not negatively impact the habitat for predatory animals. The addition of mountain bike trails has the potential for attracting more users into the park system, including youth. This would provide more opportunities for people to be exposed to nature, fresh air and exercise leading to improved health and wellness.

Water Resources

50) The petitioners assert in their technical memorandum that the Project will adversely affect wetlands, the lake and streams in Lone Lake Park.

51) No wetland impacts are proposed. The wetland boundaries will be identified after the trails are field-sited, to ensure that no wetland impacts occur.
52) No crossing of public waters is proposed. The trails will be located far enough away from surface waters that sedimentation is unlikely to occur.

Traffic

53) The proposed mountain biking trails are expected to be a local resource, not a regional recreational destination. Local bikers are more likely to bike to the trail than to drive to the park.

Archaeological, historical and cultural resources

54) The Project proposer contacted the Minnesota State Historic Preservation Office regarding Lone Lake Park. That office reported that no archaeological sites were identified in the Project area.

55) The Project proposer also contacted the State archaeologist regarding the potential for Indian burial grounds being present. The state reported that there were no burial grounds or cemeteries recorded within the Project area.

56) In addition, the potential for locating intact archeological resources is greatest in areas that have not been disturbed. The Project area has been previously disturbed by agricultural use in the early 1900s and by a recreational ski facility, until the 1970s. The city did not acquire Lone Lake Park until the 1980s.

Cumulative potential effects

57) There are no significant cumulative potential effects.

58) Pickle ball courts are currently under construction in a portion of Lone Lake Park. The impacted area has been manicured turf for many years and does not represent a biologic or environmental resource. The city conducted an inspection of the pickle ball court construction area with a USFWS representative, who verified that the pickle ball project, in its entirety, will have no effect on the rusty patched bumble bee – which was the only species that had been identified as potentially affected. The pickle ball project includes mitigation of storm water runoff by construction of rain gardens. The USFWS representative noted that the rain gardens will benefit the bumble bee and other pollinators by providing foraging habitat that does not currently exist.

59) There are no other known projects in the area to be considered for potential cumulative effects.

Mitigation by ongoing regulatory authority

60) The Project has not yet been approved by the proposer’s city council. If the Project is approved, the proposer will apply for all required watershed district approvals.

61) As noted above, the Project proposer will apply for all permits as
recommended or required by the USFWS and will comply with all conditions of such permits.

62) The Project proposer will apply for any permits or approvals that may be identified as necessary, based upon the determination of the final trail location.

Other studies

63) The city hired Short Elliott Hendrickson, Inc. (SEH) to provide an independent biological assessment of the natural resources at Lone Lake Park. That report included an inventory of biological resources, potential mountain bike trail impacts, and mitigation opportunities.

64) The Project proposer conducted interviews with other public agencies that have constructed mountain biking trails in locations with similar environmental attributes. There are no known environmental studies that have been undertaken by public agencies for trails in locations with similar environmental attributes.

Section 3.02. With respect to the criteria in the council policy, the council determines that none of the criteria require the performance of environmental review in addition to the studies and reports that have already been performed.

Section 3.03. The petition to prepare an environmental assessment worksheet is denied.

Adopted by the City Council of the City of Minnetonka, Minnesota, on August 6, 2018.

_________________________
Brad Wiersum, Mayor

Attest:

_________________________
David E. Maeda, City Clerk

Action on this resolution:

Motion for adoption:
Seconded by:
Voted in favor of:
Voted against:
Abstained:
Absent:
Resolution adopted.
I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a meeting held on August 6, 2018.

__________________________________________
David E. Maeda, City Clerk
City Council Agenda Item #14B  
Meeting of Aug. 6, 2018

**Brief Description**  
New Park at Ridgedale community outreach process & timeline

**Recommendation**  
Provide comment and feedback

**Background**

The Minnetonka park, open space and trail system is an important community asset that serves city residents and businesses, alike. The park and open space system contributes a substantial amount of property for public activities in the community and reflects the city’s commitment towards natural resource stewardship.

As part of the ongoing revitalization and reimagining of the Ridgedale area, the city of Minnetonka will develop a new, two-acre community park adjacent to Ridgedale Center and update the Crane Lake area. Community level parks are designed to provide a combination of passive and active recreational activities for the entire community. Community parks include areas suited for intense recreational use as well as areas of natural quality.

Key elements of the vision for the Ridgedale area include transforming the retail center into a mixed use community and enhancing the district’s natural features. This park will be a signature community gathering space that will serve as a catalyst for this transformation and will set the tone for further redevelopment in the area.

This effort will seek to integrate parks and open space into the community development efforts at Ridgedale to create vibrant and cohesive spaces where the built form supports function to host a wide variety of activities and amenities. Opportunities to leverage additional investment through partnerships will be pursued as appropriate.

With funding from a Hennepin County Active Living grant, this project will have a robust community outreach and engagement process to identify preferences and values in park space. The results of this outreach will be used to inform concept design. The city council is asked to review and comment on the proposed process and timeline for this outreach and concept design, scheduled to begin this summer. The outreach survey and community engagement will occur through September, with a report and presentation to the community in October.

Attached is an outline of the community outreach and concept design process and timeline for the council to review and provide comment. Any thoughts or suggestions on specific items to explore or address are welcomed.

**Recommendation**

Review the process and timeline for community outreach and conceptual design and provide comment and feedback.

Through:
- Geralyn Barone, City Manager
- Kelly O’Dea, Recreation Services Director
- Julie Wischnack, Community Development Director

Originated by:
Carol Hejl, Park and Trail Planner
New Park at Ridgedale & Crane Lake

Project elements, outcomes, process and timeline

Desired project elements

Placemaking efforts at Ridgedale will seek to create unique places where people want to live, work, visit, and recreate. This effort will seek to integrate parks and open space into the community development efforts at Ridgedale to create vibrant and cohesive spaces where the built form supports function to host a wide variety of activities and amenities.

Systems thinking: A holistic approach to how current and future residents of Minnetonka and natural elements interact and inform the built environment.

Activation: Programmable public spaces to strengthen community connection and invite exploration by car, bicycle or on foot to support healthy, active lifestyles.

Inclusion: Create a space that is welcoming and supportive for people of all abilities, backgrounds, and ages.

Involvement: Include people who live, work, and visit Minnetonka.
- Interactive public engagement for development of park concepts and design.
- Check-ins and updates to city council and park board.
- Public meeting to review engagement findings and provide feedback on concept designs.

Identity: Distinct, signature spaces that create a sense of place.

Investment: Attract new development and seek out public private partnerships, as appropriate.

Quality: Protecting and preserving the outstanding quality of life currently enjoyed in Minnetonka to ensure the same quality of life is available for all residents in the years to come.

Utilization of City Staff. Staff will play a large role in development of the new park.

Desired Outcomes

- A signature community level park.
- An innovative, implementable and sustainable design.
- Built form that supports functions.
- Enhanced natural features.
- Plan must be endorsed by the community.
- Complements related projects in the Ridgedale area.

PROCESS

Information Gathering
Available information
- Ridgedale Village Center Study
- Ridgedale Area Public Realm Guidelines
- Ridgedale Southwest Sector Guiding Principles
- Current development projects happening – Trammell Crow development, Ridgedale Drive reconstruction, Ridgedale Executive apartments

Trammell Crow development
- Land Acquisition for new park space
- Adopted by City Council June 4, 2018

Outreach and Engagement

- Hennepin County Active Living Grant
  - Outreach targeting underrepresented groups including seniors, teens, mall employees and other non-residents
  - Site activation during community event
  - Analysis and reporting of outreach
- Community Outreach Survey
  - Identify important park qualities for this location
  - Serve as basis for outreach to underrepresented groups
  - Provide data for analysis to gauge community preference & values in park space

Design

- Park Concept Alternatives
  - Highlight preferences established through outreach
  - Identify design materials including furniture, plant material and other components
  - Establish preliminary budget
- Connections to related properties & projects
  - Ridgedale Drive
  - Crane Lake Preserve
  - Development projects including: Trammell Crow development, Ridgedale Drive reconstruction, Ridgedale Executive apartments
  - Ridgedale Center
  - Hennepin County Library

Communications

- Initial engagement through steering committee
- Minnetonka Memo
- Social Media
- Email listserv
- Stakeholder interviews
## Schedule for Community Outreach & Conceptual Design

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<th>September</th>
<th>October</th>
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<td>Public Outreach and Engagement</td>
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<td>Analyze results of Outreach &amp; Engagement</td>
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<td>Conceptual Design</td>
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<tr>
<td>Community Meeting Presentation of Outreach &amp; Engagement Analysis &amp; Concept Design</td>
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<td>Joint Presentation to Park Board &amp; City Council</td>
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<tr>
<td>Concept Design Refinement &amp; Begin Design Development</td>
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Note: The stars represent key milestones or important events.
Addenda
Minnetonka City Council
Meeting of August 6, 2018

10B Resolution awarding sale of approximately $10,000,000 General Obligation Utility Revenue Bonds, Series 2018A

Attached is a revised resolution from the finance director that reflects the results of today's bond sales. Staff is recommending awarding the sale to the lowest bidder, Robert W. Baird & co., Inc., Milwaukee, WI.

13B Items related to grant funding agreements for Newport Midwest LLC, dba The Mariner, at 10400, 10500 and 15500 Bren Road E..

Attached is a change memo from the community development director with a change to the county's resolution number stated in the city's resolution that was included in the council packet.

14A Consideration of petition for environmental assessment worksheet for Lone Lake Park – Mountain Bike Trail

The attached comments were received after the council packet was distributed.
ADDENDUM

City Council Agenda Item #10B
Meeting of August 6, 2018

Brief Description: Resolution awarding sale of approximately $10,000,000 General Obligation Utility Revenue Bonds, Series 2018A

Attached is a revised resolution appropriately reflecting the results of today’s bond sales, which are specifically detailed in Exhibit A of the attachment. As part of the resolution, staff recommends awarding the sale to lowest bidder, Robert W. Baird & co., Inc., Milwaukee, WI.

Submitted through:
    Geralyn Barone, City Manager

Originated by:
    Merrill King, Finance Director
Resolution No. 2018-________

Resolution awarding the sale of General Obligation Utility Revenue Bonds, Series 2018A, in the original aggregate principal amount of $10,000,000; fixing their form and specifications; directing their execution and delivery; and providing for their payment

Be it resolved by the City Council (the “Council”) of the City of Minnetonka, Minnesota (the “City”) as follows:

Section 1. Sale of Bonds.

1.01. Authorization for Sale of Bonds. Pursuant to a resolution adopted by the Council on June 9, 2018, the City authorized the sale of its General Obligation Utility Revenue Bonds, Series 2018A (the “Bonds”), to finance the construction of improvements to the City’s water system and sanitary sewer system (the “Project”), pursuant to Minnesota Statutes, Chapters 444 and 475, as amended (the “Act”).

1.02. Award to the Purchaser and Interest Rates. The proposals received for the purchase of the Bonds are attached hereto as EXHIBIT A. The proposal of Robert W. Baird & Co., Inc., Milwaukee, Wisconsin, as syndicate manager (the “Purchaser”), to purchase the Bonds of the City is hereby found and determined to be a reasonable offer and is hereby accepted, the proposal being to purchase the Bonds at a price of $10,244,562.10 (par amount of $10,000,000.00, plus original issue premium of $364,266.25, less original issue discount of $34,141.65, less underwriter’s discount of $85,562.50), plus accrued interest to date of delivery, if any, for Bonds bearing interest as follows:

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True interest cost: 3.0877300%
1.03. **Purchase Contract.** The sum of $244,562.10, being the amount proposed by the Purchaser in excess of $10,000,000.00, shall be credited to the Debt Service Fund hereinafter created or deposited in the Construction Fund hereinafter created, as determined by the Finance Director of the City in consultation with the City’s municipal advisor. The Finance Director is directed to deposit the good faith check or deposit of the Purchaser, pending completion of the sale of the Bonds, and to return the good faith deposits of the unsuccessful proposers. The Mayor and City Manager are directed to execute a contract with the Purchaser on behalf of the City.

1.04. **Terms and Principal Amounts of the Bonds.** The City will forthwith issue and sell the Bonds pursuant to the Act in the total principal amount of $10,000,000, originally dated September 5, 2018, in the denomination of $5,000 each or any integral multiple thereof, numbered No. R-1, upward, bearing interest as above set forth, and maturing serially on February 1 in the years and amounts as follows:

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<th>Amount</th>
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1.05. **Optional Redemption.** The City may elect on February 1, 2026, and on any day thereafter to prepay Bonds due on or after February 1, 2027. Redemption may be in whole or in part and if in part, at the option of the City and in such manner as the City will determine. If less than all Bonds of a maturity are called for redemption, the City will notify DTC (as defined in Section 7 hereof) of the particular amount of such maturity to be prepaid. DTC will determine by lot the amount of each participant’s interest in such maturity to be redeemed and each participant will then select by lot the beneficial ownership interests in such maturity to be redeemed. Prepayments will be at a price of par plus accrued interest.
Section 2. Registration and Payment.

2.01. Registered Form. The Bonds will be issued only in fully registered form. The interest thereon and, upon surrender of each Bond, the principal amount thereof, is payable by check or draft issued by the Registrar described herein.

2.02. Dates; Interest Payment Dates. Each Bond will be dated as of the last interest payment date preceding the date of authentication to which interest on the Bond has been paid or made available for payment, unless (i) the date of authentication is an interest payment date to which interest has been paid or made available for payment, in which case the Bond will be dated as of the date of authentication, or (ii) the date of authentication is prior to the first interest payment date, in which case the Bond will be dated as of the date of original issue. The interest on the Bonds is payable on February 1 and August 1 of each year, commencing August 1, 2019, to the registered owners of record thereof as of the close of business on the fifteenth day of the immediately preceding month, whether or not that day is a business day.

2.03. Registration. The City will appoint a bond registrar, transfer agent, authenticating agent and paying agent (the “Registrar”). The effect of registration and the rights and duties of the City and the Registrar with respect thereto are as follows:

(a) Register. The Registrar must keep at its principal corporate trust office a bond register in which the Registrar provides for the registration of ownership of Bonds and the registration of transfers and exchanges of Bonds entitled to be registered, transferred or exchanged.

(b) Transfer of Bonds. Upon surrender for transfer of a Bond duly endorsed by the registered owner thereof or accompanied by a written instrument of transfer, in form satisfactory to the Registrar, duly executed by the registered owner thereof or by an attorney duly authorized by the registered owner in writing, the Registrar will authenticate and deliver, in the name of the designated transferee or transferees, one or more new Bonds of a like aggregate principal amount and maturity, as requested by the transferor. The Registrar may, however, close the books for registration of any transfer after the fifteenth day of the month preceding each interest payment date and until that interest payment date.

(c) Exchange of Bonds. When Bonds are surrendered by the registered owner for exchange the Registrar will authenticate and deliver one or more new Bonds of a like aggregate principal amount and maturity as requested by the registered owner or the owner’s attorney in writing.
(d) **Cancellation.** Bonds surrendered upon transfer or exchange will be promptly cancelled by the Registrar and thereafter disposed of as directed by the City.

(e) **Improper or Unauthorized Transfer.** When a Bond is presented to the Registrar for transfer, the Registrar may refuse to transfer the Bond until the Registrar is satisfied that the endorsement on the Bond or separate instrument of transfer is valid and genuine and that the requested transfer is legally authorized. The Registrar will incur no liability for the refusal, in good faith, to make transfers which it, in its judgment, deems improper or unauthorized.

(f) **Persons Deemed Owners.** The City and the Registrar may treat the person in whose name a Bond is registered in the bond register as the absolute owner of the Bond, whether the Bond is overdue or not, for the purpose of receiving payment of, or on account of, the principal of and interest on the Bond and for all other purposes and payments so made to registered owner or upon the owner’s order will be valid and effectual to satisfy and discharge the liability upon the Bond to the extent of the sum or sums so paid.

(g) **Taxes, Fees and Charges.** The Registrar may impose a charge upon the owner thereof for a transfer or exchange of Bonds, sufficient to reimburse the Registrar for any tax, fee or other governmental charge required to be paid with respect to the transfer or exchange.

(h) **Mutilated, Lost, Stolen or Destroyed Bonds.** If a Bond becomes mutilated or is destroyed, stolen or lost, the Registrar will deliver any new Bond of like amount, number, maturity date and tenor in exchange and substitution for and upon cancellation of the mutilated Bond or in lieu of and in substitution for a Bond destroyed, stolen or lost, upon the payment of the reasonable expenses and charges of the Registrar in connection therewith; and, in the case of a Bond destroyed, stolen or lost, upon filing with the Registrar of evidence satisfactory to it that the Bond was destroyed, stolen or lost, and of the ownership thereof, and upon furnishing to the Registrar of an appropriate bond or indemnity in form, substance and amount satisfactory to it and as provided by law, in which both the City and the Registrar must be named as obligees. Bonds so surrendered to the Registrar will be cancelled by the Registrar and evidence of such cancellation must be given to the City. If the mutilated, destroyed, stolen or lost Bond has already matured or been called for redemption in accordance with its terms it is not necessary to issue a new Bond prior to payment.

(i) **Redemption.** In the event any of the Bonds are called for redemption, notice thereof identifying the Bonds to be redeemed will be given by the Registrar by mailing a copy of the redemption notice by first
class mail (postage prepaid) to the registered owner of each Bond to be redeemed at the address shown on the registration books kept by the Registrar and by publishing the notice if required by law. Failure to give notice by publication or by mail to any registered owner, or any defect therein, will not affect the validity of the proceedings for the redemption of Bonds. Bonds so called for redemption will cease to bear interest after the specified redemption date, provided that the funds for the redemption are on deposit with the place of payment at that time.

2.04. Appointment of Initial Registrar. The City appoints Associated Trust Company, National Association, Green Bay, Wisconsin, as the initial Registrar. The Mayor and the City Manager are authorized to execute and deliver, on behalf of the City, a contract with the Registrar. Upon merger or consolidation of the Registrar with another corporation, if the resulting corporation is a bank or trust company authorized by law to conduct such business, the resulting corporation is authorized to act as successor Registrar. The City agrees to pay the reasonable and customary charges of the Registrar for the services performed. The City reserves the right to remove the Registrar upon thirty (30) days’ notice and upon the appointment of a successor Registrar, in which event the predecessor Registrar must deliver all cash and Bonds in its possession to the successor Registrar and must deliver the bond register to the successor Registrar. On or before each principal or interest due date, without further order of the Council, the Finance Director must transmit to the Registrar monies sufficient for the payment of all principal and interest then due.

2.05. Execution, Authentication and Delivery. The Bonds will be prepared under the direction of the City Manager and executed on behalf of the City by the signatures of the Mayor and the City Manager, provided that those signatures may be printed, engraved or lithographed facsimiles of the originals. If an officer whose signature or a facsimile of whose signature appears on the Bonds ceases to be such officer before the delivery of a Bond, that signature or facsimile will nevertheless be valid and sufficient for all purposes, the same as if the officer had remained in office until delivery. Notwithstanding such execution, a Bond will not be valid or obligatory for any purpose or entitled to any security or benefit under this resolution unless and until a certificate of authentication on the Bond has been duly executed by the manual signature of an authorized representative of the Registrar. Certificates of authentication on different Bonds need not be signed by the same representative. The executed certificate of authentication on a Bond is conclusive evidence that it has been authenticated and delivered under this Resolution. When the Bonds have been so prepared, executed and authenticated, the City Manager will deliver the same to the Purchaser upon payment of the purchase price in accordance with the contract of sale heretofore made and executed, and the Purchaser is not obligated to see to the application of the purchase price.
2.06. **Temporary Bonds.** The City may elect to deliver in lieu of printed definitive Bonds one or more typewritten temporary Bonds in substantially the form set forth in EXHIBIT B attached hereto, with such changes as may be necessary to reflect more than one maturity in a single temporary bond. Upon the execution and delivery of definitive Bonds the temporary Bonds will be exchanged therefor and cancelled.

Section 3. **Form of Bond.**

3.01. **Execution of the Bonds.** The Bonds will be printed or typewritten in substantially the form as attached hereto as EXHIBIT B.

3.02. **Approving Legal Opinion.** The City Manager is directed to obtain a copy of the proposed approving legal opinion of Kennedy & Graven, Chartered, Minneapolis, Minnesota, and to cause the opinion to be printed on or accompany each Bond.

Section 4. **Payment; Security; Pledges and Covenants.**

4.01. **Debt Service Fund.** The Bonds are payable from the General Obligation Utility Revenue Bonds, Series 2018A Debt Service Fund (the “Debt Service Fund”) hereby created. The Debt Service Fund shall be administered by the Finance Director as a bookkeeping account separate and apart from all other funds maintained in the official financial records of the City. The City will continue to maintain and operate its Water Fund and Sanitary Sewer Fund to which will be credited all gross revenues of the water system and sanitary sewer system, respectively, and out of which will be paid all normal and reasonable expenses of current operations of such systems. Any balances therein are deemed net revenues (the “Net Revenues”) and will be transferred, from time to time, to the Debt Service Fund, which Debt Service Fund will be used only to pay principal of and interest on the Bonds and any other bonds similarly authorized. There will always be retained in the Debt Service Fund a sufficient amount to pay principal of and interest on all the Bonds, and the Finance Director must report any current or anticipated deficiency in the Debt Service Fund to the Council. There is also appropriated to the Debt Service Fund amounts over the minimum purchase price of the Bonds paid by the Purchaser, to the extent designated for deposit in the Debt Service Fund in accordance with Section 1.03 hereof.

4.02. **Construction Fund.** The City hereby creates the General Obligation Utility Revenue Bonds, Series 2018A Construction Fund (the “Construction Fund”). Proceeds of the Bonds, less the appropriations made in Section 4.01 hereof, will be deposited in the Construction Fund to be used solely to defray expenses of the Project. When the Project is completed
and the cost thereof paid, the Construction Fund is to be closed and any funds remaining may be deposited in the Debt Service Fund.

4.03. City Covenants. The Council covenants and agrees with the holders of the Bonds that so long as any of the Bonds remain outstanding and unpaid, it will keep and enforce the following covenants and agreements:

(a) The City will continue to maintain and efficiently operate the water system and sanitary sewer system as public utilities and conveniences free from competition of other like municipal utilities and will cause all revenues therefrom to be deposited in bank accounts and credited to the Water Fund and Sanitary Sewer Fund, respectively, as hereinabove provided, and will make no expenditures from those accounts except for a duly authorized purpose and in accordance with this resolution.

(b) The City will also maintain the Debt Service Fund as a separate account and will cause money to be credited thereto from time to time, out of Net Revenues from the water system and sanitary sewer system in sums sufficient to pay principal of and interest on the Bonds when due.

(c) The City will keep and maintain proper and adequate books of records and accounts separate from all other records of the City in which will be complete and correct entries as to all transactions relating to the water system and the sanitary sewer system and which will be open to inspection and copying by any Bondholder, or the Bondholder’s agent or attorney, at any reasonable time, and it will furnish certified transcripts therefrom upon request and upon payment of a reasonable fee therefor, and said account will be audited at least annually by a qualified public accountant and statements of such audit and report will be furnished to all Bondholders upon request.

(d) The Council will cause persons handling revenues of the water system and sanitary sewer system to be bonded in reasonable amounts for the protection of the City and the Bondholders and will cause the funds collected on account of the operations of such systems to be deposited in a bank whose deposits are guaranteed under the Federal Deposit Insurance Law.

(e) The Council will keep the water system and sanitary sewer system insured at all times against loss by fire, tornado and other risks customarily insured against with an insurer or insurers in good standing, in such amounts as are customary for like plants, to protect the holders, from time to time, of the Bonds and the City from any loss due to any such casualty and will apply the proceeds of such insurance to make good any such loss.
(f) The City and each and all of its officers will punctually perform all duties with reference to the water system and sanitary sewer system as required by law.

(g) The City will impose and collect charges of the nature authorized by Section 444.075 of the Act, at the times and in the amounts required to produce Net Revenues adequate to pay all principal and interest when due on the Bonds and to create and maintain such reserves securing said payments as may be provided in this resolution.

(h) The Council will levy general ad valorem taxes on all taxable property in the City when required to meet any deficiency in Net Revenues.

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

4.05. **Debt Service Coverage.** It is hereby determined that the estimated collection of Net Revenues from the water system and sanitary sewer system of the City for the payment of principal and interest on the Bonds will produce at least five percent (5%) in excess of the amount needed to meet, when due, the principal and interest payments on the Bonds and that no tax levy is needed at this time.

4.06. **Filing of Resolution.** The City Manager is authorized and directed to file a certified copy of this resolution with the Taxpayer Services Division Manager of Hennepin County, Minnesota, and to obtain the certificate required by Section 475.63 of the Act.

Section 5. **Authentication of Transcript.**

5.01. **City Proceedings and Records.** The officers of the City are authorized and directed to prepare and furnish to the Purchaser and to the attorneys approving the Bonds certified copies of proceedings and records of the City relating to the Bonds and to the financial condition and affairs of the City, and such other certificates, affidavits and transcripts as may be required to show the facts within their knowledge or as shown by the books and records in their custody and under their control, relating to the validity and marketability of the Bonds, and such instruments, including any heretofore
furnished, may be deemed representations of the City as to the facts stated therein.

5.02. Certification as to Official Statement. The Mayor, the City Manager, and the Finance Director are authorized and directed to certify that they have examined the Official Statement prepared and circulated in connection with the issuance and sale of the Bonds and that to the best of their knowledge and belief the Official Statement is a complete and accurate representation of the facts and representations made therein as of the date of the Official Statement.

5.03. Other Certificates. The Mayor, the City Manager, and the Finance Director are hereby authorized and directed to furnish to the Purchaser at the closing such certificates as are required as a condition of sale. Unless litigation shall have been commenced and be pending questioning the Bonds or the organization of the City or incumbency of its officers, at the closing the Mayor, the City Manager, and the Finance Director shall also execute and deliver to the Purchaser a suitable certificate as to absence of material litigation, and the Finance Director shall also execute and deliver a certificate as to payment for and delivery of the Bonds.

5.04. Fiscal Agency Agreement. The Mayor and the City Manager are hereby authorized and directed to execute and deliver the Fiscal Agency Agreement, between the City and the Registrar, in substantially the form now on file with the City Manager, subject to such modifications as the Mayor and the City Manager may deem appropriate, the execution thereof to constitute conclusive evidence of their approval of any and all modifications therein.

Section 6. Tax Covenants.

6.01. Tax-Exempt Bonds. The City covenants and agrees with the holders from time to time of the Bonds that it will not take or permit to be taken by any of its officers, employees or agents any action which would cause the interest on the Bonds to become subject to taxation under the Internal Revenue Code of 1986, as amended (the “Code”), and the Treasury Regulations promulgated thereunder, in effect at the time of such actions, and that it will take or cause its officers, employees or agents to take, all affirmative action within its power that may be necessary to ensure that such interest will not become subject to taxation under the Code and applicable Treasury Regulations, as presently existing or as hereafter amended and made applicable to the Bonds.

6.02. Rebate. The City will comply with requirements necessary under the Code to establish and maintain the exclusion from gross income of the interest on the Bonds under Section 103 of the Code, including without limitation
requirements relating to temporary periods for investments and limitations on amounts invested at a yield greater than the yield on the Bonds.

6.03. Not Private Activity Bonds. The City further covenants not to use the proceeds of the Bonds or to cause or permit them or any of them to be used, in such a manner as to cause the Bonds to be “private activity bonds” within the meaning of Sections 103 and 141 through 150 of the Code.

6.04. Qualified Tax-Exempt Obligations. The Bonds are hereby deemed to be “qualified tax-exempt obligations” within the meaning of Section 265(b)(3) of the Code, because the City determines that:

(a) the Bonds are not “private activity bonds” as defined in Section 141 of the Code;

(b) the City hereby designates the Bonds as “qualified tax-exempt obligations” for purposes of Section 265(b)(3) of the Code;

(c) the reasonably anticipated amount of tax-exempt obligations (other than any private activity bonds that are not qualified 501(c)(3) bonds) which will be issued by the City (and all subordinate entities of the City) during calendar year 2018 will not exceed $10,000,000; and

(d) not more than $10,000,000 of obligations issued by the City during calendar year 2018 have been designated for purposes of Section 265(b)(3) of the Code.

6.05. Procedural Requirements. The City will use its best efforts to comply with any federal procedural requirements which may apply in order to effectuate the designations made by this section.

Section 7. Book-Entry System; Limited Obligation of City.

7.01. The Depository Trust Company. The Bonds will be initially issued in the form of a separate single typewritten or printed fully registered Bond for each of the maturities set forth in Section 1.04 hereof. Upon initial issuance, the ownership of each Bond will be registered in the registration books kept by the Registrar in the name of Cede & Co., as nominee for The Depository Trust Company, New York, New York, and its successors and assigns (“DTC”). Except as provided in this section, all of the outstanding Bonds will be registered in the registration books kept by the Registrar in the name of Cede & Co., as nominee of DTC.

7.02. Participants. With respect to Bonds registered in the registration books kept by the Registrar in the name of Cede & Co., as nominee of DTC, the City, the Registrar and the Paying Agent will have no responsibility or obligation
to any broker dealers, banks and other financial institutions from time to
time for which DTC holds Bonds as securities depository (the “Participants”) or
to any other person on behalf of which a Participant holds an interest in
the Bonds, including but not limited to any responsibility or obligation with
respect to (i) the accuracy of the records of DTC, Cede & Co. or any
Participant with respect to any ownership interest in the Bonds, (ii) the
delivery to any Participant or any other person (other than a registered
owner of Bonds, as shown by the registration books kept by the Registrar)
of any notice with respect to the Bonds, including any notice of redemption,
or (iii) the payment to any Participant or any other person, other than a
registered owner of Bonds, of any amount with respect to principal of,
premium, if any, or interest on the Bonds. The City, the Registrar and the
Paying Agent may treat and consider the person in whose name each Bond
is registered in the registration books kept by the Registrar as the holder
and absolute owner of such Bond for the purpose of payment of principal,
premium and interest with respect to such Bond, for the purpose of
registering transfers with respect to such Bonds, and for all other purposes.
The Paying Agent will pay all principal of, premium, if any, and interest on
the Bonds only to or on the order of the respective registered owners, as
shown in the registration books kept by the Registrar, and all such payments
will be valid and effectual to fully satisfy and discharge the City’s obligations
with respect to payment of principal of, premium, if any, or interest on the
Bonds to the extent of the sum or sums so paid. No person other than a
registered owner of Bonds, as shown in the registration books kept by the
Registrar, will receive a certificated Bond evidencing the obligation of this
resolution. Upon delivery by DTC to the City Manager of a written notice to
the effect that DTC has determined to substitute a new nominee in place of
Cede & Co., the words “Cede & Co.” will refer to such new nominee of DTC;
and upon receipt of such a notice, the City Manager will promptly deliver a
copy of the same to the Registrar and Paying Agent.

7.03. Representation Letter. The City has heretofore executed and delivered to
DTC a Blanket Issuer Letter of Representations (the “Representation
Letter”) which shall govern payment of principal of, premium, if any, and
interest on the Bonds and notices with respect to the Bonds. Any Paying
Agent or Registrar subsequently appointed by the City with respect to the
Bonds will agree to take all action necessary for all representations of the
City in the Representation Letter with respect to the Registrar and Paying
Agent, respectively, to be complied with at all times.

7.04. Transfers Outside Book-Entry System. In the event the City, by resolution
of the Council, determines that it is in the best interests of the persons
having beneficial interests in the Bonds that they be able to obtain Bond
certificates, the City will notify DTC, whereupon DTC will notify the
Participants, of the availability through DTC of Bond certificates. In such
event the City will issue, transfer and exchange Bond certificates as
requested by DTC and any other registered owners in accordance with the provisions of this Resolution. DTC may determine to discontinue providing its services with respect to the Bonds at any time by giving notice to the City and discharging its responsibilities with respect thereto under applicable law. In such event, if no successor securities depository is appointed, the City will issue and the Registrar will authenticate Bond certificates in accordance with this resolution and the provisions hereof will apply to the transfer, exchange and method of payment thereof.

7.05. Payments to Cede & Co. Notwithstanding any other provision of this Resolution to the contrary, so long as a Bond is registered in the name of Cede & Co., as nominee of DTC, payments with respect to principal of, premium, if any, and interest on the Bond and notices with respect to the Bond will be made and given, respectively in the manner provided in DTC’s Operational Arrangements, as set forth in the Representation Letter.

Section 8. Continuing Disclosure.

8.01. Execution of Continuing Disclosure Certificate. “Continuing Disclosure Certificate” means that certain Continuing Disclosure Certificate executed by the Mayor and City Manager and dated the date of issuance and delivery of the Bonds, as originally executed and as it may be amended from time to time in accordance with the terms thereof.

8.02. City Compliance with Provisions of Continuing Disclosure Certificate. The City hereby covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Certificate. Notwithstanding any other provision of this resolution, failure of the City to comply with the Continuing Disclosure Certificate is not to be considered an event of default with respect to the Bonds; however, any Bondholder may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the City to comply with its obligations under this section.

Section 9. Defeasance. When all Bonds and all interest thereon have been discharged as provided in this section, all pledges, covenants and other rights granted by this resolution to the holders of the Bonds will cease, except that the pledge of the full faith and credit of the City for the prompt and full payment of the principal of and interest on the Bonds will remain in full force and effect. The City may discharge all Bonds which are due on any date by depositing with the Registrar on or before that date a sum sufficient for the payment thereof in full. If any Bond should not be paid when due, it may nevertheless be discharged by depositing with the Registrar a sum sufficient for the payment thereof in full with interest accrued to the date of such deposit.
Adopted by the City Council of the City of Minnetonka, Minnesota, on August 6, 2018.

____________________
Brad Wiersum, Mayor

Attest:

____________________
David E. Maeda, City Clerk

**Action on this resolution:**

Motion for adoption:  
Seconded by:  
Voted in favor of:  
Voted against:  
Abstained:  
Absent:  
Resolution adopted.

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a meeting held on August 6, 2018.

____________________
David E. Maeda, City Clerk
EXHIBIT A

PROPOSALS

Springsted

$10,000,000\(^{(a)}\)
CITY OF MINNETONKA, MINNESOTA
GENERAL OBLIGATION UTILITY REVENUE BONDS, SERIES 2018A
(BOOK ENTRY ONLY)

AWARD: ROBERT W. BAIRD & CO., INCORPORATED & SYNDICATE

SALE: August 6, 2018
Moody’s Rating: Aaa

<table>
<thead>
<tr>
<th>Bidder</th>
<th>Interest Rates</th>
<th>Price</th>
<th>Net Interest Cost</th>
<th>True Interest Rate</th>
</tr>
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<tbody>
<tr>
<td>ROBERT W. BAIRD &amp; CO., INCORPORATED</td>
<td>5.60%</td>
<td>2021-2028</td>
<td>$10,249,136.45(^{(b)})</td>
<td>3.0874%(^{(b)})</td>
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<td>C.L. KING &amp; ASSOCIATES, INC.</td>
<td>3.00%</td>
<td>2027-2034</td>
<td>$4,055,548.52(^{(b)})</td>
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<td>DOUGHERTY &amp; COMPANY LLC</td>
<td>3.125%</td>
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<td>VINING SPARKS IBG, LP</td>
<td>3.25%</td>
<td>2037-2039</td>
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<tr>
<td>EDWARD JONES</td>
<td>3.375%</td>
<td>2040</td>
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<td>FIDELITY CAPITAL MARKETS</td>
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<td>DAVENPORT &amp; COMPANY LLC</td>
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<td>DUNCAN-WILLIAMS, INC.</td>
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<td>ROSS, SINCLAIRE &amp; ASSOCIATES, LLC</td>
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<td>COUNTRY CLUB BANK</td>
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<td>OPPENHEIMER &amp; CO. INC.</td>
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<td>SUMRIDGE PARTNERS, LLC</td>
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<td>R. SEELAUS &amp; CO., INC.</td>
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<td>WINTRUST INVESTMENTS LLC</td>
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\(^{(a)}\) Subsequent to bid opening, the total issue size was not changed; however, certain individual maturity amounts have changed.

\(^{(b)}\) Subsequent to bid opening, the price, net interest cost, and true interest rate have changed to $10,244,562.10, $4,063,749.57, and 3.0877%, respectively.

Public Sector Advisors
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<tr>
<th>Bidder</th>
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<th>Price</th>
<th>Net Interest Cost</th>
<th>True Interest Rate</th>
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<td>NORTHLAND SECURITIES, INC.</td>
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<td>J.J.B. HILLIARD, W.L. LYONS LLC</td>
<td>5.00% 2025</td>
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<td>UNITED BANKERS' BANK</td>
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<td>3.125% 2034-2035</td>
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<td>3.00% 2026-2028</td>
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<td>3.50% 2039-2040</td>
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BBi: 3.95%  
Average Maturity: 12.998 Years
EXHIBIT B

FORM OF BOND

No. R-_____ $_______

UNITED STATES OF AMERICA
STATE OF MINNESOTA
COUNTY OF HENNEPIN
CITY OF MINNETONKA

GENERAL OBLIGATION UTILITY REVENUE BOND
SERIES 2018A

Rate Maturity Date of Original Issue CUSIP
February 1, 20__ September 5, 2018

Registered Owner: CEDE & CO.

The City of Minnetonka, Minnesota, a duly organized and existing municipal corporation in Hennepin County, Minnesota (the “City”), acknowledges itself to be indebted and for value received hereby promises to pay to the Registered Owner specified above or registered assigns, the principal sum of $__________ on the maturity date specified above, with interest thereon from the date hereof at the annual rate specified above (calculated on the basis of a 360-day year of twelve 30 day months), payable February 1 and August 1 in each year, commencing August 1, 2019, to the person in whose name this Bond is registered at the close of business on the fifteenth day (whether or not a business day) of the immediately preceding month. The interest hereon and, upon presentation and surrender hereof, the principal hereof are payable in lawful money of the United States of America by check or draft by Associated Trust Company, National Association, Green Bay, Wisconsin, as Bond Registrar, Paying Agent, Transfer Agent and Authenticating Agent, or its designated successor under the Resolution described herein. For the prompt and full payment of such principal and interest as the same respectively become due, the full faith and credit and taxing powers of the City have been and are hereby irrevocably pledged.

The City may elect on February 1, 2026, and on any day thereafter to prepay Bonds due on or after February 1, 2027. Redemption may be in whole or in part and if in part, at the option of the City and in such manner as the City will determine. If less than all Bonds of a maturity are called for redemption, the City will notify The Depository Trust Company (“DTC”) of the particular amount of such maturity to be prepaid. DTC will determine by lot the amount of each participant’s interest in such maturity to be redeemed and each
participant will then select by lot the beneficial ownership interests in such maturity to be redeemed. Prepayments will be at a price of par plus accrued interest.

This Bond is one of an issue in the aggregate principal amount of $10,000,000 all of like original issue date and tenor, except as to number, maturity date, interest rate, and redemption privilege, all issued pursuant to a resolution adopted by the City Council on August 6, 2018 (the “Resolution”), for the purpose of providing money to defray the expenses incurred and to be incurred in making certain improvements to the water system and sanitary sewer system of the City, pursuant to and in full conformity with the home rule charter of the City and the Constitution and laws of the State of Minnesota, including Minnesota Statutes, Chapters 444 and 475, as amended. The principal hereof and interest hereon are payable from net revenues of the City’s water system and sanitary sewer system, as set forth in the Resolution to which reference is made for a full statement of rights and powers thereby conferred. The full faith and credit of the City are irrevocably pledged for payment of this Bond and the City Council has obligated itself to levy ad valorem taxes on all taxable property in the City in the event of any deficiency in net revenues pledged, which taxes may be levied without limitation as to rate or amount. The Bonds of this series are issued only as fully registered Bonds in denominations of $5,000 or any integral multiple thereof of single maturities.

The City Council has deemed designated the issue of Bonds of which this Bond forms a part as “qualified tax-exempt obligations” within the meaning of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended (the “Code”) relating to disallowance of interest expense for financial institutions and within the $10 million limit allowed by the Code for the calendar year of issue.

IT IS HEREBY CERTIFIED AND RECITED That in and by the Resolution, the City has covenanted and agreed that it will continue to own and operate the water system and sanitary sewer system free from competition by other like municipal utilities; that adequate insurance on said systems and suitable fidelity bonds on employees will be carried; that proper and adequate books of account will be kept showing all receipts and disbursements relating to the Water Fund and the Sanitary Sewer Fund, into which it will pay all of the gross revenues from the water system and sanitary sewer system, respectively; that it will also create and maintain a General Obligation Utility Revenue Bonds, Series 2018A Debt Service Fund, into which it will pay, out of the net revenues from the water system and sanitary sewer system a sum sufficient to pay principal of the Bonds and interest on the Bonds when due; and that it will provide, by ad valorem tax levies, for any deficiency in required net revenues of the water system and sanitary sewer system.

As provided in the Resolution and subject to certain limitations set forth therein, this Bond is transferable upon the books of the City at the principal office of the Bond Registrar, by the registered owner hereof in person or by the owner’s attorney duly authorized in writing, upon surrender hereof together with a written instrument of transfer satisfactory to the Bond Registrar, duly executed by the registered owner or the owner’s attorney; and may also be surrendered in exchange for Bonds of other authorized
denominations. Upon such transfer or exchange the City will cause a new Bond or Bonds to be issued in the name of the transferee or registered owner, of the same aggregate principal amount, bearing interest at the same rate and maturing on the same date, subject to reimbursement for any tax, fee or governmental charge required to be paid with respect to such transfer or exchange.

The City and the Bond Registrar may deem and treat the person in whose name this Bond is registered as the absolute owner hereof, whether this Bond is overdue or not, for the purpose of receiving payment and for all other purposes, and neither the City nor the Bond Registrar will be affected by any notice to the contrary.

IT IS HEREBY CERTIFIED, RECITED, COVENANTED AND AGREED that all acts, conditions and things required by the charter and the Constitution and laws of the State of Minnesota, to be done, to exist, to happen and to be performed preliminary to and in the issuance of this Bond in order to make it a valid and binding general obligation of the City in accordance with its terms, have been done, do exist, have happened and have been performed as so required, and that the issuance of this Bond does not cause the indebtedness of the City to exceed any constitutional, charter, or statutory limitation of indebtedness.

This Bond is not valid or obligatory for any purpose or entitled to any security or benefit under the Resolution until the Certificate of Authentication hereon has been executed by the Bond Registrar by manual signature of one of its authorized representatives.

IN WITNESS WHEREOF, the City of Minnetonka, Hennepin County, Minnesota, by its City Council, has caused this Bond to be executed on its behalf by the facsimile or manual signatures of the Mayor and City Manager and has caused this Bond to be dated as of the date set forth below.

Dated: September 5, 2018

CITY OF MINNETONKA, MINNESOTA

_________________________________  ______________________________________
(Facsimile)                      (Facsimile)
Mayor                             City Manager
CERTIFICATE OF AUTHENTICATION

This is one of the Bonds delivered pursuant to the Resolution mentioned within.

ASSOCIATED TRUST COMPANY, NATIONAL ASSOCIATION

By ____________________________
Authorized Representative

____________________________

ABBREVIATIONS

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

TEN COM -- as tenants in common
TEN ENT -- as tenants by entireties
JT TEN -- as joint tenants with right of survivorship and not as tenants in common

UNIF GIFT MIN ACT
(Cust) (Minor)
under Uniform Gifts or Transfers to Minors Act, State of _______________

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

ASSIGNMENT

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

Dated: ____________________________

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

Signature Guaranteed:

________________________________________

NOTICE: Signature(s) must be guaranteed by a financial institution that is a member of the Securities Transfer Agent Medallion Program ("STAMP"), the Stock Exchange Medallion Program ("SEMP"), the New York Stock Exchange, Inc. Medallion Signatures Program ("MSP") or other such "signature guarantee program" as may be determined by the Registrar in addition to, or in substitution for, STAMP, SEMP or MSP, all in accordance with the Securities Exchange Act of 1934, as amended.

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

Name and Address: ____________________________________________

________________________________________

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

Please insert social security or other identifying number of assignee

________________________________________

PROVISIONS AS TO REGISTRATION

The ownership of the principal of and interest on the within Bond has been registered on the books of the Registrar in the name of the person last noted below.

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<th>Signature of Officer of Registrar</th>
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STATE OF MINNESOTA
COUNTY OF HENNEPIN

CERTIFICATE OF TAXPAYER SERVICES DIVISION MANAGER AS TO REGISTRATION WHERE NO AD VALOREM TAX LEVY

I, the undersigned Taxpayer Services Division Manager of Hennepin County, Minnesota, hereby certify that a certified copy of a resolution adopted by the governing body of the City of Minnetonka, Minnesota (the “City”), on August 6, 2018, relating to the City's General Obligation Utility Revenue Bonds, Series 2018A, issued in the original aggregate principal amount of $10,000,000, dated September 5, 2018, has been filed in my office and said bonds have been entered on the register of obligations in my office.

WITNESS My hand and official seal this _____ day of __________, 2018.

________________________________________
Taxpayer Services Division Manager
Hennepin County, Minnesota

(SEAL)

________________________________________
Deputy County Auditor
ITEM 13B – Items related to grant funding agreements for Newport Midwest LLC dba The Mariner, at 10400, 10500 and 15500 Bren Road E

The resolution in the packet has a change to the Hennepin County resolution number. Below is the change:

1.01. The Hennepin County Housing and Redevelopment Authority (HCHRA) in Resolution No. 18-HCHRA-0014 has approved the use of a $400,000 Affordable Housing Incentive Fund loan for Newport Midwest, LLC (The Mariner) contingent upon the city of Minnetonka’s consent to the HCHRA’s participation in the project.
ITEM 14A – Consideration of petition for environmental assessment worksheet for Lone Lake Park – Mountain Bike Trail

Feedback provided after distribution of the packet.
Feedback regarding petition requesting an Environmental Assessment Worksheet (EAW)

August 2, 2018

From: John Mirocha
Sent: Thursday, August 2, 2018 9:38 AM
To: bwiersum@eminnetonka.com; dcalvert@eminnetonka.com; bellingson@eminnetonka.com; pacomb@eminnetonka.com; twagner@eminnetonka.com; mhappe@eminnetonka.com; tbergstedt@eminnetonka.com
Subject: Environmental Assessment Worksheet LLP

All, Please take the Environmental Assessment Worksheet seriously at your August 6 meeting. See attachment.

John Mirocha

August 1, 2018

John Mirocha
Retired professor of management

I am opposed to building mountain bike trails in Lone Lake Park. I write to you as a 30 year resident and as a retired professor of management. I taught course in leadership, strategy and organizational change for 33 years. I also worked as a consultant in organizations large and small, including government, at the local, state and national levels.

I have sent several emails to the mayor, city council, park board, city manager and even the city’s attorney. I have only one substantive reply to one of my questions about this whole matter.

1. I emailed initially as I learned about how many non-residents were influencing this decision and that their opinions appeared to be valued equally or more than equally to those of Minnetonka residents.

2. A second email pointed out that the information in the ill-conceived and amateurish Imagine Minnetonka Study was being overstated, making it appear that a large percentage of our residents were excited about and supportive of mountain biking trails in LLP. Only about 40-52 residents out of a city population of more than 53,000 made a comment supporting additional bike trails, mountain biking, etc. This embarrassingly low participation level is insufficient to draw any conclusions from as it related to biking, trails or mountain biking trails in LLP. I also addressed the fact that the city was touting its extensive civic engagement with the community about this when it was not true. The result was misleading the community in the amount of support and engagement for mountain biking in LLP; neither are true.

3. A more recent email addressed the lack of clear goals in the plan, the lack of metrics to measure success or failure of the project and the abdication of responsibility for monitoring and measurement to MORC. As we have come to know, MORC presents itself as high minded stewards of our parks with adequate resources to become partners in building and maintaining environmentally sustainable trails. They use all the right words. However, if you look at their public documents such as board minutes, financial statements and their Internet pages describing issues at their parks you get a very different
view of MORC—a struggling non-profit teetering financially, lacking adequate volunteers to main existing trails and parks full of environmental issues and with an insatiable appetite for growth. It is an organizational recipe for disaster! Is this a group we want to partner with when we have one of our best park’s character and wellbeing in the balance?

My comments to date have been about leadership, process, engagement, data analysis, transparency and honesty. I have not commented directly about the significant environmental issues posed by the addition of mountain biking in LLP as others have addressed these issues so clearly. I now implore you to pause and conduct a proper review of what has transpired to date. I also ask that you take the Environmental Assessment Worksheet process seriously. The environmental analysis conducted by the city is flawed. Take a fresh start by collecting actual data, as opposed to impressions and emotions. My former students wouldn’t be as nice as I am being as I review this project and process. Your work (including that of paid staff and consultants) has not shown the use of critical thinking skills, an ability to present numerical information and analyze it professionally and to present a truthful recommendation to us as citizens. We deserve better than this. Minnetonka does matter!

August 3, 2018

From: Marianne Wexler
Sent: Friday, August 03, 2018 1:18 PM
To: Brad Wiersum <bwiersum@eminnetonka.com>; Deborah Calvert <dcalvert@eminnetonka.com>; Patty Acomb <pacomb@eminnetonka.com>; bellingson@eminnetonka.com; mhappe@eminnetonka.com; tbergstedt@eminnetonka.com; Kelly ODea <kodea@eminnetonka.com>
Cc: 
Subject: Lone Lake Park Environmental Assessment Worksheet

I am a long time Minnetonka resident, own a business and office/distribution center in the Opus Industrial Park and an avid user of the Lone Lake Park trails for walking and snowshoeing and am against the mountain bike plans. I am writing to you concerning the Environmental Assessment Worksheet (EAW) for the mountain bike trail proposal for Lone Lake Park. I understand that a recommendation to the City Council to DENY the request for an environmental assessment. I am confused and concerned that an assessment would not be deemed vital and necessary prior to making a decision on whether to move ahead with the highly contested plans for the park.

Knowing that there are so many Minnetonka residents and Lone Lake Park users against the mountain bike proposal for many reasons, I find it alarming that the environmental impact would not at least be one for you to consider. My husband and I are unable to make it to the meeting this coming Monday but wanted to make sure that you all are aware of our concerns. We are hoping that you all will make the right decision not only on the Environmental Assessment Worksheet but also the entire mountain bike proposal.

Thank you for your consideration,

Marianne Wexler

From: Kara Bayse
Sent: Friday, August 03, 2018 1:46 PM
To: Brad Wiersum <bwiersum@eminnetonka.com>; Deborah Calvert <dcalvert@eminnetonka.com>
Good afternoon Mayor Wiersum, City Council Members, and Director O’Dea,

I have been a lifelong resident of Minnetonka for 40 years and have always appreciated its parks and trails. For nearly 13 years, I have lived within walking distance of Lone Lake Park. My spouse and I enjoy the varied terrain and challenge the hike through the park provides, as well as the wildlife including owls, deer, ducks, and heron. Lone Lake Park as it exists today is a park for all. The proposal to add mountain bike trails is a plan for destruction and departure toward a park for a select few. The wildlife would be disrupted as would the tranquility it provides for those who enjoy a simple walk or more rigorous hike. My spouse and brother are avid cyclists, therefore I appreciate the desire to ride, however there are other options for cyclists in larger parks where there is more land for both walkers and cyclists to have their own space. Please take the time to visit the park, conduct an environmental assessment, and consider the effects the destruction of it will have on those of us that truly appreciate what it has to offer.

Sincerely,

Kara Bayse

5534 Pompano Drive

Minnetonka, MN  55343

August 4, 2018

From: Lonna Mosow
Sent: Saturday, August 04, 2018 5:47 AM
To: Kelly ODea <kodea@eminnetonka.com>
Subject: Lone Lake Bike Trails

Please, please for the sake of those who not only use the Lone Lake Park for daily walks, snowshoeing and love of nature, consider following through with the plan to do the environmental assessment! Why not?

The Lone Lake Park is a one-if-a-kind park that I feel cannot be everything to everybody. With so many other options for mountain biking in the area, many of which would be more conducive, leave the park in all of it’s beauty and quiet. If the mountain bike trails happen, the park would forever be changed…and not for the better!

Thank you for your consideration.

Lonna

From: Maximillion Wexler
Dear All,

I am a resident of Minnetonka and own a business and commercial building owner in Minnetonka close to Lone Lake Park. I do not support the mountain biking proposal for Lone Lake Park.

As a user of the walking trails of Lone Lake Park I am writing in support of the Environmental Assessment Worksheet for the mountain bike trail proposal for Lone Lake Park. So far, there has been approval of non-elected persons for the mountain bike trails. As a Minnetonka tax payer and user of the park I think it is prudent to do the assessment. I was somewhat surprised to hear that there had not been an assessment for such a unique and beautiful small park.

My wife and I are unable to go to the upcoming public meeting and wanted you to know how we felt.

Thank you for your service and consideration.

Maximillion Wexler
6003 Clarion Pass
Minnetonka, MN 55343
16440 Creekside Cir.
Minnetonka, MN 55345

August 5, 2018

From: 
Sent: Sunday, August 05, 2018 1:09 PM 
To: Brad Wiersum <bwiersum@eminnetonka.com>; Tim Bergstedt <tbergstedt@eminnetonka.com>; 
Kelly ODea <kodea@eminnetonka.com>
Subject: EAW vote at August 6 Council Metting

Dear Major Wiersum, Council member Tim Bergstedt and Kelly O'Dea

I am not sure that I will be back in time to attend the Monday, August 6 Council Meeting and wanted to express my comments on the critical need for an Environmental Assessment Worksheet (EAW) prior to voting on the establishment of a proposed mountain biking trail in Lone Lake Park. I have done some reading about such studies and when they are appropriate or required. An EAW certainly seem appropriate and wise for the mountain biking trail proposal. Without such a study, I fail to see how anyone could conclude one way or the other, as to whether or not this proposal is wise and should be approved. We have all seen the damage done to Purgatory Park that mountain biking has done. The establishment of any trail must preserve the Park not creating long-term damage and harm. There are appropriate places for such trails; the question is whether or not Lone Lake Park is appropriate. Have the EAW done by a qualified party to assess this project. Be proactive and not reactive.

Below is a quote I copied from the Minnesota Environmental Quality Board (https://www.eqb.state.mn.us/content/eaw-process) that says:

"The EAW is a brief document designed to lay out the basic facts of a project necessary to determine if an Environmental Impact Statement (EIS) is required for the proposed project. In addition to the legal purpose of the EAW in determining the need for an EIS, the EAW also provides permit information, informs the public about the project, and helps identify ways to protect the environment. The EAW is not meant to approve or deny a project, but instead act as a source of information to guide other approvals and permitting decisions. The EAW is completed by the Responsible Governmental Unit (RGU) designated according to Minnesota Rules 4410."

I find the EAW to be compelling and essential information required to voting on this project. I hope you do too and vote to require this EAW prior to any decision on this project.

Bob Klemenhagen

16501 Elm Drive

Minnetonka, MN 55345

From: 
Sent: Sunday, August 05, 2018 1:32 PM 
To: Brad Wiersum <bwiersum@eminnetonka.com>; Tim Bergstedt <tbergstedt@eminnetonka.com>; 
Kelly ODea <kodea@eminnetonka.com>
Subject: Re: EAW vote at August 6 Council Metting

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I find the EAW to be compelling and essential information required to voting on this project. I hope you do too and vote to require this EAW prior to any decision on this project.

Bob Klemenhagen
I found the March 2011 report from the Office of the Legislative Auditor entitled "Environmental Review and Permitting" helpful particularly the section beginning on page 19. Here's a link to this report. https://www.auditor.leg.state.mn.us/ped/pedrep/envir.pdf

-----Original Message-----
From: rklemenhag
To: bwiersum <bwiersum@eminnetonka.com>; tbergstedt <tbergstedt@eminnetonka.com>; kodea <kodea@eminnetonka.com>
Sent: Sun, Aug 5, 2018 1:09 pm
Subject: EAW vote at August 6 Council Meeting

Dear Major Wiersum, Council member Tim Bergstedt and Kelly O'Dea

I am not sure that I will be back in time to attend the Monday, August 6 Council Meeting and wanted to express my comments on the critical need for an Environmental Assessment Worksheet (EAW) prior to voting on the establishment of a proposed mountain biking trail in Lone Lake Park. I have done some reading about such studies and when they are appropriate or required. An EAW certainly seem appropriate and wise for the mountain biking trail proposal. Without such a study, I fail to see how anyone could conclude one way or the other, as to whether or not this proposal is wise and should be approved. We have all seen the damage done to Purgatory Park that mountain biking has done. The establishment of any trail must preserve the Park not creating long-term damage and harm. There are appropriate places for such trails; the question is whether or not Lone Lake Park is appropriate. Have the EAW done by a qualified party to assess this project. Be proactive and not reactive.

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I find the EAW to be compelling and essential information required to voting on this project. I hope you do too and vote to require this EAW prior to any decision on this project.

Bob Klemenhagen

16501 Elm Drive

Minnetonka, MN 55345

August 6, 2018

From: Rosie Norton
Sent: Monday, August 06, 2018 7:42 AM
To: Kelly ODea <kodea@eminnetonka.com>; Bob Ellingson <bellingson@eminnetonka.com>
bwiersum@minnetonka.com
Subject: Please vote YES to conduct the assessment on August 6

I have signed petitions, written emails, and now am again sending the email to urge you to vote to do the assessment. I also urge you to realize that there is a better place for a mountain biking trail (a LONE use trail). Lone Lake Park has 5 acres that should not be disturbed for this use. Multi use trail is not practical - man vs. man on mountain bike. I live off Bren Road and use the park and nearby roads and adjoining neighborhoods to walk. It disturbs me that anyone would take this natural area and destroy it for a very small percentage of Minnetonka residents. It will be too much unnecessary car traffic — already lots of bike traffic. PLEASE put the trail in a better location — away from dozens of private homes that are directly affected by the trail (in their backyard). Noise and privacy factor needs to be considered. Thank you. Rosemary Norton, 11324 Clarion Way, Minnetonka

Please pass this on to RebeccaSchack - Ward 2, D. Calvert, Patty Acomb, Mike Happy and Tim Bergstedt. email addresses did not go through

From: Jerrold Gershone
Sent: Monday, August 06, 2018 9:11 AM
To: Brad Wiersum <bwiersum@eminnetonka.com>; Deborah Calvert <dcalvert@eminnetonka.com>; Patty Acomb <pacomb@eminnetonka.com>; Bob Ellingson <bellingson@eminnetonka.com>; Mike Happe <mhappe@eminnetonka.com>; Tim Bergstedt <tbergstedt@eminnetonka.com>; Kelly ODea <kodea@eminnetonka.com>
Subject: In support of the Environmental Assessment Worksheet for Lone Lake Park

Dear Mayor and City Council,

I have spoken to several of you and you have told me that the proposed mountain bike trail course at Lone Lake Park has generated the most vocal public input you've experienced. I think it's imperative to vote yes for the Environmental Assessment Worksheet to proceed. That way we can get accurate information on the known, unknown and unintended impacts of the proposed mountain biking course at Lone Lake Park. The amount of citizen concern makes it imperative we do our due diligence.

Thank you.

Sincerely,

Jerrold Gershone

13111 April Lane

Minnetonka

From: c_carlson
Sent: Monday, August 06, 2018 1:35 PM
To: Brad Wiersum <bwiersum@eminnetonka.com>; Tim Bergstedt <tbergstedt@eminnetonka.com>; Patty Acomb <pacomb@eminnetonka.com>; Deborah Calvert <dcalvert@eminnetonka.com>
Cc: Kelly ODea <kodea@eminnetonka.com>
Subject: Enviromental Assesment for Lone Lake Park Mountain Bike Trails
Elected Representatives.

I am writing you to encourage you to support doing an EAW before beginning any construction on the trails in Lone Lake Park. I think the environmental impacts on this area should be known before construction begins, and not during or after. Since there is a possibility of an endangered bee nesting in the area, it is more critical for this to be conducted.

I am a current and past volunteer doing restoration work in Minnetonka parks. I have been leading a group of Master Naturalists, restoring Mills Oak Woods, for many years. I have been volunteering with the WHEP program with the City of Minnetonka for over 15 years. I have walked, hiked, snowshoed and attended many educational programs in Lone Lake Park. I am concerned about the environmental impacts these trails will cause in this park.

Thanks you for your consideration.

Christopher Carlson

16025 Boulder Creek Drive

Minnetonka