



Special Meeting  
of the  
City Council

Thursday, February 8, 2018  
5:00 p.m.  
Elk River City Hall

**AGENDA**

**Meeting Protocol**

- No sidebar discussions
- No interruptions
- State your concern
- Ensure you understand
- Don't take things personally
- Adhere to time limits
- Come prepared
- Ensure all are heard

- 
1. CALL MEETING TO ORDER
  2. PLEDGE OF ALLEGIANCE
  3. GENERAL BUSINESS
    - 3.1 Discuss Improvements to Ice Arena and Lion John Weicht Park
  4. ADJOURNMENT



## CITY OF ELK RIVER

### SPECIAL MEETING NOTICE ELK RIVER CITY COUNCIL

**Thursday, February 8, 2018  
5:00 p.m.  
Elk River City Hall  
13065 Orono Parkway  
Elk River, Minnesota**

The purpose of the meeting is as follows:

- Discuss improvements to Ice Arena and Lion John Weicht Park

John J. Dietz, Mayor

February 5, 2018

Date

I HEREBY CERTIFY, that this notice has been posted and that I have served this notice upon the members of the City Council by mail at least one day prior to the above-called special meeting. In accordance with State Statute, this notice will be posted at least three days prior to the meeting date.

Tina Allard, City Clerk

February 5, 2018

Date





# Request for Action

<b>To</b> Mayor and City Council		<b>Item Number</b> 3.0
<b>Agenda Section</b> General Business	<b>Meeting Date</b> February 8, 2018	<b>Prepared by</b> Cal Portner, City Administrator
<b>Item Description</b> Discussion Ice Arena and Lion John Weicht Park		<b>Reviewed by</b> Tina Allard, City Clerk
		<b>Reviewed by</b> Justin Femrite, P.E., City Engineer

## Action Requested

Direct, by resolution, staff to prepare for a bond sale and prepare for a general election ballot question for a local option sales and use tax.

or

Direct staff, by motion, to terminate architectural services and construction services with 292 Design Group and RJM Construction.

or

Direct staff, by motion, to suspend services with 292 Design and RJM Construction and prepare for a general election referendum for recreation facilities as determined by the City Council.

and

Direct staff, by motion, to enter into a local sales tax study with the University of Minnesota Extension Service.

## Background/Discussion

Due to the ongoing expenses of plan development and critical path of project timing with the Elk River High School academic and athletic activity year, a decision is required to either halt the project or commit to funding the project.

Council Member Wagner stated concerns at the February 5, 2018, Regular Council Meeting regarding an action item to direct staff to prepare for bond debt issuance to finance the proposed improvements to the Elk River Ice Arena and Lion John Weicht Park. She requested the Council reconsider a general election referendum for recreation facilities and asked for a budget impact explanation of the proposed bond issuance.

The Council should provide staff direction following a discussion and consensus.

The Elk River Lions Club met on Tuesday, February 6 to discuss their options for the Lions Park Center. Lion Marty Brady indicated the club voted to not maintain operation of the Lions Park Center.

## The Elk River Vision

*A welcoming community with revolutionary and spirited resourcefulness, exceptional service, and community engagement that encourages and inspires prosperity*



Further, the mayor found Sherburne County had ordered an impact study with the University of Minnesota Extension Service to find the percentages of local resident's impact on local option sales tax. After conversations with the county engineer and the UM representative they suggested the city and county engage separately. However, as some of the information is shared, the study costs were reduced.

### **Financial Impact**

As directed by City Council action.

### **Attachments**

- Draft Bond Repayment Tax Impact
- Resolution
- U of M Sales Tax Study Agreement

**Series 2018 (Ice Arena Project)**  
**\$25,000,000 - 25 Year Maturity**  
**Estimated Tax Impact**

**Assumptions:**

NTC Growth 4.50% (4 yr. avg.)

		2018	2019	2020	2021	2022	2023	2024	2025
Net Tax Capacity		24,046,382	25,128,469	26,259,250	27,440,916	28,675,757	29,966,166	31,314,643	32,723,802
2018 Ice Arena Debt Levy *			1,029,100	1,029,100	1,029,100	1,029,100	2,025,000	2,025,000	2,025,000
Tax Rate Increase			4.095%	3.919%	3.750%	3.589%	6.758%	6.467%	6.188%
2010A PS Bldg Debt Levy							-366,980	-366,980	-366,980
Tax Rate Decrease							-1.225%	-1.172%	-1.121%
Net Tax Rate Increase			4.095%	3.919%	3.750%	3.589%	5.533%	5.295%	5.067%
<b>Tax Impact:</b>	<b>NTC</b>								
\$200,000	1808	77	74	71	68	65	122 - 22 = 100	117 - 21 = 96	112 - 20 = 92
\$250,000	2080	89	85	82	78	75	141 - 26 = 115	135 - 25 = 110	129 - 24 = 105
\$300,000	2353	101	96	92	88	84	159 - 29 = 130	152 - 27 = 125	145 - 26 = 119

\* Interest only for 2019-2022, 2023 and beyond include principal + interest

**Series 2018 (Ice Arena Project)**  
**\$25,000,000 - 25 Year Maturity**  
**Estimate Tax Impact**

**Assumptions:**

NTC Growth	4.50%	(4 yr. avg.)
Increase in GF Levy	2.00%	
Increase in Library Levy	1.00%	

	2018	2019	2020	2021	2022	2023	2024	2025	
Net Tax Capacity	24,046,382	25,128,469	26,259,250	27,440,916	28,675,757	29,966,166	31,314,643	32,723,802	
<b>Estimated Levy:</b>									
General Fund	10,497,800	10,707,800	10,922,000	11,140,400	11,363,200	11,590,500	11,822,300	12,058,700	
Library	54,000	54,500	55,000	55,600	56,200	56,800	57,400	58,000	
Tax Abatement	142,530	142,530	142,530	142,530	142,530	142,530	142,530	142,530	
2010A PS Bldg Debt Levy	369,500	370,130	369,920	368,570	366,980	-	-	-	
2018 Ice Arena Debt Levy *		1,029,100	1,029,100	1,029,100	1,029,100	2,025,000	2,025,000	2,025,000	
Total Levy	11,063,830	12,304,060	12,518,550	12,736,200	12,958,010	13,814,830	14,047,230	14,284,230	
Estimated Tax Rate	46.010%	48.965%	47.673%	46.413%	45.188%	46.101%	44.858%	43.651%	
<b>Tax Impact:</b>	<b>NTC</b>								
\$200,000	1808	832	885	862	839	817	834	811	789
\$250,000	2353	1,083	1,152	1,122	1,092	1,063	1,085	1,056	1,027
\$300,000	2898	1,333	1,419	1,382	1,345	1,310	1,336	1,300	1,265

\* Interest only for 2019-2022, 2023 and beyond includes principal + interest



**City of Elk River  
City Council**

**Resolution 18-\_\_\_\_\_**

**A Resolution of the City Council of the City of Elk River Directing Staff to Prepare for a Bond Sale and to Prepare a Resolution Directing a Local Option Sales and Use Tax**

**WHEREAS**, the city has recreation facilities in need of significant financial investments to maintain current and future uses; and

**WHEREAS**, a general election referendum was held in November of 2016 to provide for a multipurpose recreational facility to replace existing facilities as well as add a number of park and trail improvements; and

**WHEREAS**, upon failure of the referendum, in January of 2017 the City Council expressed consensus to engage architects to refine specific facility plans for the Elk River Ice Arena and Lion John Weicht Park; and

**WHEREAS**, in August of 2017, the Council, by unanimous consent, directed staff to request proposals for architectural services to further develop those plans; and

**WHEREAS**, as plans are nearly complete and ready for construction bidding, bond debt will need to be issued to finance facility construction. Bond investors will purchase such bonds with the understanding the City of Elk River will repay the debt with interest; and

**WHEREAS**, the city's principal guarantee for repayment is the general tax levy; and

**WHEREAS**, the Council has indicated a desire to initiate the local option sales and use tax process as a potential means to possibly repay the bond debt.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Elk River, Minnesota, as follows: It is the Council's desire to make the aforementioned recreation facility improvements utilizing municipal bonding to finance the project and staff shall begin preparations to issue such bonds. The Council also desires to initiate the local option sales and use tax process for the next general election.

Passed and adopted this 8<sup>th</sup> day of February 2018.

\_\_\_\_\_  
John J. Dietz, Mayor

ATTEST:

\_\_\_\_\_  
Tina Allard, City Clerk





<b>For Internal Use Only</b> <b>Depts must provide:</b>	
<b>ESAF #</b>	
<b>Chart/Field Account No.</b>	- -
<b>Customer ID #</b>	

<b>For Internal Use Only</b> <b>OES must provide:</b>	
<b>OES Contract #</b>	
<b>Analyst</b>	

## UNIVERSITY OF MINNESOTA SERVICES AGREEMENT

***THIS SERVICES AGREEMENT*** (the “Agreement”) is between the Regents of the University of Minnesota (the “University”), a Minnesota constitutional corporation, and City of Elk River, a local unit of government (the “Company”). This Agreement is entered into by University through its public works department.

The parties agree as follows:

**1. Description of Services.** University shall perform the following services for Company:

The University will conduct a LOST study after ground-truthing the analysis with local individuals who know the local retail market producing a) an overview of the Elk River economy, b) a trend analysis of taxable sales in Sherburne County, Elk River, and Big Lake from 1990 to 2015 or for the years where data is available, c) estimates of tax proceeds generated at different levels of taxation for the City of Elk River, and d) an estimate of what proportion of the tax proceeds may be paid by permanent, year-round residents vs visitors, travelers and seasonal residents for Sherburne County. Study findings will be presented in a concise report. An Extension educator will be available for a public presentation and Q&A about the study.

(“Services”). Reference to Services in this Agreement shall be deemed to include any deliverables provided to Company in connection with the Services, including without limitation, reports, results, materials, products, and information.

**2. Compensation.** For the Services performed under Section 1, Company shall pay University 1250 and 00/100 Dollars (\$1250.00), plus any sales or use tax if applicable.

2.1 The compensation shall be paid in the following manner:

% upon the signing of this Agreement, with the balance payable as follows (check one of the boxes below):

- monthly, based on work completed; or
- upon completion of the Services by University.

2.2 Invoices shall be payable net 30 days from date of invoice and sent to:

University of Minnesota Extension  
Attn: Gelane Firisa  
433 Coffey Hall  
1420 Eckles Avenue  
St. Paul, MN 55108-6070  
Phone No.: 612-624-5429  
Email: firis001@umn.edu

In the event the compensation is not a fixed firm price for the services, but instead is set forth on an attached schedule and contains published rates, the University reserves the right to modify the fees set forth thereon effective July 1 of each year of this Agreement.

**3. Term.** The term of this Agreement shall commence on **2.15.18** (“Effective Date”) and shall expire on **4.15.18** unless terminated earlier as provided in Section 4.

**4. Termination.** Either party may terminate this Agreement if the other party (i) fails to perform any material obligation under this Agreement and (ii) does not correct such failure within seven (7) days after having received written notice of such failure. Additionally, either party may terminate this Agreement for its convenience upon thirty (30) days’ prior written notice to the other party. Upon any termination under this Section 4, Company shall promptly pay University for all Services rendered and costs incurred up to and including the effective date of termination.

**5. DISCLAIMER OF WARRANTIES.** UNIVERSITY MAKES NO WARRANTIES, EXPRESS OR IMPLIED, AS TO ANY MATTER WHATSOEVER, INCLUDING WITHOUT LIMITATION, THE CONDITION, ORIGINALITY OR ACCURACY OF THE SERVICES PERFORMED OR DELIVERABLES PROVIDED UNDER THIS AGREEMENT. UNIVERSITY EXPRESSLY DISCLAIMS WARRANTIES OF MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE.

**6. LIMITATION OF LIABILITY FOR BREACH OF CONTRACT.** IN NO EVENT SHALL EITHER PARTY’S LIABILITY FOR BREACH OF THIS AGREEMENT INCLUDE DAMAGES FOR WORK STOPPAGE, LOST DATA, OR INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES (INCLUDING LOST PROFIT), OF ANY KIND. EXCEPT FOR EACH PARTY’S OBLIGATIONS UNDER SECTIONS 8.1 AND 8.2, EACH PARTY’S LIABILITY TO THE OTHER FOR BREACH OF THIS AGREEMENT SHALL NOT EXCEED AN AMOUNT EQUAL TO THE MONETARY CONSIDERATION PAID TO UNIVERSITY UNDER THIS AGREEMENT.

**7. Use of University Name or Logo.** Company agrees not to use the name, logo, or any other marks (including, but not limited to, colors and music) owned by or associated with University or the name of any representative of University in any sales promotion work or advertising, or in any form of publicity, without the prior written permission of University in each instance. However, Company may use the name of University in a document required to be filed with, or provided to, any governmental authority or regulatory agency to comply with

applicable legal or regulatory requirements. Company agrees to provide University with a copy of any such document.

## **8. Indemnification.**

8.1 Except as provided in Section 8.2, each party shall be responsible for its own acts and omissions and the results thereof and shall not be responsible for the acts of the other party and the results thereof. Liability of University is subject to the terms and limitations of the Minnesota Tort Claims Act, Minnesota Statutes Section 3.736, as amended.

8.2 In the event of (i) use by Company (or any third party acting on behalf of or under authorization from Company) of the Services or any information, reports, deliverables, materials, products or other results of University's work under this Agreement or (ii) Company's infringement of a third party's intellectual property rights or Company's violation of any law, rule, or regulation in the provision of any materials to University, then Company shall indemnify, defend, and hold harmless University, its regents, faculty members, students, employees, agents, contractors, and authorized volunteer workers against any and all claims, costs, or liabilities, including attorneys' fees and court costs at both trial and appellate levels, for any loss, damage, injury, or loss of life (other than that attributable to willful, wanton or grossly negligent acts or omissions of University) arising out of such events. The University shall provide Company with prompt written notice of any such claim and reasonably work with Company in any defense of such claim.

8.3 Each party represents that it has and will continue to have at least the following levels of insurance during the term of this Agreement: (i) as to University, Workers' Compensation in statutory compliance with Minnesota law and General Liability insurance in an amount not less than \$1,000,000 each claim/\$3,000,000 each occurrence; and (ii) as to Company, General Liability insurance in an amount not less than \$1,000,000 each occurrence/\$2,000,000 annual aggregate. Certificates of all insurance detailed above shall be furnished to the other party upon request.

## **9. Export Controls.**

9.1 Company shall not convey export-controlled technical data, technology, commodities, or software on the U.S. Munitions List, 22 C.F.R. pt. 121, or the Commerce Control List, 15 C.F.R. pt. 774, to University without the prior written consent of University's Export Controls Officer (J. Patrick Briscoe, [bris0022@umn.edu](mailto:bris0022@umn.edu), 612-625-3860). University shall have the right to decline export controlled information or tasks requiring production of such information. If the Services cannot reasonably be performed without University access to export-controlled items, the Agreement may be terminated by either party for convenience in accordance with Section 4, except that such termination shall occur immediately upon written notice to the other instead of at the end of the 30-day period set forth in Section 4.

9.2 Company represents that the items being procured (a) are not specifically designed or modified for military purposes or specifications, and (b) will not be used in connection with the development or use of any missiles or chemical, biological, or nuclear weapons.

## 10. General Provisions.

10.1 Amendment. This Agreement shall be amended only in writing duly executed by all the parties to this Agreement.

10.2 Assignment. The parties may not assign any rights or obligations of this Agreement without the prior written consent of the other party. Any assignment attempted to be made in violation of this Agreement shall be void.

10.3 Entire Agreement. This Agreement (including all documents attached or referenced) is intended by the parties as the final and binding expression of their agreement and as the complete and exclusive statement of its terms. This Agreement cancels, supersedes and revokes all prior negotiations, representations and agreements between the parties, whether oral or written, relating to the subject matter of this Agreement, including without limitation, any non-disclosure agreements. The terms and conditions of any purchase order or similar document submitted by Company in connection with the services provided under this Agreement shall not be binding upon University.

10.4 Force Majeure. No party to this Agreement shall be responsible for any delays or failure to perform any obligation under this Agreement due to acts of God, strikes or other disturbances, including, without limitation, war, insurrection, embargoes, governmental restrictions, acts of governments or governmental authorities, and any other cause beyond the control of such party. During an event of force majeure the parties' duty to perform obligations shall be suspended.

10.5 Governing Law and Jurisdiction. The internal laws of the state of Minnesota shall govern the validity, construction and enforceability of this Agreement, without giving effect to its conflict of laws principles. All suits, actions, claims and causes of action relating to the construction, validity, performance and enforcement of this Agreement shall be in the courts of Hennepin County, Minnesota.

10.6 Independent Contractor. In the performance of their obligations under this Agreement, the parties shall be independent contractors, and shall have no other legal relationship, including, without limitation, partners, joint ventures, or employees. Each party's employees (i) shall be regarded as the employees of such party and shall not be regarded as the employees of the other party; (ii) shall be subject to the employment policies and procedures of such party and shall not be subject to the employment practices and procedures of the other party; and (iii) shall not be entitled to any employment benefits of the other party. Neither party shall have the right or power to bind the other party and any attempt to enter into an agreement in violation of this Section 10.6 shall be void. Neither party shall take any actions to bind the other party to an agreement.

10.7. Notices. All notices and other communications that a party is required or elects to deliver shall be in writing and shall be delivered personally or by a recognized courier service or by United States Mail (first-class, postage pre-paid, certified return receipt requested) to the

other party at the following addresses. Such notices and other communications shall be deemed made when delivered; submitted to the courier service; or, with respect to U.S. mail, three days after mailing.

*If to University:*

Attn: Neil Linscheid  
3601 18th Street, Suite 11  
St. Cloud MN 56258-2087

Phone No.: 651-334-2373  
E-mail Address: [lins0041@umn.edu](mailto:lins0041@umn.edu)

*With a copy to:*

University of Minnesota  
Office of the General Counsel  
Attn: Transactional Law Services Group  
360 McNamara Alumni Center  
200 Oak Street SE  
Minneapolis, MN 55455-2006  
E-Mail: [contracts@mail.ogc.umn.edu](mailto:contracts@mail.ogc.umn.edu)

*With a copy to:*

University of Minnesota  
Office of External Sales  
295 West Bank Office Building  
11300 South Second Street  
Minneapolis, MN 55454  
E-Mail: [extsales@umn.edu](mailto:extsales@umn.edu)

*If to Company:*

City of Elk River  
Attn: Calvin Portner  
13065 Orono Parkway  
Elk River, MN 55330  
Phone No.: 763-635-1001  
E-mail Address: [cportner@elkrivernm.gov](mailto:cportner@elkrivernm.gov)

10.8 Taxes and Similar Fees. In addition to the payment obligation in Section 2, Company is responsible for the payment of any and all income, sales, use, consumption, value added, excise, custom duties or other taxes and similar fees in connection with this Agreement, levied or required to be withheld from payment(s) to University by any taxing authority or any other body having jurisdiction under any present or future laws. To the extent that Company is required to withhold or deduct taxes or similar fees on any payment to be made to University, then the amount payable shall be increased by the amount that will result in University receiving a net payment in the amount it would have received absent such withholding or deduction. If University is required to pay any of such fees and/or taxes or any related penalties or interest, then any such payments shall be reimbursed to University by Company.

10.9. Breach; Attorneys' Fees. In the event it fails to perform any of its obligations under this Agreement, Company shall reimburse University for all University's costs and

expenses (including reasonable attorneys' fees, court costs, and costs of investigation) to enforce this Agreement, regardless of whether a suit or action had been commenced or concluded.

10.10. Survival. Upon termination or expiration of this Agreement, Sections 2, 5, 6, 7, 8, 9, and 10 shall survive.

**IN WITNESS WHEREOF**, the parties have entered into the Agreement as of the dates indicated below. Each individual signing below represents that they have the authority to bind the party on whose behalf they are signing.

**Regents of the University of Minnesota**

**City of Elk River Minnesota**

By: \_\_\_\_\_  
Name:  
Title:  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Name: Calvin Portner  
Title: City Administrator  
Date: \_\_\_\_\_

## Allard, Tina

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**From:** Portner, Cal  
**Sent:** Thursday, February 08, 2018 6:19 PM  
**To:** Allard, Tina  
**Subject:** FW: Arena project & tonight's meeting

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**From:** David Williams  
**Sent:** Thursday, February 8, 2018 11:19 AM  
**To:** Mayor John Dietz; Westgaard, Matt; Wagner, Jennifer; Ovall, Nate; Olsen, Jerry  
**Cc:** Portner, Cal  
**Subject:** Arena project & tonight's meeting

Mayor & Council Members, my name is Dave Williams & I'm the Resident Member of the Arena Design Team. I didn't see an open forum area in tonight's meeting agenda so I'm sending this to each of you prior to the meeting. I chose to serve in that position because I believe that it's important that a member of the community was involved in the process to help get this project completed as a long term viable solution. My entire goal was to see this project be something that is a viable asset for the long term while at the same time staying within a budget framework.

I completely understand the people that are concerned about their taxes going up. I'm a taxpayer & I'm not anymore excited to see my property taxes go up than anyone else. My preference is 100% for a local option sales tax which could not only pay the debt service for this project as well as parks & rec capital projects but that will be determined by the residents of the community voting. It will be the residents choice how we pay for this, not the council choice. That being said, the alternative of doing nothing or even just keep letting this arena nickel & dime the city seems completely fiscally irresponsible. I also believe that the condition of the ice making systems makes this something that can't be ignored. The possibility of a complete system failure makes this makes this project a priority to me. I'm not a member of the hockey community, there is no "what's in it for me" but I do believe it's important to move forward with this project because it's what's best for Elk River. I also believe that it was very clearly defined in the literature for the Community Center Referendum, that if it failed, decisions would have to be made to move forward.

I was able to spend some time both in the general seating area & the operations areas of the Metrodome for a period of time a few years ago. It was so evident that it was built for value instead of viability. In all honesty, the Olympic part of our current arena reminds me a great deal of the Metrodome. Built for value & set up to fail which is where we are now. Using a previously used ice plant, having beyond substandard locker rooms & cutting the corners off the building are just two instances I can give as short sighted value based thinking in my opinion. I've seen the uproar that building Target Field & US Bank Stadium caused but once they

opened, a vast majority love them & think they are both amazing facilities. I believe the same thing will happen with this project. You will have a vocal group creating a uproar until it opens & the vast majority will love it.

Regarding tonight's upcoming discussion about going back to voters with the previous project. I was completely in support of the previous project & think that it was a better bang for the buck. My concerns with going back to voters are simply from a fiscal standpoint. Are we wasting all of the dollars that we have already spent getting to point where we are at now on the current project? How will going back to the voters for the previous project affect the school district as well as the city from a fiscal standpoint regarding their upcoming high school projects if another vote would fail? The school district has their parking lot project slated for 2019 & football stadium project in 2020. If a referendum would fail again & the current project is resurrected for a 2019 build, how would that effect both of those projects from a fiscal as well as need standpoint. The school district is a taxpayer entity as well & I really believe that needs to be taken into account.

Lastly, I was born & raised in the Mankato area & I have seen what they have done in the City of New Ulm, a town with approximately 10,000 fewer residents than the City of Elk River. I believe that Elk River should be moving on a forward path, not being provincial & being on a neutral or even reverse path. In my opinion, previous councils have kicked this can down the road for years. I completely believe this project moves the City of Elk River forward. I also completely understand that this is a tough controversial project but I believe this council has the foresight as well as the fortitude to proceed ahead & move Elk River forward.

Thank You for your service to our city