

TAX STATEMENTS FOR THE
REAL PROPERTY DESCRIBED IN
THIS INSTRUMENT SHOULD BE
SENT TO:

City of Freeport
PO Box 301
Freeport, MN 56331

THIS INSTRUMENT WAS DRAFTED BY:

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Memo

From: Adrianna Hennen, Clerk-Treasurer

To: Freeport City Council

Date: 5/23/17

Re: Contracts and Conflicts of Interest

Recently, the State Auditor office contacted the City regarding the purchasing of goods and services from elected members. She was concerned that we were purchasing items from Atkinson Well and Pump and Hennen Lumber without going through certain procedures. I asked Dymoke to review the items she mentioned and he agreed with the Auditors office that we should be doing certain things before paying the elected official.

Here is the information Scott put together:

“ I reviewed the conflict of interest statutes and I agree with the State Auditor that before awarding city contracts to any elected official, the Council needs to approve a resolution in the form provided by the League, and before paying the elected official, the official needs to submit an affidavit in the form provided by the League (see attached).

The general rule is that elected officials cannot be interested in city contracts (see MN ST 471.87). If an elected official violates the rule against having an interest in a city contract, they can be criminally charged. Violation is a gross misdemeanor punishable by up to one year in prison, a \$3,000 fine, or both.

MN ST 471.88 includes a list of 21 exceptions to the general rule. Whenever Freeport is contracting with Rodney or Tim, we need to identify and follow the requirements of one of the exceptions.

MN ST 471.88, subd. 5 is the broadest exception – the City can contract with an elected official if:

1. Competitive bids are not required by MN ST 471.345 (essentially contracts under \$100,000),
2. You get at least two quotes on the item to be purchased (one can be from the elected official),
3. The Council, in advance, adopts the resolution determining that contract price is as low or lower than the cost of going elsewhere,
4. The interested person abstains from voting on the resolution and participating discussion of the resolution,
5. The Council approves the resolution by unanimous vote of the remaining members, and
6. The interested person submits the affidavit with their bill for payment.

The other possible exception is at MN ST 471.88, subd. 12. This exception allows Cities under 1,000 in population to award a contract using the competitive bidding process to an elected official. If Freeport has a project that requires competitive bidding, Council members can bid on the project. Freeport would follow the usual procedure under the competitive bidding requirements. If a Council member is the lower bidder, the

Council may award them the contract. If that happens, I recommend following the same procedure as shown above, but the resolution would be modified to recite that the competitive bidding process was followed and the Council member was the lowest bidder.”

Appendix C: Sample Affidavit of Official Interest in Claim

Before using this sample, a city should be familiar with the contents of the League of Minnesota Cities information memo, *Official Conflict of Interest* (December 2015).

When using this form as a template, insert appropriate city-specific language where indicated and remove all explanations provided for your reference.

A city wishing to use this sample should review it with the city attorney to determine whether it is suited to the city's circumstances. Because the sample implicates state and federal law, the city attorney should review any modifications to ensure they conform to current law.

Additional samples are available through the [LMC Research and Information Service](#) upon request.

SAMPLE AFFIDAVIT OFFICIAL INTEREST IN CLAIM

STATE OF MINNESOTA)
COUNTY OF _____)

I, (Name of interested officer), being duly sworn state the following:

- 1) I am (office held by interested official) of the city of _____, Minnesota.
- 2) On (day and date), the following (goods / merchandise / equipment / services) were furnished by (name of business or individual with whom the contract was made) to the city of _____: (specify the type of goods, merchandise, equipment, or services that were purchased).
- 3) The contract price for such (goods / merchandise / equipment / services) was \$_____ and their reasonable value was \$_____.